

POLITICAL CRITERIA

A. DEMOCRACY AND THE RULE OF LAW	2
B. THE PARLIAMENT	6
C. THE GOVERNMENT AND PUBLIC ADMINISTRATION	22
D. THE JUDICIAL SYSTEM	123
E. ANTI-CORRUPTION MEASURES.....	185
F. INTERNAL SECURITY.....	219
G. HUMAN RIGHTS – HORIZONTAL ISSUES.....	246
H. CIVIL AND POLITICAL RIGHTS.....	267
I. ECONOMIC, SOCIAL AND CULTURAL RIGHTS.....	363
J. MINORITY RIGHTS AND THE PROTECTION OF MINORITIES.....	386
K. RETURN OF REFUGEES AND DISPLACED PERSONS:	433
L. BILATERAL RELATIONS	441
M. INTERNATIONAL OBLIGATIONS.....	448

A. DEMOCRACY AND THE RULE OF LAW

1. Please provide a brief description of the constitutional and institutional situation in the Republic of Macedonia.

Constitution

The Constitution of the Republic of Macedonia was adopted by the Assembly of the Republic of Macedonia on 17.11.1991, following the Referendum of 08.09.1991, which resulted in establishing the Republic of Macedonia as an independent and sovereign state. The Constitution was amended several times. On 06.01.1992, Amendments I and II were adopted and proclaimed; on 01.06.1998 - Amendment III; on 16.11.2001 - Amendments IV through XVIII, and on 30.12.2003 - Amendment XIX. Thus, the amendments became an integral part of the Constitution of the Republic of Macedonia.

The fundamental values of the constitutional order of the Republic of Macedonia are: the fundamental freedoms and rights of the individual and citizen, recognised in international law and determined by the Constitution; the free expression of ethnic identity; equitable representation of citizens belonging to all communities in state bodies and other public institutions at all levels; the rule of law; the separation of state powers into legislative, executive and judicial; political pluralism and free, direct and democratic elections; the legal protection of property; the freedom of the market and entrepreneurship; humanity, social justice and solidarity; local self-government; organising and humanising the environment, protecting and improving living conditions and the natural environment; respect for the generally accepted norms of international law (Article 8 of the Constitution of the Republic of Macedonia).

Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of their gender, race, skin colour, national or social origin, political or religion conviction, property or social status. Citizens are equal before the Constitution and the law.

Organisation of state power

The state power in the Republic of Macedonia functions on the basis of its separation into legislative (the Assembly of the Republic of Macedonia), executive (the President of the Republic of Macedonia and the Government of the Republic of Macedonia) and judicial power.

Assembly of the Republic of Macedonia

The Assembly of the Republic of Macedonia is the citizens' representative body in which the legislative power of the state is vested. The Assembly is comprised of 120 Representatives, elected at general, direct and free elections, by secret ballot and for four year term of office.

The Assembly adopts and amends the Constitution, adopts laws and gives the authentic interpretation of laws; determines public taxes and fees; adopts the Budget and the Budget's Final Account of the Republic; adopts the Spatial Plan of the Republic; ratifies international agreements; decides on war and peace; makes decisions concerning any changes in the borders of the Republic; makes decisions on association in and disassociation from any form of alliance or community with other states; issues notice of a referendum; makes decisions concerning the reserves of the Republic; sets up councils; elects the Government of the Republic of Macedonia; elects judges to the Constitutional Court of the Republic of Macedonia; elects and discharges judges; elects, appoints and dismisses other holders of public and other offices determined by the Constitution and law; carries out political control and supervision of the Government and other holders of public office accountable to the Assembly; proclaims amnesties; performs other activities determined by the Constitution (Article 68 of the Constitution of the Republic of Macedonia).

In performing the duties within its competence, the Assembly adopts decisions, declarations, resolutions, recommendations and conclusions. The organisation and the functioning of the Assembly of the Republic of Macedonia are regulated by its Rules of Procedure (for more details see [I B 2](#)).

President of the Republic of Macedonia

The President of the Republic of Macedonia represents the Republic and is the Commander-in-Chief of the Armed Forces of Macedonia (Article 79).

The President of the Republic is elected at general and direct elections, by secret ballot and for a five year term of office. A person may be elected President of the Republic two times at most, and he/she should be a citizen of the Republic of Macedonia and at least at 40 on the day of the election. A person may not be elected President of the Republic if, on the day of the election, he/she has not been a resident of the Republic of Macedonia for at least ten years within the last fifteen years.

The President of the Republic of Macedonia nominates a mandatory to constitute the Government of the Republic of Macedonia; appoints and recalls by decree ambassadors and other envoys of the Republic of Macedonia abroad; accepts the credentials and letters of recall of foreign diplomatic representatives; proposes two judges of the Constitutional Court of the Republic of Macedonia; proposes two members of the Judicial Council of the Republic; appoints three members to the Security Council of the Republic of Macedonia; proposes the members of the Council for Inter-Ethnic Relations; appoints and dismisses other holders of state and public offices determined by the Constitution and the law; grants decorations and honours in accordance with the law; grants pardons in accordance with the law; and performs other duties determined by the Constitution (Article 84 of the Constitution of the Republic of Macedonia).

The President of the Republic addresses the Assembly on issues within his/her sphere of competence at least once a year. The Assembly may request the President of the Republic to state an opinion on issues within his/her sphere of competence (Article 85).

The President of the Republic is President of the Security Council of the Republic of Macedonia (Article 86).

The current President of the Republic of Macedonia is H.E. Branko Crvenkovski, elected at the Presidential Elections held on 15.04.2004.

Government of the Republic of Macedonia

Executive power is vested in the Government of the Republic of Macedonia. The Government exercises its rights and duties on the basis and within the framework of the Constitution and the laws (Article 88 of the Constitution of the Republic of Macedonia).

The organisation and the mode of working of the Government are regulated by law. The Government is composed of a Prime minister and Ministers (Article 89).

The Government is elected and dismissed by the Assembly. The Government and each of its members are accountable for their work before the Assembly.

The Government of the Republic of Macedonia: determines the policy of execution of the laws and of the other regulations of the Assembly and is accountable for their execution; proposes laws, the Budget of the Republic and other regulations to be adopted by the Assembly; proposes a Spatial Plan of the Republic; proposes decisions concerning the reserves of the Republic and is responsible for their execution; adopts secondary legislation and other regulations for execution of the laws; determinates principles on the internal organisation and the mode of work of the Ministries and of the other administrative bodies, directs and supervises their work; provides opinions on the draft - laws and on the other regulations submitted to the Assembly by other authorised proposal-makers; takes

decisions on the recognition of states and governments; establishes diplomatic and consular relations with other states; decides on opening of diplomatic and consular missions abroad; proposes the appointment of Ambassadors and envoys of the Republic of Macedonia abroad and appoints chiefs of consular missions; proposes the Public Prosecutor; appoints and dismisses holders of public and other offices determined by the Constitution and the law; and performs other functions determined by the Constitution and the laws (Article 91).

On issues within its competence, the Government decides on sessions. Upon an invitation by the President of the Government, and in order to participate in the debate and provide opinions and proposals on specific issues, heads of other bodies of state administration and administrative organisations, as well as representatives of public enterprises, citizens' associations and foundations, institutions and other legal persons may attend the Government sessions without a right to vote. The Government is comprised of a President, four Ministers without Portfolio and 14 Ministers in charge of the individual ministries (for more details see [I C 5](#)).

State Administration

The state administration is comprised of Ministries and other administrative bodies and organisations determined by law. The organisation and work of the bodies of state administration are regulated by law adopted by a two-thirds majority vote of the total number of Representatives (Article 95).

The bodies of the state administration perform their duties within their sphere of competence autonomously and on the basis and within the framework of the Constitution and laws, being accountable for their work to the Government. The bodies of state administration in the fields of defence and police are headed by persons who have been civilians for at least three years before their election to these offices (Article 97)(for more details see [I C 5](#)).

Judiciary

Judicial power is exercised by the courts. The courts are autonomous and independent. The courts judge on the basis of the Constitution, the laws and the international agreements ratified in accordance with the Constitution. There is a single form of organisation for the judiciary. Extraordinary courts are prohibited. The types of courts, their jurisdiction, their establishment, abrogation, organisation and composition, as well as the procedures they follow, are regulated by law adopted by a majority vote of two-thirds of the total number of Representatives (Article 98).

A judge is elected without restriction on the duration of his/her term of office (Article 99).

Judges are elected and discharged by the Assembly of the Republic of Macedonia. Judges enjoy immunity, and the Assembly decides on the immunity of judges (Article 100).

The Supreme Court of the Republic of Macedonia is the highest court in the Republic providing uniformity in the implementation of the laws by the courts (Article 101).

In the Republic of Macedonia, there are three appellate courts and 27 basic courts. Court hearings and delivery of the court decisions are public (Article 102).

Judicial Council of the Republic

The Judicial Council of the Republic is composed of seven members elected by the Assembly. Members of the Judicial Council of the Republic enjoy immunity. The Assembly decides on their immunity (Article 104).

The Judicial Council of the Republic: proposes to the Assembly the election and discharge of judges and determines proposals for discharge from a judge's office in cases determined by the Constitution; decides on the disciplinary accountability of the judges; evaluates the competence and consciousness of the judges in the performance of their office; and proposes two judges of the

Constitutional Court of the Republic of Macedonia (Article 105). The President of the Judicial Council is Lenče Sofronievska (for more details see [I D 16](#)).

Public Prosecutor's Office

The Public Prosecutor's Office is a single and autonomous state body prosecuting crimes and other offences determined by law and performing other functions determined by law. The Public Prosecutor's Office performs its functions on the basis of, and within the framework of, the Constitution and the law.

The Public Prosecutor is appointed by the Assembly for a six-year term and is discharged by the Assembly (Article 106). The Public Prosecutor enjoys immunity, decided upon by the Assembly (Article 107). The Public Prosecutor of the Republic of Macedonia is Aleksandar Prčevski (for more details see [I D 3](#)).

Constitutional Court of the Republic of Macedonia

The Constitutional Court of the Republic of Macedonia is a body of the Republic protecting constitutionality and legality (Article 108).

The Assembly elects the judges of the Constitutional Court. The Assembly elects six of the judges of the Constitutional Court by a majority vote of the total number of Representatives. The Assembly elects three of the judges by a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives who belong to non-majority communities in the Republic of Macedonia. The term of office of the judges is nine years without a right to re-election (Amendment XV).

The Constitutional Court elects a President from its own ranks for a three-year term without a right to re-election (Article 109).

The Constitutional Court of the Republic of Macedonia: decides on the conformity of the laws with the Constitution; decides on the conformity of the other regulations and of the collective agreements with the Constitution and the laws; protects the freedoms and rights of the individual and the citizen relating to the freedom of conviction, conscience, thought and public expression of thought, political association and activity as well as to the prohibition of discrimination on the ground of gender, race, religion, national, social and political affiliation; decides on competency conflicts between the holders of legislative, executive and judicial powers; decides on competency conflicts between the bodies of the Republic and the local self-government units; decides on the accountability of the President of the Republic; decides on the conformity of the programmes and statutes of the political parties and the associations of the citizens with the Constitution; and decides on other issues determined by the Constitution (Article 110).

The Constitutional Court shall annul or abrogate a law if it determines that it is not in conformity with the Constitution. The Constitutional Court shall annul or abrogate another regulation or official document, collective agreement, statute or programme of a political party or an association if it determines that the same does not conform to the Constitution or law. The decisions of the Constitutional Court are final and executive (Article 112).

The mode of work and the procedure of the Constitutional Court are regulated by an enactment of the Court (Article 113). The President of the Constitutional Court of the Republic of Macedonia is Liljana Ingilizova Ristova.

Local self-government

The right of citizens to local self-government is guaranteed. Municipalities are units of local self-government. Within municipalities forms of neighbourhood self-government may be established. Municipalities are financed from their own sources of income determined by law as well as from funds belonging to the Republic (Article 114).

Local self-government is regulated by a law adopted by a two-thirds majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives belong to the communities not in the majority in the Republic of Macedonia. The laws on local finances, local elections, boundaries of municipalities and the city of Skopje shall be adopted by a majority vote of the Representatives attending, within which there must be a majority of the votes of the Representatives attending who belong to the communities not in the majority in the Republic of Macedonia (Amendment XVI).

The territorial division of the Republic and the area administered by each municipality are defined by law (Article 116). The City of Skopje is a particular unit of local self-government the organisation of which is regulated by law. The City of Skopje is financed from its own sources of income determined by law, as well as by funds from the Republic. The City of Skopje is autonomous in the performance of its constitutionally and legally determined spheres of competence; supervision of the legality of its work is carried out by the Republic (Article 117)(for more details see [I C 16](#)).

Ombudsman

The Assembly elects the Ombudsman by a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives who belong to communities not in the majority in the Republic of Macedonia. The Ombudsman protects the constitutional and legal rights of citizens when these are violated by bodies of the state administration and by other bodies and organisations with public mandates. The Ombudsman gives particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in state bodies, bodies of the units of local self-government and public institutions and services (Amendment XI).

The Ombudsman is elected for a term of eight years, with the right to one re-election. The conditions for election and dismissal, the sphere of competence and the mode of work of the Ombudsman are regulated by law (Article 77). The Ombudsman of the Republic of Macedonia is Ixhet Memeti (for more details see [I G 6](#), [I G 7](#), [I G 8](#), [I G 9](#)).

B. THE PARLIAMENT

2. Please provide a description of the structure and functioning of the Parliament including the competences of the Parliamentary Committees, the prerogatives and competences of the Parliament with respect to holding members of the Executive to account, and procedures for the adoption of legislation (including an explanation of existing fast track procedures and their applicability to the adoption of *acquis* related legislation).

Structure and Functioning of the Assembly of the Republic of Macedonia

The Assembly of the Republic of Macedonia is a citizens' representative body and the legislative power is vested in it. The Assembly is unicameral and consist of 120 to 140 Representatives elected at general, direct and free elections, by secret ballot. In accordance with the Law on Election of Representatives in the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 42/02, 52/02 and 46/04), the current Assembly's mandate consisting of 120 Representatives was elected on the basis of the proportional electoral model. The Representatives mandate is professional. Representatives are elected for a four year term, which may be extended only in a state of war or emergency. Representatives have a free mandate, they may not be revoked and they enjoy immunity. The Assembly may dissolve only if such a decision is voted for by the majority of the total number of Representatives.

The organisation and the operation of the Assembly are regulated by the Constitution and the Rules of Procedure of the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 60/02), which is adopted by a majority vote of the total number of Representatives. By a majority vote of the total number of Representatives, the Assembly elects a President and one or more Vice-Presidents from among the Representatives. In the current mandate, the Assembly has elected two Vice-Presidents. The President represents the Assembly, ensures the application of its Rules of Procedure, calls elections for Representatives, for President of the Republic, local elections and performs other duties determined by the Constitution and the Rules of Procedure of the Assembly. The President, together with the Vice-Presidents and the Coordinators of parliamentary groups, performs duties stipulated by the Rules of Procedure. The Assembly appoints a Secretary General who performs duties stipulated by the Rules of Procedure and organises the operation of the Assembly's Service. Representatives are organised in parliamentary groups.

The Assembly is in permanent session and works at sittings convened by the President. Sessions of the Assembly may also be convened during the 1st – 31st August recess. The Assembly's sittings are public. By a two-thirds majority vote of the total number of Representatives, the Assembly may decide to work without public presence. Official language in the work of the Assembly is the Macedonian language and its Cyrillic alphabet. A Representative who speaks a language other than the Macedonian, which is spoken by at least 20% of the citizens of the country, may, at the Assembly's plenary sittings and at the sittings of its working bodies, speak in that language. The Assembly may decide if majority of the total number of Representatives attend the sitting. The Assembly decides by a majority vote of the attending Representatives, but not less than one-third of the total number of Representatives, in case no special majority vote is prescribed in the Constitution (absolute, two-thirds or a majority set forth in the 2001 Constitutional Amendments). In accordance with the 2001 changes to the Constitution (Amendment X, item 2), laws that directly affect culture, use of languages, education, personal documents and use of symbols, are adopted by a majority vote of the attending Representatives, within which there must be a majority vote of the Representatives attending who belong to non-majority communities in the Republic of Macedonia. A law on local self-government is adopted by a two-thirds majority vote of the total number of Representatives, within which there must be a majority vote of the Representatives belonging to non-majority communities. Laws on local finance, local elections, municipal boundaries and the City of Skopje are adopted by a majority vote of the attending Representatives, within which there must be a majority vote of the attending Representatives who belong to non-majority communities (Amendment XVI to the Constitution).

Besides in plenary, the Assembly operates in its working bodies sittings. By a decision, the Assembly establishes standing working bodies and determines their terms of reference and the number of their members. For carrying out special tasks, ad hoc working bodies may be established, as well as inquiry committees on any area or issue of public interest. In accordance with the Constitution, the Assembly sets up a Standing Inquiry Committee for Protection of Civil Rights and Freedoms. For international multilateral and bilateral cooperation, the Assembly sets up delegations and groups through which it actively participates in the work of international parliamentary assemblies of the Council of Europe, OSCE, NATO, CEI, IPU, etc. Furthermore, the Assembly cooperates with the parliaments of other states. The standing working bodies examine proposals to adopt laws, preliminary draft-laws, draft laws, draft-regulation and draft-texts of other general acts adopted by the Assembly, as well as other issues within the Assembly's competence. Chairpersons, Members and substitute-members of the working bodies are elected from among the Representatives. Equitable representation is ensured in the working bodies of Representatives belonging to parliamentary groups and Representatives who are not organised within parliamentary groups. The Assembly's working bodies operate in sittings attended by a Government's representative (Minister or Deputy Minister) or a Government delegate (State Secretary, State Advisor or Head of a Sector in the competent ministry) when a Government proposal is being debated, or a representative of a state administration body when an issue within its scope of activity is discussed. The sittings of the working bodies are open, i.e. academics or experts may be invited at a sitting, as well as representatives of the local self-government, trade union, non-governmental and other organisations, institutions and associations of citizens, in order to present opinions on issues on the agenda. A working body adopts a position by a majority vote of the attending members, but not less than one-third of the total number

of its members. It then submits a report to the Assembly. Working bodies may hold joint sittings; in cases of which the vote is conducted separately.

There are 18 standing working bodies in the Assembly, 17 of which have been established by the Decision on Setting Up Standing Working Bodies of the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 85/02). The European Affairs Committee was established by an Amendment to the Decision on Setting Up Standing Working Bodies of the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 30/03).

The President of the Assembly of the Republic of Macedonia is Ljupčo Jordanovski and the Vice-presidents are: Slobodan Najdovski and Gzim Ostreni.

Standing working bodies of the Assembly are the following:

1. Constitutional Affairs Committee;
2. Legislative Committee;
3. Defence and Security Committee;
4. Committee on Political System and Inter-Community Relations;
5. Foreign Affairs Committee;
6. European Affairs Committee;
7. Committee on Election and Appointment Issues;
8. Standing Inquiry Committee for Protection of Civic Rights and Freedoms;
9. Committee for Supervising the Work of the Security and Counter-Intelligence Directorate and the Intelligence Agency;
10. Finance and Budget Committee;
11. Economic Affairs Committee;
12. Agriculture, Forestry and Water Management Committee;
13. Transport, Communications and Environment Committee;
14. Education, Science and Sports Committee;
15. Culture Committee;
16. Health Care Committee;
17. Labour and Social Affairs Committee;
18. Committee on the Rules of Procedure and Mandatory and Immunity Issues;

Terms of reference of the working bodies

1. Constitutional Affairs Committee

The Committee consists of a Chairperson, 16 Members and their Substitutes. The Committee examines the following issues:

- Implementation of the Constitution;
- Proposals for amendments to the Constitution;
- General constitutional issues pertaining to the adoption and enforcement of laws and other regulations and acts;
- Other Constitution-related issues.

2. Legislative Committee

The Committee consists of a Chairperson, 12 Members and their Substitutes. The Committee examines the following issues:

- Compliance of laws and other acts with the Constitution and the legal system, as well as their legislative and technical processing;
- Compliance of laws with the European Union legislation;
- Requests for authentic interpretation and drafting of proposals for authentic interpretation of laws; Determines revised texts of laws and other acts, if authorised by a law or another act;
- Submits corrigenda to published texts of laws or other acts on the basis of the authentic text of the adopted laws, or other acts of the Assembly, and
- Examines other issues concerning legislation and development of the legal system of the Republic.

3. Defence and Security Committee

The Committee consists of a Chairperson, 12 Members and their Substitutes. The Committee examines issues pertaining to:

- Protection of the order established by the Constitution;
- Supervision over defence and security;
- Defence of the Republic of Macedonia and civic protection;
- Cooperation with the collective security and defence systems to which the state has acceded;
- Integration of the state in the Euro-Atlantic organisations and relations of the state with these organisations;
- Protection of life, personal safety and citizens' property as guaranteed by the Constitution;
- Production, trade, purchase, possession and carrying of arms, arms spare parts and ammunition;
- Security provision for individuals and facilities;
- Citizenship;
- Preservation of peace and public order;
- Public assembling and events;
- Road, airway, railway and lake transport safety;
- Protection against natural disasters and epidemic diseases;
- Registration and cancellation of permanent or temporary residence;
- Crossing of state border and movement and stay in border areas;

- Movement and residence of aliens;
- Definition and resolution of border-crossing incidents and other state border violations, and
- Other issues concerning defence and security.

4. Committee on Political System and Inter-Community Relations

The Committee consists of a Chairperson, 12 and their Substitutes. The Committee examines the following issues:

- Functioning of the political system;
- Changes of the country's borders;
- State symbols and their use;
- The judiciary, the bar and the public prosecutor's office;
- Granting amnesty and pardon;
- Freedom of movement and freedom to choose dwelling;
- Personal identification records and protection of personal data;
- Personal names, identity cards and travel documents;
- Census of the population;
- Public information system;
- Citizens' right to association and political organisation,
- Voting right and method of election of representatives in the Assembly, President of the Republic of Macedonia, council members and mayors;
- Referendum;
- Local self-government;
- The Ombudsman;
- The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelistic and Methodist Church, the Jewish Community and other religious communities or groups;
- Decorations, acknowledgements and awards;
- Holidays in the Republic of Macedonia;
- State administration organisation;
- Right to use languages and alphabets of the communities;
- Guarantees for protection of communities' ethnic, cultural, linguistic and religious identity, and
- Other issues concerning the political system and relations among communities.

5. Foreign Affairs Committee

The Committee includes a Chairperson, 12 Members and their Substitutes. The Committee examines the following issues:

- Foreign policy of the Republic of Macedonia and its relations with other states and international organisations;
- Policy which ensures that care is taken by the Republic for the situation and the rights of Macedonians in the neighbouring countries and Macedonian expatriates, as well as for the cultural, economic and social rights of Macedonian citizens abroad;
- Accession to or withdrawal from an alliance or a community with other states;
- Accession to or withdrawal from international organisations;
- Requirement to start negotiations to sign bilateral or multilateral international treaties of the Republic of Macedonia, i.e. Platforms for such negotiations;

- International treaties ratification;
- International legislation in the area of human and civil rights and freedoms, as well as international organisations and associations' documents;
- Establishment of cooperation of the Republic of Macedonia with other states and international organisations;
- Establishment of cooperation with foreign affairs committees in parliaments of other states;
- Initiatives and proposals for definition of the foreign policy strategy of the Republic of Macedonia, and
- Other issues pertaining to the Republic of Macedonia's foreign policy.

6. European Affairs Committee

The Committee consists of a Chairperson, 12 Members and their Substitutes. The Committee examines issues referring to:

- Compliance of proposals to adopt laws, i.e. Draft-laws with the European Union legislation;
- Monitoring and encouraging the process of harmonisation of the legislation of the Republic of Macedonia with the European Union legislation; proposing measures to enhance harmonisation procedures, providing of opinions and proposals for the activities of the assembly's working bodies in this regard;
- Fulfilment of obligations under the agreements between the European Union and the Republic of Macedonia;
- Monitoring the government and the state administration activities aimed at the accession of the Republic of Macedonia to the European Union, and giving opinions and recommendations on these issues;
- Implementation of programs and other actions of the European Union institutions in the Republic of Macedonia, including programmes of financial support;
- Regular reporting to the assembly on all issues related to European integration;
- Initiation and implementation of activities to inform the public on the European union integration process;
- Cooperation with the corresponding committees in other countries, and
- Consideration of other issues related to European integration.

7. Committee on Election and Appointment Issues

The Committee consists of a Chairperson, 12 Members and their Substitutes. The Committee's activities include:

- Submission of proposals for election and appointment, i.e. Dismissal of officials elected or appointed by the Assembly, if a law or the Assembly's Rules of Procedure or another act stipulate that the committee shall submit such proposals;
- Submission of proposals for election and appointment, i.e. Dismissal of officials elected or appointed by the Assembly, if the Constitution, the law, the assembly's rules of procedure or another act do not stipulate that another body shall submit such proposals;
- Proposing composition of the standing and ad hoc working bodies of the assembly;
- Proposing composition of the Assembly's permanent delegations to international parliamentary assemblies and assembly's parliamentary groups for cooperation with other parliaments;
- Proposing members of governing boards and other bodies in public enterprises, organisations and institutions elected or appointed by the Assembly of the Republic of Macedonia, if the constitution, a law or another act do not stipulate that another body shall submit such proposals;

- Proposing members of the editorial board of the Assembly's bulletin;
- Proposing appointment and dismissal of state representatives in governing boards, as well as members of selection committees for executives within the assembly's competence;
- Proposing the composition of boards and other bodies of the assembly entrusted to organise and implement observation of important historic events for the Republic and other events that need to be observed, as well as bodies for presentation of national awards;
- Giving opinion upon proposals for election, i.e. Appointment of public office-holders elected, i.e. Appointed by the assembly, proposed by other bodies;
- Considering draft-regulation on salaries and other incomes of the representatives and officials elected or appointed by the assembly, representatives and officials whose mandate has terminated, and within legal competence, adopting more concrete regulation for their enforcement;
- Adoption of acts for which authorised by the assembly;
- Deciding on individual salaries and other incomes of Representatives and other officials elected or appointed by the assembly;
- Deciding on the act for a 5% deduction of the salary for each day of absence to a representative who has been absent from at least three assembly's plenary, i.e. Working body's sessions, and has failed to notify thereof the president of the assembly, i.e. The working body's chairperson;
- Determining remunerations for academic or specialist institutions and associations for their engagement in the working bodies;
- Deciding, in accordance with the regulations, on the level of per diem allowances, compensations for costs for separation from the family, holiday allowances, moving and other expenses;
- Deciding upon complaints against decisions by the assembly's secretary general, unless otherwise determined by a law or another act;
- Corrigenda to acts adopted by the committee, and published in the Official Gazette of the Republic of Macedonia, and
- Other election and appointment issues.

8. Standing Inquiry Committee for Protection of Civil Rights and Freedoms

The Committee consists of a Chairperson, 8 Members and their Substitutes. The Committee examines the following issues:

- Principle issues, proposals and opinions relating to the implementation of the constitutional provisions, laws and other regulations and acts relevant for the exercise and protection of civil rights and freedoms;
- Pointing to the need of adoption of laws, regulations and other acts aimed at a more comprehensive protection of civil rights and freedoms;
- Monitoring, examining and analysing the implementation of ratified international agreements governing the protection of civil rights and freedoms;
- Considering citizens' complaints and adopting positions on them;
- Cooperation with academic and specialised organisations in the domain of protection of civil rights and freedoms;
- Cooperation with corresponding foreign and international bodies in the domain of protection of civil rights and freedoms;
- Other issues pertaining to the protection of civil rights and freedoms.

The Inquiry Committee may not exercise investigative or other judicial functions. The Committee's findings are grounds for initiating a procedure to establish public office-holders' accountability.

9. Committee for Supervising the Operation of the Security and Counter-Intelligence Directorate and the Intelligence Agency

The Committee consists of a Chairperson, 8 Members and their Substitutes. The Committee examines the following issues:

- Respect, on the part of the Security and Counter-Intelligence Directorate and the Intelligence Agency, of the constitutionally and legally granted rights and liberties of citizens, enterprises and other legal entities;
- Legality in the exercise of authority on the part of the Security and Counter-Intelligence Directorate and the Intelligence Agency in terms of possible exceeding of authority, unauthorised activities, abuse and other detrimental actions, in violation of their rights determined by Law;
- Methods and means applied by the Security and Counter-Intelligence Directorate and the Intelligence Agency in terms of their legality and respect of the rights of citizens and other entities;
- Financial, personnel and technical capacity of the Security and Counter-Intelligence Directorate and the Intelligence Agency, and
- Other issues regarding the Security and Counter-Intelligence Directorate and the Intelligence Agency.

10. Finance and Budget Committee

The Committee consists of a Chairperson, 12 Members and their Substitutes. The Committee examines the following issues:

- Financial system;
- The budget of the Republic of Macedonia;
- Taxes, charges, contributions and other public fees paid by citizens and legal persons;
- Customs system;
- Monetary and crediting, banking and foreign exchange system;
- Payment operations and audit;
- Loans and credits;
- Public procurement;
- Insurance system;
- Ownership and other property-rights relations;
- Commodity reserves;
- Lottery games, and
- Other finance-related issues.

11. Economic Affairs Committee

The Committee consists of a Chairperson, 10 Members and their Substitutes. The Committee examines the following issues:

- Production and trade;
- Mineral resources and energy;
- Tourism, catering and craftsmanship;
- Foreign trade;
- Foreign investment;
- Ownership transformation;

- Measures against monopolistic position and actions on the market;
- Consumer protection;
- Public enterprises;
- Concessions;
- Accelerated development of underdeveloped regions;
- Statistics, and
- Other issues related to the economic system.

12. Agriculture, Forestry and Water Management Committee

The Committee consists of a Chairperson, 10 Members and their Substitutes. The Committee examines the following issues:

- Agricultural land, pastures and other natural resources;
- Redistribution of estates, land consolidation and land reclamation;
- Cattle breeding, farming; orchard and vineyard cultivation;
- Hunting and fishing;
- Flora and fauna;
- Veterinary care and plant protection;
- Land register and cadastre;
- Water resources management and water resources regime approval;
- Hydro-melioration systems and hydro-meteorological matters, and
- Other issues related to agriculture, forestry and water management.

13. Transport, Communications and Environment Committee

The Committee consists of a Chairperson, 10 Members and their Substitutes. The Committee examines the following issues:

- Road, railway, river, lake, airway, postal, telegraphic, telephone and radio traffic;
- Cableways and ski-lifts;
- Telecommunications and broadcasting systems;
- Transport and telecommunication facilities construction;
- Physical and urban planning;
- Construction land development;
- Housing and utility service management;
- Environment, nature, air, soil and water development and protection against pollution;
- Ensuring conditions for healthy environment;
- Harmful noise prevention;
- Protection against ionising radiation and other adverse effects on people's lives and health, as well as special security measures in case of use of atomic energy, and
- Other issues related to transport, communications and environment.

14. Education, Science and Sports Committee

The Committee consists of a Chairperson, 10 Members and their Substitutes. The Committee examines the following issues:

- System and organisation of pre-school, primary, secondary and higher education;

- Right to teaching in community languages;
- System and organisation of scientific and research activities;
- Creation, application and evaluation of inventions, patents and other inventive activities resulting from scientific, artistic or other type of intellectual creation;
- Information technology, scientific and technological development and technical culture;
- Organisation, development and operation of the information system in the country;
- Youth education and students' standard;
- Providing incentive for the youth intellectual, cultural and scientific creation;
- Education provided to youngsters on preventive protection against diseases of addiction and aids;
- Development and enhancement of physical culture;
- Top-level sports development, and
- Other issues related to education, science, youth and sports.

15. Culture Committee

The Committee consists of a Chairperson, 10 Members and their Substitutes. The Committee examines the following issues:

- Organisation, development and promotion of culture;
- Preservation of natural and cultural heritage of the Republic of Macedonia;
- Enrichment of historical and artistic creation;
- Promotion and preservation of outstanding cultural values;
- Authorship and copyright promotion and protection;
- Movable and immovable cultural treasure preservation and usage;
- Publishing and librarianship;
- Monuments construction and preservation;
- Use and protection of the Macedonian language;
- Information dissemination, cultural and other activities aimed at expression of communities' identity and their distinctive features;
- Determining anniversaries of events and individuals of particular importance for the state development, historical and cultural heritage and fostering of general civilisation values;
- Manner and forms of observing important events and personalities;
- Activities of boards established for specific celebrations, and
- Other issues related to culture and observation of anniversaries of important events and persons.

16. Health Care Committee

The Committee consists of a Chairperson, 10 Members and their Substitutes. The Committee examines the following issues:

- Health care of the population;
- Health care insurance;
- Protection of population against communicable diseases, protection against harmful effects of gasses, ionizing radiation and noise; air, water, soil and nutrimental pollution;
- Protection against diseases of addiction and aids;
- Hygienic and epidemiological situation;

- Production, trade in and supply of drugs, additional medicines and medical devices, medical equipment, sanitation devices and materials, toxins and narcotics;
- Sanitation and health care supervision, and
- Other health care issues.

17. Labour and Social Affairs Committee

The Committee consists of a Chairperson, 10 Members and their Substitutes. The Committee examines the following issues:

- Labour relations and workers' protection at work;
- Right to strike;
- Employment and rights in case of unemployment;
- Women protection at work and maternity protection;
- Salaries and standard of living;
- Social policy and citizens' social safety;
- System, organisation, development and promotion of social welfare and children's protection;
- Population policy, marriage and family;
- System of pension and disability insurance;
- War veteran and disabled protection and protection of disabled war veterans and persons persecuted and detained for the ideas of independence of the Macedonian people and its statehood, and
- Other labour and social issues.

18. Committee on the Rules of Procedure and Mandatory and Immunity Issues

The Committee consists of a Chairperson, 8 Members and their Substitutes. The Committee examines:

- The implementation of the Rules of Procedure of the Assembly and rules of procedure of the working bodies and gives opinions on matters of dispute;
- Initiatives for changes to the Assembly's Rules of Procedure and the rules of procedure of the working bodies;
- Amendments to the Assembly's Rules of Procedure;
- State Electoral Commission's reports on Representatives who have joined the Assembly from party lists over the course of the Assembly's mandate;
- Grounds for termination or revoking of Representatives' mandate, and reports to the Assembly;
- Immunity of Representatives, judges and the Public Prosecutor and his/her deputies, and
- Other issues related to the Rules of Procedure and mandatory and immunity rights.

In accordance with Amendment XII to the Constitution, the Assembly adopted a Decision to establish a Committee on Inter-Community Relations ("Official Gazette of the Republic of Macedonia", No 85/02). The Committee consists of 19 members from the ranks of the Representatives to the Assembly of whom 7 members are Macedonian, 7 members are Albanian, and one member each from among the Turks, Vlachs, Roma, Serbs and Bosniaks. If any of the communities does not have Representatives in the Assembly, the Ombudsman, after consultation with relevant representatives of those communities, shall propose the remaining members of the Committee. This has not been the case until now. The Committee reviews issues pertaining to relations among communities and exercise of the constitutionally and legally determined rights of members of non-majority communities in the Republic of Macedonia. The Committee, furthermore, gives opinions and proposals for

resolution of issues in this area, while the Assembly is obligated to review them and decide upon them. The Committee decides in case of dispute concerning the implementation of the voting procedure in the Assembly on laws that require majority vote by Representatives in the Assembly belonging to the non-majority communities in the Republic of Macedonia.

Prerogatives and competences of the Parliament with respect to holding members of the Executive to account

The Assembly conducts its political control and scrutiny over the Government by way of the Parliamentary question, inquiry committees, interpellation motions and confidence vote.

Parliamentary question is set at a special sitting held every last Thursday in the month. Inquiry committees may be established in any area or on any issue of public interest, and their findings constitute grounds to initiate procedure to determine accountability of public-office holders. Interpellation motion for the work of the Government and each of its members individually, may be put forward by at least five Representatives, in writing and with an attached explanation. The interpellation motion is debated at an Assembly's sitting. The debate is followed by an adoption of conclusion that expresses the Assembly's position on the claims included in the interpellation motion.

A motion of confidence for the Government may be raised by at least 20 Representatives, in writing and with an attached explanation. The President of the Assembly immediately forwards the confidence motion to the Representatives, the Government and the President of the Republic. A confidence motion may be withdrawn until the beginning of the sitting. A confidence motion is debated at an Assembly's sitting. The Assembly votes on the motion within three days from its submission. A vote of non-confidence is adopted by a majority vote of the total number of Representatives. If a vote of non-confidence in the Government is passed, the Government is obliged to resign. The Government that was voted non-confidence continues to act until the election of a new Government. The Assembly decides upon dismissal of a Government's member, only upon a proposal of the President of the Government. If the President of the Government proposes dismissal of more than one-third of the Government's member, the Assembly decides as if electing a new Government.

The procedure of impeachment of the President of the Republic is initiated by the Assembly with a two-thirds majority vote of all Representatives. The President is accountable for any violation of the Constitution and laws in exercising his/her rights and duties. (Article 87 of the Constitution of the Republic of Macedonia) A proposal for initiating the procedure of impeachment may be raised by at least 30 Representatives, in writing and with an attached explanation. Before deciding, the Assembly sets up a Committee to assess the existence of reasonable grounds for the proposal. The Committee shall report to the Assembly. A debate is held on the proposal and on the report, after which the President of the Republic may give his statement, in writing or orally. If the Assembly votes for the proposal to initiate procedure to determine the accountability of the President of the Republic, the President of the Assembly shall immediately submit the proposal to the Constitutional Court which decides upon the President's accountability.

Reporting to the Assembly in accordance with legal obligations

Specific bodies, in accordance with the obligations under respective laws, submit reports to the Assembly. In that sense, the Ombudsman, submits an annual report, that the Assembly examines at a session attended by the Government members. (Article 36 of the Law on the Ombudsman, "Official Gazette of the Republic of Macedonia", No. 60/03)

The Public Prosecutor's Office of the Republic of Macedonia drafts a single annual report on the operation of all public prosecution offices and submits it for examination to the Assembly (Article 15 of the Law on the Public Prosecutor's Office, "Official Gazette of the Republic of Macedonia", No. 38/04). The Public Prosecutor of the Republic of Macedonia is appointed by the Assembly.

The National Bank of the Republic of Macedonia, whose Governor is appointed by the Assembly, submits to the Assembly semi-annual and annual reports on its operation, supervision, measures undertaken related to banks and savings banks and the handling of the foreign exchange reserves (Article 55 of the Law on the National Bank of the Republic of Macedonia, "Official Gazette of the Republic of Macedonia", Nos. 03/02, 51/03, 85/03 and 40/04).

The State Audit Office whose Chief State Auditor is elected by the Assembly, submits an annual report on the conducted audits and on its operation. (Article 12 of the Law on State Audit, "Official Gazette of the Republic of Macedonia", Nos. 65/97, 70/01, 31/03, 19/04 and 73/04 - consolidated text).

The Securities Committee, whose Chairperson and members are appointed by the Assembly, submits an annual report on its operation and an annual account (Article 163 of the Law on Securities Law, "Official Gazette of the Republic of Macedonia", Nos. 63/00, 103/00, 34/01, 4/02, 37/02, 31/03 and 85/03).

The State Commission for Prevention of Corruption, whose members are appointed by the Assembly, submits an annual report on its operation and the undertaken measures and actions (Article 49 paragraph 1 line 10 of the Law on the Prevention of Corruption, "Official Gazette of the Republic of Macedonia", Nos. 28/02 and 46/04).

The Director of the Civil Servants Agency, who is appointed by the Assembly, submits a report on its work (Article 8 of the Law on Civil Servants, "Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04).

The General Manager of the Macedonian Radio and Television, also appointed by the Assembly, submits an annual report on the work of the MRT to the Assembly (Article 18 of the Law on Establishment of a Public Enterprise – Macedonian Radio and Television, "Official Gazette of the Republic of Macedonia", Nos. 6/98, 98/00 and 78/04).

Procedure of adoption of laws

Every Representative in the Assembly, the Government and at least 10.000 voters have right to propose adoption of a law. The procedure of adoption of laws has been stipulated by the Rules of Procedure. As a rule, laws are adopted in a regular procedure of two readings, namely a proposal to adopt the law and a draft-law. By exception, the Assembly may decide a law to be additionally examined as a preliminary draft-law.

A proposal to adopt the law, as the first stage in the procedure (first reading), prior to the debate on it in the plenary, is debated by the working body responsible for the issues governed by that particular law, as well as by the Legislative Committee. Working bodies examine the law from the viewpoint of the need for its adoption, the principles upon which it has been founded, basic relations being regulated and the manner in which they have been regulated. The Legislative Committee examines the law from the viewpoint of the need for its adoption and its compliance with the Constitution, as well as its compliance with the EU legislation. The President of the Assembly forwards to the Government a proposal to adopt the law that has not been submitted by the Government, requesting an opinion on it. If the Assembly decides that there is a need to adopt a law, it passes a conclusion approving of the proposal to adopt the law.

A draft-law, being the second stage in the procedure (second reading), shall be submitted within 60 days from the day of the conclusion of the first stage. The provisions governing the first stage in the Rules of Procedure and its examination in the working bodies and in the Legislative Committee are accordingly applied to the draft-laws. In the course of the debate on a draft-law, discussion and vote is also held on the amendments that may be submitted by a Representative, a working body, the Government and at least 10.000 voters, within timeframes prescribed by the Rules of Procedure. The Government may also express its position on amendments it has not proposed.

The Rules of Procedure also provide for a shortened procedure for adoption of laws. Namely, if the proposed law is not a complex or an extensive one, upon a proposal by its proposer, the Assembly may decide that both stages of the law are debated at the same sitting (the proposal to adopt the law and the draft-law).

If the law governs a complex or an extensive subject, the Assembly may decide that, prior to the draft-law, the proposer prepares a preliminary draft-law that shall be examined in accordance with the same procedure as the proposal to adopt the law. The Assembly may decide that a public debate is carried out on a preliminary draft-law of broader significance.

By exception, a law may be adopted in an urgent procedure, only in cases specified by the Rules of Procedure (when necessary in order to prevent or eliminate major disturbances in the economy, when required by the security and defence of the country, or in cases of major natural disasters, epidemic diseases or other emergency conditions). Attached to the proposal to adopt the law in an urgent procedure, the proposer shall submit the draft-law. The Assembly, without a debate, shall decide upon the justifiability of the proposal for an urgent procedure. If the proposal has not been submitted by the Government, before deciding, the Assembly shall request an opinion of the Government. Prior to or in the course of the debate, the Assembly may request an urgent opinion by a working body or the Legislative Committee, each within its responsibilities.

Procedure of adoption of laws related to the acquis

The procedures explained above apply to the adoption of laws related to the acquis, as well. This means that these laws, depending on the character and the extensiveness of the issues being regulated, may be adopted in a regular (two stages), in a shortened (one stage) or in an urgent procedure. In other words, procedures stipulated in the Rules of Procedure do not pose an obstacle to their timely adoption.

The acquis-related laws, depending on the issues being regulated, are debated by the competent working bodies. The Legislative Committee examines the law from the viewpoint of its compliance with the Constitution and the legal system of the country, as well as from the viewpoint of its compliance with the EU legislation. The European Affairs Committee examines issues pertaining to the compliance of the proposals to adopt laws, i.e. draft-laws with the EU legislation. In addition, this Committee monitors and provides incentive for the process of approximation of the domestic legislation with that of the European Union. Furthermore, it proposes measures to enhance the procedures aimed at the approximation of the legislation and provides opinions and proposals on the activities of the Assembly's working bodies.

3. What measures have been taken to allow the use of the Albanian language in the Parliament? How are they being implemented in practice?

The Rules of Procedure of the Assembly, in accordance with the Constitutional Amendments of 2001 (Amendment V, item 1, paragraph 5), provide that in the work of the Assembly, along with the official Macedonian language and its Cyrillic alphabet, the Representatives in the Assembly - ethnic Albanians may use their language at the plenary sessions of the Assembly and at the working bodies' sessions.

In order to enable the use of the Albanian language in the work of the Assembly and its working bodies, the necessary technical pre-conditions have been provided as well as competent staff. The plenary session hall and the working bodies' halls have been equipped for simultaneous interpretation. Five Albanian language translators/interpreters, two Albanian language editors and two Albanian language proof-readers have been employed in the Assembly's Staff. In addition, at least two professional simultaneous interpreters are engaged part-time for the plenary and the working bodies' sessions. The Assembly provides continuous training for the translators and language editors in cooperation with the Albanian Language Department at the Skopje Faculty of Philology. The funding has been partly provided from domestic sources and partly with the assistance of the Governments of Belgium and Canada. The Assembly sessions are broadcasted by

the Public Broadcaster, Macedonian Television (MTV). The third channel of the MTV offers the audience a possibility to follow the broadcasts of the Assembly's sessions fully in Albanian language.

The complete Albanian translation and language editing of the laws adopted by the Assembly, before their publication, is performed by separate translation and language editing units in the Assembly Service. Pursuant to the Law on Publication of the Laws and Other Regulations and Acts in the Official Gazette of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 56/99 and 43/02), besides in Macedonian, the laws are also published in the Albanian language. For that purpose, TRADOS text translation software has been installed in the Assembly.

The undertaken technical and other measures have, in the practice, provided for an unobstructed use of the Albanian language in the work of the Assembly and its working bodies.

4. How many political parties are registered in your country? How many of these are represented in Parliament? What percentage of parliamentarians are (a) women and (b) from ethnic minorities?

Article 20 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), guarantees freedom of association to citizens, to exercise and protect their political, economic, social, cultural and other rights and convictions. Citizens may freely establish associations of citizens and political parties join them or withdraw from them.

The Law on Political Parties ("Official Gazette of the Republic of Macedonia", No. 76/04) regulates the mode, terms and procedure for establishing, registering and terminating political parties. Citizens freely establish political parties in order to exercise and protect their political, economic, social, cultural and other rights and convictions, in order to participate in the political decision-making process and to take part in the elections for Representatives in the Assembly of the Republic of Macedonia, the elections for council members and mayors in municipalities and in the City of Skopje. Members of a political party may only be citizens of the Republic of Macedonia. The work of the political parties is public and they are organised and operate on a territorial principle.

A political party may be established by at least 500 adults (with a voting right), who are citizens of the Republic of Macedonia and who have signed a statement for founding of the political party. Fifteen days before the end of each year, the political party is obliged to submit to the competent court written evidence, proving that the number of its founders has not been reduced. Member of a political party may be every citizen of legal age, who has legal capacity and who shall give a statement for voluntary membership in the political party. Each member may freely withdraw from a political party. A political party is founded by a Founding Assembly which adopts the party's founding act, its programme and statute, and which elects its bodies. The founding act includes the party's name and the abbreviated name, the party's main office, the name of the person authorised for entry in the court register and the names of its founders, including their personal identification numbers and the addresses of their permanent residence in the Republic of Macedonia.

A political party programme includes provisions as to the goals and selection of forms and methods of the political party's activity. A political party's statute includes provisions on: the name and the abbreviated name of the political party; the party's main office; its political objectives; transparency in its operation; terms and mode of becoming a party member and termination of membership, as well as the rights, obligations and responsibilities of its members; representation and termination of the political party; the party's bodies, mode of their election and recall, duration of their tenure and decision making modalities; acquisition and managing of funds; termination of the political party; property proceedings in case of termination of the political party; property proceedings after the termination of the political party and the party's symbols (flag, logo, emblem, etc). A political party begins its work and acquires the status of a legal entity on the day of its registration in the Court Register.

A political party ceases to exist once it has been erased from the Court Register, in the following cases: a political party itself submits a request for erasure from the Court Register; on the basis of a final decision for erasure of the political party from the Court Register, passed by the Court on the basis of the Law on Political Parties; when the political party has been forbidden activity by a final court decision, in accordance with the Law on Political Parties; and when the Constitutional Court of the Republic of Macedonia finds that the political party's programme or statute are not in compliance with the Constitution.

In the Republic of Macedonia, the status reported on 31.12.2004 indicates 75 registered political parties. In the current composition of the Assembly, 14 political parties are represented and the political structure is as follows:

- Social-Democratic Union of Macedonia (SDSM) – 44 Representatives (36,66%);
- Democratic Union for Integration (DUI) – 15 Representatives (12,5%);
- VMRO People's Party - 12 Representatives (9,96%)
- VMRO Democratic Party of the Macedonian National Unity (VMRO-DPMNE) – 11 Representatives (9,13%);
- Liberal-Democratic Party (LDP) – 10 Representatives (8,33%);
- Democratic Party of the Albanians (DPA) – 7 Representatives (5,83%);
- Liberal Party of Macedonia (LPM) – 5 Representatives (4,17%);
- Party for Democratic Prosperity in Macedonia (PDP) – 2 Representatives (1,67% %);
- Democratic Party of the Turks of Macedonia (DPTM) – 2 Representatives (1,66%);
- Democratic League of the Bosniaks in the Republic of Macedonia (SLBRM) - 1 Representative (0,83%);
- United Roma Party of Macedonia (OPRM) – 1 Representative (0,83%);
- Democratic Party of the Serbs in Macedonia (DPSM) – 1 Representative (0,83%);
- Socialist Party of Macedonia (SPM) – 1 Representative (0,83%);
- National Democratic Party (NDP) – 1 Representative (0,83%);
- Independent Representatives – 7 (5,83 %).

The current composition of the Assembly, in terms of ethnic structure, is the following:

- Macedonians – 85 (70,83%);
- Albanians - 26 (21,66%);
- Turks – 3 (2,5%);
- Serbs - 2 (1,66%);
- Bosniaks - 2 (1,66%);
- Roma - 1 (0,83%) and
- Vlachs - 1 (0,83%).

The current composition of the Assembly, in terms of gender structure, is the following:

- Male - 97 (80,87%)
- Female - 23 (19,13%).

ETHNIC AND GENDER STRUCTURE OF THE ASSEMBLY								
	Macedonians	Albanians	Turks	Vlachs	Roma	Serbs	Bosniaks	Total
Total	85	26	3	1	1	2	2	120
%	70,83	21,66	2,5	0,83	0,83	1,66	1,66	100
Female	21	2	0	0	0	0	0	23
								19,17 %
Male	64	24	3	1	1	2	2	97
								80,83 %
Source: Assembly of the Republic of Macedonia								

C. THE GOVERNMENT AND PUBLIC ADMINISTRATION

5. Please provide a description of the structure and functioning of the Government.

Government of the Republic of Macedonia

A fundamental value of the Constitutional order of the Republic of Macedonia is the separation of the state powers into legislative, executive and judicial.

Pursuant to Article 88 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), executive power is vested in the Government, which exercises its rights and duties on the basis and within the framework of the Constitution and law. The Law on the Government adopted in 2000 ("Official Gazette of the Republic of Macedonia", Nos. 59/00 and 12/03), determines the organisation and work of the Government. In accordance with this Law the Government adopted the Rules of Procedure of the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 38/01, 98/02, 9/03, 47/03, 64/03 and 67/03), which specifically determine its internal organisation, manner of operation and other issues relevant to the functioning of the Government.

The President of the Republic of Macedonia nominates the mandatory to constitute the Government and is obliged, within 10 days of the constitution of the Assembly, to entrust the mandate for constituting the Government to a candidate from the party or parties which has/have a majority in the Assembly. Within 20 days from the day of being entrusted with the mandate, the mandatory submits a programme to the Assembly and proposes the composition of the Government. The Government is elected by the Assembly on the proposal of the mandatory and on the basis of the programme by a majority vote of the total number of the Representatives of the Assembly.

The Government assumes its power on the day of being elected by the Assembly.

The Government is composed of a Prime Minister and Ministers. The present Government of the Republic of Macedonia is a coalition government and comprises the Social Democratic Union of Macedonia (SDSM), the Liberal–Democratic Party (LDP) and the Democratic Union for Integration (DUI). It is composed of a Prime Minister and 17 members, of which 14 are ministers in charge of ministries, and 4 are ministers without portfolio. According to the Law on the Government, the Prime Minister designates deputy prime ministers.

The current composition of the Government is the following:

- Dr. Vlado Bučkovski, Prime Minister;

- Radmila Šekerinska, Deputy Prime Minister in charge of the European Integration and Coordination of Foreign Aid, Minister without portfolio;
- Musa Xhaferri, Deputy Prime Minister in charge of implementation of the Framework Agreement, Minister without portfolio;
- Minčo Jordanov, Deputy Prime Minister in charge of coordinating activities regarding the economic system, Minister without portfolio;
- Jovan Manasijevski, Deputy Prime Minister in charge of coordinating activities with regard to the political system and Minister of Defence
- Ljubomir Mihajlovski, Minister of the Interior;
- Meri Mladenovska-Gjorgievska, Minister of Justice;
- Dr. Ilinka Mitreva, Minister of Foreign Affairs;
- M.Sc. Nikola Popovski, Minister of Finance;
- M.Sc. Fatmir Besimi, Minister of Economy;
- Sadulla Duraku, Minister of Agriculture, Forestry and Water Economy;
- Dr. Vladimir Dimov, Minister of Health;
- Aziz Polozhani, Minister of Education and Science;
- Stevčo Jakimovski, Minister of Labour and Social Policy;
- Rizvan Sulejmani, Minister of Local Self-Government;
- Blagoj Stefanovski, Minister of Culture;
- Xhemail Mehazi, Minister of Transport and Communication;
- M.Sc. Zoran Šapurić, Minister of Environment and Physical Planning.
- Vlado Popovski, Minister without Portfolio.

The Assembly of the Republic of Macedonia elected 14 deputy ministers. The Prime Minister and the ministers may not be Representatives in the Assembly. They are granted immunity and the Government decides on their immunity. A Government member may not be detained without the Government's approval nor may he/she be indicted if he/she claims immunity unless he/she have been found in committing a criminal offence to imprisonment of at least five years.

The Government and each of its members are accountable for their work to the Assembly. The Assembly may vote on a motion of confidence in the Government (for more details see [I B 2](#)).

The Government itself has the right to raise the issue of confidence before the Assembly and has the right to submit its resignation. The resignation of the Government and the Prime Minister is tendered to the President of the Assembly in writing and may be explicated. A resignation of a Government member is submitted to the President of the Assembly through the Prime Minister. The resignation of the Prime Minister, his/her death or permanent inability to perform his/her duties entails resignation of the Government. The Government ceases its term of office when the Assembly is dissolved. A member of the Government has the right to submit his/her resignation. The Prime Minister may propose the dismissal of a member of the Government. The Assembly decides on the proposal for the dismissal of a member of the Government at its first sitting following the proposal. If the Prime Minister proposes dismissal of more than one-third of the initial composition of the Government, the Assembly follows the same procedure as for the election of a new Government. When a vote of no-confidence in the Government has been passed; when the government has tendered a resignation or when its mandate has ceased due to the Assembly's dissolution, it shall act until the election of a new Government.

Competence of the Government

According to the Constitution, the Government of the Republic of Macedonia: determines the policy of executing laws and other regulations passed by the Assembly; proposes laws, the budget of the Republic and other regulations to be adopted by the Assembly; proposes the spatial plan of the

Republic; proposes decisions concerning the reserves of the Republic and sees to their execution; adopts by-laws and other acts for the execution of laws; determines the principles on the internal organisation and work of the Ministries and other administrative bodies, directs and supervises their work; provides opinions on draft-laws and other acts submitted to the Assembly by other authorised proposers; decides on the recognition of states and governments; establishes diplomatic and consular relations with other states; makes decisions on opening diplomatic and consular offices abroad; proposes the appointment of ambassadors and representatives of the Republic of Macedonia abroad and appoints heads of consular offices; proposes the Public Prosecutor; appoints and dismisses holders of public and other office determined by the Constitution and law; and performs other duties as prescribed by the Constitution and law. Furthermore, the Government signs international agreements when determined by law; gives proposals to the Assembly regarding the state's accession into a union or community with other states or accession to and disassociation from international organisations; proposes amendments to the Constitution; and proposes a state of war or emergency to the Assembly. In line with the Law on the Government, the Government determines the economic and development policies of the state, determines measures for their realisation and proposes measures on implementation of policies in Assembly's competence. In addition, the Government: determines the development and economic policies; determines action programmes in the area of defence and security and sees to their implementation; undertakes measures on realisation of freedom of the market and entrepreneurship, as well as measures against the monopoly positions in the market; encourages the economic development and promotes a more balanced spatial and regional development and more rapid development of economically underdeveloped areas; determines a strategy for attracting foreign investments; decides on disposing and use of state capital in accordance with law; encourages and assists the scientific and technological development; determines strategies and undertakes measures for integration in European and Euro-Atlantic institutions and other international bodies; monitors and analyses situations regarding the exercise and promotion of human rights and civil freedoms; encourages the development of civil society institutions; undertakes measures on creating conditions for the exercise of the rights to education, healthcare, social insurance and development of human resources; undertakes measures on creating conditions for social protection and safety of citizens; and carries out other duties determined by law.

The Government adopts an Annual Work Programme, which presents an operationalisation of the Programme proposed by the Mandatary upon election of the Government. The Government incorporates the strategic priorities and fiscal policies both in the Programme and the Budget of the Republic of Macedonia. The Annual Programme also includes other priorities which have been planned by the ministries for the following year and which are submitted to the Government in the exercise of its competencies as prescribed by the Constitution and law.

The Government of the Republic of Macedonia disposes of funds used by agencies on behalf of the Republic of Macedonia. The Government also decides on procuring real estate. The contracts for such procurements are signed by the Minister of Finance.

Functioning of the Government

The Prime Minister represents the Government and directs its work; convenes and chairs Government's sessions; signs regulations and acts adopted by the Government and sees to their execution; guides the Government's overall activities and the activities of its members in accordance with the programme commitments of the Government, the guidelines it determines, the strategic priorities, and policy analysis; cooperates with other state bodies, public enterprises, public institutions and public services of common interest; cooperates with companies, political parties, associations of citizens and foundations and other legal persons regarding issues of common interest; cooperates with Prime Ministers and representatives of Governments of other states and with representatives of international bodies and organisations; undertakes measures in the event of non-execution of Government's decisions; sees to prepare and execute the Annual Work Programme of the Government; decides on holding meetings and consultations regarding issues in its competence; informs the President of the Republic of Macedonia on issues of implementing policies on execution of laws and other regulations of the Assembly; undertakes patronages regarding

celebrations and events of importance to the Republic of Macedonia; gives authorisation in regard to the exercise of his/her rights and duties in accordance with law and rules of procedure. The Prime Minister establishes an office providing him/her support, which is managed by a Head of Office appointed and dismissed by the Prime Minister. The Prime Minister also carries out other duties in accordance with the Constitution and the Rules of Procedure.

One of the deputy prime ministers designated by the Prime Minister deputises for him/her. The deputy prime ministers perform duties within the Government's competence regarding particular issues for which they have been authorised by the Prime Minister. They report to the Prime Minister concerning the exercise of these duties.

With the aim of establishing opinions and positions on issues related to security, defence and foreign policy, the Prime Minister may organise a consultation with deputy prime ministers and ministers with the relevant portfolios. Consequently, the Government decides on the issues discussed in such composition at its session.

Members of the Government have a right and duty to: attend sessions and participate in Government's work; propose discussion on issues in Government's competence; participate in discussions and decision-making on issues discussed on a Government's session; give initiatives for drafting laws and other regulations that the Government is authorised to propose, for regulations and acts adopted by the Government and for establishing guidelines and positions; give initiatives for adopting decisions in Government's competence. Furthermore, the Members of the Government: are obliged to provide assessment on fiscal implications on all proposals they prepare and submit to the Government; actively participate in developing policies, and specifically in preparing and harmonising documents; propose to the Government principle positions and guidelines for the work of state administrative bodies. The Members of the Government participate in the work of working bodies of the Government as their members. They also may participate in the working bodies of which they are not members, and present opinions and suggestions on issues within their terms of reference.

The Government has a Secretary General, who is appointed and dismissed by the Government. The Secretary General, in accordance with the Prime Minister's instructions, carries out duties related to the organisation and preparation of sessions of the Government and its working bodies, as well as other duties for the Government. He/she is accountable to the Government for his/her work. Regarding the General Secretariat as a professional service, the Secretary General has the rights and duties of a Director heading an independent state administrative body. The Secretary General has a Deputy appointed and dismissed by the Government, who is accountable to the Government and the Secretary General.

The Government may work and make decisions if more than half of its members attend the session. The Prime Minister convenes the sessions upon his/her initiative or upon the request of at least one third of Government members. (The Government session are currently convened by the Prime Minister every Monday). The Prime Minister may also convene a session upon the request of ministers of one of the coalition partners in the Government. The Government makes decisions at its sessions with majority vote of the Government members. If votes on a decision are tied, the vote of the Prime Minister outweighs. Voting is public unless the Rules of Procedure stipulate a secret vote on particular issues. Normally the Government makes decisions by consensus. In line with its Rules of Procedure, the Government passes conclusions on each debated item, upon a proposal of the Prime Minister.

Ministries and other state administrative bodies mandatorily submit their materials to the Government with a memorandum and an accompanying letter. The memorandum is a summarised document, with clear information on the material content, especially on the fiscal implications; then on the mode of publicising, etc. A statement of conformity of proposed acts with the EU legislation is obligatory, etc. Materials relating to strategic or other important issues are submitted by the proposer not later than 15 days, and other materials not later than 8 days before the day of the Government session at which they are to be reviewed. By exception, the proposer may propose certain issues to be put on the agenda of the Government session after it has been convened, if they are urgent and cannot be

delayed. In such cases the proposer is obliged to submit the material to the Government with a special explanation not later than three days before the day of the session.

The Government establishes permanent or temporary working bodies for examining and establishing positions, giving opinions and preparing proposals for the resolution of particular issues in Government's competence.

Permanent working bodies are the general and specific committees. The chairpersons and members of working bodies are appointed upon the proposal of the Prime Minister. The Secretary of the Legislative Secretariat of the Government participates in the work of the working bodies. An absent member is represented by a deputy minister or a state secretary. The Chair of the working body is responsible for the organisation and preparation of the body's sessions, convenes and chairs the sessions, proposes the agenda and sees to realise the conclusions of the working bodies. The working body decides with a majority vote from the total number of members.

The Government has three general committees: the Committee on Political System, the Committee on Economic System and Economic Policy, and the Committee on Human Resources and Sustainable Development. These committees deliberate on draft legal acts, and on implementation of policies and legislation within their terms of reference. Harmonisation of the national policies with the policies of the European Union and harmonisation of the legal system with the EU *acquis* is also within their terms of reference of each committee.

The Committee on Political System covers the following areas: defence, including preparation in the field of defence that are in the competence of the Government; security; foreign affairs, functioning of parliamentary democracy and the rule of law; decentralisation of the government and the development of local self-government; judicial system; information system; organisation and functioning of state bodies and the reform of public administration.

The Committee on Economic System and Economic Policy covers the following areas: strategic priorities and measures for implementation; stimulation of sustainable economic development and a balanced spatial and regional development; scientific and technology development; establishing material, energy and other balances; environment protection and sustainable development; finances and tax policies; agriculture; economic relations with other states and global integration processes; urban planning, banking and insurance; long-term securities; market and prices, public consumption; technical culture and innovations; housing and utilities and the standard of living; tourism; and property relations. The Committee monitors the overall economic development and proposes measures of economic policies through adopting and implementing the macroeconomic policy; monitors the material condition of the economy and public consumption through adopting and executing the Budget of the Republic of Macedonia.

The Committee on Human Resources and Sustainable Development covers the following areas: education, science, arts, culture, youth and sports, and the organisation and conditions for work in these areas as well as specialised training of the staff; employment rate and employment; healthcare; social security and social insurance; special protection of children; health, pension and disability insurance; social protection of veterans, war invalids and civilian victims of war; the situation and the rights of the Macedonians in the neighbouring countries and Macedonian ex-patriates, promoting cultural development and relations with them; reintegration and repatriation of returnees and emigrants and other matters related to returnees and emigrants.

Specific committees of the Government are: Committee on Privatisation; Committee on Housing; Committee on Special Purpose Production; Committee on Appointment.

The Committee on Privatisation reviews the conditions and the methods of privatisation of the social property; proposes legislative and other measures for its realisation; reviews the conditions in enterprises covered with the programmes for privatisation of ownership; expresses opinion on the development programs that are to be financed by the Privatisation Agency; reviews the Annual Programme and the Financial Programme on the operation of the Privatisation Agency of the Republic of Macedonia, assesses its performance, suggests the method of sale of shares and

equities gained on the basis of state capital, separately and jointly with the shares and equities issued to the Agency; suggests to the Government to appoint representatives in boards of companies and/or organisations with state shares, as well as the shares and equities issued to the Agency; and performs other activities within its competence, determined by law.

The Committee on Housing: decides on renting of flats owned by the Republic of Macedonia to high officials appointed on public and other positions set forth in the Constitution and the Law; is in charge of citizens under social assistance programme and persons without permanent dwelling in accordance with the Law on Social Protection and the Law on Special Rights of the Security Forces Members of the Republic of Macedonia and members of their families; is in charge of persons whose housing rights have been terminated in accordance with the Law on Denationalisation; is in charge of persons from areas that have suffered from natural disasters and epidemics, as well as of employees in state bodies who carry out special duties necessary to enable the operations of the body they work for.

The Committee on Special Purpose Production monitors the conditions and the development of the production of weapons and military equipment in times of peace; the development and the adjustment of basic and additional capacities for the production of weapons and military equipment, as well as the production of sanitary materials and other products, equipment and services for defence purposes.

The Committee on Appointments is responsible for: human resources policy within the Government's competence; opinions or proposals to the Government with regard to nomination, appointment or dismissal of a state administrative body director or his/her deputies, the Secretary General and the state secretaries; issues related to management bodies of public enterprises appointed by the Government or appointed upon prior opinion, proposal or accord with the Government; implementation of the Government conclusions related to the human resources policy; matters concerning salaries of appointed officials; issues related to the immunity rights of the Government members.

The Government established councils as permanent advisory bodies and there are two such councils: the Legal Council and the Economic Council. Upon a request of the Government or upon their own initiative, the advisory councils discuss and give opinions on particular legal, economic and other issues.

The Legal Council discusses issues related to: the implementation of the principle of rule of law; development of the legal system and its compatibility with EU legislation; safeguarding of human rights and citizens' rights and freedoms, legal protection of ownership; as well as other issues of importance to the function of the constitutional, political and legal system.

The Economic Council discusses especially issues related to: the functioning of the free market and entrepreneurship principle; providing equal legal position for all subjects on the market; balanced regional development of the Republic of Macedonia and development of the underdeveloped areas; Macedonia's integration into the single European market; and Macedonia's co-operation with international financial organisations and institutions.

The Advisory Councils have a Chairperson and members, of whom the Chairperson and two members are also Government members. The members of the Legal and Economic Council are selected: from the rank of academics; one civil servant in the General Secretariat and one - civil servants in the Office of the Prime Minister. The Chairperson and the members of the Legal and Economic Council are appointed and dismissed by the Government upon the Prime Minister's proposal. The Secretary of the Legislative Secretariat attends the sessions of the Legal and Economic Council.

The Secretary General of the Government holds regular meetings with the state secretaries in the ministries, the Secretary of the Legislative Secretariat, and designate state advisors in order to coordinate the preparation of Government sessions and ensure the completeness of the materials and acts for the Government session.

The Legislative Secretariat, established by the Law on the Government carries out duties related to securing the consistency of the legal system. The Secretariat issues opinions on all draft legal acts adopted or proposed by the Government. The Secretariat considers conformity of draft legal acts with the Constitution of the Republic of Macedonia, with the EU legislation and with international treaties ratified in accordance with the Constitution. The Secretariat also gives expert opinion on regulations concerning the municipalities if the Ministry of Local Self-Government requires such an opinion.

The Government by its Decision has established a General Secretariat as a service of the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 12/01), which provides administrative support to the Government as a whole, to the Prime Minister, to the deputy prime ministers and to the ministers.

The ministries and other government bodies establish coordination and co-operation with the General Secretariat in the implementation of the Annual Work Programme of the Government. In addition, the General Secretariat coordinates the establishment and realisation of the Government's strategic priorities with ministries and other administrative bodies.

The Public Attorney's Office (Law on Public Attorney's Office – "Official Gazette of the Republic of Macedonia", No. 47/97), is a service of the Government that undertakes measures for the legal protection of property rights and interests of the Republic of Macedonia.

The Government has also established the General Affairs Service of the Government of the Republic of Macedonia ("Official of the Republic of Macedonia", Nos. 37/98, 45/98, 28/99, 61/99, 21/01, 30/01, 21/03 and 69/03), which provides financial, clerical and logistic support for the functions of the Government.

The Government has established 14 Commissions for second-instance administrative procedures securing the right to an appeal against first-instance decisions delivered by various administrative bodies.

In addition, an Inter-ministerial State Commission for the Fight against Illegal production, Trade and Abuse of Narcotic Drugs was established.

Pursuant to specific laws the Government appoints chairman and members of other bodies whose tasks have been determined by these laws.

In the exercise of its duties as determined by the Constitution and law, as well as to enforce laws the Government adopts legal acts: decrees, decisions, instructions, programmes, rulings (individual decisions), and conclusions, decrees with the force of law and guidelines (for more details see [I.C.11](#)).

The Government determines guidelines and positions on enforcement of the laws and other regulations that regulate the operation of ministries, other state administrative bodies and administrative organisations in their enforcement of the laws and other regulations. In addition, the Government determines deadlines for adopting acts for the aforementioned bodies, and determines the modes of co-operation with other state administrative bodies as well as other issues important for the realisation of the operations of these bodies.

In the exercise of its rights and duties, the Government harmonises and guides the work of state administrative bodies and may determine general principles regarding the implementation of the determined policy and enforcement of the laws and other regulations and by-laws of the Assembly and the Government; may order these bodies to adopt regulations and undertake measures within their authority; may determine deadlines on execution of particular tasks in their authority; may request them to inspect the condition in areas of their authority; and may submit a report to the Government with respective proposals.

Organisation and Operation of the State Administration

The Government of the Republic of Macedonia as the holder of the executive power is responsible for the coordination and internal organisation of all state administrative bodies. The Ministry of Justice is institutionally responsible for supervision of the implementation of regulations determining the organisation and operation of the state administrative bodies.

With such a defined role the Government of the Republic of Macedonia harmonises and supervises the work of state administration which is regulated by the Law on Organisation and Operation of the State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02). This Law is adopted with a two-third majority vote of the total number of Representatives of the Assembly. Pursuant to this law state administrative bodies perform their competences on the basis of legality, responsibility, efficiency, cost-effectiveness, transparency, equity and predictability. They are obliged to provide citizens efficient exercise of their constitutional freedoms and rights. State administrative bodies directly enforce the laws, adopt regulations for their enforcement, and carry out administrative supervision as well as other administrative matters.

Ministries and other state administrative bodies are, in accordance with laws, autonomous in carrying out operations within their competence. They are accountable to the Government for their work. Within their competences they provide for the efficient and legal exercise of rights and interests determined by law to all participants in administrative procedures.

The ministries, as a part of the executive power, perform administrative and other duties within their scope of activity, and they particularly implement the policy of enforcement of laws and other regulations passed by the Assembly as well as Government regulations. They are also responsible to enforce laws and other regulations; draft proposals of to adopt a law laws that the Government proposes; prepare the regulations passed by the Government; execute Government's positions and guidelines regarding the operation of state administrative bodies; monitor conditions in their scope of competence; give initiatives for resolution of issues in their scope of competence; resolve administrative issues; when authorised perform supervision of legality of acts and the operation of companies, institutions and other legal persons; carry out administrative and inspection supervision and other administrative matters when they have been given authority by law. State administrative bodies directly enforce the laws and other regulations and by-laws.

The minister represents the ministry, organises and secures the legal and efficient execution of tasks and duties; adopts regulations and other acts for which he/she is authorised and undertakes other measures within the ministry's competence pursuant to law; makes decision on rights, duties and responsibilities of civil servants and other employees of the ministry without the status of civil servants, unless otherwise determined by law. The minister has a deputy appointed and dismissed by the Assembly of the Republic of Macedonia upon the proposal of the Prime Minister. The deputy minister acts on behalf of the minister when he/she is absent or cannot carry out his/her duties due to illness or other reasons. In such cases the deputy takes over all authorities and responsibilities. In addition the deputy in co-operation with the minister carries out activities in the minister's competence if they are delegated to him/her.

The minister may authorise a civil servant to deliver individual decisions regarding administrative matters. He/she may also authorise a civil servant to sign acts, make decisions on particular issues and carry out other activities within the ministry's competence, unless the law specifically determines that such acts are only under the minister's competence.

The ministries (also comprising local offices at local self-government units) and other administrative bodies and organisations (independent bodies of the state administration and administrative organisations) are the central bodies of the state administration.

The ministries are the following: Ministry of Defence, Ministry of the Interior, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Economy, Ministry of Agriculture, Forestry and Water Resources Management, Ministry of Health, Ministry of Education and Science, Ministry of

Labour and Social Policy, Ministry of Local Self-Government, Ministry of Culture, Ministry of Transport and Communication, and Ministry of Environment and Physical Planning.

Administrative bodies within ministries are established for an administrative area under the ministry's competence and they generally perform administrative, professional and other activities with a certain degree of autonomy in operations (offices, bureaus, services, inspectorates, and port authorities). They generally carry out activities that demand specific expertise and modes of operations within the ministry. Administrative bodies are accountable to the respective ministries for their work. Administrative bodies within ministries are managed by a director, principal inspector, etc.

Bodies within the ministries without the capacity of a legal person are: at the Ministry of the Interior – the Security and Counter-Intelligence Directorate and the Public Security Bureau; Ministry of Justice – State Administrative Inspectorate, Directorate for the Execution of Sanctions; Ministry of Finance – State Foreign Exchange Inspectorate; Financial Police, Directorate for Prevention of Money Laundering and the Public Procurement Bureau; Ministry of Economy – Special Purpose Production Authority, State Market Inspectorate, State Inspectorate for Technical Inspection; Ministry of Agriculture, Forestry and Water Economy – Veterinary Directorate, Water Economy Directorate, Hydro Meteorological Directorate, Seed and Planting Material Directorate, Plants Protection Directorate, and State Forestry and Hunting Inspectorate; Ministry of Health – State Sanitary and Health Inspectorate, Bureau of Medicines and the Food Directorate; Ministry of Education and Science – Pedagogic Service, Office for Development and Promotion of Education in Languages of Communities and the State Education Inspectorate; Ministry of Labour and Social Policy – Department of War Veterans and the State Labour Inspectorate; Ministry of Local Self-Government – State Inspectorate for Local Self-Government; Ministry of Culture – Office for the Affirmation and Promotion of the Culture of Communities in the Republic of Macedonia and the Directorate for the Protection of Cultural Heritage; Ministry of Transport and Communications – Port Authority, State Transport Inspectorate, State Inspectorate for Civil Engineering and Urban Planning and the State Communal Inspectorate; Ministry of Environment and Physical Planning – State Environment Inspectorate, Service for Environment, Service for Spatial Information System.

Other state administrative bodies according to the organisation type and the level of autonomy may be established only as autonomous state administrative bodies (directorates, agencies, commissions, offices, bureaus, inspectorates) as well as administrative organisations established to perform activities that require specific technical expertise (institutes, archives, etc).

The remaining state administrative bodies and administrative organisations are autonomous and have a capacity of a legal person. They carry out administrative and other activities in their competence, and especially requiring technical expertise. They also make decisions upon administrative matters when authorised by law; co-operate with state administrative bodies and local self-government units as well as with other legal persons. For their work they are accountable to the Government of the Republic of Macedonia i.e. to the respective minister. An autonomous administrative body is managed by a head or a director appointed and dismissed by the Government.

Bodies within the ministries with the capacity of a legal person are: Ministry of Justice – Bureau for Forensic Expertise; Ministry of Finance – Public Revenue Office, Property and Legal Affairs Administration, Customs Administration and the Commodity Reserves Bureau; Ministry of Economy – Monopoly Authority, Tourism Bureau, and the Metrology Bureau; Ministry of Education and Science – Education Development Bureau; Ministry of Local Self-Government – Bureau for the Economically Underdeveloped Regions; Ministry of Transport and Communications – Telecommunications Directorate and Civil Aviation Authority; Ministry of Environment and Physical Planning – Geodetic Directorate.

Autonomous state administrative bodies are the following: Commission for Relations with Religious Communities; Youth and Sport Agency, Emigration Agency; Agency of Information; Development and Investment Agency; Protection and Rescue Directorate; Directorate for Protection of Classified Information; Agency for Promotion of Entrepreneurship and the Foreign Investment Agency.

Administrative organisations are the following: State Archives of the Republic of Macedonia; State Authority for Geodetic Works; State Statistical Office; and State Office of Industrial Property.

Legal entities vested with public authority are the following: Pension and Disability Insurance Fund; Health Insurance Fund; Employment Agency; Fund for National and Regional Roads; Privatisation Agency; Agency for Supervision of Fully Funded Pension Insurance; Central Registry; Securities Commission; Directorate for Free Economic Zones; Institute for Accreditation, and Institute for Standardisation.

The Decree on the Principles of Internal Organisation of State Administrative Bodies as well as general acts on the internal organisation and systematisation of posts in the ministries and other state administrative bodies (independent and administrative organisations) determines the number of civil servants and other persons needed to carry out determined tasks and duties. These regulations also determine the required professional conditions for the execution of duties, the authorities and responsibilities of civil servants and other issues important for the operation of state administrative bodies. Rulebooks on internal organisation and systematisation are adopted by the minister or the Director.

Funds required for the operation of ministries and other state administrative bodies are provided from the state budget. Funds intended for delegated competences of local self-government units, i.e. for legal and natural persons with public authorities, are secured in accordance with particular laws on the budget of the Republic of Macedonia.

Ministries or directors, when authorised by law, adopt rulebooks, orders, guidelines, plans, programmes, rulings and other acts for the enforcement of laws and other regulations (for more details see [I C 11](#)). The acts adopted by the minister may not determine rights and duties to citizens and other legal persons nor may they prescribe competences to other bodies.

The minister may adopt mandatory instructions for the execution of duties that have been entrusted to him/her as a public authority pursuant to law, and which are carried out by public enterprises and other legal and natural persons, as well as by local self-government units and the City of Skopje.

Ministers or directors pass individual decisions in administrative procedures regarding particular issues and in other circumstances (for more details see [I C 9](#)).

Local Offices (units) of the Ministries

Local offices of the ministries are established at the local self-government units within ministries or other state administrative bodies as their internal organisational forms. Such organisation is determined by the Ministry's act on internal organisation. Local offices of the ministry at the local self-government units carry out administrative and other expert activities in administrative areas for which they have been organised. They directly implement the laws and other regulations and see to their enforcement; they make decisions in first-instance administrative procedures if such decision-making has not been granted the ministry or to a legal person with public mandate; they carry out administrative and inspection supervision; monitor the condition in areas under their competence; and propose measures for the promotion of the situation in particular administrative areas. In general, local offices are managed by a head of sector or head of unit. They are appointed and dismissed by the minister or the director, in a selection procedure with public announcement. Heads of sectors and units of local offices are accountable to the minister or the secretary general or the director for their work. The selection procedure is carried out by the Civil Servants Agency.

6. What is the legal basis for the status of civil servants and other public employees? Is there a public administration law or regulation defining the status of public servants, including independence, recruitment and career structures and remuneration? Are there specific rules applicable to specific categories of civil servants? How are public servants recruited? What are their conditions of service? Are there training institutions for public servants? Please provide statistics on training provided in the last three years. What percentage of public servants are (a) women and (b) from ethnic minorities (please provide details of grade and seniority if available).

As a result of the established restrictive concept of state administration in the Republic of Macedonia, there is a clear distinction between the terms civil and public servant. Persons who carry out duties related to the state service and who are employed in the legislative, executive and the judicial branches, as well as in the state administration, other state bodies and municipal administration, are referred to as civil servants. The persons employed in services of public interest (education and science, health, social care, and culture) are referred to as public servants.

Pursuant to the constitutional provision (Article 32) specifying that the rights and positions of employees are regulated by law and collective agreements, the status, rights, duties and responsibilities of civil servants and other public servants have been regulated by a law, by-laws and by collective agreements.

The Law on Civil Servants first adopted in 2000 ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04), regulates issues of the status, rights, duties and responsibilities of civil servants, as well as the system of salaries and allowances for the civil servants. In accordance with the Law, a Civil Servants Agency has been established as an independent state body carrying out technical, administrative and other operations related to the status, rights, duties and responsibilities of civil servants. The Law does not specifically regulate issues of certain rights that are uniformly regulated for both the state and public sector in the general provisions on labour relations, such as: pension and disability insurance, health insurance, unemployment insurance, vacations and leaves, protection at the workplace, and termination of employment.

The status, rights, duties and responsibilities of specific categories of civil servants are regulated by other laws. The particularities that differentiate these civil servants from other civil servants are related to the performance of duties, which in turn require special rules on employment selection, promotion and other elements. Hence, these are generally a characteristic of the career systems as opposed to the system of jobs applicable for the civil servants in accordance with the Law on Civil Servants. The provisions in the Law on Civil Servants do not refer to: military and civil personnel in the Army of the Republic of Macedonia; uniformed employees in the Ministry of the Interior; employees in penitentiary and correctional institutions; employees in the forest, judicial and financial police and the Customs Administration; employees with special duties and authorities in the Ministry of the Defence, the Ministry of the Interior, the Intelligence Agency, the Public Revenue Office, and the Customs Administration; the authorised state auditors and persons performing state audit at the State Audit Office; as well as employees in the Civil Aviation Authority who perform duties and tasks of importance to the safety of aviation.

Law on Civil Servants

The definition of the term civil servant in the Republic of Macedonia has been formulated on the basis of a functional and organisational criterion (the type and character of operations and duties performed by the civil servant in the administrative body he/she works for).

According to the functional criterion, a civil servant is a person who performs professional, normative, executive, and administrative-supervising activities, and decides upon administrative matters in accordance with the Constitution and law. According to the organisational criterion, a civil servant is a person who performs duties in the state administrative bodies (ministries, bodies within ministries, autonomous administrative bodies and organisations within the executive branch); in local self-

government units and the City of Skopje; in administrative services of the Assembly, of the President, of the Government, and of the Constitutional Court and Supreme Court; in basic and appellate courts; in the Judicial Council of the Republic; in the Ombudsman's Office; in the Public Prosecutor's Office; in the Civil Servants Agency; and the State Audit Office.

Depending on the official tasks they perform, civil servants have been classified in three groups: managerial civil servants, expert civil servants and expert-administrative civil servants. The managerial and expert civil servants have a high education while expert-administrative ones have a post-secondary or secondary education.

Within these three groups, civil servants are divided into 13 positions. Managerial civil servants may acquire the following positions: secretary general i.e. state secretary; state advisor; head of sector; assistant to the head of sector and head of unit. Expert civil servants have the following positions: advisor, senior associate, associate and junior associate. The group of expert-administrative civil servants includes the following positions: independent officer, senior officer, officer and junior officer. Within the municipal administration there are no positions of a secretary general and a state secretary.

This classification provides for a uniform structure of positions in the bodies of administrative, executive and judicial branches, as well as in local self-government units. At the same time there is a distinction between the political and professional positions in the state administration, as well as a clear division of employees with a status of civil servants and employees without such status – and these are persons performing administrative-technical or assistance duties (couriers, drivers, guards, sanitary workers, etc.) to whom general provisions on labour relations apply.

Employment of civil servants

Civil servants are recruited in an open and transparent manner, through a public vacancy announcement and a requirement to undergo a professional examination. There are two exceptions to this rule pertaining to the position of secretary general and state secretary, as well as to what is known as horizontal mobility of civil servants.

Selection procedures and employment of civil servants are based on two basic principles: the constitutional principle of equal work opportunities and the merit principle – selection on the basis of capabilities. In addition, the principle of equitable representation of citizens belonging to communities is applied to all positions as determined by the Law, without contravening the criteria on expertise and competence.

The public vacancy announcements for civil servants are publicised by the Civil Servants Agency (hereinafter: the CSA) at least in two daily newspapers of which at least one published in an official language spoken by at least 20% of the citizens. The public announcement contains general and special conditions for the specific advertised position.

The Law on Civil Servants defines six mandatory general conditions that need to be met by every applicant for a position in the state administration: to be a citizen of the Republic of Macedonia; to be of legal age; to have adequate level of education as required for the position; to have the necessary work experience, except for the positions of junior associate and junior officer; not to be sentenced to a security measure of prohibition to perform a certain profession, activity or duty; and to be of good general health capability.

In addition, internal acts on systematisation of posts in administrative bodies employing civil servants determine special employment conditions related to the specific needs for the performance of a concrete post. They generally relate to the type of required education, knowledge of a foreign language, IT knowledge and other additional skills required for the post.

Applicants who meet the general and specific conditions also undergo a vocational exam. On the basis of their results and educational background, the CSA prepares a list of at least five successful candidates and submits it to the commission for the implementation of the employment procedure

which has been established by the administrative body offering employment. Within the five-member commission of the administrative body, members of non-majority communities must be equitably represented.

In the event that the CSA cannot compose a list of at least five candidates, the procedure is repeated from the beginning (with a new public vacancy announcement). If after the repeated procedure the Agency cannot make a list of at least five candidates, a list may be made with less than five candidates.

The Commission, on the basis of the list, shortlists three candidates for each position and submits it to both the secretary general and state secretary or to the official in charge of the administrative body in which a secretary general or a state secretary is not appointed, who makes the final selection.

Dissatisfied candidates have a right to lodge a complaint against the decision for selection within eight days from the day they have been informed in writing. The CSA must decide on the complaint within 15 days from the day it has received the complaint. The complaint defers the execution of the decision.

After the completion of the selection procedure, the secretary general, the state secretary or the official in charge of the administrative body in which a secretary general or a state secretary is not appointed, adopts a decision for employment of a civil servant.

The employment procedure of civil servants for the positions of junior associate and junior officer differs in that they do not undergo a vocational exam. After the selection they are required to undergo an internship of six and 12 months for expert-administrative and expert positions respectively. In the course of interning they are monitored and evaluated in accordance with the Rulebook on the Mode, Procedure and Criteria for the Execution of the Vocational and Intern Exam ("Official Gazette of the Republic of Macedonia", No. 59/01). One month prior to the expiry of this period, the intern takes an intern exam before the Commission that has selected him or her for the position. If the intern passes the exam he/she is employed in the position for which the announcement has been published. If not, his or her employment is terminated.

The employment procedure is finalised by giving and signing an oath. The oath is binding and if the civil servant refuses to give or sign an oath, it is deemed that the employment was not made. The signed oath is kept in the civil servant's file.

Secretaries general who are highest in rank in the Assembly, the President's Office, the Government, the Constitutional Court, the Supreme Court, the Judicial Council of the Republic, the Ombudsman's Office, the State Audit Office, the Civil Servants Agency and the Public Prosecutor's Office, are appointed by these bodies from the ranks of managerial civil servants. State secretaries have been envisioned for the ministries and they are appointed by the Government upon the minister's proposal from the ranks of managerial civil servants in the ministries and other state administrative bodies. The term of office of the secretaries general and state secretaries is the same as the term of office of the body appointing them, i.e. of the official in charge of the body.

In cases of horizontal mobility, the civil servant may be transferred from one to another body to a position of an equal rank without a public announcement, if the Secretary General, State Secretary or the heads of these bodies agree and when the needs of the service necessitate such transfer, upon prior opinion of the Agency.

Rights and duties of civil servants

The rights and duties of civil servants are defined by the Law on Civil Servants. An important segment of the Law is the legal guarantee for the protection of the civil servant's rights deriving from his/her employment. The civil servant has a right to request protection before the competent court, trade union or other state body in exercising these rights. The Law on Civil Servants regulates the following rights: the right to political activity; the right to professional training and development; the right to protection; the right to found or be a member of a trade union; the right to strike; the right to

salary and other allowances; the right to vacation and leave (this right in the Republic of Macedonia is equal for civil servants and other employees in the public and private sectors).

With regard to the right to political activity the Law prescribes that the civil servant may be an active member in a political party; however, by exercising this right he/she must not put in question his/her status of a civil servant, or the performance of the official duties related to that status. In addition, the civil servant may not wear or place party symbols in the office.

In order to exercise their economic and social rights, civil servants have the right to establish trade unions and to be their members under the terms and in a manner defined by law, and they have the right to strike. When exercising their right to strike, civil servants are obliged to ensure a minimum of uninterrupted execution of functions of the body, the necessary level in exercising of citizens' and legal entities' rights and interests and the execution of ratified international agreements. The minister, or the head of the body, by way of regulation, defines the manner of exercise of the functions of the body during a strike, as well as the number of civil servants who are obliged to work to execute those functions so as to meet the conditions for ensuring the minimum of uninterrupted execution of functions and the necessary level in exercising of citizens' and legal persons' rights and interests and the execution of ratified international agreements. During a strike the civil servant is entitled to a salary in the amount of 60% of the salary he/she had received the month before.

Civil servants are obliged to perform their duties conscientiously, professionally, efficiently, orderly and timely, in accordance with the Constitution and law. Furthermore, the civil servant is obliged to perform his/her activities impartially and without the influence of political parties; he/she may not be guided by his/her own political beliefs or personal financial interests; he/she must refrain from misuse of authorisations and the status of a civil servant and protect the reputation of the body.

The civil servant is obliged to execute the orders of the minister, of the head of the body, or of the immediate superior civil servant and to act upon them in accordance with the Constitution, law or other regulation. However, if the civil servant deems that the order he/she has received is not in accordance with the Constitution, law or other regulation, he/she is obliged to point out that fact to the person that issued the order. The civil servant shall act upon a repeated order unless he/she deems that its execution would constitute a criminal offence. If the civil servant does not warn the immediate superior civil servant, the civil servant and his/her immediate superior civil servant shall be liable for execution.

The protection of data defined as a state or official secret is one of the responsibilities of the civil servant, who is obliged to keep the secret in a mode and under conditions determined by law or other regulation. The obligation for keeping an official secret is valid for a period of three years after the termination of the service. On the other hand, the civil servant is, in accordance with law, obliged to provide information upon request of the citizens required for exercise of their rights and interests, except the information classified as state or official secret.

The Code of Ethics for Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 96/01 and 16/04) determines the manner of civil servants' behaviour and conduct in order to secure the respect of principles of legality, professional integrity, efficiency, and loyalty during the execution of their official duties.

Promotion of civil servants

The state administration system in the Republic of Macedonia, pursuant to the Law on Civil Servants, has been defined as a system of jobs in which promotion is not automatic. In such a system, a prerequisite for "promotion" of the civil servant is a vacant position of a higher rank than that of the civil servant. However, the procedure for filling of vacancies is in fact a procedure for a new employment (public announcement and a procedure of competition), as defined above.

System of Salaries and Allowances

The salary of a civil servant consists of a general and exceptional component. The general component consists of: basic salary, position supplement and career supplement. The exceptional component consists of: demanding job supplement and non-regular supplement (overtime work).

The basic salary paid to a civil servant provides for rewarding of the appropriate educational level of the job he/she is assigned to, and rewarding of the work experience, regardless of where such experience has been acquired. Hence, the education level is valued with an adequate number of points: higher education – 200 points; post-secondary – 150 points and secondary – 100 points. The work experience is valued in amount of 0.5% of the part of the basic salary that rewards the educational level for each year of work experience entered upon, but not higher than of 20%. The position supplement is valued as follows:

Group	Position	Points
I	Secretary General	660
I	State Secretary	625
I	State Advisor	470
I	Head of sector	450
I	Assistant to the head of sector	360
I	Head of unit	300
II	Advisor	235
II	Senior Associate	200
II	Associate	185
II	Junior Associate	155
III	Independent officer	150
III	Senior officer	135
III	Officer	120
III	Junior officer	100

The value of a point for the salaries of civil servants employed in the state administration is determined every year by a Governmental decision. The value of the point for 2004 was 40.10 MKD and is the same for 2005. The value of a point for the salaries of civil servants employed in the municipal administration is determined every year by a decision for the execution of the Budget in every municipality, and in 2004 it was not higher than 40.10 MKD.

Civil servants in every position except for the secretary general and the state secretary, is entitled to a career supplement. This approach in the salary system gives an opportunity for the so-called horizontal career of civil servants. Namely, the civil servant under special terms determined by law may be entitled to a higher salary for the same position. In other words, the civil servants may advance with regard to the amount of his or her salary, but not in the hierarchical sense. The horizontal career has four levels: level A, level B, level C and level D. Level A is acquired after three years of work experience as a civil servant and is 5% of the position supplement. Level B is acquired after three years of work experience at the level A, and is 10% of the career supplement. Level C is acquired after three years of work experience at level B, and is 15% of the career supplement. Level D is acquired after three years of work experience at level C, and is 20% of the career supplement. By exception, when a civil servant is evaluated with the mark "outstanding" for two consecutive years, he/she may be promoted in the career to a higher level one year earlier than defined. Hence, this element in the salary of the civil servant depends on his or her length of experience in the civil service and the results from his or her work recorded in the annual assessment.

Civil servants, apart from the right to salary supplements pursuant to the general labour relations provisions, are also entitled to other allowances: travelling, daily and other expenses for business trips; expenses made by usage of personal vehicles for office purposes; expenses for life separate from the family; expenses for change of the place of residence; transport to and from work; food expenses; expenses for field work; funeral expenses in case of death of a civil servant or of a member of his/her family; damages suffered in natural disasters, and expenses for a long illness of a civil servant.

The system of salaries and allowances for civil servants entered into force in April 2004, but only partially (the basic salary component without the career supplement). Its full implementation shall start on 1 April 2006. The implementation of the salary system and its basic component is done in a period of two years in which the amount of current salaries is levelled with the amount as defined by the Law.

Due to limited budgetary resources, the levelling of salaries through the partial implementation of the salary system is implemented in stages, in a mode determined by the Guidelines for the Mode of Definition and Payment of Salaries for Civil Servants ("Official Gazette of the Republic of Macedonia", No. 31/04).

The nominal value of the basic salary that will be paid in March 2006 is calculated so that the total points for the basic salary (the points for the respective level of education and the points for the working experience) and the points for position supplement are multiplied by the value of the point as determined by a Decision of the Government, pursuant to the Law on Civil Servants.

Budgetary beneficiaries are required to file an F-2 form to the Ministry of Finance, which contains: personal identification number; name and last name; ethnicity; position; level of education required for the position as established by the act on systematisation of posts; length of work experience; salary amount not including the points for work experience; the points for work experience; as well as other data. On the basis of submitted data in the F-2 form, the Ministry of Finance calculates the monthly amount of increase or decrease of salary for each civil servant.

The starting salary of the civil servant employed in the period when salaries are levelled is determined in accordance with the amount of the salary of a civil servant with the same position (employed in the same body) paid in the preceding month, including the points for work experience.

The levelling of the salary of a civil servant who is transferred from another administrative body in the period of levelling continues from the calculation already done in the body where the civil servant had worked.

The levelling i.e. decompression of salaries is a correction of individual salaries of civil servants in a period of 24 months until the final levelling of the salaries in the civil service has been achieved, with the respect of the principle "equal pay for work of equal value" and the equitable remuneration in accordance to specified criteria.

Assessment of civil servants

The assessment of civil servants aims to strengthen the responsibility of civil servants and improve the quality of their work and the services they offer. The assessment system was first introduced in 2004 and hence the first assessments shall be given in the first quarter of 2005, as prescribed by the Law.

Pursuant to the Law, the assessment of managerial civil servants is carried out by the official in charge of the body, while the assessment of expert and expert-administrative servants is carried out by the immediate superior of the civil servant, i.e. the head of the sector.

The system also envisages that the assessment should be carried out for all civil servants, except for the secretary general and the state secretary. The assessment is carried out on the basis of monitoring the work of the civil servant and on the basis of several other standardised criteria: expert

knowledge and capability, efforts, results, creativity and conscientiousness. The civil servant must be assessed with one of the following grades: “outstanding,” “satisfactory,” and “unsatisfactory.”

The assessment is a basis for the civil servant’s exercise of certain rights. On the one hand, consecutive positive grades provide for a speedier promotion of the civil servant in the horizontal career levels, resulting in a higher salary. On the other, one negative grade is a basis for reassignment to a lower position and a decrease in salary, while two consecutive or three negative grades in a period of five years are a basis for termination of employment by force of law. The two types of consequences should provide for a speedier development of a professional, competent and efficient administration in which poor quality of work and services to the detriment of citizens’ rights and interests would not be tolerated.

Professional development and training of civil servants

A specialised institution for training of the civil servants has not been established in the Republic of Macedonia. This, however, does not mean that the question of training has been neglected in the legislation or that training of civil servants is lacking. On the contrary, the Law on Civil Servants sets forth a framework which defines the system of training and which rests upon the basic principles it determines - that every civil servant has a right and duty to be trained on the basis of annual programmes adopted by respective bodies and financed from the Budget of the Republic of Macedonia.

The CSA, pursuant to the Law, is competent to coordinate activities pertaining to the expert training of civil servants as well as to promote the efficient and effective operations of civil servants. In that respect, the CSA has prepared a document titled “The System of Training of Civil Servants in the Republic of Macedonia,” which defines the basic principles of the training policy, the division of roles between the CSA and every administrative body employing civil servants, the structures for coordination, the funding model and how to provide training.

In the last three years since its establishment the CSA has continuously been carrying out generic training and other forms of professional development for all civil servants in the Republic of Macedonia. According to the records of the Sector for International Cooperation and Professional Development within the CSA, in the period of 2002-2004 a total of 13 training programmes and other forms of professional development of civil servants were carried out. They have encompassed a total of 2044 civil servants.

Topic of training	Executive branch	Assembly and other state bodies	Courts and prosecutors	Municipal administration	Total participants
High administrative training (HAT)	70	16	1	0	87
Specialised seminars in HAT	62	5	0	11	78
Middle management programme (MMP)	30	5	0	0	35
System of public administration and civil service in the RM	281	52	15	0	348
Civil service system in the RM	0	0	0	274	274
Procedure for harmonisation of acts on organisation and systematisation of posts, and the positions of civil servants in the municipalities pursuant to the LCS.	0	0	0	242	242
Mode and procedure of assessment	99	30	86	0	215
Human resources management	42	25	5	0	72
Assessment for the need of training of civil servants	24	10	0	0	34
Training of civil servants from the CSA	0	75	0	0	75
Rulebook on the procedure and mode for collecting and processing of data for the Civil Servants Central Register	34	3	3	0	40
Seminars within the Venice Commission	17	19	2	0	38
The institutional strengthening of local-self government in Macedonia through the strengthening of capacities and financial liability	0	0	0	159	159
Total	659	240	112	686	1697

Source: Civil Servants Agency

The Government of the Republic of Macedonia in May 2000 adopted the "Strategy for Civil Servants Training in the Process of Macedonia's Approximation to the European Union". The strategy defines the aims, target groups, areas of EU training, methods, mode of funding, management and coordination with the activities for EU training, and evaluation and monitoring of training carried out.

The implementation of the Strategy for EU Training is done through biennial Operational Training Plans, which determine the priority target groups of civil servants as well as the topics of training. The activities envisaged in the plans are in accordance with the identified needs for EU training of Macedonian civil servants and with the priorities of the European integration process. The funding of operational plans is secured from the Budget of the Republic and foreign donors. The first Operational Plan for the period of 2001-2002 and the second Operational Plan for the period of 2003-2004 were fully implemented.

The realisation of the Project on Establishing a Centre for Continuous Training for the European Union within the Tempus programme of the European Commission started in 2003. In the first group of trainers for EU training a total of 59 participants were trained, of which 19 are civil servants.

In addition to the EU training activities, a Programme for scholarship for post-graduate studies abroad on topics concerning the EU is under way. The funding of the programme is secured through the Budget of the Republic of Macedonia and foreign donors. On the basis of a public competition and the established selection procedure, a total of 20 scholarships have been hitherto awarded to junior cadres who are obliged to work for the state administration a certain period of time after they complete the studies.

The Sector for European Integration within the General Secretariat of the Government of the Republic of Macedonia has organised 33 trainings in the country for a total of 852 participants, of which over 90% are civil servants. At the same time, six summer schools and one seminar have been organised abroad, where a total of 22 civil servants have participated (See table 1. Review of Training in the Field of European Integration)

The following table gives an overview of trainings in the field of European integration organised by the Sector for European Integration.

Type of training	Topic of training	Participants	Number of participants
General trainings	<ul style="list-style-type: none"> EU, European Legislation and Policies; European Integration Process of the European Integration of Macedonia; Stabilisation and Association Agreement Civil Service System in Macedonia 	<ul style="list-style-type: none"> Civil servants – employees in the sectors for European integration and in the normative and legal sectors in the state administrative bodies; Members of inter-ministerial bodies for European integration Judges, expert associates, prosecutors 	357
Sectoral trainings	<ul style="list-style-type: none"> EU Internal Market and the RM; Competition; State Aid; Public Procurements. Justice and Home affairs; Asylum Action plan Local self-government Experiences of East European and Central European countries in the process of integration into the EU and the utilisation of pre-accession funds New financial perspective 2007-2013 of the EU and accessibility to EU funds aimed at the social and economic development 	<ul style="list-style-type: none"> Civil servants of the state administrative bodies; members of respective working groups for the legislation approximation Non-governmental sector Media; Academics 	515
Strengthening of skills	<ul style="list-style-type: none"> Training management Project cycle management 	<ul style="list-style-type: none"> Civil servants in charge of training management and development of human resources in the Civil Servants Agency and the ministries 	26
TOTAL NUMBER OF PARTICIPANTS			898
Source: Sector for European Integration, General Secretariat of the Government of the Republic of Macedonia			

The Sector for European Integration has also organised participation in seminars abroad for a total of 22 participants - civil servants from the Sector for European Integration and from sectors for European integration within ministries and other state administrative bodies:

- Intensive seminar on the EU – College of Europe – Bruges, Belgium;
- Summer school on the EU for the countries of the SEE, in Blagoevgrad, Bulgaria;
- Economic and social cohesion: challenges of the new EU – Limerick, Ireland;
- Diplomacy and management in the EU negotiations – Dubrovnik, Croatia.

Furthermore, for the purpose of successful realisation of Macedonia's obligations deriving from the transposition and implementation of the EU legislation, and especially for the purpose of achieving a greater capability for continuous analysis, elaboration and implementation of European standards in the national legislation, the TAIEX Office in Brussels organised 33 seminars in the period June-December 2004 for a total of 165 participants of which over 95% civil servants.

The Centre was established in 1999 for the purpose of training of employees in courts and public prosecutor's offices. From 2002 to 2004, apart from judges and public prosecutors, employees with a status of civil servants have also attended training.

In the course of 2003 and 2004, the Centre for Continuous Education of the Macedonian Judges' Association organised 17 trainings in which a total of 153 civil servants from courts and public prosecutor's offices participated.

Government bodies employing civil servants also perform specific trainings in topics concerning these bodies.

The Association of Local Self-Government Units (ALSGU) financially supported from by donors carried out training in municipal administration, encompassing 12 subject areas. According to the ALSGU's records, 1704 employees in the municipal administration have undergone training, in the following topics:

Topic	Participants
Financial management	108
Development of human resources	158
Local economic development	119
Civic participation	88
Relations with donors	527
Administrative operations	55
New competences with the decentralisation	61
Utilities	119
Public relations	76
Legislation	257
Urban planning	69
Public procurements	67
Total	1704

The CSA, the Ministry of Local Self-Government and the ALSGU on 23 October 2003 signed a Memorandum for Cooperation in the Area of Professional Training and Development of Civil Servants in the Municipal Administration. Pursuant to this Memorandum a trilateral Committee has been established as an institutional mechanism for coordination of activities in this field. Furthermore, with the UNDP's support, a unit has been established to perform expert and technical operations for the Committee.

Liability of civil servants

Pursuant to the Law on Civil Servants, the civil servant is personally responsible for the performance of the official tasks. The civil servant, except the Secretary General and the State Secretary are liable

to disciplinary measures. The responsibility for a criminal offence or misdemeanour does not exclude the disciplinary liability of the civil servant. The civil servant is disciplinarily liable for a disciplinary irregularity and disciplinary offence.

Any minor, insignificant violation of the official duties, or minor violation of the reputation of the service or of the civil servant is disciplinary irregularity. The disciplinary violation, on the other hand, is any major, significant violation of the official duties, or a major violation of the reputation of the service or of the civil servant.

In the event of violation of the official duties, one of the following disciplinary measures may be taken against the civil servant based on a decision:

- Public reprimand;
- A fine in the amount of 10% to 30% of the monthly salary paid in the month before the violation of the official duties was committed.
- Termination of employment.

Disciplinary irregularity is: not coming to work in the determined time and leaving work before the closing hours despite the reprimand by the immediate superior civil servant; disorderly maintenance of official documents and data; unjustified absence from work up to two working days during one calendar year, and failure to wear name-tags if such an obligation exists. The disciplinary measure for a disciplinary irregularity may be public reprimand or a fine of 10% of the monthly salary paid in the month before the disciplinary irregularity was committed. The measure is pronounced by the minister or the official in charge of the body after a prior written report submitted by the immediate superior civil servant.

Disciplinary violation is:

- Non-performance or unconscientious, indecent, untimely or negligent performance of the official duties;
- Expressing and advocating personal political beliefs when performing the official tasks;
- Refusing to provide or providing incorrect data to the state bodies, legal entities and to the citizens, if the provision of data is prescribed by law;
- Illegal management of funds;
- Refusing to perform the official tasks of the job he/she is assigned or refusal of orders given by the immediate superior civil servant;
- Non-compliance with the act of the official prescribing the rules for work during a strike;
- Not taking or partially taking the prescribed security measures for protection of the entrusted assets;
- Causing major material damage;
- Repeating a disciplinary irregularity;
- Receiving gifts or other benefits; and
- Refusal of professional training and development to which the civil servant is sent.

A fine in amount of 10% to 30% of the monthly salary paid to the civil servant in the month before the disciplinary offence was done shall be imposed for the disciplinary offences listed under items 1 to 10. If there were harmful consequences for the body and if no mitigating circumstances have been found for the civil servant that committed the offence, the employment of the civil servant is terminated. A fine amounting 10% to 30% of the monthly civil servant's salary paid in the month before the disciplinary offence was committed may be imposed for the disciplinary offence listed under item 11.

The disciplinary measures against the civil servant related to disciplinary violation shall be decided upon by the minister or the head of the body, following a disciplinary procedure upon the proposal of the Commission for Disciplinary Procedure on Disciplinary Violation.

Apart from disciplinary liability, the Law on Civil Servants envisages financial liability for any damage that the civil servant causes either intentionally or due to complete negligence. The official in charge of the body founds a commission for determining the financial liability. Based on a report of the Commission the official in charge of the body determines the liability of the civil servant for compensation for the damage. The body in which the civil servant works is obliged to compensate the material damage caused by the civil servant to third parties in the course of performance of his/her official duties. The official in charge of the body may completely or partially release the civil servant from compensating the damage, if it were not done intentionally, or if the compensation for the damage may jeopardise the well-being of the civil servant and his/her family.

Termination of employment

Apart from cases of termination of employment regulated by general provisions on labour relations (with an agreement, by dismissal or by force of law), the Law on Civil Servants envisages the following grounds for termination of employment.

- If he/she had been convicted of a criminal offence related to his/her official duties or other criminal offence that makes him/her unsuitable to perform the service;
- If he/she was assessed with “unsatisfactory” grade for two consecutive times or for at least three times in the past five years;
- When an intern civil servant does not pass the intern exam;
- In cases when the civil servant does not accept reassignment to another position as a result of a received annual grade “unsatisfactory.”
- In cases when the secretary general or the state secretary, after the expiry of his or her term of office or after his or her dismissal refuses the reassignment to another position;
- When a disciplinary measure for disciplinary violation has been taken and when mitigating circumstances for the damages caused to the body have not been determined;
- In cases of the so-called “redundancy”. Namely, the Law on Civil Servants prescribes that in case of termination or merge of the body, reduction of its competences, reduction of the amount of work or changes in its internal organisational structure by elimination of posts due to structural changes in the bodies, the civil servant who performed those duties is reassigned within the same body to a job in the same or a lower position. In cases of reassignment of a number of redundant civil servants, priority is given to single parents, a foster parent to a child of up to 7 years of age; parents of a severely disabled child; disabled at work; and one of the spouses who are employed with the same employer. If the civil servant is not reassigned to another position within a month or if he/she refuses the reassignment, his or her employment is terminated.

Law on Military Service in the Republic of Macedonia

The status of military personnel as a special category of civil servants has been regulated by the Law on Military Service in the Republic of Macedonia (“Official Gazette of the Republic of Macedonia”, Nos. 62/02, 98/02, 25/03 and 71/03). Military personnel are military officers (officers and non-commissioned officers), professional soldiers and civilian persons in service of the Army.

Authorised officers in the Ministry of Defence who are military officers fall under the competence of the Law on Military Service in the Republic of Macedonia. On the other hand, authorised officers in the Ministry of Defence, who are civilians, fall under the competence of general provisions on labour relations.

Authorised officers in the Ministry of Defence are persons in charge of: collecting, documenting and analysing intelligence data relevant for the defence of the Republic; detecting and preventing intelligence and other subversive activity of foreign military intelligence and intelligence services conducted both within the country or from abroad and aimed against the defence of the Republic;

detecting and preventing all forms of terrorist activities aimed against the Republic; performing counter-intelligence protection of tasks and plans, documents, material and technical means, areas, zones and objects of interest to the Republic; as well as persons in charge of preventing and detecting criminal offences in military units and institutions, in military bivouacking areas or areas where military personnel are trained, as well as in facilities and zones determined by the Government. Authorised officers are appointed by the Minister of Defence.

Employment

Admittance of military personnel is carried out through employment in the Ministry of Defence by way of public announcement. The Law determines the general and special conditions that candidates need to meet in order to be employed as officers, non-commissioned officers, professional soldiers or civilian persons in military service. General conditions for admittance into the service are equal for all military personnel, i.e. they need to be citizens of the Republic of Macedonia; they need to be of legal age; they need to be physically fit for the performance of duties and they must not have been subject to a security measure of prohibition to conduct a profession, activity or duty. Depending on whether an officer, non-commissioned officer, professional soldier or civilian in service of the Army is admitted, special conditions set forth are: adequate education, age, and professional training.

Rights and duties

The Law on Military Service in the Republic of Macedonia stipulates special rights and duties for military officers. The military officer is obliged to carry out his or her service conscientiously, professionally, efficiently, orderly and timely, in accordance with the Constitution and law and in accordance with international agreements ratified by the Republic of Macedonia. Military officers are obliged to: give and sign an oath that remains in force permanently; wear a military uniform; military identification, military book and special identification documents; carry out orders of the superior officer; keep state, military, official and business secrets, an obligation that remains in force even after the cessation of service; comply with the prohibition to participate in political campaigns and other public events during his/her working hours and with the prohibition to wear or display party symbols in office; and notify the superior in charge upon travelling abroad; they have the right to use coercive means or firearms in accordance with regulations. The right to strike is restricted and the military officer may use such rights not more than once a year. Military officers are entitled to free legal assistance when they are subject to criminal, misdemeanour or civil proceedings for the use of coercion, firearms or other interventions as well as for involvement in a traffic accident during service. Military officers are also entitled to free health care in both military and civilian health institution (under terms specified by law), and to insurance in case of death, bodily harm or loss of the ability to work resulting from the performance of service. The Law also regulates the rights to vacations and leaves as well as the working hours of military officers.

The civilian persons are equal with military officers in the following rights and duties: giving an oath, executing an order, keeping and using firearms, keeping a secret, not participating in political campaigns, striking, using legal assistance, healthcare, insurance, travelling abroad, working hours, vacations and leaves.

In the line of duty, military officers and civilian persons in the armed forces are entitled to a use of a military-owned apartment in the location of service, and if such apartment is not available they are entitled to compensation of rental expenses. Professional soldiers are entitled to a free accommodation in army barracks.

Deployment and promotion

Orders for appointing, promoting, dismissing, reassigning, deploying, representing and other relations within the service for the officers with a rank of a major up to a colonel are issued by the Minister of Defence or a person authorised by him/her. As regards professional soldiers, non-commissioned officers and officers of a rank up to a captain, orders are issued by the Chief of General Staff of the Armed Forces or a person authorised by him/her. Orders for deployment, reassignment to a different post, dismissal due to professional development and training, sick leave and treatment, representing

or for other relations within the civilian service are issued by the Chief of General Staff of the Armed Forces or by a person authorised by him/her.

The promotion of military officers to a higher rank and their assignment to a specific duty depends on the assessment and the needs of the service. Conditions for promotion into a rank have been determined by the Law. Officers are promoted upon the proposal of the Commission established by the Chief of General Staff of the Armed Forces. Promotion into a rank of a professional soldier, non-commissioned officer and officer up to a captain is granted by the Chief of General Staff of the Armed Forces, while promotion into a rank of a major up to a colonel is granted by the Minister of Defence. The promotion in rank and assignment to a duty of the officers in the rank of a general is within the authority of the President of the Republic as Commander-in-Chief of the Armed Forces of Macedonia.

System of salaries and allowances

The Law on Military Service determines the system of salaries and allowances for the military personnel. The salary consists of a basic salary and supplements.

The basic salary of military personnel is determined according to the rank, duty, work experience and the army supplement. The supplements to the basic salary are the following: for performing a specific military service; for performing a high-risk service; for performing a service in the troops; for a special education level as determined by the act on formation for a specific duty; as well as for representation.

The basic salary of civilians in service of the armed forces is determined in accordance with the education level for the position in which they have been assigned, duty, work experience, army supplement and career supplement. The supplements to the basic salary are the following: for performing a service in shifts or turns; for performing a high-risk service; for a special education level as determined by the act on formation for specific duty, and for representation.

The salary value is determined in points, and the point value is the same for all military personnel.

Military personnel are entitled to allowances for vacations, leaves in cases determined by law, sick leaves, pregnancy, birth and maternity leaves, child nourishment leaves, retraining and additional training, professional development and training, as well as for responding to summons of courts or other bodies.

Assessment

In the course of service, military personnel are subject to official assessment for the determination of their success in service, which in turn secures their promotion into a rank or assignment to a specific duty.

The assessment is carried out every 12 months, and in exceptional cases determined by the Law it may be carried out for a period shorter than 12 months, but not shorter than six.

Assessment is done on the basis of data compiled from the following criteria: expertise, professional efficiency, command and management, results from work and physical fitness. The data is assessed descriptively with the following grades: "especially distinguishes himself/herself", distinguishes himself/herself, "good," "satisfactory," and "unsatisfactory."

The assessment is carried out independently by the immediate superior and deputy superior or a manager or by a managing person who is an officer or a civilian with a higher education. The

Commission established by the Chief of General Staff of the Armed Forces decides on appeals against assessment.

Professional development and training

Professional development and training for officers and non-commissioned officers, as one of the conditions for admittance into service is conducted by the Army. In the course of service and on the basis of plans and curricula, military personnel are obliged to attend training organised by the Army in the premises of the Military Academy, the Defence Training Centre and the Ministry of Defence, as well as in other institutions in the country and abroad.

Training may be carried out both in the country and abroad. The training in the country is carried out in the Training Command, through basic courses for non-commissioned officers, while in the Military Academy there are courses for platoon commanders (basic course for officers). The training of military personnel (officers and non-commissioned officers) abroad is carried out through the bilateral co-operation with NATO-member states and Partnership for Peace, and through courses, seminars and participation into mutual military exercises. In the last three years trainings for 697 military personnel have been conducted, specifically: courses for officers for 105 military personnel; courses for platoon commanders for 166 military personnel; and courses for non-commissioned officers for 426 military personnel.

Within the Strategic Defence Review, the remaining higher levels of training of officers and non-commissioned officers have been defined and they are currently developed. The dynamics of training shall be determined after the curricula are adopted. In the last three years there have been trainings for 885 military personnel abroad (USA, Canada, UK, France, Turkey, The Netherlands, Greece, Romania, Bulgaria, Italy, Germany and Switzerland), specifically for 322 officers, 178 non-commissioned officers, 373 professional soldiers and 12 civilians.

Liability

Military personnel are disciplinary liable for violation of the military duties and discipline, in a mode and procedure determined by the Law.

A violation of the military discipline is every action of a military person that contravenes the provisions for the performance of military service, as determined by the Law.

The following disciplinary measures are pronounced by competent military superiors: written reprimand, decreasing the amount of the monthly salary between 10% and 30% for a period of one to six months, and rank degradation and demotion to the previously held rank.

The Chief of General Staff upon the proposal of the Military Disciplinary Commission determines disciplinary measures against professional soldiers, non-commissioned officers and officers up to a rank of a captain, and these measures are: prohibition for promotion to a higher rank for a period of one year, assignment to a duty at the previous rank for a period of two years; and deprivation from the rank. The same measures are pronounced by the Minister of Defence for personnel of the ranks from a major to colonel.

The disciplinary measure of “termination of employment” to a civilian person in service of the armed forces is pronounced by the Chief of General Staff of the Armed Forces or by a person authorised by him/her, upon the proposal of the Military Disciplinary Commission.

Military personnel are also financially liable. If military personnel negligently or deliberately cause damage to the property of the Republic of Macedonia related to the performance of duty, they are obliged to compensate for the damage, in a mode and procedure determined by the Law. A battalion commander, an equivalent or a higher military official for whom a rank of colonel or higher has been envisaged with the Formation Book, decides on financial liabilities and compensation, in a procedure determined by the Law.

Termination of employment

The termination of employment to a military official and professional soldier is undertaken if he/she: loses health or physical capability for service in the armed forces and does not have the general health capability for work as required; is discharged of citizenship of the Republic of Macedonia; has been assessed with the grade “unsatisfactory” two times consecutively for at least four assessment data; has not been promoted to a higher rank in three consecutive procedures; is absent from work due to serving a prison sentence (a military official for longer than two years and professional soldier for longer than six months); has been subject to a security or correctional measure due to which he/she is absent from work (a military official for longer than two years and professional soldier for longer than six months); files a personal request; and fulfils the requirement for retirement.

Termination of employment to civilian persons in service of the Army is done in accordance with the general provisions on termination of employment pertaining to civil servants.

The retirement of military personnel is done in accordance with the general provisions on retirement of workers in the Republic of Macedonia (age retirement with 64 years of age for men, i.e. 62 years of age for women, and 15 years of insurance). There is an exception to this rule that pertains to military personnel who have reduced years of insurance (for aviation services, parachutists, divers, members of special task units, performing radiological, biological and chemical protection, radar services, electronic surveillance, crypto-protection, security, intelligence and counter-intelligence, military police, and duties in a troop). This category of persons are entitled to an old age retirement with at least 25 years of insurance, of which at least 15 have been effectively spent in posts of reduced years of insurance, and 55 five years of age for men and 50 years of age for women, if their employment has been terminated due to service cuts. In the transitional period by 31 December 2007 some military personnel are to be prematurely retired as a result of the implementation of the rationalisation process in the Army, in accordance with a special law. Namely, the Ministry of Defence may buy an additional length of service of five years, and thus a military official or a civilian may acquire the right to old age retirement with 40 years of service for men and 35 years of service for women, regardless of age.

Law on Internal Affairs

In the structure of the Ministry of the Interior, there are three categories of employees with a different status:

- Employees with special duties and authorities determined by the Law on Internal Affairs (police employees and operational employees, employees performing duties directly related to the police and operational duties, and the minister, his/her deputy, and managerial employees in charge of particular organisational units);
- Civil servants, in accordance with the Law on Civil Servants;
- Other employees who perform duties and tasks for the needs of the Ministry of the Interior, which fall under the competence of the Law on Labour Relations.

Employment of workers with special duties and authorities

The Ministry of the Interior recruits its personnel pursuant to the Law on Labour Relations, the Law on Internal Affairs (“Official Gazette of the Republic of Macedonia”, Nos. 19/95, 55/97, 38/02, 33/03 and 19/04), as well as to the Collective Agreement of the Ministry. Pursuant to provisions in these laws and by-laws, any person who, apart from general conditions, fulfils the special conditions as determined by the Law on Internal Affairs may be employed in the Ministry of the Interior. The applicant should meet the following special conditions: to be a citizen of the Republic of Macedonia; to be of legal age; not to have been pronounced a security measure of prohibition to perform a profession or duty; to be physically and mentally fit for work; to be reputable and guarantee that he/she would conscientiously and honourably perform assigned duties and tasks; and if the person is male and he applies for a position with special duties and authorities, his military service must be

fulfilled prior to employment. If a person applies for the position of a police officer, he/she must not be older than 25 years of age if he/she is being admitted to work for the first time. In addition, the person must have completed secondary school prior to applying.

Pursuant to the Law on Internal Affairs, the Ministry may hire persons with or without a public announcement depending on the particularity and character of the position. They may be hired permanently or temporarily. An employment without a public announcement is offered for positions with special duties and authorities (determined by the Law on Internal Affairs and the Rulebook on Systematisation of Posts in the Ministry of the Interior), to scholarship beneficiaries of the Ministry and to graduates and students from the training institution established for the needs of the Ministry.

In the course of employment there should be equitable representation of citizens belonging to all communities, with the respect of criteria on expertise and competence.

The public announcement for employment, which is publicised in media, contains all general and special conditions for the advertised position. After receiving all employment applications, the Ministry conducts a concrete procedure through referring the persons to a specialised health examination and to security scrutiny by the Directorate for Security and Counter-Intelligence. The employment procedure is conducted by a Commission established by the minister. The Commission reviews all applications and shortlists candidates that meet the requirements. Following the procedure the minister brings a decision for appointment of candidates that have been admitted.

Rights and duties

The Law on Internal Affairs envisages special rights and duties for employees with special duties and authorities. They are responsible for the lawful application of means and methods in the line of duty. In the event of a state of emergency or war, employees of the Ministry are engaged in performing military and other duties for security and defence purposes as well as in relief efforts following natural disasters and epidemics. The employees of the Ministry of the Interior also assist in the enforcement of final court decisions if there is resistance in the course of arrest. They are obliged to obey the order of a superior, possess and carry a badge, weapons and ammunition and other prescribed equipment. The employees with special duties and authorities are obliged to carry out their tasks in every circumstance even if it poses risk to their life. In addition, they should provide assistance to citizens upon their request and provide information and refer citizens to other competent bodies and institutions. The rights of employees with special duties and authorities pursuant to the Law on Internal Affairs are the following: right to identifying and detaining citizens for the purpose of determining their identity; right to inspection of vehicles, persons and baggage and redirecting traffic while necessary; right to a free public transportation and to the same insurance covering all other passengers; right to a use of firearms and coercion means in cases determined by law; right to free legal assistance when subject to criminal, misdemeanour or civil proceedings due to a use of firearms, coercion means or other interventions as well as due to participation in a traffic accident or in line of duty. The Law determines issues regarding the working hours, leaves and other rights and obligations of employees in the Ministry (the obligation to keep state, official, military or business secrets; obligation not to perform an activity incompatible with their duties; right to insurance; rights in cases of death; restricted right to a strike and a right to a salary raise of 30%).

The rights and duties as well as working hours, vacations and leaves have been set forth in detail in the Collective Agreement of the Ministry of the Interior.

The by-laws regulating the conduct of authorised officers in carrying out duties and tasks are the Rules on the Mode of Conduct and Behaviour and Mutual Relations of Authorised Officers and the Rulebook on the Mode of Operation of the Ministry of the Interior.

In official relations with citizens, employees of the Ministry are obliged to be polite, reasonable, objective and correct, and respect the personality, dignity, rights and freedom of citizens, regardless of their gender or ethnic, religious, political affiliation and social status. They are also obliged to keep their reputation as well as the reputation of the Ministry and to continuously upgrade their knowledge, to improve their physical and mental steadiness and to adhere to the Police Code of Ethics. The

employees must not accept gifts or other benefits from natural and legal persons in relation to their official duties; they may not perform activities that are incompatible with their duty; and they may not perform activities detrimental to the Ministry's reputation. Employees with special duties and authorities apply special methods in carrying out their duties and are responsible for the legitimate application of such methods. The employees are obliged to carry personal weapons and equipment necessary for the execution of particular tasks in a mode determined by a regulation, and if they wear a uniform they are obliged to adhere to the provisions on wearing uniform and special equipment.

Employees in the Ministry are not allowed to organise and act politically. They may not publicly express or represent stances of political parties or actively participate in their activities.

Assignment

The assignment of employees is carried out on the basis of provisions set forth in the Law on Labour Relations as well as the provisions in the Collective Agreement of the Ministry of the Interior. In the course of his/her employment with the Ministry the employee may be assigned to any post as determined by the act on systematisation of posts if such a post suits his/her level of education or professional training. An exception to this rule has been envisaged in the Collective Agreement, which stipulates that the employee may be assigned to a one level higher degree position than the degree he/she holds.

The assignment of employees in the Ministry is carried out on the basis of: a) the employee's request; b) upon the proposal of immediate superiors in organisational units; c) upon the proposal of the Director of the Public Security Bureau or the Director of the Directorate for Security and Counter-Intelligence.

The head of the local unit of the Ministry is elected by the municipal councils covered by the unit from a list of at least three candidates proposed by the minister, of whom at least one should belong to the community of the majority population in the respective municipalities. The minister shall retain his/her authority for the dismissal of the local unit head in accordance with the Law.

System of salaries and rewards

Salaries and rewards have been regulated with the Collective Agreement of the Ministry of the Interior, the Rulebook on Salaries and the Rulebook on the Form and Mode of Awarding Rewards and Notes of Thanks and Merit.

An employee may have his/her salary raised or reduced by 5%, 10% or 15% proportionately to the duties and assignments and his/her contribution to the total operation of the organisational entity and the Ministry as a whole. The procedure for determining a raised or reduced amount of salary is conducted every month upon the proposal of the head of organisational entity and following consent from a superior.

Employees are awarded rewards, acknowledgements and notes of merit for special successes and results in their work and contribution to the operations of the Ministry. These rewards are awarded on the Police Day, other solemn occasions and upon retirement.

Professional training and development

Pursuant to the provisions in the Collective Agreement, the Ministry of Internal Affairs may hire an unemployed person as an intern with at least a level IV of professional training (secondary school). The person may be hired permanently or temporarily. The intern is trained for an independent and professional performance of tasks and duties required from the position. The internship cannot be shorter than 6 months or longer than 12 months. The intern is professionally trained during the internship in accordance with a prior plan. The professional training is carried out through the assignment of duties and tasks, learning, consultations, and guidelines and instructions by superiors in organisational units. Following the professional training the intern takes an exam upon his/her prior request. The exam is oral and is taken in two consecutive days before the Commission (with a two-

year mandate) established by the minister's Decision. The intern who does not pass a part or the whole exam has a right to re-examination after 15 days have elapsed from the first one. An intern who has not applied for examination within 12 months due to unjustifiable reasons is dismissed. The intern who has passed the exam is given a certificate of completion.

A person employed to a position with special duties and authorities who does not have the required education in the field of security, is referred to additional professional training in an adequate institution.

Professional training and development of employees is carried out through conferences, courses, and additional studies in the country or abroad. Additional professional training for police officers is undertaken pursuant to a programme adopted by the minister. Seminars and courses are held for different categories of employees depending on the nature and complexity of their positions. When certain tasks necessitate a higher level of expertise the employee may be directed to expert specialisation in the country or abroad. The employee with a higher education (level VII) may be sent to post-graduate studies as a form of professional training for the purpose of better performance of duties and tasks. An employee assigned to a position requiring knowledge of a foreign language may be referred to additional training in that particular language.

Given the specificity of competencies, the Ministry creates highly educated cadres in the Police Academy as a state institution in the field of security. The basic training of police officers, specific trainings as well as training for security management is also carried out in the Academy.

Continued education is carried out on the basis of programmes adopted by the minister of the Interior. The elementary police education is a 12-month academic programme, of which practical field training takes three months, while the length of special and management courses depends on their programmes, but may not be longer than 12 months. Following the completion of training, the trainees are awarded a certificate of completion of basic training or special training certificate.

The Ministry continuously trains its employees with a determined dynamics. Namely, from 2001 to 2004, 1.605 employees underwent to basic training at the Police Academy, of which 239 Macedonians, 1.145 Albanians, 81 Turks, 58 Roma, 32 Serbs and 50 - of other ethnicity.

Until September 2004, a total of 127 persons underwent special training at the Police Academy, of which 22 Macedonians, 90 members of the Albanian ethnic community and 15 members of other communities in Macedonia.

Following the amendments to the Law on Internal Affairs and the Law on Crossing the State Border and Movement in the Border Zone, prerequisites were created for a border police as a special organisational entity within the Ministry. The transfer of competences related to securing the state border and the movement in the border zone provided for a contractual taking over of 821 persons who had previously undergone special three-month training in the Police Academy.

Liability

The procedure on determining liability due to violation of the working discipline is initiated upon a proposal of either the Director of the Public Security Bureau, the Director of the Directorate for Security and Counter-Intelligence, undersecretaries or of employees authorised by the minister. The proposal with all relevant evidence is submitted to the Dismissal Commission, which is established by the minister. After completing the procedure, the Commission, pursuant to provisions from the Collective Agreement, submits a proposal to the minister for adequate actions. The minister adopts a decision for termination of employment if he/she agrees with the proposal submitted by the Commission. If the minister disagrees he/she may return the subject to a review for correction of irregularities or he/she may bring a different decision. If there are circumstances as envisaged by the Collective Agreement of the Ministry, the dismissal may be replaced with a fine not higher than 15% of the monthly salary for a period of one to six months. The employee has a right to appeal against the decision of the minister to the second-instance commission within the Government in charge of labour relations.

An employee who, by his/her fault causes damage to the Ministry in the course of his/her duty shall be subject to a procedure for indemnity. The procedure is initiated upon a request that may be submitted by the director of the Public Security Bureau, the director of the Directorate for Security and Counter-Intelligence, by managerial employees or by heads of a respective organisational unit. The request is submitted to the Commission for Determining Financial Liability established by the minister with a Decision. The Commission conducts a procedure pursuant to provisions in the Collective Agreement and adopts a decision. The decision is then sent to the employee who has a right to appeal to the minister. If the employee has been found responsible and if he/she does not compensate for the damages, the Ministry may initiate a procedure before the court after the expiry of the three-month deadline from the time the decision has been effective.

Termination of employment

An employee in the Ministry may be subject to termination of employment in the following cases:

- If he/she contractually agrees with his/her employer for the termination of employment;
- If the time for which he/she has been assigned to the temporary position expires;
- By the force of law, i.e.: when the ability to work has been lost; if the court has prohibited him/her perform tasks and duties; if serving a prison sentence longer than six months; if a security, correctional or protection measure has been pronounced for longer than six months; if he/she fulfils the requirement for accelerated retirement plan in accordance with the Law on Pension and Disability Insurance; as well as if he/she declares in writing that he/she wants to terminate employment;
- By a dismissal notice from the employer if the employee is not capable of performing duties and tasks as required with the position or if he/she violates the working discipline or order.

Customs Administration

The Law on Customs Administration ("Official Gazette of the Republic of Macedonia", No. 46/04), regulates the particularities in the rights, responsibilities and liabilities of customs officers deriving from the employment, the Code of Conduct, the awards and acknowledgements, as well as the financing of the Customs Administration.

Customs officer means an officer of the Customs Administration who is uniformed or has special duties and authorities. The Law has envisaged 26 different positions divided in three categories of customs officers.

- Managerial customs officers are: Assistant Director; Customs House Manager; Assistant Customs House Manager; Chief of Department; Head of Customs Office; Head of Unit; Section Leader; and Shift Leader.
- Expert customs officers are: Advisor of the Director; Chief Inspector; Independent Advisor; Senior Customs Worker Controller; Senior Inspector; System Engineer; Inspector; Senior Customs Worker; Advisor; Junior Inspector; Customs Worker; Dog Handler.
- Administrative customs officers are: Chief Network Operator; Network Operator; Operator; Administrative Operator; Technician for Support and Coordination; and Customs Goods Sales Officer.

With regard to required education as one of the conditions for employment, the Law on Customs Administration prescribes that customs officers in the first group must have higher or post-secondary education, except for the shift leader who may have higher, post-secondary or secondary education. The customs officers in the second and third groups may also have higher, post-secondary or secondary education.

Customs officers fall under the competence of the Law on Labour Relations and the provisions related to health, pension and disability insurance, as well as the Collective Agreement of the Customs Administration regarding issues not specifically regulated by the Law on Customs Administration. Provisions in the Law on Labour Relations are also applied to the technical and assistance personnel employed in the Customs Administration.

Employment of customs officers

Any person may be employed in the Customs Administration as a customs officer who, apart from the general conditions, fulfils the special conditions as prescribed by the act on systematisation of posts in the Customs Administration. The Custom administration applies the principle of equitable representation in the course of employment of customs officers. The employment procedure is carried out through a public vacancy announcement publicised in at least two daily newspapers of which one in the language spoken by at least 20% of the citizens who speak a language other than Macedonian. There are two exceptions to the rule: The first is that a customs officer may be transferred from one into another state body without a public announcement of the vacancy if the needs of the Customs Administration thus require; and the second is that the Director reserves the right to grant permission to waive the publication of a public vacancy announcement on the basis of his/her decision for promotion or transfer of a customs officer to the vacant post.

The Director makes a decision on the final selection of the applicants. The employment is established by concluding a written employment contract between the chosen candidate and the Director. Regulations on the examination of work capabilities and the procedures for commencing employment is determined under the Collective Agreement or under operational instructions brought by the Director.

The Law also envisages probationary period upon concluding an employment contracts or upon promoting customs officers. Thus a newly employed or a promoted customs officer is required to serve a probationary period of 6 to 12 months. The Customs Administration provides vocational training to all employees for the performance of their tasks. In the course of probationary period the customs officers are placed under the care and direct supervision and assessment of their immediate superior. At the end of the probationary period a decision is taken whether to confirm the appointment or terminate the employment. As an exception, the decision for termination of employment may also be brought before the expiration of the probation period, if it is determined that the customs officer does not meet the requirements of the post. In case of promoted customs officers who do not perform satisfactorily during the probation period, a decision shall be taken to return them to their previous position.

Rights and duties of customs officers

One of the fundamental principles in the performance of customs officers is the principle of non-discrimination. The law explicitly stipulates that the Customs Administration and the customs officers shall not discriminate against any person on any ground, such as: gender, race, skin colour, ethnic or social origin, political and religious affiliation, property and social status or other status. Furthermore, the Law regulates the following fundamental rights of the customs officer: the right to guaranteed work in accordance with the Law; the right to protection from competent authorities in the performance of his/her tasks; the right to adequate working conditions for the performance of official duties; the right to apply for a higher position; the right to seek court protection in exercising his/her rights, or protection from other competent authority or trade union; the right to salary and allowances; the right to vacation, leaves, and absences; the right to professional development and training; the right to additional work out of the working hours if such work is not incompatible with his/her official duties and activities; and the right to found and be a member of a trade union or professional organisations.

Due to specifics of the duties they carry out, customs officers have a right to a safe and healthy environment free of dangers to life or body; however, they also are required to adhere to the prescribed measures and norms regarding protection at work.

The Law on Customs Administration prescribes that the customs officers are obliged to carry out their duties conscientiously, professionally, efficiently, orderly and timely, in accordance with the Constitution and law and other regulations in customs administration. Furthermore, the customs officer is obliged to perform his or her activities impartially and without the influence of political

parties; he/she may not be guided by his or her own political beliefs or personal financial interests; he/she is required to execute orders of the immediate superior; he/she must not accept financial or other benefits in the line of duty; he/she is required to attend professional training and development; he/she must handle equipment with care and respect the order and discipline of the institution.

The customs officers are subject to special provisions regarding the prevention of conflict of interests. The customs officers may not perform any other profit making function, duty or activity, which is in conflict with their official duty. In addition, the customs officers may not conduct an activity in conflict with their official duty as owners or partners in companies, members of a board of directors or of supervisory authorities of trade companies. The Director defines activities in conflict of the customs officer's duties. The customs officers may undertake other work and perform other activities only after prior approval by the Director.

The protection of documents and data defined as official, business or any other secret has been determined as a duty of the customs officers even after the termination of employment until the restricted period of confidentiality ceases. In addition, the customs officer must not use or communicate for unauthorised purposes any information to his/her knowledge pertaining to customs matters.

Reassignment and promotion of customs officers

In the interest of the Customs Administration, the customs officer may, for a specified or unspecified period, be reassigned to another post that corresponds to his/her professional background, knowledge and qualifications. When the customs officer is being reassigned for a specified period (which may last up to 6 months with a possibility for another 6-month extension) he/she is obliged to return to the previous or equivalent post after the expiry of reassignment. The customs officer who has been reassigned is entitled to compensation of expenses unless he/she has been reassigned upon his/her own request.

In the course of reassignment the Director has a right not to put out a public vacancy announcement.

The Director is entitled to the same right in the course of promoting customs officers. Both the reassignments and promotions may be permanent and temporary. The customs officer may be permanently reassigned (promoted) to another higher position for which an internal vacancy announcement is made, hence only employees may apply. The temporary promotion means that a customs officer is placed to a higher position for a certain period of time. After the expiry of the period the customs officer is returned to his/her permanent position or other adequate post.

Monthly Salary, Allowances, Rewards and Bonuses

Customs officers are entitled to monthly salaries, salary allowances and other allowances. They receive 30% of the salary in addition to the regular salary for special work conditions, as well as for special responsibility resulting from the post. The amount for specific posts demanding more specific qualifications or specific skills, and which are of particular significance to the efficiency of the Customs Administration, may be higher but cannot exceed 50% of the salary. Customs officers receive rewards as a result of the assessment of their performance, particular outstanding performance or detection of customs-related crimes or offences.

Assessment of customs officers

The assessment of the customs officers is made on the basis of data regarding the professional knowledge and skills of the post, the efforts, the results achieved, and the creativity and conscientiousness in the performance of official duties. The customs officers are assessed once a year, but not later than the first quarter of the subsequent year for the year that has expired. Performance evaluation and assessment of a customs officer may also be conducted prior to the annual evaluation assessment whenever the needs demand a decision regarding unsatisfactory work results, reassignment, promotion and disciplinary measures.

Customs officers who do not achieve satisfactory results in their performance are directed to additional training and support from their superiors. If they do not achieve a satisfactory result within a period of time, a procedure for termination of employment follows.

Professional development and training of customs officers

Customs officers have a right and duty to professional development and training in accordance with the needs of the Customs Administration. The Customs Administration provides all customs officers professional training for the performance of tasks in the new position. The training is not only provided to the newly employed customs officer, but also to those promoted. In addition, the customs officer who does not perform satisfactorily is entitled to a support from the immediate superior and additional training for a certain period of time in order to achieve the desired and satisfactory results in performance.

Liabilities of customs officers

The Law on Customs Administration envisages disciplinary and financial liability of customs officers. In addition, they may be subject to misdemeanour and criminal proceedings in accordance with the law. The customs officers are disciplinary liable for the non-fulfilment of the official duties and functions, failure to comply with the general obligations stipulated in this Law, unsatisfactory performance results and lack of knowledge and ability for the performance of the functions of the post, as well as for violation of the Code of Conduct. The customs officer who intentionally or due to complete negligence causes damage by acting contrary to the law and other regulation is disciplinarily liable. The determination of disciplinary liability, procedures, punishments and protection in the course of procedure is determined in accordance with general and special provisions on labour relations and the collective agreement. A disciplinary measure is pronounced by a decision of the Director.

Notwithstanding the disciplinary liability, the customs officer may also be financially liable for the damage he/she has caused to the property used by the Customs Administration.

Termination of employment

The Law on Customs Administration stipulates the cases when the employment is terminated. The termination of employment of a customs officer occurs in the following cases:

- Upon his/her request;
- If he/she permanently loses his/her physical and mental ability to perform his/her functions in the Customs Administration as a consequence of a medical condition or diminution of his/her physical or mental capabilities;
- Due to failure to comply with the particular requirements;
- Due to a disciplinary measure of termination of employment;
- If due to the serving of a prison sentence, he/she must be absent from work for a period longer than six months;
- If he/she fulfils the requirements for retirement in accordance with law;
- If the post of the customs officer is terminated due to organisational changes, reduction of powers and scope of work of the Customs Administration, and the customs officer refuses to be reallocated at the same or lower position;
- If it is determined through the assessment based on an assessment system that he/she does not meet the standards and requirements of the post; and
- If the customs officer unsatisfactorily fulfils his/her duties or has no skills for performing his/her function based on an assessment by official application of the assessment system.

Intelligence Agency

The employees of the Intelligence Agency exercise their rights, duties and responsibilities in accordance with provisions from the Law on the Intelligence Agency ("Official Gazette of the Republic of Macedonia", No. 19/95), and the Law on Labour Relations. The rights to pension and disability insurance as determined by the Law on Pension and Disability Insurance ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 3/94, 14/95, 71/96, 32/97, 49/97, 24/00, 96/00, 13/01, 50/01, 85/03, 50/04 and 4/05), are adequately applied to the employees in the Agency. The act on systematisation of posts in the Agency determines posts that require special duties and authorities (special posts).

Employment and termination of employment

All employments, including those for special posts, require special conditions notwithstanding the general conditions. The special conditions are: the applicant must not have been subject to effective security measure of prohibition of performing a profession, activity or duty and must be mentally and physically healthy.

Recruitments in the Agency are realised through a publication of a vacancy announcement; however, the Law prescribes that an announcement may not be necessary for special posts.

An employee convicted of a crime against the constitutional order and security of the Republic of Macedonia; against freedoms and rights of the citizen and the individual; against the economy; against the Armed Forces of the Republic of Macedonia; severe crimes against life and body or property; or a crime perpetrated for self-interest or out of dishonest motives punishable *ex officio*, is dismissed. Employment is also terminated if an employee has been subject to security measure of prohibition to perform a profession, activity or duty. Employment shall be terminated if an employee who has been reassigned to other duty does not appear to the post within seven days from the receipt of the reassignment decision. Finally, employment is terminated if the employee has been dismissed.

Rights and obligations

Taking into account the Agency's authorities to gather data and information of importance to the security and defence of the Republic of Macedonia as well as of importance to the economic, political and other interests of the state, the Law prescribes that the employees are obliged to respect citizens freedoms and rights as guaranteed by the Constitution while performing their duties and using information. They are also obliged to secure the protection of confidentiality of data and disposable information.

The working hours of employees in the Agency may be longer than the maximum time prescribed by law when certain duties and tasks cannot be delayed. In such circumstances the employee's vacation or leave may be delayed or terminated. The employees may also be prohibited to travel abroad when the security and defence of the Republic of Macedonia necessitate such action. Additionally, every employee employed in a special post may travel abroad only upon his/her immediate superior's consent.

The Agency is obliged to insure employees in special posts in case of death, bodily injury or loss of ability to work. These employees are entitled to compensation in the amount of the monthly salary in case they have been temporarily disabled to work as a result of performing tasks and duties at work. Salary funds for such employees are raised for 30%.

One of the basic duties of employees is to protect the state, official, military or business secret that they have acquired in the line of duty. This obligation continues after the termination of employment, and a decision for a release of such obligation may only be brought by the Director. Employees in the Agency may not perform a profession, duty or function that is incompatible with their duties.

Liability

The Law stipulates the following cases of violation of working discipline:

- Acting against the rules and regulations of the Agency;
- Not giving or giving incorrect data and information to authorised bodies;
- Avoiding the mandatory professional training and development;
- Avoiding medical examination for determining the ability to work;
- Illegal gains as a result of activities related to duties and tasks;
- Use or enabling another to use money or valuables that have been entrusted to the him/her in the line of duty;
- Performance of duties, professions or functions incompatible with the employee's duties;
- Carrying out, expressing or representing positions of political parties in the line of duty;
- Committing a crime which pursuant to the Law is an obstacle for employment or committing an act that constitutes a severer form of misdemeanour against public order and peace.

If the employee commits a severer violation of the working discipline, he/she may be suspended from the Agency or may receive a dismissal notice.

Professional training and development

A person signing an employment contract or a person assigned to a position requiring training is referred to professional training and development in adequate organisations in the field of education or other forms of professional training.

Assignment

The Director makes the assignments and the employee may be assigned to any organisational entity to a position that suits his/her educational background. If the employee is assigned to a position out of the Agency's seat, the decision for reassignment is reviewed every year and in such cases the employee is entitled to special allowances.

An employee at a special post, who has been assessed by the Health Commission as unfit for performing special duties and authorities due to a diminution in mental and physical capabilities, is assigned to a post that suits his/her level of education and health condition. In such cases the employee retains all rights deriving from the employment in the position he had been assigned previously.

Other civil servants not subject to the Law on Civil Servants

Court police

Court police personnel are employed pursuant to the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 44/03). The Ministry of Justice announces a public vacancy and the selection is made by the Minister of Justice.

Forest police

The employments in the forest police are regulated by general provisions in the labour legislation. The Law on Forests ("Official Gazette of the Republic of Macedonia", Nos. 47/97 and 7/00), regulates the special employment conditions, wearing a uniform, authorities of the forest police officers and the modes of keeping and use of firearms.

Financial police.

The Law on Financial Police ("Official Gazette of the Republic of Macedonia", No. 55/02), regulates the following status, rights and obligations of financial police officers: employment (they are appointed by the Minister of Finance upon the proposal of the Director of the Financial Police if they meet the special employment requirements); right to a salary raised up to 30% and a right to an accelerated retirement plan pursuant to the regulations in pension and disability insurance; the right to a daily, weekly or annual leave pursuant to provisions in general labour legislation; the protection of a state, official and business secret; wearing an official uniform and authorisation badge; and the use of firearms.

Penitentiary and correctional Institutions

Personnel in penitentiary and correctional institutions are employed pursuant to the provisions in the Law on Labour Relations and the Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 3/97, 23/99 and 74/04). The procedure is performed in accordance with the Law on Labour Relations, while the Law on Execution of Sanctions determines the special conditions for selected posts.

State Audit Office

With regard to the employment, rights, duties and other questions pertaining to the status of the authorised state auditors and persons performing duties and tasks related to state audit at the State Audit Office (for more details see [28 I A 1](#)).

Civil Aviation Authority

Employees of the Civil Aviation Authority performing aviation tasks and duties of importance to the aviation security are subject to provisions of the Law on Aviation and the Law on Labour Relations. Personnel in the Civil Aviation Authority are employed pursuant to the Law on Labour Relations, and the rights and duties of the employees have been determined by the Law on Aviation which stipulates that employees must acquire licenses and meet adequate health criteria, depending on their license or authorisation. The employees receive salaries in accordance with the Decision on the Mode and Procedure for Determining Salaries of Employees at the Civil Aviation Authority, adopted by the Government of the Republic of Macedonia.

Public servants

The status, rights and duties of employees in public institutions in the sectors of social and child care, health, culture, education and science; employees in the public funds (Pension and Disability Insurance Fund, Health Fund, Roads Fund); employees in the Employment Agency and other public services and institutions that carry out state functions delegated to them as public authorities, are referred to as public servants and they are subject to the general provisions in labour relations. In accordance with the Law on Labour Relations ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 3/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03 40/03 and 80/03 - consolidated text), employment in a public institution or other legal entity that has been vested with public mandate must be done in accordance with the principle of equitable representation of all communities, without prejudice to the criteria on expertise and competence. In addition, a vacancy is announced in at least two daily newspapers of which one should be in the language spoken by at least 20% of the citizens who speak an official language other than Macedonian. Some issues pertaining to the structure of positions as well as the conditions and procedure for acquiring such positions have been determined in special material laws regulating the operations of public institutions in certain fields. The salaries and other allowances of public servants are paid pursuant to provisions in the Law on Payment of Salaries ("Official Gazette of the Republic of Macedonia", Nos. 70/94, 62/95, 33/97, 50/01, 26/02 and 46/02), collective agreements and the acts adopted by the public institution.

The institutions with the assistance from foreign donors and international organisations have organised professional training and development of public servants in various sectors.

For instance, the public institution for the study of social affairs and problems and for the promotion of social activities (the Institute for Social Affairs in Skopje) is also authorised to perform training of expert public servants. This institute also prepares instructions and manuals and uses them in seminars on the introduction of contemporary methods for the treatment of social pathology. In recent years there have been approximately 500 participants in such seminars. The funding of training has been supported from the Budget of the Republic of Macedonia and foreign donors, including the PHARE Programme. In addition, the Institute for Social Work and Social Policy within the Faculty of Philosophy, of the University "Ss. Cyril and Methodius", - Skopje, has organised more than 50 trainings for over 1200 participants from the whole country within the framework of the multi-annual project for the promotion of the potential of social development. The Pension and Disability Fund has carried out training for 200 employees in the last three years focused on computer literacy (MS Windows, MS Office and the Internet). In the course of 2002 and 2003, special training was organised for 15 programmers of ORACLE, for seven system engineers and for four MS Project managers.

In the fields of education and science within the EU Tempus Programme there have been projects for the establishment of infrastructure within the framework of higher education institutions for the purpose of continuous education and training of civil and public servants, as well as for the private sector. Hence, a Training Centre for European Integration, Training Centre for Industrial Property, and a Centre for the Assessment of Pressure Vessels have been established.

Gender and Ethnic Structure of Public Servants

The structure of the employees in the public administration in the Republic of Macedonia in December 2004 is the following:

STATUS	ETHNICITY									GENDER	
	Macedonians	Albanians	Turks	Roma	Vlachs	Serbs	Bosniaks	others	Total	men	women
Central government											
Civil servants financed from the Budget pursuant to the Law on Civil Servants	9283	647	81	26	80	161	23	51	10352	4941	5411
Civil servants pursuant to other laws and public servants financed from the Budget	46328	9457	831	345	224	987	152	592	58916	33979	24937
TOTAL CIVIL AND PUBLIC SERVANTS	55611	10104	912	371	304	1148	175	643	69268	38920	30348
(%)	80,28	14,59	1,32	0,54	0,44	1,66	0,25	0,93	100,00	56,19	43,81
Public servants in non-budgetary institutions	22479	1475	240	195	135	467	46	318	25355	6715	18640
TOTAL CENTRAL GOVERNMENT	78090	11579	1152	566	439	1615	221	961	94623	45635	48988
(%)	82,53	12,24	1,22	0,60	0,46	1,71	0,23	1,02	100,00	48,23	51,77
Municipal administration											
TOTAL MUNICIPAL ADMINISTRATION	1117	212	25	11	6	21	2	6	1400	738	662
(%)	79,79	15,14	1,79	0,79	0,43	1,50	0,14	0,43	100,00	52,71	47,29
TOTAL	79207	11791	1177	577	445	1636	223	967	96023	46373	49650
TOTAL (%)	82,49	12,28	1,23	0,60	0,46	1,70	0,23	1,01	100,00	48,29	51,71
Source: F1 and F2 Bases of the Ministry of Finance, data from the Health Fund (pertaining to the Fund and to health workers), Pension and Disability Insurance Fund of Macedonia (PDIFM), Roads Fund, Employment Agency, Privatisation Agency, Entrepreneurship Promotion Agency; Securities Commission, National Bank of the Republic of Macedonia and 124 municipalities.											
Status: 31.12.2004											
Source: Civil Servants Agency											

7. Is there a transparent legal or regulatory basis for actions taken by public servants? In particular, how is impartiality and non-discrimination of actions by public servants ensured?

In the Republic of Macedonia there is a transparent legal basis for the impartial and non-discriminatory actions of the civil servants. The guarantees therefore are provided in the Constitution, the laws governing the administration and the administrative procedure, as well as in specific laws regulating separate areas.

The legal system of the Republic of Macedonia is based on the principles of constitutionality and legality, stated by Article 51 of the Constitution: *Laws shall be in accordance with the Constitution and all other regulations shall be in accordance with the Constitution and the laws.*

The Law on Organisation and Operation of the State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02), Article 3 stipulates that state administrative bodies perform their competencies defined by law based on the principles of legality, responsibility, efficiency, cost-efficiency, transparency, equality and predictability. Additionally, Article 4 of the same law stipulates the obligation of the state administrative bodies to provide to the citizens efficient and lawful exercise of their freedoms and rights guaranteed by the Constitution. It is also stipulated that within their competence the state administrative bodies provide efficient and lawful implementation of the rights and interests of all the parties in the administrative procedure.

Each individual decision of a public body must be founded on a Law or a regulation based on law (for more details see [I C 9](#)).

Furthermore, the existing laws and regulations that regulate the status, the rights and the duties of the civil servants and the other public employees, envisage the obligation of impartiality and non-discrimination when undertaking legal actions, especially when deciding on concrete rights and interests of the citizens and other legal persons in administrative procedures. Such laws are the Law on Civil Servants, the Law on Internal Affairs, the Law on Customs Administration and other regulations (for more details see [I C 6](#)).

The Law on Civil Servants (Official Gazette of the RM Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04), provides that the civil servants must perform their duties conscientiously, professionally, efficiently, orderly and timely, in accordance with the Constitution and law. Furthermore, the civil servant is obliged to perform his/her activities impartially and without the influence of political parties; he/she may not be guided by his/her own political beliefs or personal financial interests; and he/she must refrain from misuse of authorisations and the status of a civil servant and protect the reputation of the body. The civil servant is, in accordance with law, obliged to provide information upon request of the citizens required for exercise of their rights and interests, except the information classified as state or official secret. The Code of Ethics for Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 96/01 and 16/04), determines the manner of civil servants' behaviour and conduct in order to secure the respect of principles of legality, professional integrity, efficiency, and loyalty during the execution of their official duties.

The Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 19/95, 55/97, 38/02, 33/03 and 19/04), and relevant bylaws specify that the employees of the Ministry of Internal Affairs have to respect the personality, dignity, rights and freedom of citizens, regardless of their gender or ethnic, religious, political affiliation and social status.

The Law on Customs Administration ("Official Gazette of the Republic of Macedonia", No. 46/04), explicitly stipulates that the Customs Administration and the customs officers shall not discriminate against any person on any ground, such as: gender, race, skin colour, ethnic or social origin, political and religious affiliation, property and social status or other status.

The Codes of Ethics which are adopted for specific categories of civil servants (the Ethical Code for Civil Servants, the Police Code of Ethics, etc.) additionally regulate the principles of equal treatment, i.e. non-discrimination, and impartiality in the work of the civil servants. If these regulations are violated a procedure for evaluation of the accountability, and responsibility of the civil servants is

undertaken, which does not exclude the possibility of being prosecuted for specific actions under the Law on Criminal Procedure, or being prosecuted with a misdemeanour procedure before competent body (for more details see [I C 6](#)).

In accordance with the Law on Administrative Inspection (“Official Gazette of the Republic of Macedonia”, No. 69/04), the National Inspectorate for Administration (body within the Ministry of Justice), conducts supervision of the application of the procedural rules and especially over the conduct and activities of the civil servants, with the aim to secure respect of the principles of legality, professional integrity, efficiency, accountability, and responsibility.

The provisions of the Law on Prevention of Corruption (“Official Gazette of the Republic of Macedonia”, Nos. 28/02, 46/04 and 83/04 - consolidated text), sanction unlawful behaviour, which is crucial for gaining public confidence in the impartial and non-discriminatory work of the employees in the public sector.

The Draft Law on Free Access to Public Information, which is in parliamentary procedure aims towards improving the guarantees for access to public information available to the state administration, the local self-government bodies, the public institutions and services, as well as the other legal and natural persons vested with public authority.

Furthermore, the Constitution guarantees two instances in administrative procedures, i.e. the right to appeal against individual legal acts passed in procedure in the first instance courts, administrative bodies or organisations, or other institutions that perform public mandate (for more details see [I C 9](#)).

The institution of the Ombudsman provides additional protection from partial and discriminatory behaviour of civil servants (for more details see [I G 6](#)).

8. How is accountability of administrative bodies ensured (e.g. are administrative bodies accountable or answerable for their actions to other administrative, legislative or judicial authorities, and subject to scrutiny by others)?

Parliamentary scrutiny

According to the Constitution (Article 68), the Assembly carries out political control and supervision of the Government and other holders of public office accountable to the Assembly.

The Assembly controls the Government by Parliamentary questions, inquiry committees, interpellation motions and a confidence vote. The Assembly also controls the work of the Government and the state administration through its committees as well as by the mechanism of reporting of certain public bodies, established in specific laws (for more details see [I B 2](#)).

Supervision by the Government over state administration and bodies of local self-government units

The accountability of the state administrative bodies to the other state bodies has been in detail elaborated in Section III of the Law, which governs the administrative supervision and the inspection.

The supervision over the work of the state administrative bodies includes the supervision over the legality and over the efficiency in their operation. Supervision is conducted over public enterprises, public services and institutions, as well as over natural persons and legal entities vested with public authority by law.

The operation of the ministries is supervised by the Government. Supervision over the operation of bodies within ministries is performed by the respective ministries, while the operation of other state administrative bodies and state administrative organisations is supervised by the ministry competent for the administrative matters for which the relevant body has been established.

According to the Law on the Government of the Republic of Macedonia ("Official Gazette of Republic of Macedonia", Nos. 59/00 and 12/03), the Government determines guidelines and positions on the enforcement of laws and other regulations. The guidelines and positions regulate the operation of ministries, other state administrative bodies and administrative organisations in their enforcement of laws and other regulations. In addition, the Government determines deadlines by which the authorised bodies have to adopt acts and submit reports on specific issues. It also determines the modes of cooperation with other state administrative bodies as well as other issues relevant for the realisation of these bodies' functions. The Government may instruct a minister i.e. director of another state administrative body or administrative organisation, on how he/she is to implement the Government's guidelines or positions.

If the Government deems that a particular regulation passed by a minister is not in compliance with the Constitution, laws or other regulations, it will notify the minister. Furthermore, the Government may suspend a regulation passed by a minister if it deems the regulation is not in compliance with the Constitution, laws or other regulations and may propose the minister to withdraw or alter the regulation within a certain period of time. The Government within its supervision competences may abolish or annul a regulation or another act passed by the ministries, state administrative bodies and administrative organisations if it is not in compliance with the Constitution, laws or other regulations passed by the Assembly or the Government.

The Government supervises the operation of the ministries, other state administrative bodies and administrative organisations. In carrying out its supervision over the operation of the state administrative bodies, the Government is entitled and obliged to abolish or annul a regulation or other act of a ministry, state administrative body or administrative organisation which does not comply with the Constitution, an Assembly's law or other regulation, i.e. a Government's regulation.

The Government is entitled to abolish or annul a regulation or another act passed by the council or another body of a local self-government unit or the City of Skopje as part of their delegated competences.

Pursuant to the Law on Local Self-Government ("Official Gazette of the Republic of Macedonia", No. 5/02), the supervision over the operation of municipal bodies includes the supervision over the legality in their operation and control and audit of their material and financial operation. Supervision over the operation of municipal bodies when they carry out delegated duties which are within the competences of state administrative bodies include supervision over legality and supervision over efficiency.

Legality of municipal regulations is supervised by the ministry competent for the local self-government issues. Legality of the municipal bodies' operation is conducted by the competent state administrative bodies. Audit of the municipal material and financial operations is conducted by the State Audit Office. Supervision over the delegated municipal authorities is conducted by the state administrative body competent for the delegated competencies.

Inspection

Inspection includes supervision over the enforcement of laws and other regulations by state bodies, public enterprises, companies, public institutions, natural persons and legal entities and it is conducted only by the state administrative bodies (inspectorates) within the competences defined by law.

Particular provisions on accountability are provided in the Law on General Administrative Procedure ("Official Gazette of SFRY", 47/86 -consolidated text and "Official Gazette of the Republic of Macedonia" No. 44/02), concerning responsibility of first instance bodies before the second instance bodies. Thus, exercising the right of supervision and under legally prescribed conditions, upon a submitted legal remedy (complaint, appeal) the superior state administrative bodies have the right to annul an act, fully or partially, or abolish it, or change it. If no superior body exists, the Government of the Republic of Macedonia is authorised to conduct the supervision.

Pursuant to the Law on Administrative Inspection ("Official Gazette of the Republic of Macedonia", No. 69/04), the administrative inspection includes supervision over the application of the Law on General Administrative Procedure and other laws which include provisions on the administrative procedure. The inspection particularly refers to: timely, cost-effective and efficient exercise of rights and interests of

citizens and other parties in the administrative procedure; acting within the prescribed deadlines in the first and second instance administrative procedure, as well as within the deadlines stipulated in the decisions of the judicial bodies; inclusion of concerned parties in the procedure in order to ensure protection of their rights and interests; *ex officio* provision of evidence from official records kept by the body conducting the procedure or by another state body, legal entity or person with public mandate, or by municipalities and the City of Skopje; enforcement of final legal acts; payment of costs in the administrative procedure; receipt of submissions; issuance of certificates and other documents from official records; professional training of civil servants and other employees who decide in the administrative procedure; delivery of administrative acts and other documents; mode of conduct of civil servants and employees in order to ensure respect of the principles of legality, professional integrity, efficiency, accountability and loyalty in carrying out their official duties; implementation of measures to improve the operation of administrative bodies when deciding in administrative matters; use of language by the parties in the administrative procedure and regulations pertaining to the office work.

Judicial Protection

Article 50 of the Constitution of the Republic of Macedonia guarantees a court protection of the legality of state administration's individual decisions.

The Law on Administrative Disputes ("Official Gazette of SFRY", No. 4/77, "Official Gazette of the Republic of Macedonia", No. 44/02), in its Article 7 stipulates that an administrative dispute before the Supreme Court may be initiated against an administrative act adopted in second instance. Administrative dispute may also be initiated when the authorised body, following a request or a complaint by a party, has failed to adopt an appropriate administrative act. It may as well be initiated against an act upon which no right to a complaint has been provided in the administrative procedure and in instances when the administrative act has not been adopted under conditions prescribed by law. If following an annulment of an administrative act, and within 30 days at the latest, the authorised body fails to adopt another administrative act; the party may submit a request before court asking for the adoption of such act. Furthermore, the Law prescribes that in case the decision is not enforced within the period determined by the respective body, the court shall enforce it, either directly or through another court or a body.

Ombudsman

The Ombudsman of the Republic of Macedonia is one of the controlling mechanisms over the operation of state administrative bodies. Such competences are stipulated by the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03). Under its provisions, in cases when the Ombudsman has detected unlawful actions, inappropriate treatment of citizens or other irregularities, and with the purpose of exercise of citizens' rights, he/she may give the state administrative bodies recommendations, proposals, opinions or directions to eliminate the detected violations. In the period from 1 January 2002 to 30 September 2004, the Ombudsman submitted 1319 recommendations, proposals, opinions or suggestions, proposing renewal of procedures in accordance with the law or initiation of a disciplinary procedure against officials/responsible civil servants. In the same period, the Ombudsman himself submitted one proposal for initiation of a disciplinary procedure. In the period from 1 January 2002 to 30 September 2004, the Ombudsman submitted six requests to the Public Prosecutor for initiation of procedure to determine criminal liability (data from the Ombudsman's published reports and the Ombudsman's archive records). Pursuant to Article 32 of the Law, if the administrative bodies fail to act upon a submitted request, proposal, opinion, recommendation or if they comply therewith only partially, the Ombudsman shall notify thereof the immediately superior authority, the head of the respective state administrative body or the Government of the Republic of Macedonia. Pursuant to Article 34 and 35 of the Law, if the fail to act, the Ombudsman may bring out the case to the media (for more details see [I G 6](#)).

Protection of Constitutionality and Legality by the Constitutional Court

In accordance with the Constitution of the Republic of Macedonia (Articles 108, 110, 112) performing its basic function of protecting constitutionality and legality, the Constitutional Court decides on the conformity of laws and of other regulations with the Constitution and the laws. The Constitutional Court shall annul or abrogate a law if it determines that it is not in conformity with the Constitution. It

will furthermore annul or abrogate a regulation or another legal act if it determines that it does not conform to the Constitution and the laws.

Such position of the Constitutional Court provides additional control over the operation of the Government and the state administration as a whole – both as a proposers of laws and as a “creator” of secondary legislation.

9. What is done to ensure that the public service is open and transparent? Can any citizen affected by an administrative action find out the basis for the action?

Transparency

Article 16 of the Constitution of the Republic of Macedonia guarantees free access to information. This constitutional principle is further transposed in many laws which stipulate that the work of state administration and public bodies is public.

Article 52 of the Constitution of the Republic of Macedonia requires that all laws and other regulations be published in the “Official Gazette of the Republic of Macedonia” before entering into force.

Laws and regulations in the Republic of Macedonia provide guarantees for transparency during the drafting and the decision-making process (for more details see [LC 11](#)), as well as in the actions of the public administration in the enforcement of laws and other regulations.

The Law on Organisation and Operation of the State Administrative Bodies (“Official Gazette of the Republic of Macedonia”, Nos. 58/00 and 44/02), declares transparency as one of the principles of the operation of the state administration. Its provisions stipulate that state bodies inform the public about their work.

Article 70 of the Constitution of the Republic of Macedonia and the Rules of Procedure of the Assembly of Republic of Macedonia (“Official Gazette of the Republic of Macedonia”, No. 60/02), the sittings of the Assembly and of its working bodies are open to the public. The Assembly may also decide to hold an open public discussion on a preliminary draft law, or hold a public hearing on a draft law.

According to the Law on the Government of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia”, Nos. 59/00 and 12/03), the Government is obliged to inform the public of its work and the implementation of its Annual Work Programme. The Government will not publish information concerning the national security, official and business secrets, neither the personal data of the citizens according to the law that regulates protection of personal data.

The Rules of Procedure of the Government of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia”, Nos. 38/01, 98/02, 47/03, 64/03 and 67/03), define the modes of providing information about the work of the Government to the public and prescribes an obligation for the Members of the Government to inform the public about the work of the Government and the ministries. Furthermore, the Government has undertaken measures to enable closer communication with the public through strengthening the public relations units within the Government and the state administrative bodies and developing a communication strategy.

The Law on Local Self-Government (“Official Gazette of the Republic of Macedonia”, No. 5/02), obliges the bodies of the local self-government units to inform the citizens about their work, as well as about the plans and the programmes that are of importance for the development of the municipality. The municipality is obliged to provide the citizens access to the essential information about the services it provides, in a manner and under conditions that are determined by the Statute. Similarly to the obligation for publicising laws and regulations at the level of the state, the regulations of the municipality must be published before they enter into force in a mode determined by the Statute.

According to Article 21 of the Law on Civil Servants (“Official Gazette of the Republic of Macedonia”, Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04), the state

employee is obliged, in accordance with the law, in a manner and under conditions determined by the law or other regulation, and upon request of citizens to provide information for fulfilment of their rights and interests, unless the information is a state or business secret.

Administrative Procedure

The principle of legality is the basic principle of the Law on General Administrative Procedure “Official Gazette of SFRY”, 47/86 -consolidated text and “Official Gazette of the Republic of Macedonia” No. 44/02). Additionally, it establishes the principles of efficiency, material truth, interrogation of the concerned party, evaluation of the evidence, independence in the decision making process, the right to appeal, effective decision, cost-effectiveness of the process, assistance to an ignorant concerned party, subsidiary implementation of the law, the usage of the languages and the alphabets, protection of the rights of the citizens and the protection of public interest.

This law furthermore in detail defines the procedure (all its phases and elements, the rights of the Parties, conduct of procedure), legal remedies and enforcement in administrative matters.

The Law is applied by state administrative bodies, other state bodies, public bodies vested with public authority, and municipal bodies. It comprises the principle of subsidiarity, which means that if a specific area administrative issues are regulated with a special law, the administrative body acts in accordance with the law.

In line with the principle of legality, the state administrative bodies decide on the basis of the law and other regulations. Each administrative case is decided by a body determined by law, in a procedure defined by law.

The body which by a law or a by-law (based on a law) is authorised to deliver decisions upon discretionary assessment must deliver the decision within the limits of the given authority and in line with the aim of the authorisation (Article 4 of the Law). Furthermore, it is stipulated that the state administrative body conducts the administrative procedure and delivers a decision within the scope of authority defined by law or other regulations. The decision is issued by the head of the relevant body, if it is not otherwise regulated by specific regulations. The head may authorise an official (a civil servant) to conduct the administrative procedure in certain matters. The authorised official of the administrative body responsible for the relevant administrative procedure establishes the facts and the circumstances independently, applying the relevant laws and regulations to the specific case (Article 10 of the Law).

The decision in the administrative procedure is based on facts established upon evidence. In conducting the administrative procedure, the authorised official examines the concerned party's request, gathers evidence and considers all relevant regulations. In the process of producing evidence, the official may: hold a hearing upon his/her initiative or on the initiative of the party whereby participation of concerned parties is granted and the hearing is officially recorded in minutes, request documents; summon witnesses; ask for a statement; request expertise; perform an on-site inspection, at which the Party may be present.

Every citizen who has submitted a request for the realisation of his/her rights to an administrative body, has a right throughout the administrative procedure to be informed which administrative actions are undertaken. He/she is also granted the right to examine all the documents contained in the file and copy the needed files in the presence of a given public official on his/her own expense. The right to review the materials is also guaranteed to another person who would prove his/her legal interest.

The Law prescribes in detail the content of the decision in administrative cases, thus providing the concerned Party with clear information of the basis, substance and arguments for the administrative decision. The decision consists of: introduction, disposition, explanation, instruction on legal remedy, title of the administrative body, number and date, signature of the responsible official and stamp of the administrative body. The introduction consists of: the title of the body delivering the decision, legal base of the competence of this body, name of the concerned party and its legal representative or a proxy (if any), and a short reference of the case. The disposition contains the substance of the decision – on the complete subject of the case, including all the requests of the Party. The explanation of the decision

includes of: a summary of the requests of the party, the established factual situation and additionally, if necessary, the decisive arguments for each element of the decision. The explanation of the decision in simple matters and only including one party or a positive non-contested decision referring to more parties may be summarised and issued on a pre-prepared form. If the decision included discretionary assessment, this has to be specifically elaborated in the explanation, including a reference to the legal ground. The instruction on legal remedy consists of information on the body to which and the term within which the Party has the right to file a complaint.

Furthermore, the parties that live in a local self-government unit in which at least 20% of the population speaks an official language other than the Macedonian have the right to communicate with the local offices of the ministries in their language. For these local self-government units the local offices are obliged to respond in the language and alphabet used by the Party, in addition to Macedonian. Furthermore, in the administrative procedure these parties may submit documents in their language, while the bodies conducting the administrative procedure will translate them and act upon them. The bodies conducting the procedure, in deciding in administrative matters, respond to these parties in Macedonian and in the language used by the Party.

The decision in first instance must be delivered within two months from the lodging of the request if the administrative procedure entailed thorough examination, and one month if the procedure was simple. If the decision is not issued in the prescribed term, the Party has the right to appeal, as if the request were refused.

The Constitution of the Republic of Macedonia (Article 15) grants the right to appeal against individual decisions issued in first instance proceeding by a court, administrative body, organisation or other institution vested with public mandate.

In Line with the Law on the Government ("Official Gazette of the Republic of Macedonia", Nos. 59/00 and 12/03), the Government of the Republic of Macedonia has established 14 second-instance commissions to act in administrative matters. According to the Law on the Government and its the Rules of Procedure, these commissions, in principle, have a chairperson, 4 members and their substitutes. A minister or a deputy minister may be appointed chairperson of the Commission, while the members are from the rank of managing and expert civil servants from the ministries, other state administrative bodies and the General Secretariat of the Government. Officials that take part in deciding in the respective administrative matters in first instance may not be appointed members of the second-instance commission.

If the second instance body in the time-period of sixty (60) days or less (in cases specific laws provide for a shorter term) does not deliver a decision, and fails to do so in additional seven days following an additional request of the Party, the Party may initiate an administrative dispute, as if the appeal were rejected (for more details see [I C 8](#)).

The official who is conducting the administrative procedure is responsible, if as a result of his/her fault certain procedural actions in the procedure have not been completed.

A new Draft-law on General Administrative Procedure is in parliamentary procedure.

10. What are the procedures for administrative control to guarantee citizens' rights of recourse against public service actions? Describe these (e.g. parliamentary committees, ombudsman's office, internal and external audit, inspectorates, standard-setting authorities).

The Constitution of the Republic of Macedonia (Article 24) guarantees the citizens' right to file petitions before, and receive responses from state bodies and other public services. At the same time, the Constitution provides that a citizen may not be held accountable nor suffer adverse consequences due to attitudes expressed in petitions, unless committing a criminal act.

Besides this general constitutional provision and in addition to the court protection (for more details see [I C 8](#)), there are a number of institutes in the Republic of Macedonia, by which administrative control is ensured in order to guarantee the citizens' right of recourse against actions of public services.

For the protection of their rights against public services' actions, citizens may address the following institutions: the Standing Inquiry Committee within the Assembly of the Republic of Macedonia, the Ombudsman, the State Administrative Inspectorate as a body within the Ministry of Justice, as well as other inspection bodies.

Standing Inquiry Committee for Protection of Citizen's Rights and Freedoms

The Committee is established by the Assembly of the Republic of Macedonia, pursuant to the Constitution. The Committee, among others, explores issues pertaining to the implementation of Constitutional provisions, laws and other regulations and acts important for the exercise and protection of civil rights and freedoms. The Committee also considers submissions from citizens and decides on position upon them (for more details see [I B 2](#)).

A total of 74 petitions were submitted before the Committee in 2003, 30 of which were collective and 44 of which were individual petitions. Petitions referred to the following: labour relations - 16, court matters - 14, administrative procedure - 10, social affairs - 6, police conduct - 5, urban planning - 4, matters pertaining to status in public or private enterprises - 4, displaced persons - 4, operation of state administration and local self-government - 4, public prosecution issues - 3 etc.

Following the petitions, the Committee's actions included: hearing of 47 petitioners, giving guidelines to 33 petitioners for the exercise of their rights and request of information from the competent bodies in 32 cases.

In the period from January to September 2004, the Committee received a total of 83 petitions which were considered and upon which action was taken.

After petitions by citizens or initiatives by Committee Members have been considered, and upon a previously provided information by the competent state administrative bodies or institutions, the Committee adopts appropriate conclusions requesting, recommending or pointing to respective bodies to bring their work in line with the legal rights of citizens. The Committee also has direct contacts with citizens or groups of citizens whose rights have been violated.

In addition, the Committee reviews periodic or annual reports on the operation of bodies and institutions which deal with the protection of constitutional and legal rights of citizens and adopts conclusions pointing to measures that are to be undertaken in order to provide for their more efficient exercise, while taking into account the competences of these bodies.

The Committee cooperates with the Ombudsman, the State Administrative Inspectorate, the State Commission for Prevention of Corruption, the Judicial Council of the Republic, the Broadcasting Council, etc.

The Committee's findings represent a basis for the initiation of the procedure to determine public office-holders' responsibility.

Ombudsman of the Republic of Macedonia

The Office of the Ombudsman was established pursuant to the Constitution of the Republic of Macedonia and the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03). Citizens of the Republic of Macedonia and any other person may file petitions to the Ombudsman in cases when their rights, granted by Constitution and law have been violated by state administrative bodies, bodies and organisations with public mandates as well as public institutions and services.

The procedure before the Ombudsman is regulated by the Law on the Ombudsman and the Ombudsman's Rules of Procedure, under which the Ombudsman may also initiate procedures upon his/her own initiative. If in the petition or during the investigating procedure, violations of the constitutional and legal rights of the petitioner or of the person on whose behalf the procedure has been initiated are detected, the Ombudsman shall, in accordance with his/her legal competence, undertake measures to

eliminate the illegal actions of the public administration and to ensure the exercise of the rights of the petitioner or of the person on whose behalf the procedure has been initiated.

Concerning the operation of its Office and the degree to which human rights and freedoms have been respected, the Ombudsman submits an annual report to the Assembly of the Republic of Macedonia.

Over the past period, the Ombudsman has submitted six annual reports which have been publicly announced and made available to citizens, governmental and non-governmental organisations and international bodies and organisations.

The Office of the Ombudsman in 2003 received 2605 petitions, which represented an increase of 38, 71% compared with the previous year. The majority of petitions were in the following areas: judiciary – 415, labour relations – 406, property relations - 267, protection of rights in police procedure – 266, urban planning and civil engineering – 209, utility and other fees – 188, pension and disability insurance – 169, social affairs - 167, housing relations - 161, protection of children's rights - 62, health care - 46, education, science, culture and sport - 26, finances and financial transactions – 22. The remaining petitions referred to other areas.

Over the period from January to September 2004, the Office of the Ombudsman received 1521 petitions in various areas. Procedure was initiated upon 957 of these cases.

It follows from the Ombudsman' practice so far that citizens most often complain on delays of procedures in judicial and administrative bodies, encountered difficulties in the sphere of housing and social affairs, unemployment and other civil rights. Complaints pertaining to fundamental freedoms and rights guaranteed by the Constitution or international acts and documents were less frequent (for more details see [I G 6](#)).

External (State Audit)

Pursuant to the Law on State Audit ("Official Gazette of the Republic of Macedonia" No. 73/04 – consolidated text), the external audit entails: review of documents, licences or reports on the performed internal control and audit; review of accounting and financial procedures and other records in terms of whether financial reports are accurate and present realistically the financial situation and effects of financial transactions under the accepted accounting principles and standards and the INTOSAI International Auditing Standards.

The state audit also includes assessment of the use of resources in terms of cost-effectiveness and efficiency.

Subject to an external audit are the following: Budget of the Republic of Macedonia, budgets of the local self-government units, funds' budgets, budget beneficiaries and individual budget beneficiaries, public enterprises, National Bank, legal entities in which the state is the dominant shareholder, political parties funded from the Budget, agencies and other institutions established pursuant to the law, other publicly funded institutions and beneficiaries of funds of the European Union and other international organisations.

Pursuant to the existing Law, external audit encompasses: inspection of documents and reports on the internal control and audit that has been carried out as well as inspection of accounting and financial procedures and other records from the aspect of whether such financial reports truthfully and objectively represent the financial situation and the results from financial operations as prescribed by accounting principles and standards, including the International Audits Standards of INTOSAI.

The external audit is conducted in accordance with the timeframe determined in the Annual Programme of the State Audit Office which is adopted by the Chief State Auditor. The Programme includes:

1. Entities subject to regular annual audit pursuant to the Law: the funds' budgets, beneficiaries of funds under the State Budget and the budget of the local self-government units, public enterprises and Budget funded political parties, and

2. Entities subject to audit in a certain number of years. Since no inclusion of all entities is possible within the Annual Programme, the selection is done under the following criteria: potential risks of deviations within the entities; percentage of their participation in the budgetary expenditures; information gathered from the media; written or verbal information; information collected during debates in the Assembly and in the municipal councils; submissions of the State Commission for Prevention of Corruption; findings of previously conducted audits and individual requests for audits.

The external audit is conducted by authorised state auditors and state auditors, employed in the State Audit Office (for more details see [28 I A 1](#)). Pursuant to the Law, the State Audit Office submits an annual report on the conducted audits and on its operation before the Assembly of the Republic of Macedonia. In addition, the State Audit Office publishes its reports on its official web site, which is an obligation determined by law.

Internal Audit

The internal audit in the public sector is regulated by the Law on Internal Audit in the Public Sector ("Official Gazette of the Republic of Macedonia", No. 69/04), and the Rulebooks on the Modes of Conduct of Internal Audit. Pursuant to the Law, the internal audit has been defined as an independent and objective activity of checking of information, verifying their accuracy and providing advice, which is aimed at enhanced operation of the entities. It assists the entities to fulfil their objectives by applying a planned, strictly determined approach of evaluation and enhancement of risk-management, control and management practices.

All public sector entities are obliged to establish internal auditing units, provide resources for their operation and ensure their organisational and functional independence. Depending on their competences and the number of their employees, the internal audit in various state administration or other bodies has been organised in departments or units.

Pursuant to the Government Conclusions of its Session held on 26.01.2004, the development of internal audit and enhancement of financial control within budget beneficiaries and funds shall be conducted in three stages:

- The first stage entails establishment, by 31.03.2004, of internal auditing units in 17 large-scale budget beneficiaries and training of 23 internal auditors by 30.04.2004;
- The second stage includes training of internal auditors in the other budget beneficiaries and establishment of their internal auditing units by the end of 2005;
- The third stage entails training of internal auditors in the local self-government units and establishment of their internal auditing units by 31.03.2006.

The first stage of setting up internal auditing units has been completed and within 15 budget beneficiaries and funds such units have now been established.

Inspection over the enforcement and implementation of legal and other regulations is carried out by the state administrative bodies (inspectorates) within their competences pursuant to the law. Pursuant to the Law on Organisation and Operation of the State Administrative Bodies, internal auditors put forward initiatives for inspection and monitor the measures undertaken by the inspection authorities (for more details see [28 I B 11](#)).

State Administrative Inspectorate

Pursuant to Article 17 of the Law on Organisation and Operation of the State Administrative Bodies, the State Administrative Inspectorate is a body within the Ministry of Justice, which deals matters of administrative inspection in the Republic of Macedonia.

The scope of work of the State Administrative Inspection is defined in the Law on Administrative Inspection ("Official Gazette of the Republic of Macedonia", No. 69/04).

The inspection is carried out *ex officio* pursuant to the Annual Programme for the Inspectorate's Operation and pursuant to monthly plans, as well as upon initiatives and proposals submitted by citizens, organisations and entities which, in exercise of their rights, interests and obligations, encounter irregularities in the operation of state administrative bodies or institutions with public mandates.

The inspection is carried out in state administrative bodies, other state bodies, organisations, public services, institutions and other legal entities with legally assigned public mandates which decide in administrative matters, as well as in municipalities, the City of Skopje and municipalities within the City of Skopje when, as part of their competences, they decide in administrative matters on the rights, obligations and legal interests of natural persons and legal entities pursuant to law.

When conducting the supervision, inspectors are authorised to carry out inspection into the enforcement of laws and other regulations and to request related information, order elimination of irregularities in the application of laws and other regulations, order specific manners of action in the state administrative body or the administrative organisation with public mandates. State administrative bodies and institutions with public mandates are obliged to enable unimpeded inspection and conduct of the administrative supervision and, if requested by the inspector, provide him/her with the necessary materials within a determined period. When an inspector detects violation of regulations, the enforcement of which is supervised by another body, he/she has to immediately notify of such findings. If the inspector considers that by such violation a criminal act, a misdemeanour or severe violation of duties has been committed, he/she is obliged, without delays, to raise criminal charges, submit request for initiation of misdemeanour procedure or submit request for initiation of procedure to determine responsibility for severe violation of duties. If he/she has determined that a certain act is not in compliance with a law or another regulation, the inspector shall request from the state administrative body to eliminate within certain deadline the detected irregularities. If the respective body fails to do so, the inspector may initiate a procedure for assessing the constitutionality and legality of the disputed act.

In 2003, the State Administrative Inspectorate carried out 832 supervisions, 454 of which were regular inspections, 117 were controlling inspections and 261 were extraordinary inspections upon requests and initiatives by citizens. As part of these activities, direct inspection was conducted into 30,557 administrative cases. The findings were that 18,531 cases were resolved within the deadlines set forth in the Law on General Administrative Procedure and in material laws; 3685 cases were resolved after the expiry of the legally prescribed deadline; in 827 cases it was impossible to determine the time of their resolution due to the non-existence of evidence as to a successful delivery of the administrative acts; 5169 cases were not resolved although the legal deadlines were expired and in 2345 cases the period for their resolution was running. In order to ensure elimination of irregularities detected during inspection, the State Audit Office ordered 1.617 draft-measures, adopted 44 rulings (individual decisions) and submitted 5 requests for initiation of misdemeanour procedure before the competent first instance court.

In the period from January to September 2004, the State Administrative Inspectorate carried out 420 supervisions, 230 of which were regular inspections, 105 were controlling inspections and 85 were extraordinary inspections upon requests and initiatives by citizens. As part of these activities, inspection was conducted into 14651 cases. The findings were that 1653 cases were resolved within the legally prescribed deadlines; in 272 cases it was impossible to determine the time of their resolution due to the non-existence of evidence as to a successful delivery of the administrative acts; for 2123 cases the legal deadline had expired and in 2345 cases the period for the resolution was running. Minutes were prepared on the findings of inspections and 830 draft-measures were proposed. For this period, the State Administrative Inspectorate has dedicated particular attention to the committees deciding on

denationalisation requests and to the Government's Second Instance Committee, which decides in administrative procedure on denationalisation.

Inspectors prepare minutes on the conducted inspection, presenting the detected situation. Elimination of the detected irregularities is ordered by a decision which also prescribes deadlines. On measures undertaken upon the decision, the respective bodies are obliged to inform the inspectorate within the determined deadlines. Inspectors ensure enforcement of the decision by which elimination of the detected irregularities has been ordered, by conducting controlling inspections and preparing minutes thereof. Inspectors are entitled to act upon petitions, requests, initiatives and other submissions by citizens and legal entities, when their rights have been violated by state administrative bodies.

Other Inspection Authorities

Inspection is carried out only by the state administrative bodies within their competences. For the purpose of conducting supervision, inspectorates have been established as bodies within the respective ministries. Inspection is performed by inspectors. An inspector initiates the inspection procedure *ex officio* and upon requests, proposals and initiatives submitted by citizens. He/she conducts the inspection in accordance with the rules of administrative procedure and is obliged to act in compliance with law or other regulation.

Civil Servants Agency

The body in the Republic of Macedonia which sets standards pertaining to civil servants and their work is the Civil Servants Agency. The Agency has been established as an autonomous state body, by the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03 and 17/04), with the status of a legal entity, which performs expert, administrative and other duties related to the status, rights, duties and responsibilities of civil servants. It drafts and adopts regulations pertaining to civil servants for which legally authorised, upon a prior opinion by: the Assembly of the Republic of Macedonia, President of the Republic of Macedonia, Government of the Republic of Macedonia, Constitutional Court of the Republic of Macedonia, Supreme Court, courts, Judicial Council of the Republic, Ombudsman, Public Prosecutor's Office, National Bank and the State Audit Office.

By rulebooks, the Civil Servants Agency sets criteria, standards and procedure for employment and selection of civil servants, and prescribes modes, procedure and criteria for carrying out the vocational and internship examinations.

The Agency adopts guidelines on the criteria for financial rewards for civil servants who have particularly contributed to the operation of the respective state body by their noteworthy engagement or quality in the performance of the assigned duties.

Pursuant to Article 18 of the Law on Civil Servants, the Agency has adopted the Civil Servants' Code of Conduct ("Official Gazette of the Republic of Macedonia", Nos. 9/01 and 16/04), which includes provisions on the impartiality, independence in decision-making, abuse of competence and status of civil servants, transparency of information, political activity, conflicts of financial interests, gifts and other types of benefits, protection and cost-effective management of public resources, conduct in service, conduct in private life and public relations. Civil servants are disciplinary liable for conduct in breach of the Code (for more details: [I C 6](#)).

11. What types of legal acts exist? How and by whom are they adopted? How are they prepared? What forms of consultation are used, both inside the government (inter-ministerial co-ordination) and outside (stakeholders)? What mechanisms exist to monitor the effective implementation of legal acts by public bodies (e.g. reporting requirements, inspections)?

Types of legal acts

In the Republic of Macedonia the following types of legal acts exist: the Constitution, the Constitutional Law on Implementation of the Constitution, laws, promulgations, decisions, declarations, resolutions, recommendations, conclusions, decree-laws, decrees, guidelines, programmes, individual decisions, rulebooks, orders, plans, rules of procedure, statutes.

The Constitution of the Republic of Macedonia is adopted and amended by the Assembly of the Republic of Macedonia.

The Assembly adopts a decision to amend the Constitution by a two-thirds majority vote of the total number of representatives.

For the adoption of a Decision to alter the Preamble of the Constitution, the articles of the Constitution which govern the local-self government, the Article 131, any provision that refers to the rights of the members of the communities, including in particular provisions on the use of the official language (Article 7), the fundamental values of the constitutional order of the Republic of Macedonia (Article 8), the equality of freedoms and rights of citizens (Article 9), the rights for confession (Article 19), the right to freely express, foster and develop the identity and community attributes of the members of the communities (Article 48), the guarantee for protection, promotion and enhancement of the historical and artistic heritage of the Republic of Macedonia and all communities in the Republic of Macedonia (Article 56), the provisions on the mode of operation and the decision-making in the Assembly of Republic of Macedonia (Article 69), on the Committee on Inter-Community Relations (Article 78), the appointment of members to the Security Council (Article 86), the election of members to the Judicial Council of the Republic (Article 104) and the election of judges to the Constitutional Court of the Republic of Macedonia (Article 109), the Articles 7, 8, 9, 19, 48, 56, 69, 77, 78, 86, 104 and 109, as well as for the adoption of a Decision to Amend the Constitution with any new provision that refers to the subject matters of these provisions and Articles, a two-thirds majority vote of the total number of representatives is required within which there must be a majority vote of the total number of representatives belonging to non-majority communities in the Republic of Macedonia.

The amendment to the Constitution is proclaimed by the Assembly.

For the implementation of the Constitution, a constitutional law is adopted by a two-thirds majority vote of the total number of representatives. The constitutional law is proclaimed by the Assembly and it enters into force at the same time with the proclamation of the Constitution.

According to the Constitutional Law on Implementation of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 52/91), the former federal legal acts are accepted as legal acts of the Republic of Macedonia, all together with the competences of the state bodies, as proclaimed in the Constitution of the Republic of Macedonia. This article ensured continuity of the legal system. Also, the positive law of the Republic of Macedonia - the existing legislation that the Republic of Macedonia as a federal unit had been competent to enact — remained in force.

In the legal system of the Republic of Macedonia, only the Assembly may adopt laws. The Assembly adopts laws by a simple majority, by two-thirds or by a qualified majority (the so-called Badinter majority).

Two-thirds majority vote of the total number of Representatives is required to adopt the Law on Organisation and Operation of the State Administrative Bodies, the Law governing the types, competences, establishment, termination, organisation and composition of courts, and the procedure

before courts and the Law on Defence of the Country. Local self-government is regulated by a law adopted by a two-thirds majority vote of the total number of representatives, within which there must be a majority vote of the representatives who belong to non-majority communities.

Laws on local finances, local elections, municipal boundaries and the City of Skopje are adopted by a majority vote of the total number of representatives, within which there must be a majority of the votes of the representatives belonging to the non-majority communities in the Republic of Macedonia.

On laws that directly affect culture, use of languages, education, personal documents, and use of symbols, the Assembly decides by a majority vote of the representatives attending, within which there must be a majority vote of the attending representatives belonging to the non-majority communities in the Republic of Macedonia.

The Constitution explicitly determines that the organisation and operation of the Assembly are regulated by Rules of Procedure adopted by a two-thirds majority vote of the total number of representatives. When performing its competencies, the Assembly adopts decisions, declarations, resolutions, recommendations and conclusions.

By a declaration the Assembly's general position on issues of general political importance is expressed.

By a resolution, the Assembly points to developments, problems and measures that are going to be undertaken in a specific area.

By a recommendation, the Assembly gives guidelines for overcoming a current situation in certain area.

The Assembly takes decisions if the session is attended by a majority of the total number of Representatives, and by at least one third of the total number of its Representatives, except in the aforementioned cases.

The Constitution sets forth that promulgation is enacted by the President of the Republic. By a promulgation (a Presidential decree), the President proclaims the adopted laws, appoints and recalls ambassadors and representatives of the Republic of Macedonia abroad and appoints and recalls military representatives of the Republic of Macedonia abroad.

The Law on the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 59/00 and 12/03), and the Rules of Procedure of the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 38/02, 47/03, 64/03 and 67/03), set forth that for the purpose of exercise of its rights and carrying out its obligations and duties determined in the Constitution and the law, the Government adopts: decrees with a force of law, decrees, decisions, guidelines, programmes, individual decisions (rulings), conclusions and rules of procedure.

By a decree, the Government regulates the enforcement of laws; determines principles on internal organisation of ministries and other state administrative bodies and regulates other relations pursuant to the Constitution and law.

By a decision, the Government decides on particular issues and measures for the enforcement of laws; establishes expert and other services for its own needs as well as common services for the needs of the Government, ministries and other state administrative bodies.

By guidelines, the Government prescribes the mode of operation of ministries and other state administrative bodies.

By a programme, the Government regulates specific issues within its competence for which dynamics and deadlines need to be defined. A programme includes also a financial plan for implementation.

By an individual decision, the Government appoints and dismisses directors of state administrative bodies, state secretaries in the ministries and a secretary general of the Government, makes other appointments and dismissals for which it is authorised and decides on other issues and administrative matters.

By a conclusion, the Government adopts position on issues discussed at its session, determines opinions on draft-laws, other regulations and on materials submitted in the Assembly by other authorised proposers; decides on specific issues of internal organisation and relations within the Government; determines tasks of the ministries, the state administrative bodies and of its services and takes position on issues within its competence.

By a decree with the force of law, the Government regulates issues within the competence of the Assembly in case of a state of emergency or a state of war, if the Assembly cannot be convened.

The Government's Rules of Procedure regulate more specifically its internal organisation, manner of operation and other issues relevant for the operation of the Government.

The Government adopts the acts within its competence at its sessions and decides on them by a majority vote of its members. If votes on a decision are tied, the decision for which the Prime Minister has voted shall be considered adopted.

The Law on Organisation and Operation of the State Administrative Bodies ("Official Gazette of the RM", Nos. 58/00 and 44/02), sets forth the types of acts enacted by a minister or an official heading an autonomous body of state administration.

A minister enacts: rulebooks, orders, guidelines, plans, programmes, individual decisions (rulings) and other acts for implementation of the laws and other regulations when so authorised by law.

A director of an autonomous body of state administration i.e. administrative organisation enacts: rulebooks, individual decisions (rulings), orders, guidelines, plans, programmes and other acts for implementation of the laws and other regulations when so authorised by law.

A rulebook elaborates on particular provisions of laws and other regulations with the purpose of their enforcement.

An order determines or prohibits actions in particular situation of general significance for enforcement of laws and other regulations.

A rulebook determines the mode of action in the enforcement of particular provisions of laws and other regulations.

Plans and programmes elaborate on specific issues relevant for the enforcement of laws and other regulations when their implementation requires definition of deadlines and dynamics.

A minister delivers individual decisions (rulings) in the administrative procedure and when deciding upon individual issues, as well as in other cases prescribed by a law or regulation.

A director of an autonomous state administrative body or a director of an administrative organisation delivers individual decisions in the administrative procedure and when deciding upon individual issues, as well as in other cases prescribed by a law or regulation.

The Law on Local Self-government ("Official Gazette of the Republic of Macedonia", No. 5/02), regulates the normative function of the municipal councils and of the mayors. In performing the duties within its competence, a municipal council adopts: statute, programmes, plans, decisions and other regulations stipulated by law. A council adopts its regulations by a majority vote of the total number of the council members, unless otherwise stipulated by the Law on Local Self-government. Municipal regulations that directly affect culture, use of languages and alphabet utilized by at least 20% of the citizens in that municipality, establishment and use of the municipality's coat of arms and flag, are

adopted by a majority vote of the council members attending, within which there must be a majority vote of the council members attending who belong to non-majority communities in that municipality. A mayor of a municipality delivers individual decisions on settlement of individual rights, obligations and interests of natural persons and legal entities.

Preparation of acts

The procedure to amend the Constitution has been prescribed by the Constitution, and has been further elaborated in the Assembly's Rules of Procedure ("Official Gazette of the Republic of Macedonia", No. 60/02). A proposal to amend the Constitution may be submitted by the President of the Republic, the Government, at least 30 representatives of the Assembly, or 150,000 citizens.

A proposal to amend the Constitution shall include guidelines for the amendments to the Constitution and explanation of the reasons to propose amendment to the Constitution.

The President of the Assembly shall forward the proposal to amend the Constitution to the representatives, to the President of the Republic and to the Government, in case none of these have submitted the proposal.

Upon a proposal to amend the Constitution, a general debate is held at an Assembly's session.

The Assembly adopts a decision to amend the Constitution by a two-thirds majority vote of the total number of representatives.

After the adoption of the decision to amend the Constitution, the Assembly by a conclusion determines a deadline by which the proposers shall prepare the text of the preliminary draft-amendment to the Constitution.

The text of the preliminary draft-amendment, together with the elaboration, shall be submitted by the proposal-maker to the President of the Assembly who shall, at least 30 days before the Assembly's session is held, forward it to the representatives, the President of the Republic and the Government, in case any of these are not proposers of the text of the preliminary draft-amendment.

A reading in the Assembly is held on the preliminary draft text of each of the amendments individually and opinions and suggestions may be given.

The Assembly by a majority vote of the total number of representatives determines each preliminary draft amendment individually and the preliminary draft amendments to the Constitution as a whole.

The Assembly puts the preliminary draft amendments to a public debate.

The Assembly sets the period for the public debate, the manner of publication of the preliminary draft amendments and the deadline by which the proposers, being the holder of the public debate, shall submit to the Assembly a report on the results of the public debate, as well as texts of the draft amendments to the Constitution.

The President of the Assembly shall forward the text of the draft amendments, together with the elaboration and the report on the results of the public debate, to the representatives, the President of the Republic and to the Government, in case any of these are not proposers of the draft amendments.

Each representative, Assembly's working bodies, or the Government may submit amendments, at least 8 days before the Assembly's session at which the amendments to the Constitution shall be adopted.

A general debate shall be held as well as a reading of the text of the draft amendments to the Constitution.

The Assembly votes separately on each of the amendments submitted to the draft amendments to the Constitution by a majority vote of the total number of representatives. The Assembly by a majority vote of the total number of representatives determines each draft amendment individually and the draft amendments as a whole.

Pursuant to the Constitution of the Republic of Macedonia and the Assembly's Rules of Procedure, a proposal to adopt the law may be put forward by each of the representatives in the Assembly, the Government and at least 10,000 voters. These are the authorised law proposers.

Pursuant to the Constitution and the Rules of Procedure of the Assembly of the Republic of Macedonia, any citizen, group of citizens, institutions and associations may submit to an authorised proposer an initiative to adopt a law. The initiative submitted to the Assembly is then forwarded to the representatives and the Government. If the authorised proposer accepts the initiative for adoption of the law, he/she may submit to the Assembly a text of the proposal to adopt the law.

When the Government is authorised to propose the law, it shall be drafted by the ministry competent in the respective area. The Ministry which has drafted the proposal to adopt a law, prior to submitting it for review before the Government, requests an opinion from any ministry or a state administrative body the competence of which have common aspects with the subject matter governed by the respective law. Opinion on the proposal to adopt the law shall necessarily be requested from the Ministry of Finance – in terms of its fiscal implications, and from the Legislative Secretariat in terms of its compliance with the Constitution, the laws and other regulations, ratified international treaties and the EU legislation.

When, upon a request by the Government, the proposal to adopt the law has been drafted by a special committee, scientific or specialised institution or by individual experts or academics, the Government shall request an opinion on the proposal by the competent ministry and the Legislative Secretariat. The legal practice in the Republic of Macedonia requires that the competent state administrative body which observes the developments in the respective field conducts analyses in that particular field, determines the legal and factual state of affairs and identifies the need for regulation of specific issues before the text of the proposal to adopt the law is drafted.

As part of the analyses, the competent body shall survey opinions, attitudes, interests and requirements submitted before it by stakeholders (citizens, non-governmental organisations, legal entities). In the phase of the preparation of the law, the participation of stakeholders is ensured by way of public announcement of the text of the law, by organisation of public hearings etc. When making the analyses, the competent body shall, if it deems it necessary, consult academics or experts in that particular field. In addition to the analyses, it shall conduct comparative research of the methods of regulation of the particular area in other countries.

The competent state administrative body which monitors the implementation of the laws in the respective area shall also conduct assessment of whether the objectives have been reached i.e. whether the practical application of the laws is efficient and sound. It shall point to all the detected weaknesses or ambiguities and shall put forward suggestions on how to overcome them in the law that is to be drafted. Based on this, the drafting of the initial text of the law the adoption of which is to be proposed shall commence. At this stage, the practice has been that more alternatives are proposed on the regulation of certain issues in the law. Laws which require their harmonisation with the EU legislation are drafted with assistance of foreign experts or are submitted for expertise that will enable consistent transposition of EU directives in the national legislation. When drafting the provisions of laws, efforts are made to ensure that they are expressed clearly, in the concise manner that ambiguities are avoided, and that provisions are mutually consistent and harmonised.

With regard to the structure of the laws, particular attention is paid to ensure that they include section of general/basic provisions, special part which includes substantial legal provisions, transitional and final provisions and provisions regulating the entry into force of the law. Depending on the substantive issues regulated in a specific law, it may also include sections on supervision and penal provisions.

The Rules of Procedure of the Assembly of the Republic of Macedonia prescribe the form and procedure for submission of a Proposal to Adopt the Law by the authorised proposers.

The procedure for adoption of a law begins by submission of a Proposal to Adopt the Law which has to include: constitutional basis for adoption of the law, reasons for its adoption, basic principles of the law, content of the law which incorporates the basic relations being regulated and the proposed mode of their regulation.

The Proposal to Adopt the Law has to be accompanied by an explanatory note. The explanatory note includes: assessment of the state of affairs in the area that is to be regulated by the law and assessment of the enforcement of the existing regulations in that area; objective to be achieved by regulating the relations by the proposed law and the amount of funds required for its implementation.

The Proposal to Adopt the Law is submitted to the President of the Assembly. If the Proposal to Adopt the Law has not been submitted by the Government, the President of the Assembly shall request an opinion on it from the Government.

If the Assembly votes in favour of the Proposal to Adopt the Law, it shall adopt a conclusion approving the Proposal. In case it votes against the Proposal, it shall reject it by a conclusion.

On the basis of the conclusion approving the Proposal, the proposer shall prepare a Draft Law.

If the law that is being proposed governs organic issues or a complex or extensive subject-matter, as well as in other cases when this is considered necessary, the Assembly shall, by its conclusion approving the Proposal to Adopt the Law, decide that the proposer prepares a Preliminary Draft of the Law.

If the law is not complex or extensive, the proposers may attach a Draft Law to the Proposal to Adopt the Law and may propose a debate on it at the same session of the Assembly on which the proposal to adopt the law is discussed.

If the Assembly has decided that the proposers prepares a preliminary draft of the law, the proposers shall submit before the Assembly a preliminary draft of the law in the form in which laws are adopted. The preliminary draft law has to be accompanied by an explanatory note. The proposer of a preliminary draft law which amends an existing law has to attach to the preliminary draft the text of provisions of the existing law which are being amended.

The Assembly may decide to organise a public debate on a preliminary draft law of broader importance. In such a case, the preliminary draft law is published in daily newspapers selected by the Assembly.

On the basis of opinions expressed in the public debate, the proposer submits a draft-law in the form in which laws are adopted. Along with the draft-law, an explanatory note is submitted on: the reasons for adoption of the law, relations that are regulated by it and information on the funds required for its implementation.

The proposer shall attach the text of the provisions of the existing law that are being amended to the draft-law introducing amendments to an existing law.

Amendments to a Draft-Law may be proposed by any of the representatives, Assembly's working bodies, the Government or 10,000 voters.

The amendments are submitted in writing to the President of the Assembly and have to be accompanied by an explanation and signed by the proposer.

In the course of the debate on the Draft-Law, decision is also made on the amendments.

Once the Law has been passed by the Assembly, the President of the Assembly shall submit it to the President of the Republic for its proclamation by a Presidential Decree (Promulgation).

Regulations that are adopted by the Government are drafted in the ministries and in other state administrative bodies competent in the area governed therein. Before being submitted for review and approval by the Government, mandatory opinion is delivered by the Legislative Secretariat in terms of its compliance with the Constitution, the laws and other regulations ratified international treaties and the EU legislation. Concerning their financial implications, an opinion is required by the Ministry of Finance.

Regulations enacted by ministers and officials managing the autonomous state administrative bodies are prepared in the respective bodies which bear competence for their adoption. Before the adoption, the minister or the director of the state administrative body is obliged to request an opinion on the regulation from the Legislative Secretariat, the Ministry of Finance and any other ministry or body the activities of which have common aspects with the subject matter governed by the regulation.

When preparing the draft-laws and draft-regulations that are adopted by the Government, tables of concordance with *EU acquis* are also submitted.

Regulations that are adopted by the municipal councils and mayors are prepared by the municipal administration. The scope of activity and the manner of execution of duties by the municipal administration is determined by the council, upon a proposal of the mayor.

Forms of consultation inside and outside the Government

Ministries and other state administrative bodies coordinate the implementation of activities under the Annual Work Programme of the Government of the Republic of Macedonia through the General Secretariat of the Government. (Article 67-a – Rules of Procedure of the Government)

Concerning materials and regulations that are submitted before the Government on which ministries and other state administrative bodies have opposing opinions, the General Secretariat coordinates the activities in order to resolve the matters of dispute and to examine the possible impact on the determined policy and the Strategic Priorities of the Government (Article 67-b – Rules of Procedure of the Government).

State administrative bodies which carry out inspection are obliged to cooperate mutually as well as with other state administrative bodies on inspection issues of common interest.

Ministries cooperate mutually by establishing working groups for drafting of laws and other regulations, for exchange of data within their competences or exchange of specialist opinions on the implementation of laws or other regulations.

If a dispute over competences or other disagreement in the implementation of the duties arises between some of the ministries the ministries in question are obliged to established inter-ministerial group to resolve the matter of dispute. If no resolution is reached in such a manner, the ministries in question inform the Government thereof.

As part of the cooperation between the Government and the municipal bodies and the bodies of the City of Skopje, the Government may, pursuant to Articles 116 and 117 of the Government's Rules of Procedure, provide them with expert and other type of assistance relevant for the implementation of the duties within their competence, including: expert opinions and guidelines for the implementation of regulations when so requested by the municipal and the City of Skopje bodies, when there is difference of opinions on important issues for the implementation of competences of the municipalities and the City of Skopje and when regulations refer to analogous implementation by the municipalities and the City of Skopje; opinions on organisational and other issues important for the proper functioning and promotion of operation of the municipalities and the City of Skopje; as well as other types of expert assistance.

Pursuant to Article 118 of the Rules of Procedure of the Government, the Government cooperates with public enterprises, public institutions and services, political parties, trade companies, and citizens' associations and foundations on issues important for the implementation of the Government's authorities and for the exercise of rights and interests of these legal entities. At its sessions the Government examines proposals and initiatives put forward by the mentioned institutions and adopts conclusions on the basis of reports by its working bodies.

When these entities submit to the Government initiatives, requests or proposals which do not fall within its competence, the Secretary General of the Government ensures that such submissions are forwarded to competent bodies and notifies the submitters thereof.

Within its rights and duties, the Government co-operates with trade unions in order to ensure the exercise of the rights, duties and responsibilities of employees in state bodies. This cooperation extends also to other issues in the framework of the collective bargaining.

Companies, associations of citizens, non-governmental organisations and other legal entities submit to the Secretary General of the Government initiatives to be reviewed by the Government. If such initiatives do not fall within the Government's competence, the Secretary General notifies the authorised proposers thereof and forwards the initiatives to the competent body or returns it to the proposers. In case the Government is authorised to review the initiative, the Secretary General requests an opinion in terms of its justification from the competent ministries. (Article 119 – Rules of Procedure of the Government)

Pursuant to Article 10 of the Law on Organisation and Operation of State Administrative Bodies, the state administrative bodies, when drafting laws and other regulations within their competence, ensure consultation with citizens through the following: public announcements of the type, content and timeframe for the adoption of the law or other regulation in question; organisation of public hearings and provision of opinions by stakeholders (citizens' associations, legal entities etc.).

Mechanisms to monitor the effective implementation of legal acts

The Government conducts supervision over the operation of the ministries, other state administrative bodies and administrative organisations.

If it considers that a certain regulation adopted by a minister does not comply with the Constitution, a law or other regulation, the Government may advise thereof the respective minister.

The Government may suspend the enforcement of such a regulation and may propose to the minister in question to change it in a determined period or to revoke it.

The Government is entitled and obliged to abolish or annul a regulation or an act of a ministry, state administrative body or administrative organisation which does not comply with the Constitution, law or other regulation adopted by the Assembly, i.e. the Government.

The proposal to abolish or annul a regulation adopted by a minister i.e. director of an autonomous state administrative body, is put forward by the Prime Minister, or its Member, if he/she considers that such a regulation does not comply with the Constitution, a law, or a Government's regulation. Opinion on such a proposal shall be requested by the Legislative Secretariat. It shall submit its elaborated opinion before the Government and to the minister i.e. director of an autonomous state administrative body who has adopted the respective regulation. Afterwards, the Government decides upon abolishment i.e. annulment of the regulation which does not comply with the Constitution, a law or a Government's regulation.

The ministers are obliged to inform the Government of the regulations they pass which pertain to the manner of exercise of the citizens' constitutional rights, implementation of the Government's guidelines, management of funds (expenditures) and other important matters within their competence.

ministers are obliged, upon their own initiative, or upon a request by the Government, to notify the Government on the developments in the area for the purpose of which the relevant ministry has been established, on the implementation of the determined policy of law and other regulations enforcement in that particular area, on the implementation of the Government's conclusions and other duties assigned by the Government.

The Government is entitled to abolish or annul a regulation or an act of a municipal council, of another body of a local self-government unit or of the City of Skopje.

Supervision over the operation of the state administrative bodies includes supervision over the legality and over the efficiency in the implementation of their duties. Such supervision is also conducted over public enterprises, public services and institutions, over natural persons and legal entities to which public authorities have been assigned by law.

The competent body conducting supervision over the legality and efficiency in the work of the state administrative bodies shall notify them of the detected irregularities or weaknesses, if any, and shall propose a period for their elimination. In case the state administrative body in question fails to eliminate the identified irregularities or weaknesses within the determined period, the competent body shall undertake measures for their elimination.

In cases when the identified irregularities or weaknesses may cause damaging effects on the exercise of rights and interests of citizens or to the operation of the respective body, the supervisory body is obliged to immediately notify thereof the Government. The supervisory body is obliged to propose to the Government a set of measures aimed at elimination of the identified irregularities or weaknesses. The supervision is conducted by a superior state administrative body, unless otherwise determined by the law.

If the supervision requires engagement of a specialised institution or conduct of an expertise, the state administrative body may decide that the supervision is conducted by a specialised organisation in the respective area.

The supervision over the work of the ministries is conducted by the Government.

The supervision over the work of the bodies within the ministries is performed by the relevant ministries. Supervision over the operation of other state administrative bodies is conducted by the ministry competent for the administrative matters for which the respective body has been established.

The supervision over the work of an administrative organisation is performed by the ministry competent for the administrative matters for which the respective organisation has been established.

Supervision over the implementation and application of laws and other regulations on the part of the state bodies, public enterprises, companies, institutions, natural persons and legal entities, is conducted as an inspection by the state administrative bodies as part of their competences.

For the purpose of performing inspection, an inspectorate may be established as a body within a ministry. Inspection duties are performed by inspectors.

Everyone is entitled to put forward an initiative for inspection and to propose that appropriate measures be taken by the ministries or state administrative bodies competent to perform inspection. An inspector starts and manages the inspection ex officio, in accordance with the rules of the administrative procedure.

In doing so, the inspector shall prepare minutes for the inspection performed, by which he/she shall take note of the actual situation. If he/she identifies specific irregularities, he/she shall make a decision to undertake administrative measures determined by the law in that particular field. The inspector may also submit a request for initiation of a misdemeanour i.e. criminal procedure if he/she has found that a misdemeanour i.e. a criminal act has been committed as a consequence of the irregular application of the regulation.

Within the exercise of its rights, duties and responsibilities, the Government harmonises and guides the operation of the state administrative bodies and may decide on general principles of the implementation of the determined policy and application of laws, other regulations and general acts passed by the Assembly or the Government. Furthermore, it may impose on these bodies a duty to adopt specific regulations and to take measures within their authorisation, may set deadlines for implementation of certain activities within their competence and request that they explore developments in areas within their scope of actions, report to the Government and propose appropriate measures.

In addition to these methods of supervision, our legal system provides also for a preventive supervision, which most often entails approval of statutes. Namely, the Government i.e. the municipality gives approval to the statutes of public enterprises it has established. Furthermore, it approves the amendments to the statute or changes in the organisation of a public enterprise, its regulation on the use of the accrued funds and on the covering of losses, its borrowing act, its act setting its products and services' prices, its balance sheet, the enterprise's business report and its annual investment programme harmonised with the overall economic development.

Statutes of public services and institutions established by the Government are approved by the ministries competent in the respective fields.

Certain laws set forth duties for specific bodies to report to the ministries and to the Government. For example, pursuant to Article 67 of the Health Insurance Law ("Official Gazette of the Republic of Macedonia", Nos. 25/00, 36/00, 30/01, 48/01, 50/01, 11/02 and 31/03), the Health Insurance Fund is obliged to submit a report on its operation to the Ministry of Health and to the Government at least once a year. Pursuant to Article 162 paragraph 3 of the Law on Pension and Disability Insurance ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 3/94, 14/95, 35/95, 40/96, 70/96, 71/96, 24/97, 25/97, 32/97, 24/00, 96/00, 5/01, 58/01, 85/03 and 50/04), the Management Board of the Pension and Disability Fund has to report about its work to the Government of the Republic of Macedonia, at least once a year. Pursuant to Article 54 of the Law on Fully Funded Pension Insurance ("Official Gazette of the Republic of Macedonia", Nos. 29/02 and 85/03), the Agency for Supervision of Fully Funded Pension Insurance submits a report about its work in the previous year to the Government. Its report is adopted by the Government.

The Law on Local Self-government governs the control over the legality of municipal regulations before and after their publication in the municipal official gazette. Thus, the mayor conducts control over the legality of the councils' regulations before their publication. If the mayor considers that a council's regulation does not comply with the Constitution or a law, he/she is obliged to suspend its publication by enacting, within 7 days from its submission, a decision elaborating on the reasons for its suspension. The council is obliged, within 15 days from the day of the publication of the decision, to review it and decide on it. If the council approves the regulation, the mayor is obliged to publish it and, at the same time, to submit an initiative for a procedure before the Constitutional Court in order to assess the constitutionality and legality of the disputed regulation. For such an initiative, the mayor is obliged to inform the minister of Local Self-government.

The Ministry of Local Self-government conducts supervision over the legality of regulations of the units of local self-government and the City of Skopje. The mayor is obliged, no later than 10 days from the day of publication of a municipal regulation, to forward it to the Ministry of Local Self-government. If the Ministry of Local Self-government considers that the respective regulation is not in compliance with the Constitution or a law, it is obliged to suspend its application by enacting, within 45 days from its submission, a decision elaborating on the reasons for its suspension. Such a decision is published in the "Official Gazette of the Republic of Macedonia". Within 30 days from the day of the publication of the decision, the Ministry of Local Self-government shall submit to the Constitutional Court of the Republic of Macedonia an initiative to assess the constitutionality and legality of the suspended regulation. If no procedure is initiated before the Constitutional Court within this deadline, the validity of the decision suspending the application of the municipal regulation shall terminate and it shall become effective.

Prior supervision exists on the local level, as well, and it entails prior approval of the municipal regulations. If, when adopting a municipal regulation, prior approval is required by another body, it shall provide such approval within 60 days from the day the draft regulation has been submitted to it. If the prior approval has not been provided within this period, the regulation shall be deemed accepted as it has been proposed by the municipality.

12. What mechanisms exist to link strategic planning and budgeting, in each Ministry, at Governmental level?

Basic governmental mechanisms linking strategic and budgetary planning in each of the ministries are defined in the Decision on the Methodology of Strategic Planning and Drafting of the Government of the Republic of Macedonia Annual Work Programme and the Budget Circular.

The strategic planning process provides the Government with a mechanism to identify the objectives deemed priority (identification of priorities). By integrating the process of identifying priorities with the budgetary process, the Government's capacity to carry out its functions has substantially increased. The most important point taken into account by the Government in the strategic planning process is the fact that the budget funds are limited i.e. that the Government has limited financial power to carry out its plans.

Therefore, due to the inter-connection between the process of definition of priorities and the budgetary process, the Strategy, Planning and Monitoring Sector in the General Secretariat of the Government of the Republic of Macedonia and the Budgets and Funds Sector in the Ministry of Finance are jointly responsible to coordinate the process of defining priorities and the budgetary process.

The strategic planning is a complex process that involves all ministries. It affects the policy development process in such a way that it clarifies what policy-related compromises and trade-offs have to be made in order to accommodate the process of policy implementation in a fiscally restricted budget framework. For that purpose, the required institutional capacities are being developed within the ministries (sectors or units) which should support the strategic planning and the budget preparation process and ensure that each budget user prepares its budget submission in accordance with the previously developed strategic plan.

1. Definition of Government strategic priorities

The first step in the strategic planning process is the definition of Government strategic priorities. Strategic priorities entail major changes relating to specific issues and problems that the Government intends to address.

Strategic priorities are established on a general level and are more wide-ranging than the specific initiatives by the ministries.

Several ministries may engage in the definition and implementation of strategic priorities. The strategic priorities may refer to a period of several years, and as they greatly influence the human and financial resources in the next year budget, they exceed individual ministry's capacity.

The selected priorities are determined by a Government decision. The decision is preceded by an analysis prepared by the General Secretariat of the Government on the basis of existing documents that contain guidelines for development of the government policies. Accordingly, at the start of the process of definition of 2004 strategic priorities, the Government's General Secretariat prepared an analysis based on the Programme presented by its President upon his appointment, the existing development-related documents, the Framework Agreement etc. In accordance with the analysis, the Secretariat drafted a Decision on the Strategic Priorities of the Government of the Republic of Macedonia for 2004, adopted by the Government on its Session held on 9.06.2003.

The Government approved six strategic priorities for 2004:

1. Implementation of the Framework Agreement;
2. Employment increase and poverty reduction;
3. Stabilisation of the country's security and defence and the NATO integration process;
4. The EU integration process;
5. Fight against organised crime and corruption and strengthening of the rule of law;
6. Public sector optimisation.

Taking into account the political developments in the country, the Government adopted the Decision on the Strategic Priorities of the Government of the Republic of Macedonia for 2005, on 6.09.2004:

- I. Strategic priorities of the Government of the Republic of Macedonia are, in continuity, NATO and European Union integration.
- II. As priority objectives and initiatives in the implementation of the 2005 strategic priorities, the following have been established:
 1. Full and consistent implementation of the Constitutional amendments, laws and other regulations stemming from the Framework Agreement and implementation of the remaining obligations thereof;
 2. Decentralisation of power and development of local self-government;
 3. Judicial reform;
 4. Strengthening the fight against organised crime and corruption;
 5. Accelerating the economic development, providing incentive for the domestic and attracting foreign investments;
 6. Strengthening the market economy and reduction of unemployment and poverty.

2. Allocation of funds for strategic priorities as part of the Fiscal Strategy

Following the adoption of the Decision on the Strategic Priorities, the Government initiates the budget process by establishing the next year fiscal projections and by adopting a fiscal strategy. At this stage, the Government sets the overall expenditures limit on the basis of the fiscal balance or projected deficit, and the revenue projections. Within the overall expenditure limit, the Government establishes "set-aside" funds for the strategic priorities.

The amount of funds allocated for the strategic priorities is determined by the fiscal plan potentials, while taking into account the realistically probable savings amount.

The competent ministry for the preparation of the Fiscal Strategy is the Ministry of Finance which proposes, in consultation with the General Secretariat, the "set-aside" funds that are to be allocated for support of the Government strategic priorities.

The Government of the Republic of Macedonia projected an amount of 400.000.000 MKD in the 2004-2006 Fiscal Strategy to finance specific initiatives and activities of the ministries and other state bodies that support the implementation of the 2004 strategic priorities. Funds in the amount of 492.706.000 MKD to support the implementation of the strategic priorities were allocated in the 2004 Budget.

3. Establishment of individual priority initiatives to implement the strategic priorities of the Government

Following the establishment of the overall amount of "set-aside" funds to carry out the strategic priorities of the Government in the Fiscal Strategy, the General Secretariat and the Ministry of Finance jointly recommend for approval by the Government the initiatives submitted by specific line ministries, including an assessment of the extent to which they contribute to the implementation of the strategic priorities and their viability in the context of the allocated funds for specific purposes in the Fiscal Strategy.

Once the initiatives that are to be financed from the next year budget have been determined, the ministries incorporate them in their strategic plans and budget calculations. The decisions on approval of the initiatives and on the ministries budget submissions based on the budget circular are taken separately. Although both procedures preceding the decision-making process are carried-out almost concurrently, the decision on the initiatives is made prior to the completion of the ministries' budget proposals, in order to enable incorporation of the approved initiatives in the overall Budget Proposal for the next year.

4. Establishment and adoption of strategic plans and ministries' budget proposals

The budget proposal is a supplement to and a document appended to the ministries' strategic plans. The strategic plan presents the main goals and priorities of the respective ministry, provides description of each of the programmes and the manner in which it contributes to the achievement of the ministry's objectives, as well as the strategies that the ministry will follow - all these within the budget limitations. To this end, one of the basic qualitative changes proposed with the 2005 Budget Circular is the integration of the strategic plans of the budget users within the budget planning process. In accordance with the 2003 Action Plan for Implementation of the Recommendations included in the European Commission's Stabilisation and Association Report on the Republic of Macedonia, as well as the 2004 European Partnership Action Plan the budget users are obliged to prepare functional analyses, including a separate document – a Strategic Plan. The following budget users have already prepared their strategic plans: Ministry of Defence, Ministry of Finance, General Secretariat of the Government of the Republic of Macedonia, Customs Administration, State Audit Office, Directorate for Protection of Classified Information, Protection and Rescue Directorate, Commodity Reserves Bureau, Civil Aviation Administration, Hydro-Meteorological Directorate, Veterinary Directorate, State Archive and Struga Penitentiary. The development of strategic plans is underway in the other budget users.

The budget submission provides detailed description of the manners in which the ministry allocates its resources for the programmes and the strategies indicated in its strategic plan.

The deadlines for submission of the budget proposals and strategic plans of the ministries are coordinated. The Ministry of Finance and the General Secretariat provide coordinated assessment of the plans and budget proposals of the ministries, in particular in terms of implementation of the Government priorities. In addition, the Ministry of Finance checks the accuracy and rationality of the projected expenditures and the allocation of funds, i.e. whether they comply with the fiscal strategy and the budget circular letter.

5. Establishment of the Government Annual Work Programme

Once the specific priorities have been defined as part of the budgetary process, a detailed Government Annual Work Programme is developed, in accordance with the Government's Rules of Procedure.

The Annual Work Programme includes a list of documents and draft-regulations that the ministries plan to submit before the Government in the course of the year. In addition to the initiatives defined through the budget process, the list also includes other priorities related in particular to the European Union integration and to the obligations under various international agreements, as well as to individual priorities of the ministries. In case these initiatives require funds, they are to be coordinated through the budgetary process.

The Government's General Secretariat is responsible for the drafting of the Annual Work Programme. The activities undertaken by the General Secretariat when drafting the Annual Programme include an assessment of the extent to which the ministries' programmes are in line with the Government strategic priorities and whether specific initiatives are not included. Consistency between the ministries' programmes and the budget funds provided for such programmes is ensured through coordination of the General Secretariat's work with the Ministry of Finance.

6. Monitoring of the implementation of the Government strategic priorities and the Annual Work Programme

The Government monitors the pace of implementation of the strategic priorities and the Annual Work Programme. An analysis of the achievements is made by the end of the year. The General Secretariat coordinates the monitoring.

13. What structures exist to ensure the coordination of European Integration issues?

Pursuing its commitment to integrate in the European Union, ever since 1992, the Republic of Macedonia has been developing structures in charge of relations with the European Union and for coordination of European integration issues. The development of the European integration coordination structure has in continuity been motivated by the goal of the Republic of Macedonia to accede to the European Union, clearly defined as early as its independence, and has followed the advancement of the Euro-integration process in the country.

Today this system has the following basic structure:

Parliamentarian (legislative) level - Assembly of the Republic of Macedonia:

- Committee on European Affairs;

Government (executive) level:

- Committee for Euro-Atlantic Integration;
- Deputy Prime Minister of the Republic of Macedonia;
- Minister of Foreign Affairs;

Central (administrative) level:

- Sector for European Integration;
- Ministry of Foreign Affairs;
- European integration units in the Ministries;

Inter-ministerial structure:

- Working Committee on European Integration (substructure: Sub-Committee on Approximation of Legislation and the Working Groups on Harmonisation of Legislation with the *acquis communautaire*);
- Committee of Ministers for Foreign Aid Coordination (substructure: Coordinative Technical Group).

(See Organigram: [I Annex 04](#))

Following a Decision of the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" Nos. 62/97 and 12/98), **the Committee on Euro-Atlantic Integration** was established, chaired by the Prime Minister of the Republic of Macedonia. The members of the Committee are the Deputy Prime Ministers, the Minister of Foreign Affairs, the Minister of Finance, the Minister of Defence, the Minister of Internal Affairs, the Minister of Justice, the Minister of Economy, the Minister of Agriculture, Forestry and Water Resources Management, the Minister of Environment and Physical Planning, and the Minister of Transport and Communication. Three additional members, proposed by the Prime Minister, may participate in the work of the Committee, as well as the President of the Macedonian Academy of Arts and Sciences and the Governor of the National Bank of the Republic of Macedonia.

The Prime Minister designates a Deputy Prime Minister in charge of European issues. **The Deputy Prime Minister in charge of European issues** is responsible for coordination of all Government

activities in the process of the country's European integration and activities under the Stabilisation and Association Agreement between the Republic of Macedonia and the European Union and its Member States. The Deputy Prime Minister of the Republic of Macedonia is at the same time National Foreign Aid Coordinator.

The Working Committee on European Integration at the Government of the Republic of Macedonia was established following a Decision on Establishment of the Working Committee for European Integration at the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 63/97). The Working Committee is chaired by the Deputy Prime Minister in charge of European integration and the Deputy-Chairperson is the Minister of Economy. The Secretary of the Working Committee is the Head of Sector for European Integration. In the period of 1997-2003 the members of the Working Committee were the deputy ministers. Afterwards a new Decision on Establishment of Working Committee on European Integration at the Government of the Republic of Macedonia was adopted ("Official Gazette of the Republic of Macedonia", No. 25/03), according to which the members of the Working Committee are the state secretaries. Representatives of the Legislative Secretariat, the State Statistical Office, the Customs Administration, the Civil Servants Agency and the National Bank also participate in the activities of the Working Committee.

The main tasks of the Working Committee are:

- Coordination and synchronisation of the activities in the Stabilisation and Association Process of the Republic of Macedonia and in the process of European integration;
- Monitoring the implementation of the Stabilisation and Association Agreement between the Republic of Macedonia and the European Union and its Member States;
- Monitoring the overall financial cooperation of the Republic of Macedonia with the European Union;
- Monitoring the work of the Sub-Committee on Approximation of National Legislation and its working groups and sub-groups;
- Monitoring and providing guidelines for the work of the network of units for European integration in the ministries;
- Monitoring all other issues related to the process of European integration of the Republic of Macedonia.

In accordance with the Rules of Procedure of the Working Committee on European Integration, the **Sub-Committee of the Working Committee for European Integration for Approximation of Legislation is established**. The main task of the Sub-Committee is to develop the Annual Programme for Approximation of National Legislation with the EU legislation, following the priority areas defined in the Stabilisation and Association Agreement. Furthermore, the Sub-Committee monitors the implementation of the Annual Programme for Approximation of National Legislation with that of the EU. The Sub-Committee is composed of a Chairperson, Secretary and members. The Chairperson of the Sub-Committee is the Head of the Sector for European Integration in the General Secretariat of the Government of the Republic of Macedonia. Members of the Sub-Committee are senior civil servants from the ministries, the Legislative Secretariat and other state bodies and institutions.

The Sub-Committee for Approximation of Legislation has **Working Groups and Sub-Groups for Harmonisation of the Legislation of the Republic of Macedonia with the *acquis communautaire***. According to the screening structure, 29 working groups are established. The working groups and sub-groups monitor the process of harmonisation of the national legislation, deliver expert opinions on given areas in terms of legislative harmonisation, give guidelines and recommendations on the implementation of the National Programme for Approximation of National Legislation.

The Sector for European Integration at the Government of the Republic of Macedonia (SEI) is the central administrative structure at the General Secretariat of the Government of the Republic of Macedonia in charge of coordination of the European integration process.

The present organisational structure of the Sector for European Integration is a result of several previous stages of development. After the Republic of Macedonia became a beneficiary of the PHARE Programmes on 1 September 1996, an Aid Coordination Unit was established. The intensification of the cooperation with the EU resulted in strengthening of the institutional structure for European integration. Hence, in March 1999, the Aid Coordination Unit was transformed into a European Integration Unit. In accordance with the Rulebook on Internal Organisation of the General Secretariat of the Government, adopted on 8 October 2001, the European Integration Unit was transformed into a Sector for European Integration.

The Sector for European Integration currently has 52 full time employees, and six persons are engaged based on service contracts. According to the Rulebook amending the Rulebook on Systematisation of Jobs in the General Secretariat of the Government of the Republic of Macedonia, 85 posts are envisaged for the Sector. The SEI builds its capacities, inter alia, through the Programme of Scholarships for European Post-Graduate Studies, under which 21 persons have received scholarships and are/will be engaged at the SEI, i.e. other ministries after completion of their studies.

The main competence of the Sector for European Integration is to coordinate and guide the process of European integration within the state administrative bodies of the Republic of Macedonia. In addition, the SEI provides administrative support to foreign assistance coordination activities.

According to the Rulebook Amending the Rulebook on Internal Organisation of the General Secretariat as a Service of the Government of the Republic of Macedonia, the Sector for European Integration is responsible for:

- Following and studying the policies and legislation of the European Union;
- Coordination and expert assistance to the process of approximation of the legislation of the Republic of Macedonia with that of the EU;
- Monitoring of, and undertaking measures for, implementation of the Stabilisation and Association Agreement between the Republic of Macedonia and the European Union;
- Building and strengthening the institutional infrastructure required for the integration of the Republic of Macedonia into the European Union;
- Long-term resource planning in support of the EU integration process;
- Monitoring and providing support to the process of training the public administration in European Union integration issues;
- Coordination of the network of European integration units in the ministries and other state administrative bodies;
- Programming and planning the priorities of the Republic of Macedonia in utilising foreign assistance;
- Regulating the relations with the donors, of foreign assistance coordination and implementation of foreign assistance programmes;
- Providing support to the Government bodies, with competencies in issues of the integration of the Republic of Macedonia in the European Union;
- Managing the process of translation of European Union legislation and other materials related to the process of integration of the Republic of Macedonia in the European Union;
- Implementation of the public relations strategy in the process of integration of the Republic of Macedonia in the European Union;
- Other activities related to the coordination, support and guidance of the process of integration of the Republic of Macedonia in the European Union.

The SEI is organised in seven units:

- Unit for Integration in the Economic-Social Area;
- Unit for Integration in the Area of Justice and Home Affairs;

- Unit for Institution Building;
- Unit for General Affairs and Budget;
- Unit for Foreign Assistance Coordination;
- Unit for Translation of EU Legislation
- Unit for Public Relations.

The Unit for Integration in the Economic-Social Area and the Unit for Integration in the Area of Justice and Home Affairs monitor the policies and legislation of the EU, the harmonisation of the legislation of the Republic of Macedonia with that of the EU and the implementation of the Stabilisation and Association Agreement between the Republic of Macedonia and the EU in the respective areas.

The Unit for Institution Building is in charge of strengthening the internal infrastructure necessary for the integration of the Republic of Macedonia in the EU, as well as of the training, coordination of the network of units for European integration at the ministries and other state administrative bodies and of promoting the cooperation with the civil sector in the area of European integration. The Unit is also in charge of bilateral cooperation with the countries in the region, through conclusion of Memoranda of Cooperation or other agreements.

The Unit for General Affairs and Budget provides expert and administrative support to the Working Committee on European Integration provides IT support to the process of European integration, is in charge of the human resource management, the planning and monitoring of the budget allocations for European integration, and for the documentation and the library.

The Unit for Foreign Assistance Coordination is in charge of the process of programming and planning the priorities of the Republic of Macedonia for utilisation of foreign assistance, coordination of activities of multilateral and bilateral donors and providing administrative support to the Committee of Ministers for Foreign Aid Coordination, chaired by the National Foreign Aid Coordinator. The Committee members are the Deputies of the Prime Minister of the Republic of Macedonia, the Minister of Finance, the Minister of Foreign Affairs, and the Minister of Economy. The Coordinative Technical Group harmonises the positions at technical level, drafts decisions and monitors the implementation of the conclusions reached by the Committee.

The Unit for Translation of EU Legislation manages the process of translation of the EU legislation, the expert and legal revision and proof reading of the translated documents and the establishment of the counter-part terminology. The line ministries have established technical committees for translation dealing with expert and legal terminology revision of the translated documents, which also include external experts.

The Unit for Public Relations manages the implementation of the Public Relations Strategy in the process of European Integration, and is especially focused on providing timely information about the process of European integration of the Republic of Macedonia, maintaining the web page, communication with the media, monitoring and analysing the public opinion about the European integration process, organising briefings and press conferences.

There are plans to change the status of the Sector for European Integration and to transform it into a Secretariat for European Affairs, as a special and autonomous service of the Government, with the capacity of a legal entity, managed by a Deputy Prime Minister. Such changes in its status would strengthen its coordinative function and would help build its capacities.

The Ministry of Foreign Affairs is in charge of the relations of the Republic of Macedonia with the EU, the political dialogue, the Common Foreign and Security Policy of the EU and the Common Security and Defence Policy. As part of its regular activities, the Ministry carries out the diplomatic communication of the Republic of Macedonia with the European Union institutions, through the Mission of the Republic of Macedonia in Brussels, as well as with the member-countries through the diplomatic and consular missions of the Republic of Macedonia. The Ministry of Foreign Affairs ensures that the Republic of Macedonia presents unison positions in the relations with the EU.

In 1992, a special unit in charge of EU related issues was established in the Ministry of Foreign Affairs. In 1994, there was an assistant minister appointed for relations with the European Community; upon the establishment of diplomatic relations between the Republic of Macedonia and the EU by the end of 1995, a Department for European Integration in the Ministry was established.

Today the EU Department has the following Units:

- Contractual Relations Unit;
- European Union Integration Process Unit;
- European and Regional Cooperation Unit.

The Contractual Relations Unit monitors the fulfilment of contractual relations between the Republic of Macedonia and the EU, undertakes activities for their advancement and upgrading in all areas, prepares the meetings of the Stabilisation and Association Council, the political dialogues between the Republic of Macedonia and the EU and the meetings with the EU institutions.

The European Union Integration Process Unit initiates, coordinates and monitors the activities in the process of accelerated rapprochement of the Republic of Macedonia with the EU; it prepares the meetings of the Committee for Euro-Atlantic Integration, participates in the activities of the Working Committee on European Integration and in the Government committees and bodies on issues related to the Republic of Macedonia-European Union relations, participates in the process of drafting strategies for accession of the Republic of Macedonia to the EU.

The European and Regional Cooperation Unit deals with the Common Foreign and Security Policy (CFSP) and the European Security and Defence Policy (CSDP); it coordinates the process of alignment of the Republic of Macedonia with the joint declarations, statements and demarches under the CFSP of the EU; it follows and analyses the process of stabilisation and association of the other countries; it coordinates activities for implementation of the European Neighbourhood Policy; it coordinates activities under the Stability Pact.

Units for European integration (departments or units) are established in all ministries, except in the Ministry of Defence. Their tasks are analogous to those of the central Sector for European Integration at the Government. They are the key element in the chain of coordination of activities related to European integration in the Ministries, as well as with the Sector for European Integration at the central Government level. Currently, they employ 54 persons. The units for European integration function in a network, coordinated by the Sector for European Integration at the General Secretariat of the Government of the Republic of Macedonia.

The Assembly of the Republic of Macedonia, as the legislative body, has its role in the process of harmonisation of the Macedonian legislation with that of the EU; it also has the role of controlling the executive branch of power, and the role of raising public awareness about the Euro-integration process. Each three months, the Government submits a Report to the Assembly about the progress of the Euro-integration process.

The Assembly has established a **Committee on European Integration**, which exclusively deals with the process of European integration. The Committee has a Chairperson, 12 members and their deputies (for more details see [I B 2](#)).

The Committee considers issues related to:

- Harmonisation of the proposals for adoption of laws, i.e. The harmonisation of draft laws with EU legislation;
- Monitoring and promoting the process of harmonisation of the legislation of the Republic of Macedonia with that of the EU; proposing measures for improvement of the harmonisation procedures; giving opinions and proposals for activities of the working bodies of the assembly in this area;
- Fulfilment of obligations under agreements between the Republic of Macedonia and the European Union;

- Monitoring the activities of the Government and the state administrative bodies aimed at accession of the Republic of Macedonia to the European Union and giving proposals and recommendations in this respect;
- Implementation of programmes and other acts of European institutions in the Republic of Macedonia including the financial assistance programmes;
- Regular informing of the Assembly on all issues related to the European integration;
- Initiation and implementation of activities for public information in connection with the European integration processes;
- Cooperation with counter-part committees of other countries; and
- Considers other European integration related issues.

The Assembly of the Republic of Macedonia through its 15 members (and their deputies) participate in the work of the Parliamentary Committee on Stabilisation and Association, established as a forum for exchange of views between the members of the European Parliament and the members of the Assembly of the Republic of Macedonia.

Procedures for examination of the harmonisation of the proposed laws with the legislation of the European Union have been established in the legislative process in the Republic of Macedonia.

The Rules of Procedure of the Government of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia”, Nos. 38/01, 98/02, 47/03, 64/03 and 67/03), stipulate that the proposers of legal acts, subject to harmonisation with the *acquis communautaire*, are obliged to enclose a Statement on conformity with the *acquis communautaire*. The Statement contains data on the EU documents with which the proposed legal acts are harmonised, the level of harmonisation, reasons for eventual discrepancies and terms for achieving complete harmonisation. The Statement also contains information on the conformity with the SAA.

Following the adoption of the Law Amending the Law on Government of the Republic of Macedonia in 2003 (“Official Gazette of the Republic of Macedonia”, No. 12/03), Legislative Secretariat was entrusted to provide assessments on the conformity of legal acts with the EU legislation.

In accordance with the Decision Amending the Decision on Establishment of Working Bodies (“Official Gazette of the Republic of Macedonia”, No. 20/03), **the Legislative Committee of the Assembly of the Republic of Macedonia** considers draft legal acts from the viewpoint of their conformity with the EU legislation (for more details see [I B 2](#)).

14. Please describe in detail how far the Republic of Macedonia has advanced in implementing the commitments taken in the Framework Agreement concluded at Ohrid on 13 August 2001 (see also Section J below).

The main goal of the Framework Agreement is building of an integrated multi-ethnic society, which will guarantee the peace, stability and democratic development of the Republic of Macedonia.

The Framework Agreement is an expression of the inviolability of the sovereignty, territorial integrity and the unitary character of the state; it has helped restore the stability on the country’s entire territory, developing mechanisms for future confidence building.

The Framework Agreement prompted substantive changes of the constitutional order and legislation, aimed at significant advancement of the rights of ethnic communities, thus making the motives for ethnically based conflicts in the Republic of Macedonia illegitimate. Furthermore, the principles of equitable representation and enhanced inclusion in public life are the basis for the reintegration of the Macedonian society, increasing its cohesion.

Therefore, the Framework Agreement has become the prerequisite for the economic development, for investments and creation of new jobs, as well as for the integration of the Republic of Macedonia into the EU and NATO.

The Framework Agreement was signed on 13.08.2001, in Skopje. The signatories were the Presidents of the then four most relevant political parties (SDSM, VMRO-DPMNE, DPA and PDP). The negotiations for the conclusion of the Agreement were held under the auspices of President Boris Trajkovski, and its guarantors were representatives of the international community – the Special Envoys of the USA and of the EU.

The Framework Agreement consists of:

1. Basic text of the Agreement

2. Annexes

- **Annex A: Constitutional Amendments**
- **Annex B: Legislative Modifications**
- **Annex C: Implementation and Confidence-Building Measures**

The Basic text of the Agreement consists of the following Sections:

1. Basic Principles
2. Cessation of Hostilities
3. Development of Decentralised Government
4. Non-Discrimination and Equitable Representation
5. Special Parliamentary Procedures
6. Education and Use of Languages
7. Expression of Identity
8. Implementation
9. Annexes
10. Transitional and Final Provisions

The implementation of the Framework Agreement is a complex, continuous process. Its implementation is of importance not only in terms of establishing the country's stability, but also in terms of building a democratic and prosperous Republic of Macedonia. One of the highest strategic priorities of this Government is the timely and complete fulfilment of the obligations arising under the Framework Agreement.

Furthermore, its implementation is continuously supported by the international community, both politically and financially, starting with the mediation in the negotiations for signing of the Ohrid Framework Agreement and the Donor Conference organised for support of its implementation in March 2002.

The presentation on the implementation of the Ohrid Framework Agreement follows the structure of its text:

1. Basic Principles¹

1.1. The use of violence in pursuit of political aims is rejected completely and unconditionally. Only peaceful political solutions can assure a stable and democratic future for Macedonia.

1.2. Macedonia's sovereignty and territorial integrity, and the unitary character of the State are inviolable and must be preserved. There are no territorial solutions to ethnic issues.

¹ All extracts from the Framework Agreement are given in *italic*.

1.3. The multi-ethnic character of Macedonia's society must be preserved and reflected in public life.

1.4. A modern democratic state in its natural course of development and maturation must continually ensure that its Constitution fully meets the needs of all its citizens and comports with the highest international standards, which themselves continue to evolve.

1.5. The development of local self-government is essential for encouraging the participation of citizens in democratic life, and for promoting respect for the identity of communities.

The basic principles of the Framework Agreement have been and are supported by all relevant political factors in the Republic of Macedonia, forming the basis of the platform for cooperation among political parties-coalition partners in the Government established in November 2002.

2. Cessation of Hostilities

2.1. The parties underline the importance of the commitments of July 5, 2001. There shall be a complete cessation of hostilities, complete voluntary disarmament of the ethnic Albanian armed groups and their complete voluntary disbandment. They acknowledge that a decision by NATO to assist in this context will require the establishment of a general, unconditional and open-ended cease-fire, agreement on a political solution to the problems of this country, a clear commitment by the armed groups to voluntarily disarm, and acceptance by all the parties of the conditions and limitations under which the NATO forces will operate.

The signing of the Framework Agreement facilitated the cessation of hostilities and the parties clearly expressed their agreement for political resolution of the problems in the country. A process of disarmament of the ethnic Albanian armed groups started and gradually conditions were created for presenting and realising of the political claims through legitimate political subjects.

On 15.08.2001, the Government of the Republic of Macedonia agreed to the deployment of the NATO Task Force for the operation "Essential Harvest" that collected the voluntarily handed over weapons.

Following a Decision of the President of the Republic of Macedonia of 28.08.2001, according to the set conditions to be fulfilled by the Army of the Republic of Macedonia for the start of the operation "Essential Harvest", the units of the Army of the Republic of Macedonia relocated some of the tanks and heavy armament.

The Task Force conducted passive collection of weapons and coordinated the transfer and destruction of the weapons and ammunition. According to the Report of the NATO structures in the Republic of Macedonia, 3875 pieces of weapons and 397.625 pieces of mines, explosives and ammunition were collected.

After the NATO forces concluded the operation, the members of the ethnic Albanian armed groups were given the opportunity to reintegrate in the society following the adoption of the Law on Amnesty ("Official Gazette of the Republic of Macedonia", No. 18/02). The Law was **fully implemented** (for more details see [L M 2](#)).

Furthermore, after the completion of this operation, the state security forces, with a participation of ethnic Albanian police officers, gradually re-entered former crisis regions and started fulfilling peace-time law enforcement obligations in all parts of the country, strictly abiding by international standards and general human rights principles and accepting the monitoring by the OSCE and the EUMM.

However, even after the "Essential Harvest" operation, there has been a high number of incidents involving the use of weapons, in which a number of citizens were killed or injured. This has clearly led to the conclusion that there are still large quantities of illegal weapons in the hands of the citizens, especially in the former crisis regions.

Therefore, in 2003, the Assembly of the Republic of Macedonia adopted the Law on Voluntary Hand-Over and Collection of Firearms, Ammunition and Explosives and on Weapons Legalisation ("Official Gazette of the Republic of Macedonia", No. 37/03). A special Coordinative Body was established to

implement the operation of voluntary hand-over of weapons, supported by a public awareness campaign. The action lasted from 01.11 to 15.12.2003, at 123 collection points throughout the Republic of Macedonia.

The quantities of weapons handed-over, according to the international standards classification (SEESAK) were:

1. Weapons, total of 7.571 pieces
2. Ammunition, total of 100.219 pieces
3. Explosives, total of 1.257 pieces and 165,35 kg explosive
4. Accompanying arms, total of 1.001 pieces and 497,65 m fuse and cable.

In connection with the return of the police in the former crisis regions, the permanent police presence countrywide and the consolidation of the rule of law in the former crisis regions, see [I F 2](#) and [I F 4](#).

3. Development of Decentralised Government

3.1. A revised Law on Local Self-Government will be adopted that reinforces the powers of elected local officials and enlarges substantially their competencies in conformity with the Constitution (as amended in accordance with Annex A) and the European Charter on Local Self-Government, and reflecting the principle of subsidiarity in effect in the European Union. Enhanced competencies will relate principally to the areas of public services, urban and rural planning, environmental protection, local economic development, culture, local finances, education, social welfare, and health care. A law on financing of local self-government will be adopted to ensure an adequate system of financing to enable local governments to fulfil all of their responsibilities.

3.2. Boundaries of municipalities will be revised within one year of the completion of a new census, which will be conducted under international supervision by the end of 2001. The revision of the municipal boundaries will be effectuated by the local and national authorities with international participation.

3.3. In order to ensure that police are aware of and responsive to the needs and interests of the local population, local heads of police will be selected by municipal councils from lists of candidates proposed by the Ministry of Interior, and will communicate regularly with the councils. The Ministry of Interior will retain the authority to remove local heads of police in accordance with the law.

The development of decentralised government according to this Section, implied Amendments to the Constitution, defined in Annex A and amending legislation as set forth in Annex B to the Framework Agreement.

Amendment XVII was integrated in the Constitution:

Amendment XVII

In units of local self-government, citizens directly and through representatives participate in decision-making on issues of local relevance particularly in the fields of public services, urban and rural planning, environmental protection, local economic development, local finances, communal activities, culture, sport, social security and child care, education, health care and other fields determined by law.

In the city of Skopje, citizens directly and through representatives participate in decision-making on issues of relevance to the city of Skopje particularly in the fields of public services, urban and rural planning, environmental protection, local economic development, local finances, communal activities, culture, sport, social security and child care, education, health care and other fields determined by law.

The legislation in this area was amended in accordance with items 1, 2, 3 and 4 of Annex B:

The parties will take all necessary measures to ensure the adoption of the legislative changes set forth hereafter within the time limits specified.

B.1. Law on Local Self-Government

The Assembly shall adopt within 45 days from the signing of the Framework Agreement a revised Law on Local Self-Government. This revised Law shall in no respect be less favourable to the units of local self-government and their autonomy than the draft Law proposed by the Government of the Republic of Macedonia in March 2001. The Law shall include competencies relating to the subject matters set forth in Section 3.1 of the Framework Agreement as additional independent competencies of the units of local self-government, and shall conform to Section 6.6 of the Framework Agreement. In addition, the Law shall provide that any State standards or procedures established in any laws concerning areas in which municipalities have independent competencies shall be limited to those which cannot be established as effectively at the local level; such laws shall further promote the municipalities' independent exercise of their competencies.

B.2. Law on Local Finance

- The Assembly shall adopt by the end of the term of the present Assembly a law on local self-government finance to ensure that the units of local self-government have sufficient resources to carry out their tasks under the revised Law on Local Self-Government. In particular, the law shall:
Enable and make responsible units of local self-government for raising a substantial amount of tax revenue;*
- Provide for the transfer to the units of local self-government of a part of centrally raised taxes that corresponds to the functions of the units of local self-government and that takes account of the collection of taxes on their territories; and
Ensure the budgetary autonomy and responsibility of the units of local self-government within their areas of competence.*

B.3. Law on Municipal Boundaries

The Assembly shall adopt by the end of 2002 a revised law on municipal boundaries, taking into account the results of the census and the relevant guidelines set forth in the Law on Local Self-Government.

B.4. Laws Pertaining to Police Located in the Municipalities

The Assembly shall adopt before the end of the term of the present Assembly provisions ensuring:

- That each local head of the police is selected by the council of the municipality concerned from a list of not fewer than three candidates proposed by the Ministry of the Interior, among whom at least one candidate shall belong to the community in the majority in the municipality. In the event the municipal council fails to select any of the candidates proposed within 15 days, the Ministry of the Interior shall propose a second list of not fewer than three new candidates, among whom at least one candidate shall belong to the community in the majority in the municipality. If the municipal council again fails to select any of the candidates proposed within 15 days, the Minister of the Interior, after consultation with the Government, shall select the local head of police from among the two lists of candidates proposed by the Ministry of the Interior as well as three additional candidates proposed by the municipal council;*
- That each local head of the police informs regularly and upon request the council of the municipality concerned;*
- That a municipal council may make recommendations to the local head of police in areas including public security and traffic safety; and*
- That a municipal council may adopt annually a report regarding matters of public safety, which shall be addressed to the Minister of the Interior and the Public Attorney (Ombudsman).*

Accordingly, the Assembly of the Republic of Macedonia adopted **all the above-mentioned laws**, which enlarged the competencies of the local self-government units and ensured adequate financing:

1. Law on Local Self-Government ("Official Gazette of the Republic of Macedonia", No. 05/02);
2. Law on Territorial Organisation of the Local Self-Government in the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 55/04);
3. Law on the City of Skopje ("Official Gazette of the Republic of Macedonia", No. 55/04);
4. Law on Financing the Units of Local Self-Government ("Official Gazette of the Republic of Macedonia", Nos. 61/04 and 96/04);
5. Law on Communal Fees ("Official Gazette of the Republic of Macedonia", No. 61/04);
6. Law Amending the Law on Administrative Fees ("Official Gazette of the Republic of Macedonia", No. 61/04);
7. Law on Property Taxes ("Official Gazette of the Republic of Macedonia", No. 61/04);
8. Law Amending the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", No. 38/02).

Laws Nos. 1-3 envisage enlarged competencies of the units of local self-government in accordance with the above quoted provisions of the Framework Agreement, as well as new territorial organisation of the Republic of Macedonia, defining also an appropriate solution for the City of Skopje. The Law on Territorial Organisation of the Republic of Macedonia and the Law on the City of Skopje were disputed under the initiative for a Referendum, which was in favour of returning to the old territorial organisation of 1996. At the Referendum held on 8.11.2004, the initiative did not get the necessary support, enabling continuation of the process of decentralisation in compliance with the Framework Agreement and the relevant adopted laws.

Under the new Laws, the number of municipalities was reduced from 123 to 84, with average population of 25.000 inhabitants. The Skopje City area now has 10 instead of 7 city municipalities, and the relations between the municipalities and the City administration have been clearly defined.

Laws Nos. 4-7 regulate the revenues for the units of local self-government, in accordance with the conditions laid down in the Framework Agreement, i.e. local self-government authorities are ensured sufficient resources enabling them to fulfil their responsibilities, in compliance with the new Law on Local Self-Government. Furthermore, the laws ensured relevant budgetary autonomy and responsibility for the units of local self-government.

Law No. 8 fully incorporates the provisions of the Framework Agreement regarding the election of local heads of police and the obligation that the local police head communicates with and reports to the Municipal Council, as well as the possibility of the Council to adopt a report on the public safety to be forwarded to the Minister of Interior and to the Ombudsman. These provisions will be applied after the election of the new local authorities, or 01.07.2005 at the latest.

In addition, the Assembly has adopted a series of laws in other sectors, defining the transfer of competencies from the central to the local authorities, in accordance with the adopted Operational Programme of Decentralisation (for more details see [I C 17](#)).

In accordance with the above stated, the provisions of the Framework Agreement contained in Section 3 - Development of Decentralized Government **have been fully incorporated** in the Macedonian legislation and their practical implementation will follow the local elections, to be held on 13.03.2005.

Provision 3.2 of the basic text of the Framework Agreement also envisaged organising a new census of the population. This provision is elaborated in item 2.1 of Annex C to the Framework Agreement:

C. 2.1. The parties confirm the request for international supervision by the Council of Europe and the European Commission of a census to be conducted in October 2001.

The Census was held in November 2002. According to the Census results, the ethnic structure of the population is the following:

	Total	%	Male	Female
Republic of Macedonia	2022547	100	1015377	1007170
Macedonians	1297981	64,2	648178	649803
Albanians	509083	25,2	258195	250888
Turks	77959	3,9	39550	38409
Roma	53879	2,7	27137	26742
Vlachs	9695	0,5	5146	4549
Serbs	35939	1,8	18580	17359
Bosniacs	17018	0,8	8634	8384
Others	20993	1,0	9957	11036
Source: State Statistical Office				

In 2001, the Government of the Republic of Macedonia invited the European Commission and the Council of Europe to organise international monitoring of the Census of Population and Households. The objectives of the monitoring were to ensure that the Census is carried out in accordance with the international standards, to encourage citizens to take part in the census and to increase the trust in the census process.

The Final Report of the international monitoring of the Census was published in December 2003, concluding that the 2002 Census of Population and Households in Macedonia was carried out professionally and successfully, in line with international census standards. This, on its part, means **full implementation** of the referred to provisions of the Framework Agreement.

4. Non-Discrimination and Equitable Representation

4.1. The principle of non-discrimination and equal treatment of all under the law will be respected completely. This principle will be applied in particular with respect to employment in public administration and public enterprises, and access to public financing for business development.

4.2. Laws regulating employment in public administration will include measures to assure equitable representation of communities in all central and local public bodies and at all levels of employment within such bodies, while respecting the rules concerning competence and integrity that govern public administration. The authorities will take action to correct present imbalances in the composition of the public administration, in particular through the recruitment of members of under-represented communities. Particular attention will be given to ensuring as rapidly as possible that the police services will generally reflect the composition and distribution of the population of Macedonia, as specified in Annex C.

4.3. For the Constitutional Court, one-third of the judges will be chosen by the Assembly by a majority of the total number of Representatives that includes a majority of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia. This procedure also will apply to the election of the Ombudsman (Public Attorney) and the election of three of the members of the Judicial Council.

In general terms, the Framework Agreement stipulates two types of mutually connected measures to ensure enhanced participation of non-majority communities in all spheres of public life: the principle of non-discrimination and equal treatment (referred to in item 4.1) on one hand, and equitable representation on the other (referred to in items 4.2 and 4.3). Even prior to the Framework Agreement, in Macedonia, the principles of non-discrimination and equal treatment were legally regulated in a manner compatible with the EU and Council of Europe standards. In respect of the

second type of measures, even prior to the Ohrid Framework Agreement, in specific areas there were measures of de facto (and de jure in the field of education) positive discrimination applied.

The new quality that the Framework Agreement adds are the numerous measures for active and prompt change of the level of participation of the non-majority communities in many spheres, primarily by ensuring equitable representation and positive discrimination.

Specifically, provisions contained in Section 4 were transposed into constitutional amendments, as set forth in Annex A and legal regulations, as set forth in Annex B to the Framework Agreement.

Namely, Amendments VI, XI, XIII, XIV и XV have been incorporated in the Constitution:

Amendment VI

The fundamental values of the constitutional order of the Republic of Macedonia are:

- the basic freedoms and rights of the individual and citizen, recognized in international law and set down in the Constitution;*
- equitable representation of persons belonging to all communities in public bodies at all levels and in other areas of public life; ...*

Amendment XI

The Assembly elects the Public Attorney (Ombudsman) by a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia.

The Public Attorney protects the constitutional rights and legal rights of citizens when violated by bodies of state administration and by other bodies and organisations with public mandates. The Public Attorney shall give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public bodies at all levels and in other areas of public life.

Amendment XIII

The President of the Republic is President of the Security Council of the Republic of Macedonia. The Security Council of the Republic is composed of the President of the Republic, the President of the Assembly, the Prime Minister, the ministers heading the bodies of state administration in the fields of security, defence and foreign affairs and three members appointed by the President of the Republic. In appointing the three members, the President shall ensure that the Security Council as a whole equitably reflects the composition of the population of Macedonia.

The Council considers issues relating to the security and defence of the Republic and makes policy proposals to the Assembly and the Government.

Amendment XIV

The Republic's Judicial Council is composed of seven members.

The Assembly elects the members of the Council. Three of the members shall be elected by a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia.

Amendment XV

The Constitutional Court of Macedonia is composed of nine judges.

The Assembly elects six of the judges to the Constitutional Court by a majority vote of the total number of Representatives. The Assembly elects three of the judges by a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia.

The legislation in this field was amended in accordance with items 5 and 9 of Annex B:

B.5. Laws on the Civil Service and Public Administration

The Assembly shall adopt by the end of the term of the present Assembly amendments to the laws on the civil service and public administration to ensure equitable representation of communities in accordance with Section 4.2 of the Framework Agreement.

B.9. Law on the Public Attorney

The Assembly shall amend by the end of 2002 the Law on the Public Attorney as well as the other relevant laws to ensure:

- That the Public Attorney shall undertake actions to safeguard the principles of non-discrimination and equitable representation of communities in public bodies at all levels and in other areas of public life, and that there are adequate resources and personnel within his office to enable him to carry out this function;*
- That the Public Attorney establishes decentralized offices;*
- That the budget of the Public Attorney is voted separately by the Assembly;*
- That the Public Attorney shall present an annual report to the Assembly and, where appropriate, may upon request present reports to the councils of municipalities in which decentralized offices are established; and*
- That the powers of the Public Attorney are enlarged:*
 - To grant to him access to and the opportunity to examine all official documents, it being understood that the Public Attorney and his staff will not disclose confidential information;*
 - To enable the Public Attorney to suspend, pending a decision of the competent court, the execution of an administrative act, if he determines that the act may result in an irreparable prejudice to the rights of the interested person; and*
 - To give to the Public Attorney the right to contest the conformity of laws with the Constitution before the Constitutional Court.*

In line with Amendment XI and item 9 of Annex B, a new Law on the Ombudsman was adopted ("Official Gazette of the Republic of Macedonia", No. 60/03), which defines the manner of election, dismissal, competencies of the Ombudsman and the manner of operation of this institution. This Law incorporates principles set forth in several constitutional amendments:

- In accordance with Amendment XI, the Assembly elects the Ombudsman by a majority vote of the total number of representatives, within which there must be a majority of the votes of the total number of representatives claiming to belong to the communities not in the majority in the population of Macedonia;
- In accordance with Amendment XI, the Law envisages that, in performing tasks within his/her competence, the Ombudsman shall undertake measures and activities for which he/she is authorised according to this Law to protect the constitutional and legal rights of citizens when violated by state administration bodies, bodies of the units of local self-government and public institutions and services and to safeguard the principles of non-discrimination and equitable representation of communities.
- In accordance with Amendment VI, the Law prescribes that in the election of Deputies to the Ombudsman, equitable representation of citizens belonging to all communities shall be ensured, while respecting the conditions prescribed by law;
- In accordance with Amendment V on use of languages, the Law stipulates that in the proceedings before the Ombudsman, in addition to the Macedonian language and its Cyrillic alphabet, an official language is also the language and alphabet used by at least 20% of the citizens. In the communication of citizens with the Ombudsman the provisions of the Law on General Administrative Procedure shall be appropriately applied, i.e., they may communicate in one of the official languages and its alphabet, while the Ombudsman shall reply in the Macedonian language and its Cyrillic alphabet and in the language and alphabet used by the applicant.

Furthermore, the Law fully incorporates the obligations under item 9 of Annex B, i.e. the Law envisages establishment of decentralized offices of the Ombudsman; appropriate resources and personnel at the Ombudsman's Office, enabling the performance of the Ombudsman functions;

separate voting on the budget of the Ombudsman by the Assembly; submission of an annual report to the Assembly and upon request to the municipal councils; and enlargement of the competencies of the Ombudsman. These provisions of the Law have been **implemented**, as described in [I G 6](#), [I G 7](#), [I G 8](#), [I G 9](#) and [I J 18](#).

The Constitutional Amendment XIII has been **fully implemented** in the appointment of members of the National Security Council of the Republic of Macedonia.

The Constitutional Amendment XIV has been transposed into the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 43/03), which has been **fully implemented** in the election of the members of the Republic's Judicial Council in 2003.

The Constitutional Amendment XV has been **fully implemented** in the election of the judges for the Constitutional Court of the Republic of Macedonia.

In compliance with Amendment VI to the Constitution and item 5 of Annex B, the following Laws have been adopted:

1. Law Amending the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", No. 43/02);
2. Law Amending the Law on Labour Relations ("Official Gazette of the Republic of Macedonia", No. 40/03);
3. Law Amending the Law on Public Enterprises ("Official Gazette of the Republic of Macedonia", No. 40/03);
4. Law on the Public Prosecutor's Office of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 38/04);
5. Law Amending the Law on Courts ("Official Gazette of the Republic of Macedonia", No. 64/03).

Laws Nos. 1-3 envisage that in employment at a state body, at municipal body i.e. municipal bodies of the City of Skopje, public institutions, public enterprises and other legal entities that have public mandate, the principle of equitable representation of citizens belonging to all communities shall be respectively applied, while respecting the criteria of expertise and competence.

Laws Nos. 4 and 5 stipulate that in the appointment of the Public Prosecutor and Deputy Public Prosecutors, and judges and lay judges, respectively, while respecting the criteria laid down by law, equitable representation of citizens belonging to all communities in the Republic of Macedonia shall be ensured. Furthermore, all these Laws prescribe the obligations of publishing all advertisements for employment i.e. appointment in at least two daily newspapers, one of which is in the language of the communities that do not constitute the majority.

In the period following the signing of the Ohrid Framework Agreement, the Governments of the Republic of Macedonia have introduced specially designed policies, aimed at practical improvement of equitable representation of non-majority communities in the public administration, focussing especially on the police and army structures. The objective pursued in this context was to fully implement obligations set forth in Annex C - Implementation and Confidence-Building Measures - to the Framework Agreement.

C.5. Non-Discrimination and Equitable Representation

C.5.1. Taking into account i.a. the recommendations of the already established governmental commission, the parties will take concrete action to increase the representation of members of communities not in the majority in Macedonia in public administration, the military, and public enterprises, as well as to improve their access to public financing for business development.

C.5.2. The parties commit themselves to ensuring that the police services will by 2004 generally reflect the composition and distribution of the population of Macedonia. As initial steps toward this

end, the parties commit to ensuring that 500 new police officers from communities not in the majority in the population of Macedonia will be hired and trained by July 2002, and that these officers will be deployed to the areas where such communities live. The parties further commit that 500 additional such officers will be hired and trained by July 2003 and that these officers will be deployed on a priority basis to the areas throughout Macedonia where such communities live. The parties invite the international community to support and assist with the implementation of these commitments, in particular through screening and selection of candidates and their training. The parties invite the OSCE, the European Union, and the United States to send an expert team as quickly as possible in order to assess how best to achieve these objectives.

C.5.3. The parties also invite the OSCE, the European Union, and the United States to increase training and assistance programs for police, including:

- professional, human rights, and other training;*
- technical assistance for police reform, including assistance in screening, selection and promotion processes;*
- development of a code of police conduct;*
- cooperation with respect to transition planning for hiring and deployment of police officers from communities not in the majority in Macedonia; and*
- deployment as soon as possible of international monitors and police advisors in sensitive areas, under appropriate arrangements with relevant authorities.*

C.5.4. The parties invite the international community to assist in the training of lawyers, judges and prosecutors from members of communities not in the majority in Macedonia in order to be able to increase their representation in the judicial system.

Since the main focus was placed on improving the ethnic structure of the police and the Army of the Republic of Macedonia, these provisions (item 5.2. of Annex C specifies the requirements for the police) have already been **fully implemented**. This has facilitated the establishment of multi-ethnic police patrols that have successfully returned to the former crisis regions, and were accepted and supported by the local population. Training, defined in item 5.3. of Annex C, has been or is currently realized.

For more details see [I F 3](#), [I F 8](#), [I F 10](#) and [I J 7](#).

Following the improvement of the equitable representation in the security forces, the focus was placed on equitable representation in the administration and public enterprises. Therefore, in February 2003, the Government of the Republic of Macedonia adopted the Basis for Preparation of a Programme for Improvement of Equitable Representation of Communities in the Public Administration and in Public Enterprises.

In April 2003, additional measures were adopted to improve the equitable representation of communities in the public administration and in public enterprises specifically related to: building translation capacities, opening bilingual posts, analysis of vacancies in the administration, and training program for recruitments in the public administration, as well as to communication strategy. As part of the additional measures, supported by the CARDS 2002 funds, 600 persons belonging to the non-majority communities - candidates for expert-administrative civil servants in the state administration have been trained. The first group of these candidates were employed in December 2004-January 2005; the second group will be employed in the state administration in February 2005.

On 01.03.2005, the training of 100 translators/interpreters belonging to the non-majority communities for work in the state administration bodies and in the courts will commence. Following the training, which is organized under a project of the 2004 CARDS Programme, the selected candidates will be employed in the state administration bodies and courts, and will be obliged to work in those bodies for at least 2 years after completing the training.

However, the general conclusion in this respect is that in the last two years there has been an evident increase of the representation of all communities in the administration, which has required and requires significant budget allocations. The overall participation of non-majority communities in

the public administration rose to 19,69 %, while the participation of the Albanian community rose to 14,54% (for more details see [I J 4](#), [I J 5](#), and [I J 7](#)).

It has to be taken into account that the entire process was conducted in a period of strict budgetary conditions and of downsizing the number of employees in the administration, which added to the complexity of the process, making it even more painful.

Accordingly, provisions contained in Section 4 of the Framework Agreement **have been fully implemented** in the laws and in practice. However, the general policy of equitable representation requires continuous activities and permanent political and financial commitments.

5. Special Parliamentary Procedures

5.1. On the central level, certain Constitutional amendments in accordance with Annex A and the Law on Local Self-Government cannot be approved without a qualified majority of two-thirds of votes, within which there must be a majority of the votes of Representatives claiming to belong to the communities not in the majority in the population of Macedonia.

5.2. Laws that directly affect culture, use of language, education, personal documentation, and use of symbols, as well as laws on local finances, local elections, the city of Skopje, and boundaries of municipalities must receive a majority of votes, within which there must be a majority of the votes of the Representatives claiming to belong to the communities not in the majority in the population of Macedonia.

Provisions of Section 5 have been transposed in constitutional amendments, as defined in Annex A and in the legislation, in compliance with Annex B of the Framework Agreement.

Namely Amendments X, XII, XVI и XVIII have been incorporated in the Constitution:

Amendment X

For laws that directly affect culture, use of language, education, personal documentation, and use of symbols, the Assembly makes decisions by a majority vote of the Representatives attending, within which there must be a majority of the votes of the Representatives attending who claim to belong to the communities not in the majority in the population of Macedonia. In the event of a dispute within the Assembly regarding the application of this provision, the Committee on Inter-Community Relations shall resolve the dispute.

Amendment XII

The Assembly shall establish a Committee for Inter-Community Relations.

The Committee consists of seven members each from the ranks of the Macedonians and Albanians within the Assembly, and five members from among the Turks, Vlachs, Roma and two other communities. The five members each shall be from a different community; if fewer than five other communities are represented in the Assembly, the Public Attorney, after consultation with relevant community leaders, shall propose the remaining members from outside the Assembly. The Assembly elects the members of the Committee.

The Committee considers issues of inter-community relations in the Republic and makes appraisals and proposals for their solution.

The Assembly is obliged to take into consideration the appraisals and proposals of the Committee and to make decisions regarding them.

In the event of a dispute among members of the Assembly regarding the application of the voting procedure specified in Article 69(2), the Committee shall decide by majority vote whether the procedure applies.

Amendment XVI

Local self-government is regulated by a law adopted by a two-thirds majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia. The laws on local finances, local elections, boundaries of municipalities, and the city of

Skopje shall be adopted by a majority vote of the Representatives attending, within which there must be a majority of the votes of the Representatives attending who claim to belong to the communities not in the majority in the population of Macedonia.

Amendment XVIII

The decision to initiate a change in the Constitution is made by the Assembly by a two-thirds majority vote of the total number of Representatives.

The draft amendment to the Constitution is confirmed by the Assembly by a majority vote of the total number of Representatives and then submitted to public debate.

The decision to change the Constitution is made by the Assembly by a two-thirds majority vote of the total number of Representatives.

A decision to amend the Preamble, the articles on local self-government, Article 131, any provision relating to the rights of members of communities, including in particular Articles 7, 8, 9, 19, 48, 56, 69, 77, 78, 86, 104 and 109, as well as a decision to add any new provision relating to the subject matter of such provisions and articles, shall require a two-thirds majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia.

The change in the Constitution is declared by the Assembly.

These constitutional provisions **are fully implemented**, i.e. all referred to laws are adopted or amended in accordance with the described procedure.

6. Education and Use of Languages

6.1. With respect to primary and secondary education, instruction will be provided in the students' native languages, while at the same time uniform standards for academic programs will be applied throughout Macedonia.

6.2. State funding will be provided for university level education in languages spoken by at least 20 percent of the population of Macedonia, on the basis of specific agreements.

6.3. The principle of positive discrimination will be applied in the enrolment in State universities of candidates belonging to communities not in the majority in the population of Macedonia until the enrolment reflects equitably the composition of the population of Macedonia...

The right to primary and secondary education in the languages of the nationalities (i.e. non-majority communities) is set forth in the 1991 Constitution (Article 48 of the Constitution) and previously in the legislation of the Socialist Republic of Macedonia in the framework of the former SFRY. This right has already been realized in practice. Hence, in this context, the Framework Agreement only reaffirms and emphasises the already existing normative and de facto situation. Primary and secondary education instruction in the Republic of Macedonia is carried out in the Macedonian, Albanian, Turkish and in the Serbian languages and there are optional classes for studying the Vlach and the Roma languages.

Out of 344 elementary schools in total, in the 2002/03 academic year, in 134 schools the instruction was carried out exclusively in Albanian language or in Albanian and in Macedonian languages. Out of 90 secondary schools in the Republic of Macedonia, in 26 schools instruction is carried out in Albanian.

The same academic year, the percentage of ethnic Albanians in the total number of pupils in secondary education was 18,57%, and this academic year (2004/05) the percentage is 22,52%.

The Assembly has adopted the following laws:

- Law Amending the Law on Primary Education (Official Gazette of the Republic of Macedonia No. 63/04) and
- Law Amending the Law on Secondary Education ("Official Gazette of the Republic of Macedonia", No. 67/04),

which only additionally enabled keeping pedagogical records in the language and alphabet of persons belonging to communities, in addition to the Macedonian and its Cyrillic alphabet.

In accordance with item 6.2. the Law on the Establishment of State University in Tetovo was adopted ("Official Gazette of the Republic of Macedonia", No. 8/04), thus fulfilling the obligation for state funding of higher education in the language spoken by at least 20% of the population in the Republic of Macedonia. The instruction at the Tetovo University started in the 2004/05 academic year, following the accreditation of this higher education institution.

Pursuant to item 6.3 the Law Amending the Law on Higher Education was adopted ("Official Gazette of the Republic of Macedonia", No. 49/03), under which positive discrimination has become legal obligation in enrolment at state universities. However, it has to be mentioned that this measure has been practically applied by the state universities ever since 1994. Namely, as of 1994 the Government sets a separate quota for government funding of higher education of students belonging to all minorities depending on their proportional representation in the total population (for example if 1000 are to be enrolled under state funding, in addition to this 1000 student quota, 230 Albanians could additionally be enrolled under state funding, since at that time the percentage of Albanians was 22.6%). Until 2003, this practice was applied based on a Government Decision, followed by a public advertisement for enrolment of students at the then two state universities (in Skopje and in Bitola). By pursuing such policy of evident positive discrimination in the field of higher education, the number of students belonging to the Albanian community has rapidly grown from 2,23% in 1992 to 5,7% in 2000.

Following the establishment of the University of Southeast Europe (privately financed university, supported by the international community, offering education in Albanian, Macedonian and English) and the start of the Tetovo University, the percentage of enrolled students Albanians reached 15,5% of the total number of students in the Republic of Macedonia (for more details see [I J 16](#)).

6.4. The official language throughout Macedonia and in the international relations of Macedonia is the Macedonian language.

6.5. Any other language spoken by at least 20 percent of the population is also an official language, as set forth herein. In the organs of the Republic of Macedonia, any official language other than Macedonian may be used in accordance with the law, as further elaborated in Annex B. Any person living in a unit of local self-government in which at least 20 percent of the population speaks an official language other than Macedonian may use any official language to communicate with the regional office of the central government with responsibility for that municipality; such an office will reply in that language in addition to Macedonian. Any person may use any official language to communicate with a main office of the central government, which will reply in that language in addition to Macedonian.

6.6. With respect to local self-government, in municipalities where a community comprises at least 20 percent of the population of the municipality, the language of that community will be used as an official language in addition to Macedonian. With respect to languages spoken by less than 20 percent of the population of the municipality, the local authorities will decide democratically on their use in public bodies.

6.7. In criminal and civil judicial proceedings at any level, an accused person or any party will have the right to translation at State expense of all proceedings as well as documents in accordance with relevant Council of Europe documents.

6.8. Any official personal documents of citizens speaking an official language other than Macedonian will also be issued in that language, in addition to the Macedonian language, in accordance with the law.

Provisions of items 6.4-6.8 have been transposed into the Constitutional Amendments, as defined in Annex A and in the legislation, in accordance with Annex B of the Framework Agreement.

Namely, Amendment V was incorporated in the Constitution.

Amendment V

The Macedonian language, written using its Cyrillic alphabet, is the official language throughout the Republic of Macedonia and in the international relations of the Republic of Macedonia. Any other language spoken by at least 20 percent of the population is also an official language, written using its alphabet, as specified below.

Any official personal documents of citizens speaking an official language other than Macedonian shall also be issued in that language, in addition to the Macedonian language, in accordance with the law.

Any person living in a unit of local self-government in which at least 20 percent of the population speaks an official language other than Macedonian may use any official language to communicate with the regional office of the central government with responsibility for that municipality; such an office shall reply in that language in addition to Macedonian. Any person may use any official language to communicate with a main office of the central government, which shall reply in that language in addition to Macedonian.

In the organs of the Republic of Macedonia, any official language other than Macedonian may be used in accordance with the law.

In the units of local self-government where at least 20 percent of the population speaks a particular language, that language and its alphabet shall be used as an official language in addition to the Macedonian language and the Cyrillic alphabet. With respect to languages spoken by less than 20 percent of the population of a unit of local self-government, the local authorities shall decide on their use in public bodies.

Annex B defines the relevant legislative changes:

B.7. Rules of the Assembly

The Assembly shall amend by the end of the term of the present Assembly its Rules of Procedure to enable the use of the Albanian language in accordance with Section 6.5 of the Framework Agreement, paragraph 8 below, and the relevant amendments to the Constitution set forth in Annex A.

B.8. Laws Pertinent to the Use of Languages

The Assembly shall adopt by the end of the term of the present Assembly new legislation regulating the use of languages in the organs of the Republic of Macedonia. This legislation shall provide that:

- Representatives may address plenary sessions and working bodies of the Assembly in languages referred to in Article 7, paragraphs 1 and 2 of the Constitution (as amended in accordance with Annex A);*
- Laws shall be published in the languages referred to in Article 7, paragraphs 1 and 2 of the Constitution (as amended in accordance with Annex A); and*
- All public officials may write their names in the alphabet of any language referred to in Article 7, paragraphs 1 and 2 of the Constitution (as amended in accordance with Annex A) on any official documents.*

The Assembly also shall adopt by the end of the term of the present Assembly new legislation on the issuance of personal documents.

The Assembly shall amend by the end of the term of the present Assembly all relevant laws to make their provisions on the use of languages fully compatible with Section 6 of the Framework Agreement.

Hence, in accordance with Amendment V to the Constitution and in accordance with items 7 and 8 of Annex B, the following Laws were adopted:

A. In respect of the Assembly rules and publication of laws (item 7 and 8):

- Rules of Procedure of the Assembly of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No. 60/02);*
- Law Amending the Law on Publication of Laws and other Regulations and Decrees in the Official Gazette of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia” No. 43/02).*

This enabled members of the Assembly to use the language spoken by at least 20% of the citizens at the plenary sessions and at meetings of the working bodies of the Assembly, while laws published in the Official Gazette of the Republic of Macedonia are published also in the language and alphabet used by at least 20% of the citizens, belonging to the non-majority communities in the Republic of Macedonia.

Both provisions are **fully and continuously implemented**.

B. In connection with court proceedings (item 6.7) and communication with local units of ministries (paragraph 4 of Amendment V):

- Law Amending the Law on Criminal Procedure (“Official Gazette of the Republic of Macedonia”, No. 44/02);
- Law Amending the Law on Civil Procedure (“Official Gazette of the Republic of Macedonia”, No. 44/02);
- Law Amending the Law on Execution Procedure (“Official Gazette of the Republic of Macedonia”, No. 64/03);
- Law Amending the Law on Administrative Disputes (“Official Gazette of the Republic of Macedonia” No. 44/02);
- Law Amending the Law on General Administrative Procedure (“Official Gazette of the Republic of Macedonia”, No. 44/02).

Under these legislative amendments, in addition to the Macedonian language and its Cyrillic alphabet, in the proceedings before courts and state administration bodies and other state bodies, another official language is the language and alphabet used by at least 20% of the citizens, in accordance with the respective laws.

Furthermore, in April 2004, the Rules of Procedure amending the Court Rules of Procedure were adopted (“Official Gazette of the Republic of Macedonia”, No. 27/04), which aimed at facilitating the application of Amendment V and the above referred to legislative changes regarding the court proceedings. Forms for correspondence with the parties to the court proceedings were developed, and in accordance with the amendments to the procedural laws and the Rules of Procedure Amending the Court Rules of Procedure, the translation of the forms has been distributed to all judicial bodies in the Republic of Macedonia. In order to improve the transparency and to inform citizens about the implementation of the Framework Agreement and Amendment V to the Constitution of the Republic of Macedonia, the forms for correspondence with the parties to court proceedings were published in the daily newspaper in the Albanian language “Flaka”, and in the Macedonian language daily newspaper “Utrinski Vesnik” (for more details see [I J 14](#)).

Following the amendments to the procedural laws, which regulate the right to use the languages of the communities in judicial and administrative proceedings, there is an on-going selection procedure and training of translators belonging to the non-majority communities to be recruited in the state administration bodies and courts, as explained in Section 4 - Non-Discrimination and Equitable Representation.

The provisions related to the communication with the local units (offices) of state administration bodies are currently being implemented. Thus, tenders have been published for the printing of bilingual forms (for more details see [I J 13](#)).

C. In respect of personal identification documents (item 8) the following laws were adopted:

- Law Amending the Law on Personal Identity Card (“Official Gazette of the Republic of Macedonia”, Nos. 38/02 and 16/04);
- Law Amending the Law on Personal Identification Records (“Official Gazette of the Republic of Macedonia” No. 38/02);
- Law Amending the Law on Travel Documents of Citizens of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia”, Nos. 20/03 and 46/04);
- Law Amending the Law on Road Traffic Safety (“Official Gazette of the Republic of Macedonia”, Nos. 38/02 and 38/04).

Following the adoption of the above referred to Laws, all personal identification documents of citizens (personal identification cards, passports, birth, marriage, death certificates, driving licenses, registration certificates) and their forms are issued in accordance with item 6.8, i.e. Amendment V to the Constitution of the Republic of Macedonia.

In practice, the issuance of these documents also in the languages of the communities has started, in accordance with the legal amendments (for more details see [I J 15](#)).

D. Regarding personal names (item 8):

This provision setting forth the possibility all public officials to write their names in the alphabet of the language used by at least 20% of the citizens is applied in practice, although not regulated in a specific law.

E. In respect of local self-government

The provisions related to the issue of official languages at the level of units of local self-government have already been incorporated in the laws regulating this area. Accordingly, in all municipalities in which at least 20% of the population uses a certain language, that language and its alphabet are in official use, in addition to the Macedonian language and its Cyrillic alphabet, meaning that this provision has been **fully implemented**.

Furthermore, the Law Amending the Law on Road Traffic Safety ("Official Gazette of the Republic of Macedonia", No. 38/02), sets forth that traffic signs, in units of local self-government in which at least 20% of the citizens speak an official language different from the Macedonian, shall be written in that language and its alphabet.

Additionally, in the field of use of languages, the adoption of the following laws should be mentioned:

- Law on Election of Members of the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 42/02);
- Law Amending the Law on Election of the President of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 11/04);
- Law Amending the Law on Local Elections ("Official Gazette of the Republic of Macedonia", No. 35/04); and
- Law Amending the Law on the Census of Population, Households and Dwellings 2002 ("Official Gazette of the Republic of Macedonia", No. 43/02).

These Laws define the use of language and alphabet of persons belonging to the communities in the ballots, while the Law Amending the Law on Local Elections defines the use of the language and alphabet of persons belonging to the communities in all election related activities. Following the amendments to the Law on the Census, the Census is carried out in the Macedonian language and its Cyrillic alphabet and in the languages and alphabet of all ethnic communities.

These legal provisions were **fully implemented** in the elections for Members of the Assembly of the Republic of Macedonia in 2002, and in the elections for President of the Republic of Macedonia in 2004, as well as in the course of the 2002 Census. See answer to question [I H 33](#).

The only remaining Law to be adopted in accordance with Section 6 is the Law on Use of Languages of Communities in the Republic of Macedonia, which will be adopted in the first half of 2005. The Law on Official Seals and the Law on Referendum and other forms of direct expression of citizens will also be appropriately amended.

7. Expression of Identity

7.1. With respect to emblems, next to the emblem of the Republic of Macedonia, local authorities will be free to place on front of local public buildings emblems marking the identity of the community in the majority in the municipality, respecting international rules and usages.

Provisions of Section 7 have been transposed in the Constitutional Amendments, as defined in Annex A and in the additional provisions on the implementation of confidence building measures in accordance with Annex C of the Framework Agreement.

Namely, Amendments VII, VIII and IX have been incorporated in the Constitution:

Amendment VII

The freedom of religious confession is guaranteed.

The right to express one's faith freely and publicly, individually or with others is guaranteed. The Macedonian Orthodox Church, the Islamic Religious Community in Macedonia, the Catholic Church, and other Religious communities and groups are separate from the state and equal before the law.

The Macedonian Orthodox Church, the Islamic Religious Community in Macedonia, the Catholic Church, and other Religious communities and groups are free to establish schools and other social and charitable institutions, by ways of a procedure regulated by law.

Amendment VIII

Members of communities have a right freely to express, foster and develop their identity and community attributes, and to use their community symbols.

The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of all communities.

Members of communities have the right to establish institutions for culture, art, science and education, as well as scholarly and other associations for the expression, fostering and development of their identity.

Members of communities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried out in another language, the Macedonian language is also studied.

Amendment IX

The Republic guarantees the protection, promotion and enhancement of the historical and artistic heritage of Macedonia and all communities in Macedonia and the treasures of which it is composed, regardless of their legal status. The law regulates the mode and conditions under which specific items of general interest for the Republic can be ceded for use.

Item 6 of Annex C follows the same direction:

C.6. Culture, Education and Use of Languages

C.6.1. The parties invite the international community, including the OSCE, to increase its assistance for projects in the area of media in order to further strengthen radio, TV and print media, including Albanian language and multiethnic media. The parties also invite the international community to increase professional media training programs for members of communities not in the majority in Macedonia. The parties also invite the OSCE to continue its efforts on projects designed to improve inter-ethnic relations.

Separate bodies have been established for promotion of the culture and education of persons belonging to the non-majority communities in the Republic of Macedonia:

- Office for Affirmation and Promotion of the Culture of Persons Belonging to the Communities in the Republic of Macedonia within the Ministry of Culture;
- Office for Development and Promotion of the Education in the Languages of Persons Belonging to Communities, within the Ministry of Education and Science.

For more details see [I J 18](#).

As regards the media, there has been evident progress after the National Broadcaster - the Macedonian Radio and Television - introduced a channel broadcasting programs in the languages of all non-majority communities in the Republic of Macedonia. At this channel, sessions of the Assembly of the Republic of Macedonia are broadcast with simultaneous translation into the Albanian language.

Amendment VIII envisages free use of symbols of the communities. This issue is to be legally regulated by the Law on Use of Symbols of the Communities to be adopted in the first half of 2005. In practice, even now, in municipalities having a majority of ethnic Albanian population, the Albanian ethnic flag, which is identical to the state flag of neighbouring Republic of Albania, is hoisted at public premises.

8. Implementation

8.1. *The Constitutional amendments attached at Annex A will be presented to the Assembly immediately. The parties will take all measures to assure adoption of these amendments within 45 days of signature of this Framework Agreement.*

8.2. *The legislative modifications identified in Annex B will be adopted in accordance with the timetables specified therein.*

8.3. *The parties invite the international community to convene at the earliest possible time a meeting of international donors that would address in particular macro-financial assistance; support for the financing of measures to be undertaken for the purpose of implementing this Framework Agreement, including measures to strengthen local self-government; and rehabilitation and reconstruction in areas affected by the fighting.*

In accordance with the above stated, these provisions have been **fully implemented**.

Annex A to the Framework Agreement envisaging 15 Amendments to the 1991 Constitution of the Republic of Macedonia was **fully implemented** on 16.11.2001, when the Assembly adopted these Amendments (Amendments IV-XVIII). Except for certain modifications of the Constitution Preamble and the provision regarding religious communities (in respect of which there was full agreement reached among the signatories of the Framework Agreement) the text of the amendments adopted by the Assembly of the Republic of Macedonia is identical to the text of the Amendments contained in Annex A to the Framework Agreement.

Annex B has been implemented in its major part (see above), including the adoption of the Law on Election of Members of the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 42/02), in accordance with item 6 of Annex B, based on which the Parliamentary elections were held on 15.09.2002. In the first quarter of 2005, the two remaining laws arising from the Framework Agreement are to be adopted: the Law on the Use of Languages of the Communities and the Law on the Use of Symbols of the Communities.

In compliance with the provisions of **Annex C** (those which have not been elaborated in the hitherto text of the Answer):

- The Parliamentary elections were held on 15.09.2002, under international monitoring and according to the ODIHR assessment they were principally in line with the international standards, fair and democratic.
- In respect of return of displaced persons, reconstruction and rehabilitation of the former crisis regions, the Framework Agreement, in this Annex, envisages the following:

C.3. Refugee Return, Rehabilitation and Reconstruction

C.3.1. *All parties will work to ensure the return of refugees who are citizens or legal residents of Macedonia and displaced persons to their homes within the shortest possible timeframe, and invite the international community and in particular UNHCR to assist in these efforts.*

C.3.2. *The Government with the participation of the parties will complete an action plan within 30 days after the signature of the Framework Agreement for rehabilitation of and reconstruction in areas affected by the hostilities. The parties invite the international community to assist in the formulation and implementation of this plan.*

C.3.3. *The parties invite the European Commission and the World Bank to rapidly convene a meeting of international donors after adoption in the Assembly of the Constitutional amendments in Annex A and the revised Law on Local Self-Government to support the financing of measures to be*

undertaken for the purpose of implementing the Framework Agreement and its Annexes, including measures to strengthen local self-government and reform the police services, to address macro-financial assistance to the Republic of Macedonia, and to support the rehabilitation and reconstruction measures identified in the action plan identified in paragraph 3.2.

the OSCE to continue its efforts on projects designed to improve inter-ethnic relations.

In the course of the crisis, the number of internally displaced persons reached 76.046 (on 11.09.2001), 3921 of whom were accommodated in collective centres and the other with host families. The process of their return required stabilisation of the political and security situation, return of the police, reconstruction of damaged houses and rehabilitation of the communities and the economy.

After the Donor Conference, intensive activities for reconstruction of the houses started (6634 objects were damaged). At the end of 2004, there remained 112 objects eligible for reconstruction, for which no funds were provided.

Most of the internally displaced persons returned to their homes and according to the new registration, the current number of displaced persons is 1424. In cooperation with donors, the Government has envisaged several instruments for economic rehabilitation of these regions (for more details see [I K 1](#), [I K 2](#), [I K 3](#) and [I K 4](#)).

15. How is the implementation of the Framework Agreement coordinated? Which are the bodies involved?

The implementation of the Framework Agreement is coordinated at several levels, as a result of the complexity of the Agreement and the commitments taken on by its signatories. Consequently, it imposes obligations for different political agents and requires a strong and continuous political dedication. Therefore, the continuous political impulse has been crucial for the implementation of the Agreement and its transposition into the legal system of the Republic of Macedonia and into practice.

Late President Boris Trajkovski, under whose auspices the Agreement was signed, initiated and conducted political consultations with the signatories with regard to the key questions of the Framework Agreement.

Subsequent to the 2002 elections the newly emerged political actor (the Democratic Union for Integration) which accepted the obligations of the Agreement was included in the consultations.

Following the tragic death of President Trajkovski, the newly elected president Branko Crvenkovski, continued the practice of convening highest level political consultations concerning the key issues of the implementation of the Agreement. Upon entering the final phase of the implementation of the Framework Agreement, initiated by President Crvenkovski, a Declaration for Support of the Strategic Interests of the Republic of Macedonia was signed in Ohrid on 10.11.2004. The Declaration confirmed the pledges of the Framework Agreement as a viable model for building and promotion of stable inter-ethnic relations. At the meeting it was agreed to draft a report on the implementation of the Framework Agreement, which would be the basis for further political consultations.

The key responsibility for the concrete measures for the implementation of the Framework Agreement lies with the state institutions of the Republic of Macedonia, particularly its Government and all political actors in the Republic of Macedonia. However, having in mind that the Framework Agreement was signed with the facilitation of the European Union and the United States of America, and furthermore that the international community is interested in its implementation as a guarantee for the stability of the country and the region, information and opinions are regularly exchanged with the representatives of the international community.

The coordination of the coalition partners within the Government proceeds through the regular exercise of Government duties and competencies, in accordance with the legal and procedural norms. If necessary, additional consultations of government coalition partners are conducted, on the level of party presidents and other levels.

With regard to specific articles e.g. principles of the Framework Agreement and aiming at more efficient and accelerated implementation of the Framework Agreement, the Government of the Republic of Macedonia established special bodies for coordination and monitoring of the activities and the achieved specific objectives. The development of a decentralised government (Part 3 of the Agreement), non-discrimination and equitable representation of members of non-majority communities (Part 4), the return of the refugees, rehabilitation and reconstruction (Annex C of the Agreement) are the three focuses of the Framework Agreement for which the Government has formed special coordination bodies.

Regarding the point *Development of Decentralised Government*, the Government of the Republic of Macedonia has established a three-tiered institutional mechanism for coordination of the decentralisation process:

- *First tier: Working Group.* The working group comprises of high ranking civil servants, and their deputies, representatives of all the ministries – 14 in total. The State Secretary of the Ministry of Local Self-government chairs this working group. Its task is the formulation of proposals and initiatives regarding the transfer and management of competencies, the passing of laws determined by the Government Operational Programme for Decentralisation of Power 2003-2004, adopted in February 2003, as well as the general strategy in the process of decentralisation.

- *Second tier: State Secretaries Group.* This group is comprised of the state secretaries of all the ministries and is chaired by the Minister of Local Self-government. Its members are also the Secretary of the Legislative Secretariat, the Head of the Sector for European Integration within the Government of the Republic of Macedonia and the Secretary General of the Association of Local Self-government Units. This group has a dual function: it provides guidelines and advice for the actions in the process of decentralisation, and resolves and harmonises the views on the open issues related to the process of decentralisation.

- *Third tier: Deputy Prime Minister of the Government of the Republic of Macedonia*, responsible for the implementation of the Framework Agreement. The Deputy Prime Minister in cooperation with the Minister of Local Self-government presents the above-mentioned views to the Government of the Republic of Macedonia.

In relation to the point *Non-Discrimination and Equitable Representation of Members of Non-Majority Communities* the Government of the Republic of Macedonia, established bodies entrusted with coordination and monitoring of the improvement of equitable representation of members of under-represented non-majority communities in the public administration and public enterprises. These are the following:

- *Committee of Ministers* in charge of monitoring and coordination of the activities aimed at the improvement of equitable representation of members of non-majority communities in the public administration and public enterprises (“Official Gazette of the Republic of Macedonia”, No. 09/03). The Committee is chaired by the Deputy Prime Minister responsible for the implementation of the Framework Agreement and it comprises of the Minister of Justice, Minister of the Interior, Minister of Finance and the Minister of Labour and Social Policy.

- *Coordination Body* for the Preparation of an Operational Programme for Improvement of Equitable Representation of Members of Non-majority Communities in Public Administration and Public Enterprises (“Official Gazette of the Republic of Macedonia”, Nos. 9/03, 11/03 and 15/03). The Director of the Civil Servants Agency chairs the Coordination Body, while its members are the Deputy Director of the Civil Servants Agency, the Deputy Secretary General of the Government of the Republic of Macedonia and state counsellors from the following 11 ministries: Ministry of Economy, Ministry of Finance, Ministry of Justice, Ministry of Local Self-government, Ministry of Transport and Communications, Ministry of the Interior, Ministry of Defence, Ministry of Education and Science, Ministry of Culture, Ministry of Labour and Social Policy and Ministry of Health.

Regarding Annex C, i.e. the point on *Refugee Return, Rehabilitation and Reconstruction*, the Government of the Republic of Macedonia has established a Coordination Body which monitors the

situation of the internally displaced persons and suggests measures for overcoming the problems related to these persons, until they are returned to their homes. A minister without portfolio chairs the Coordination Body, while its members are civil servants in the Ministry for Transport and Communication, the Ministry of Finance, Ministry of the Interior, Ministry of Agriculture, Forestry and Water Resources Management, and Ministry of Labour and Social Policy. If required, representatives of other ministries participate in the work of this body.

At its session held on 05.04.2004, the Government reviewed and adopted a Report on Establishment of the Sector for Implementation of the Framework Agreement. Accordingly, the Secretary General of the Government, on 20.04.2004, amended the Rulebook on Internal Organisation of the General Secretariat as a service of the Government of the Republic of Macedonia. Based on the new provisions of the Rulebook, the Sector for Implementation of the Framework Agreement which is established within the General Secretariat of the Government performs the following tasks: provides administrative support to the Government in the implementation of the strategic priorities related to the obligations stemming from the Framework Agreement, and in particular ensuring equitable representation of members belonging to non-majority communities in the public administration and other public institutions; monitors the process of decentralisation and public administration reform; prepares a methodology for adoption of Action Plans of the Government in the field of implementation of the Framework Agreement; prepares an Action Plan for development and monitoring of projects related to the Framework Agreement and for coordination of its implementation; ensures regular communication, monitors and coordinates the activities for implementation of the projects of the Action Plans with the specific ministries and other state administrative bodies; provides expert advice and analytical reports; coordinates the activities with the state bodies and with external bodies and donors; promotes staffing of required human resources; supports the activities for ensuring the required funds; actively communicates with the public; prepares reports for the Government about the implementation of the Framework Agreement; improves the process of implementation of the Framework Agreement; co-operates with other sectors of the General Secretariat, gives expert opinion related to the implementation of the Framework Agreement.

The following units perform the activities within competence of the Sector for Implementation of the Framework Agreement: Unit for Equitable Representation of the Non-majority Communities; Unit for Coordination and Co-operation; Unit for Monitoring of the Process of Decentralisation and Public Administration Reforms in the Republic of Macedonia related to the Framework Agreement; Unit for Human Resources and Financing; and Unit for Public Relations.

16. What is the current structure of regional and local administration?

The Constitution stipulates the right to local self-government as one of the fundamental values of the Constitutional order of the Republic of Macedonia (Article 8, paragraph 1, line 9).

As prescribed in the Constitution, the local self-government was regulated with the Law on Local Self-government, the Law on Territorial Division of the Republic of Macedonia and Determination of the Areas of Municipalities, the Law on the City of Skopje, and the Law on Local Elections, adopted in 1995 and in 1996.

In 1997, the Assembly of the Republic of Macedonia ratified the European Charter of Local Self-Government thereby endorsing European standards for the organisation of the local self-government.

Following the signature of the Framework Agreement and the adoption of the Amendments to the Constitution in 2001, new basis was established for further development of the local self-government, especially with regard to the new and expanded competencies of the municipalities, advanced democratic relations in the decision-making on matters of local importance, the new territorial reorganisation of the local self-government units in the country and fiscal decentralisation

According to the Amendment XVI of the Constitution, the local self-government is regulated by a law adopted by a two-thirds majority vote of the total number of Representatives in the Assembly, within which there must be a majority of the votes of the total number of members who belong to non-majority communities. The same principle is foreseen for the adoption of the laws on municipal financing, local elections, municipal boundaries and the Law on the City of Skopje.

In line with the Framework Agreement provisions, in 2002 a new Law on Local Self-government was adopted ("Official Gazette of the Republic of Macedonia", No. 05/02).

The legal framework for the local self-government in the Republic of Macedonia was completed with the adoption in August 2004 of these laws: Law on Territorial Organisation of the Units of Local Self-government in the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 55/04), Law on the City of Skopje ("Official Gazette of the Republic of Macedonia", No. 55/04), Law on Financing of Local Self-Government Units ("Official Gazette of the Republic of Macedonia", No. 61/04).

The Republic of Macedonia has a single-tier system of local self-government.

According to the Law on Local Self-government, units of local self-government are the municipalities and the City of Skopje, as a special unit of local self-government.

The municipalities and the City of Skopje as units of local self-government are founded upon criteria established by the Law on Local Self-government. The area, the name, and the seat of these units, as well as the procedure for founding new units of local self-government are determined by the Law on Territorial Organisation of the Units of Local Self-government in the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 55/04). According to this Law, 84 municipalities and the City of Skopje, as a special unit of local self-government, are established. Out of these, 33 municipalities have their seat in a city, 41 in a village and 10 municipalities have a seat in the City of Skopje.

In order to execute their competences, the municipalities and the City of Skopje have their own sources of revenues which they manage autonomously.

The citizens exercise the right to local self-government directly and through their representatives in the municipal bodies.

The bodies of the municipalities and the City of Skopje are the Mayor and the Council. The Mayor of a municipality is the executive of the municipality and is elected every fourth year at general, direct and free elections through secret ballot in accordance with the Law on Local Elections. The Mayor of the City of Skopje is elected in the same manner. The members of the municipal Council are citizen's representatives elected at general, direct and free elections, by secret ballot and for four years term of office. The election of the members of the Council is regulated by the Law on Local Elections.

The number of members in the Council is determined depending on the number of inhabitants in the municipality and cannot be lower than 9 or higher than 33. The Council of the City of Skopje comprises 45 representatives also elected at general, direct and free elections, organised on the territory of the City of Skopje. The municipal Council/ the Council of the City of Skopje elects a president of the Council amongst the ranks of the Council members.

The elections for the bodies of the municipalities and the City of Skopje are called and held simultaneously in all the municipalities in the Republic of Macedonia and the City of Skopje.

The competence and organisation of the work of the bodies of the local self-government units (the Council and the Mayor) are regulated by the Law on Local Self-government and the statutes of the municipalities/the City of Skopje adopted independently by the municipal councils.

In the municipality where at least 20% of the population, as established by the last census, are members of a non-majority community, a Committee for Inter-Community Relations is established, comprising an equal number of representatives of each community represented in that municipality, elected in a manner determined by the statute. The Committee reviews issues pertaining to relations among communities represented in that municipality and gives opinions and proposals for resolution of issues in this area.

Municipal administration is organised for implementation of tasks within the competences of the municipal bodies.

The organisation, competencies and the manner of implementation of the duties of the municipal administration are determined by the Council, upon a proposal of the Mayor.

For execution of specific competencies, two or more municipalities may establish joint administrative bodies for specific areas in accordance with the Law.

The status of the employees in the municipal administration, with exception to those who perform technical and logistical tasks, is equal to the status of those employed in the central civil service. They have a status of civil servants and the provisions of the Law on Civil Servants apply to them, as well (for details see [I C 6](#)).

Municipal administration and administration in the public enterprises established by the municipality is recruited taking into consideration the principle of equitable representation of the members of non-majority communities represented in the municipality at all levels of administration, as well as respecting the criteria of expertise and competence.

In the area of the municipalities, local neighbourhood communities may be formed for the purpose of direct participation of the citizens in the decision-making process concerning issues of every day importance for the life and activities of the citizens of that area. As a form of neighbourhood community with a seat in a city, these communities are defined as urban communities, and those with a seat in the villages are defined as local communities.

The mayor of the municipality has a legal authority to delegate the execution of specific matters to the chair of the urban council, or of the local council.

The direct participation of the citizens in the decision-making process concerning questions of local importance can be realised through a civic initiative, citizen's gathering or referendum, in a manner and in a procedure determined by law.

The municipalities, within the framework of the Constitution, the Law on Local Self-government, and in accordance with the subsidiarity principle, have a right to conduct matters of public interest in the areas not excluded from their competencies, or not in a competence of the state administrative bodies.

The municipalities, within the national legal framework, regulate matters of public interest independently and in a manner determined by law; hence, they are responsible for their execution. The competences of the municipality, as a rule, are complete and non-transferable and cannot be taken from them or be limited, except in cases determined by law.

The municipalities are responsible for carrying out matters of public interests of the local community in the following areas: urban planning; protection of environment; local economic development; utility services; culture, sports and recreation; social care and child care; education; health care; protection and rescue of citizens and their property from damages of war, natural disasters, and other

accidents, as well as protection from the consequences of such events, fire protection and other matters as determined by law.

The duties are carried out in accordance with standards and procedures determined by laws regulating the specific areas. These laws also determine the mandatory duties of the municipality.

The laws that define the new competencies of the municipalities also identify the sources of financing for the exercise thereof.

For the exercise of their competencies, the municipalities establish public services in accordance with law. Two or more municipalities may pool funds and may establish joint public services in order to facilitate the realisation of common interests and activities within the competences of the municipalities.

The state administrative bodies can delegate the execution of specific functions to the mayor in accordance with law. The manner in which these competencies are discharged may be adapted to the local conditions; however, the standards determined by law must be respected.

Certain state administrative bodies (ministries and other) depending on the types of competencies they exercise, within their internal organisation, may organise local offices or other type of organisational entities in the municipalities, having a seat in a city. These offices are responsible to perform duties within the competence of the relevant central administrative bodies for the area of two or more municipalities, within the lines of the municipal boundaries comprising the area.

The municipalities in the Republic of Macedonia are associated in the Association of Local Self-Government Units (ALSGU).

The Government is obliged to consult the municipalities in the procedures of planning and decision-making on issues pertaining to the municipalities, as well as in planning public works, when preparing the Spatial Plan of the state, in a manner determined by a law in the respective area.

For coordination in planning, developing programmes and implementation of policies in specific areas or a group of areas, the Government may sign co-operation agreements with one or more municipalities in the areas of joint interest and may make consultations concerning specific questions.

17. Is there a detailed plan for the transfer of powers to local governments as foreseen by the Framework Agreement? Which powers have been effectively delegated? Please explain how this has been implemented in practice (staff, training, infrastructure, etc.).

Regarding the development of decentralised government the Framework Agreement foresees adoption of a revised Law on Local Self-government, which would strengthen the authorities of the elected local representatives and would significantly increase their competences, in accordance with the Constitution. The increased competences concern the following areas: public services, urban and rural planning, environment protection, local economic development, culture, local finances, education, social security and healthcare.

In November 2001, the Assembly of the Republic of Macedonia adopted the Amendments to the Constitution of the Republic of Macedonia which created the constitutional basis for development of legislation on the specific competences of the local self-government defined under the Framework Agreement.

In January 2002, the Assembly of the Republic of Macedonia adopted the Law on Local Self-government ("Official Gazette of the Republic of Macedonia", No. 5/02), which as an organic law establishes the new local self-government in the Republic of Macedonia and specifies the competencies defined by the Framework Agreement and stipulated in the Amendments to the Constitution of the Republic of Macedonia.

The transfer of competences including the development of the normative framework, as a first stage of this process, and their actual transfer, as the second stage, is designed and implemented in accordance with the relevant programme documents adopted by the Government of the Republic of Macedonia.

In February 2003 the Government adopted the Operational Programme on Decentralisation which, in accordance with the specified competencies of the local self-government, identified the activities, the responsible bodies and the time frame.

The Programme envisaged adopting or amending 42 laws governing the areas covered by the Framework Agreement, and regulated by the Amendments to the Constitution of the Republic of Macedonia and the Law on Local Self-Government.

The enactment of the laws under the Operational Programme for Decentralisation created legislative conditions for the transfer of the competencies to the local level. Thus far, the following laws were adopted:

Culture:

- Law Amending the Law on Culture ("Official Gazette of the Republic of Macedonia", No. 49/03);
- Law on Museums ("Official Gazette of the Republic of Macedonia", No. 66/04);
- Law on Memorials, Monuments and Plaques ("Official Gazette of the Republic of Macedonia", No. 66/04);
- Law on Libraries ("Official Gazette of the Republic of Macedonia", No. 66/04).

Sports:

- Law Amending the Law on Sports ("Official Gazette of the Republic of Macedonia", No. 66/04).

Defence:

- Law Amending the Law on Defence ("Official Gazette of the Republic of Macedonia", No. 5/03);
- Protection and Rescue Law ("Official Gazette of the Republic of Macedonia", No. 36/04).

Education and Science:

- Law Amending the Law on Primary Education ("Official Gazette of the Republic of Macedonia", No. 63/04);
- Law Amending the Law on Secondary Education ("Official Gazette of the Republic of Macedonia", No. 67/04)

Urbanism and Rural Planning:

- Law on Establishment of Names of Streets, Squares and other Infrastructure Facilities ("Official Gazette of the Republic of Macedonia", No. 66/04);
- Law Amending the Law on Public Roads ("Official Gazette of the Republic of Macedonia", No. 68/04);
- The Law on Supply of Drinking Water and Disposal of Waste Waters ("Official Gazette of the Republic of Macedonia", No. 68/04);
- Law on Road Transport ("Official Gazette of the Republic of Macedonia", No. 68/04).

Local Economic Development:

- Law on Catering Industry ("Official Gazette of the Republic of Macedonia", No. 62/04);
- Law on Tourism Industry ("Official Gazette of the Republic of Macedonia", No. 62/04);
- Law on Handicraft Activities ("Official Gazette of the Republic of Macedonia", No. 62/04);
- Law on Trade ("Official Gazette of the Republic of Macedonia", No. 16/04).

Healthcare:

- Law Amending the Law on Healthcare ("Official Gazette of the Republic of Macedonia", No. 10/04);
- Law on Protection of Population from Communicable Diseases ("Official Gazette of the Republic of Macedonia", No. 66/04).

Local Financing:

- Law on Financing of Local Self-government Units ("Official Gazette of the Republic of Macedonia", No. 61/04 and 96/04);
- Law on Communal Fees ("Official Gazette of the Republic of Macedonia", No. 61/04);
- Law Amending the Law on Administrative Fees ("Official Gazette of the Republic of Macedonia", No. 61/04);
- Law on Property Taxes ("Official Gazette of the Republic of Macedonia", No. 61/04).

Social care and child care:

- Law Amending the Social Security Law ("Official Gazette of the Republic of Macedonia", No. 65/04);
- Law Amending the Law on Child Protection ("Official Gazette of the Republic of Macedonia", No. 65/04).

Environment Protection:

- Law on Nature Protection ("Official Gazette of the Republic of Macedonia", No. 67/04);
- Law on Waste Management ("Official Gazette of the Republic of Macedonia", No. 68/04);
- Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia", No. 67/04).

Fire Protection:

- Law on Fire Protection ("Official Gazette of the Republic of Macedonia", No. 67/04).

With a view to complete the regulation of the local self-government system, the following laws under the Operational Programme were also adopted:

- Law on Territorial Organisation of the Local Self-Government ("Official Gazette of the Republic of Macedonia", No. 55/04);
- Law on the City of Skopje ("Official Gazette of the Republic of Macedonia", No. 55/04);
- Law Amending the Law on Local Elections ("Official Gazette of the Republic of Macedonia", No. 12/04 and 52/04).

In order to implement the adopted laws and to further coordinate and plan the actual transfer of competences, the Government of the Republic of Macedonia adopted a Programme for Implementation of Decentralisation Process 2004-2007 and an Action Plan in November 2004. They specify the activities time - frame and responsible bodies for the actual (effective) transfer of competences, in conformity with the defined legislative framework and the target dates.

The Programme for Implementation of the Decentralisation Process 2004-2007 establishes an obligation, until the date for the local elections, within the established system of coordination of the decentralisation process, to develop a Detailed Plan for Transfer of Property, Equipment and Human Resources from the central to the local level. The process of detailed planning of the realistic transfer of competences is in its final stage. The Government of the Republic of Macedonia in January 2005 adopted the draft version of the detailed transfer plan, and by March 2005 it shall adopt the final text of the Plan.

The basis for development of the plan for transfer of the property, equipment and human resources are the individual analyses and plans of the ministries for registration and transfer of property, equipment and human resources to the new municipalities that will start functioning after the local elections.

The Plan describes:

- Phases - timeframe of transfer;

- Number and type of property, assets, equipment and human resources that will be transferred;
- Actual number of civil servants that will be transferred;
- Necessary funds to transfer to municipalities in order to be able to perform the transferred competencies;

Pursuant to the draft versions of the plan, the key transfer of property, equipment, human resources and finances has been envisaged in the following areas:

- Education (responsible: Ministry of Education);
 - A total of 1.016 primary schools and 81 secondary schools will be transferred as well as 3.759 technical staff;
 - The complete transfer of competences and resources for salaries of teachers and other staff as well as costs for maintenance of transferred facilities shall be finalised by 2007;
- Security (responsible: Ministry of the Interior);
 - Transfer of fire brigades (property, equipment and 751 personnel);
- Finances (responsible: Ministry of Finance) transfer will be made of premises and computer equipment as well as of 177 employees working with municipal and financial accounts, management, collection of utility fees and property tax;
- Culture (responsible: Ministry of Culture) - 48 institutions (libraries, arts centres, museums, etc) will be transferred to the municipalities, including the transfer of legal rights as well as 577 employees; and
- Social and child care – Transfer of: kindergartens, homes for elderly, other social care institutions.

The effective transfer of competences from the central to the local level is established by the provisions of the respective laws governing the issues of transfer of competences. Most of these laws envisage effectuating of the transfer following the local elections, as of 01.07.2005. The basic reason for this is that the current 123 municipalities and the City of Skopje are reorganised into 84 new municipalities and the City of Skopje, which will start functioning as new entities after the local elections. The agglomeration of the municipalities is aimed at creating viable entities, capable to efficiently perform the new and increased competences.

A certain type of competencies in specific areas, which does not require transfer of property, equipment and human resources and which essentially does not depend on the size and the current capacities of the municipalities, can already be performed pursuant to the provisions of the respective laws. Those are the following competencies:

- Education, healthcare and social care – management of institutions of local importance;
- Crafts - determining the working hours of the crafts workshops, depending on the local customs and needs, as of September 2004;
- Healthcare – general measures for protection against spreading of communicable diseases, as of mid-October 2004.

A specific area where the transfer of competences has effectively started is culture. In this area, the municipalities have adopted the relevant acts, pursuant to the new Law on Culture, for transfer of the establishment rights of the Cultural Centres of local importance, which are located within their territory.

It is planned that the transfer of personnel is done based on a regulation of the Government of the Republic of Macedonia, upon prior registration and allocation of the civil servants from the local units of the ministries, the competences of which are transferred to the local level. The training of the municipal administration is carried out and coordinated in accordance with the Memorandum signed among the Ministry of Local Self-government, the Civil Servants Agency and the Association of Municipalities in the Republic of Macedonia (ALSGU)

Training of municipal administration is carried out and coordinated pursuant to the Memorandum signed between the Ministry of Local Self-Government, the Civil Servant Agency and the Association of Municipalities in the Republic of Macedonia. Additionally, a national plan within the Trilateral Committee for Coordination of Training is currently in preparation.

Implementation of certain pilot-projects in the areas of finances and of culture is also under way, through which the capacities of the municipalities to exercise their competences are simulated.

18. Please elaborate on the issue of fiscal decentralisation. How has funding been ensured, or is going to be ensured, to enable local governments to fulfil all their responsibilities? Have measures been taken to strengthen the financial management capacity of the municipalities?

1. The fiscal decentralisation in the Republic of Macedonia aims at ensuring financial independence of the municipalities (own revenues which the local self-government units will manage independently) and resource matching the transferred competencies (ensuring proportionate relationship between the sources of revenues and the costs of exercising the competencies).

Fiscal autonomy is provided for the municipalities within the framework of legally established ceilings for taxes, charges and other fees for delivery of public services. In line with Article 6 of the Law on Property Taxes ("Official Gazette of the Republic of Macedonia", No. 61/04), and Article 2 of the Law on Communal Fees ("Official Gazette of the Republic of Macedonia", No. 61/04), revenues from taxes, charges and other fees present own sources of financing for the municipality. Their level is determined by a decision of the municipal council. Additional revenues of the municipalities are the grants from the Budget of the Republic of Macedonia.

The sources of financing are regulated in Articles 4, 5, 6, 7 and 8 of the Law on Financing of Local Self-government Units ("Official Gazette of the Republic of Macedonia", Nos. 61/04 and 96/04).

Fiscal decentralisation is envisaged to be implemented in two phases in order to establish mechanisms of financing the municipalities that will be transparent and based upon objective criteria and measures. The phase-in approach will be carried out based on the following principles:

- Gradual transfer of competencies, in accordance with the capacities of the municipalities to assume these competencies;
- Equitable and adequate provision of funds to the end of efficient and smooth exercise of the transferred competences, and
- Reduction of the resources in the Budget of the Republic of Macedonia and the extra-budgetary funds relating to the functions to be transferred under the competences of the municipalities.

The phase-in approach of fiscal decentralisation is regulated by Articles 44, 45 and 46 of the Law on Financing of Local Self-Government Units ("Official Gazette of the Republic of Macedonia No. 61/2004).

2. Resources for exercising the competences by the municipalities will be provided from own (municipal) sources of revenues, transfers of resources from the Budget of the Republic of Macedonia and from the budgets of the extra-budgetary funds, as well as by borrowing in accordance with Article 3 of the Law on Financing of Local Self-Government Units.

According to Article 4 of this law, own sources of revenues are the following:

- a) Local taxes determined by law, the rate of which is determined by the Municipal Council:
- Property tax;
 - Inheritance and gift tax;
 - Tax on transactions of real estate, and
 - Other local taxes determined by law.

b) Local fees determined by law, the amount of which is determined by the Municipal Council:

- Utility fees;
- Administrative fees, and
- Other local fees determined by law.

c) Local charges determined by law, the amount of which is determined by the Municipal Council or the maximum amount of which is determined by law:

- Charge for landscaping construction land;
- Charges from utility activities;
- Charges for spatial and urban plans, and
- Other local charges determined by law.

d) Ownership revenues:

- Revenues from rent;
- Revenues from interest;
- Revenues from sale of property, in case when the sale does not disturb public functions and competencies.

e) Revenues from donations;

f) Revenues from fines established under special laws in particular areas;

g) Revenues from voluntary contributions:

e) Other revenues determined by law.

According to Article 5 of the Law on Financing of Local Self-government Units the following are also considered as revenues of the municipalities:

- Personal income tax revenues collected in the amount of 3% on earnings originating from salaries of natural persons, collected in the municipality in which the natural persons have their registered dwelling and place of residence and
- Personal income tax revenues collected in the amount of 100% on natural persons carrying out craftsmanship, registered pursuant to the Law on Craftsmanship in the area of the municipality where they are registered for performing such activity.

Additional revenues in the budget of the municipality for financing its competences, defined by law are provided in the form of grants from the Budget of the Republic of Macedonia and from the budgets of the extra-budgetary funds, in accordance with Article 8 of the Law on Financing of Local Self-government Units. The grants are allocated as follows:

- VAT revenues;
- earmarked grants;
- capital grants;
- block grants; and
- grants for delegated competences.

VAT revenues, according to Article 9 of the Law on Financing of Local Self-government Units (as general grant) are allocated to municipalities according to the Decree on Methodology of Allocation of Revenues from the Value Added Tax adopted annually by the Government of the Republic of Macedonia, by 30th of June at the latest in the current year, for the following year. With respect to 2005, the Decree should be adopted two months before the application of the Law on Financing of Local Self-government Units at the latest, i.e. by 01.05.2005.. At least 50% of the VAT revenues is allocated according to the population criterion and other criteria. The municipality decides independently about the usage of the VAT revenues.

The earmarked and capital grants referred to in Articles 10 and 11 are used for specific purposes - investments in accordance with the needs of the municipality and/or the development of the state. The purposes and amounts of these grants are determined in a transparent way through publishing the criteria, procedures and deadlines for allocation of these grants for the following year by the line ministries and extra-budgetary funds, by 30th March of current year at the latest, as stipulated in Article 8, paragraph 4. With respect to the allocation of these grants in 2005, the Government of the Republic of Macedonia will have to adopt Decrees on Methodology of Allocation of Earmarked and Capital Grants, excluding the resources for salaries and wages, two months before the application of the Law on Financing of Local Self-government Units at the latest, i.e. by 01.05.2005.

The block grants referred to in Article 12 are allocated for financing the competencies in the area of culture, social care and childcare, education and health care. The use of the block grants will begin when the conditions for the second phase of the fiscal decentralisation are fulfilled. Thus, the competencies in the areas of culture, social care and childcare, education and health care will be fully financed. The municipalities will receive appropriate amounts of revenues and will manage them independently according to the methodology for establishment of criteria for allocation of block grants, based on a formula that uses appropriate indicators on the needs of each programme.

The grant for delegated competences referred to in Article 13 is used for financing specific competences delegated by a state administrative body to the mayor of the municipality.

VAT revenues and block grants transferred from the Budget of the Republic of Macedonia to the budget of a municipality is carried out in at least 12 instalments, pursuant to Article 17, thus providing timely execution of the functions of the municipalities.

It is considered that this system of financing of the municipalities will ensure better collection of the own revenues, the share of which in the total municipal revenue is 33.20%. Furthermore, these revenues are expected to increase in the following period. Additionally, the system of grants should provide smooth execution of the responsibilities of the municipalities, including the financial equalisation that should reduce the disparities in the fiscal capacities of the municipalities.

3. Most of the activities for strengthening the financial management capacities of the municipalities the Ministry of Finance and the Ministry of Local Self-Government undertake in cooperation with international donors.

To the end of improving the financial and accounting reports, part of the local offices of the Ministry of Finance performing the financial and accounting tasks for the municipalities, are equipped with computers and other IT equipment and office supplies. Funds for this purpose are provided from the Budget of the Republic of Macedonia in the amount of 6.000.000 MKD.

At the end of 2002, the Ministry of Finance signed a Memorandum of Cooperation with the municipalities of Veles, Gostivar, Sveti Nikole and Struga for launching pilot projects for improvement of the collection of property taxes and utility fees. The Mayors were given full competences for determining and registering the taxpayers. Thus significant progress was achieved in these municipalities and the revenue collection was increased (property tax by 41.9%, tax on transfer of real estate by 195.0%, inheritance and gift tax by 106.4%, and utility fees by 16.6%).

The main objective of this cooperation was ensuring better recording of taxpayers and greater revenue collection in these municipalities. By improving the IT equipment and preparing software program for collection of the utility fees necessary to be finally tested and approved by the Public Revenue Office and the municipalities, it is believed that the collection of local taxes will definitely improve. In the coming period, it is planned to prepare a software for property taxes, for personal records of taxpayers and for tax accounting, as modules of an integrated system of data processing of the local taxes and fees.

During the drafting of the Law on Financing of Local Self-government Units ("Official Gazette of the Republic of Macedonia", No. 61/04, 96/04), the Law on Property Taxes ("Official Gazette of the Republic of Macedonia", No. 61/04), and the Law on Utility Fees ("Official Gazette of the Republic of

Macedonia", No. 61/04), significant assistance was provided to the Ministry of Finance by experts from the IMF, USAID under the *Local Government Reform Project* and the Council of Europe

Resident experts and part-time engaged experts for certain issues provided significant support to the working groups in preparing the text of the laws (analysis of laws of the EU Member States and other countries in the region, documents related to *acquis communautaire*, comparative analyses).

Taking into account the amount of arrears of the municipalities, having potentially large influence on the implementation of the decentralisation process, the Ministry of Finance, under the 2003 CARDS Programme, prepared a *Report on the Debt of the Municipalities in the Republic of Macedonia* in the period May-June 2004. The report identified the amount of the debt and defined guidelines for further activities for settling the arrears.

Continuing activities in the Ministry of Finance aimed at realisation of the project that should propose *Plan for Rescheduling, Restructuring and Settlement of the Municipal Debt*. The plan is realised with technical assistance by the USAID Macedonia. So far, the types of debt as well as the creditors have been identified and separate financial records for each municipality in terms of arrears have been prepared. Information was submitted to the Government of the Republic of Macedonia, together with draft conclusions. Further activities will be carried out under coordination by the Ministry of Finance.

At the same time, activities have been undertaken to the end of training the employees in the municipal administration, especially in financial management. Manuals were prepared to the end of efficient financial management of the municipalities, those being: Manual on Financing Local Self-Government Units, Manual on Preparation of Municipal Budgets and Manual on Execution of Municipal Budget, providing detailed instructions to the local civil servants in planning of the political and program directions and guidelines of the local authorities related to financing the competences, pursuant to the laws and regulations.

The advantages of joint administration from the point of view of improved management of the funds and decrease of the costs, as an objective to be met by the municipalities with weaker fiscal capacity, were promoted by a project supported by the Organisation for Cooperation and Security in Europe. The Municipality of Kičevo and six other municipalities in that region were taken as a pilot project. The project also included training activities for improved management of the municipal administration throughout the year. To the end of strengthening the capacities of the civil servants in specific ministries and Mayors of some municipalities, study tours and seminars were organised during 2004, and cooperation with other states from the EU and the region was realised in order to get familiar with the systems of these countries (Germany, Austria, Croatia, Serbia and Montenegro). During 2004, more than 600 persons (mayors, employees in the municipal administration, civil society representatives, etc.) participated in the training *Management of Available Resources*.

On the basis of research, studies, and publications by the UNDP Macedonia in the past two years, financial management capacities of the local and central government were strengthened. The following reports were published: *National Report on Human Development 2004 - Macedonia; Decentralisation for Human Development; Socio-economic Disparities Among Municipalities in Macedonia; Data and Indicators for the Municipalities in Macedonia; Profile of a Municipality in Macedonia - Definitions and Sources, Study on the Financial Management of the Municipalities in Macedonia*.

On the basis of the *Report on the Assessment of Measures for Oversight, Financial Control and Supervision Over the Operations of the Municipalities*, UNDP Macedonia Project, in co-operation with the Ministry of Local Self-government and the Civil Servants Agency, organised a number of trainings in the period January-March 2003. These trainings were attended by 159 persons, and were aimed at strengthening the capacities of the local authorities by building capacities for financial management and transparency.

At the beginning of 2005, a number of donors (World Bank – Municipality Development Project, European Agency for Reconstruction (EAR), OSCE spill-over mission in Skopje, USAID Macedonia) have jointly prepared a coordinated Programme for the development of a plan for training in financial

management and reporting in the municipalities, including *Train the trainer* and training of financial officers.

Manuals have been prepared on laws and regulations with respect to the employees in the municipal administration and with respect to the newly elected officials in the municipal bodies, all that to the end of improving the understanding of this target group of the decision-making process and management of the available resources.

Strengthening of the capacities of all participants in the process of fiscal decentralisation is also an aim of the EAR project, financed under the 2004 CARDS Programme, *Financial Management and Reporting of the Municipalities*, to be conducted in 2005.

19. Which changes have been introduced to the boundaries of the municipalities?

The Law on Territorial Organisation of the Local Self-government in the Republic of Macedonia, adopted on 11.08.2004 ("Official Gazette of the Republic of Macedonia", No. 55/04), provides for the reduction of the number of municipalities from 123 to 84. The changes in the municipal boundaries were done in order to enlarge and consolidate the municipalities in the Republic of Macedonia. With a few exceptions, the enlargement of the municipalities has been mainly carried out by a full merger of two or more municipalities as defined by the former Law on Territorial Organisation.

Some settlements from one municipality are adjoined to another municipality due to the better communication links with the new municipal centre. These are the settlements: the village of Kjafa from the municipality of Oslomej (according to the previous Law on Territorial Organisation from 1996) has been merged with the municipality of Gostivar; the villages of Mogorče, Osoj and Gari, from the municipality of Mavrovo-Rostuše, merged with the municipality of Debar; Gorno Jabolčište, Dolno Jabolčište, and Drenovo, from the municipality of Veles, merged with the municipality of Čaška; the villages of Zubovce, Klečevce, Jačince, Kosmatec, Murgaš, Dovezence, and Beljakovce from the old municipality of Klečevce, merged with the new municipality of Kumanovo, while the villages of Drenok, Alince, Orah, Rugince, Oblavce, Strezovce, and Vojnik, are merged with the municipality of Staro Nagoričane. One of the main parameters for such mergers was the provision of Article 18 of the Law on Local Self-Government ("Official Gazette of the Republic of Macedonia", No. 05/02), which provides that municipal boundaries must not cross the boundaries of the cadastre municipalities.

Under this Law, 41 municipalities ceased to exist, while 2 new municipalities were formed (see Table - List of Transformed Municipalities). The share of the small municipalities (those with up to 5.000 inhabitants) in the total number of municipalities has reduced from 37% to 19%, while the share of municipalities with 20.000 to 50.000 inhabitants has increased from 12% to 20%. At the same time, the share of large municipalities (from 50.000 to 100.000 inhabitants) has increased from 7% to 16%.

The average size of the municipalities has increased from 209 km² to 306 km² and from 16.443 to 24.078 inhabitants. The biggest municipality, according to the number of inhabitants, is Kumanovo (with 105.484 inhabitants), replacing the formerly biggest municipality of Kisela Voda (within Skopje) which had 125.379 inhabitants and was split into two new municipalities (more detailed information about the 123 municipalities is given in Chapter 21, Section I Territorial Organisation 21_I). The smallest municipality is Vraneštica with 1.322 inhabitants, replacing the previously smallest municipality of Staravina with 316 inhabitants. Following the changes in the municipal boundaries, there are no municipalities with less than 1.000 inhabitants in the Republic of Macedonia. The biggest municipality in terms of territory is Prilep with 1.039 km² while the smallest municipality is that of Suto Orizari with 6 km². Before the changes of the municipal borders, the biggest municipality according to territory was the municipality of Konopište with 606 km², while the smallest one was Suto Orizari with 6 km². With the Law on Territorial Organisation of the Local Self-government in the Republic of Macedonia, the former municipalities of Saraj and Kondovo were adjoined to the City of Skopje, forming a new tenth municipality - Saraj within Skopje.

List of Transformed and Changed Municipalities

Table - List of Transformed and Changed Municipalities						
	Municipality 1996		Municipality adjoined with urban municipality		Municipality adjoined with rural municipality	Municipality 2004
1	Aračinovo					1 Aračinovo
2	Berovo					2 Berovo
3	Bitola					3 Bitola
4	Bistrica	1	Bistrica			Bistrica
5	Kukurečani	2	Kukurečani			Kukurečani
6	Capari	3	Capari			Capari
7	Novaci					4 Novaci
8	Bač			1	Bač	Bač
9	Staravina			2	Staravina	Staravina
10	Bogdanci					5 Bogdanci
11	Star Doran					6 Dojran
12	Bogovinje					7 Bogovinje
13	Kamenjane			3	Kamenjane	Kamenjane
14	Brvenica					8 Brvenica
15	Valandovo					9 Valandovo
16	Veles					10 Veles
17	Čashka					11 Čashka
18	Bogomila			4	Bogomila	Bogomila
19	Izvor			5	Izvor	Izvor
20	Vinica					12 Vinica
21	Blatec	4	Blatec			Blatec
22	Vrapčišhe					13 Vrapčišhe
23	N.Pološko			6	N.Pološko	N.Pološko
24	Gevgelija					14 Gevgelija
25	Miravci	5	Miravci			Miravci
26	Gostivar					15 Gostivar
27	G.Banjica	6	G.Banjica			G.Banjica
28	Srbino	7	Srbino			Srbino
29	Vrutok	8	Vrutok			Vrutok
30	Čegrane	9	Čegrane			Čegrane
31	Debar					16 Debar
32	Centar Župa					17 Centar Župa
33	Delčevo					18 Delčevo
34	Demir Hisar					19 Demir Hisar
35	Sopotnica	10	Sopotnica			Sopotnica
36	Demir Kapija					20 Demir Kapija
37	Dolneni					21 Dolneni
38	Žitoše			7	Žitoše	Žitoše
39	Želino					22 Želino
40	Ilinden					23 Ilinden
41	Jegunovce					24 Jegunovce
42	Vratnica			8	Vratnica	Vratnica
43	Kavadarci					25 Kavadarci
44	Konopšite	11	Konopšite			Konopšite
45	Kičevo					26 Kičevo
46	Vraneštica					27 Vraneštica
47	Drugovo					28 Drugovo

48	Zajas				29	Zajas
49	Oslomej				30	Oslomej
50	Plasnica				31	Plasnica
51	Kočani				32	Kočani
52	Orizari	12	Orizari			Orizari
53	Zrnovci				33	Zrnovci
54	Češinovo				34	Češinovo
55	Obleševo			9	Obleševo	Obleševo
56	Kratovo				35	Kratovo
57	Kr.Palanka				36	Kr.Palanka
58	Kruševo				37	Kruševo
	Municipality 1996		Municipality adjoined with urban municipality		Municipality adjoined with rural municipality	Municipality 2004
59	Mogila				38	Mogila
60	Dobruševo			10	Dobruševo	Dobruševo
61	Kumanovo				39	Kumanovo
62	Orašec	13	Orašec			Orašec
63	St.Nagoričane				40	St.Nagoričane
64	Klečevce			11	Klečevce	Klečevce
65	Lipkovo				41	Lipkovo
66	M.Kamenica				42	M.Kamenica
67	M.Brod				43	M.Brod
68	Samokov	14	Samokov			Samokov
69	Rostuše				44	Mavrovo-Rostuše
70	M.Anovi			12	M.Anovi	M.Anovi
71	Negotino				45	Negotino
72	Novo Selo				46	Novo Selo
73	Bosilovo				47	Bosilovo
74	Ohrid				48	Ohrid
75	Kosel	15	Kosel			Kosel
76	Belchishta				49	Debarca
77	Mešeishta			13	Mešeishta	Mešeishta
78	Pehčevo				50	Pehčevo
79	Petrovec				51	Petrovec
80	Zelenikovo				52	Zelenikovo
81	Prilep				53	Prilep
82	Vitolišta	16	Vitolišta			Vitolišta
83	Topolčani	17	Topolčani			Topolčani
84	Krivogaštani				54	Krivogaštani
85	Probištip				55	Probištip
86	Zletovo	18	Zletovo			Zletovo
87	Radoviš				56	Radoviš
88	Podareš			14	Podareš	Podareš
89	Konče				57	Konče
90	Rankovce				58	Rankovce
91	Resen				59	Resen
92	Rosoman				60	Rosoman
93	Gradsko				61	Gradsko
94	Sopište				62	Sopište
95	Studeničani				63	Studeničani
96	Struga				64	Struga

97	Velešta	19	Velešta			Velešta
98	Delogoždi	20	Delogoždi			Delogoždi
99	Labunište	21	Labunište			Labunište
100	Lukovo	22	Lukovo			Lukovo
101	Vevčani				65	Vevčani
102	Strumica				66	Strumica
103	Kukliš	23	Kukliš			Kukliš
104	Murtino	24	Murtino			Murtino
105	Vasilevo				67	Vasilevo
106	Sveti Nikole				68	Sveti Nikole
107	Lozovo				69	Lozovo
108	Tearce				70	Tearce
109	Tetovo				71	Tetovo
110	Šipkovica	25	Šipkovica			Šipkovica
111	Džhepčište	26	Džhepčište			Džhepčište
112	Čucher Sandevo				72	Čucher Sandevo
113	Štip				73	Štip
114	Karbinci				74	Karbinci
						Municipality in the City of Skopje
115	Saraj				75	Saraj
116	Kondovo	27	Kondovo			Kondovo
	Municipality 1996		Municipality that adjoins urban municipality		Municipality adjoined with rural municipality	Municipality 2004
117	Gazi Baba				76	Gazi Baba
118	Gjorche Petrov				77	Gjorche Petrov
119	Karpoš				78	Karpoš
120	Centar				79	Centar
121	Šuto Orizari				80	Šuto Orizari
122	Kisela Voda				81	Kisela Voda
					82	Aerodrom
123	Čair				83	Čair
					84	Butel

D. THE JUDICIAL SYSTEM

1. Please provide brief information on legislation or other rules governing the judicial system.

The basic acts that regulate the judicial system in the Republic of Macedonia are: the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03); the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/03); the Law on the Court Budget ("Official Gazette of the Republic of Macedonia", No. 60/03); the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 80/92, 50/99 and 43/03); the Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04); the Bar Law ("Official Gazette of the Republic of Macedonia", No. 59/02); the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04), the Law on Litigation Procedure ("Official Gazette of the Republic of Macedonia", Nos. 33/98 and 44/02), the Law on the Execution Procedure ("Official Gazette of the Republic of Macedonia", Nos. 53/97 and 59/00); the Law on Non-Contentious Procedure ("Official Gazette of the Socialist Republic of Macedonia", No. 19/79); the

Notary Service Law (“Official Gazette of the Republic of Macedonia”, Nos. 59/96, 25/98 and 6/02) as well as other secondary legislation².

All these regulations govern the organisation and competence of judicial bodies, as well as the status of judicial function holders.

Pursuant to the Constitution (Article 98), the judicial power in the Republic of Macedonia is exercised by courts. Courts are autonomous and independent state bodies that deliver judgements on the basis of the Constitution, laws and the international agreements ratified in accordance with the Constitution. There is a single form of organisation for the judiciary and extraordinary courts are prohibited.

The position of the judiciary is regulated by the Law on Courts and the Law on the Judicial Council of the Republic of Macedonia.

The Law on Courts regulates the general principles upon which the objectives and functions of the courts are performed; organisation and competence of courts; election, removal and dismissal of judges, lay judges and presidents of courts; their rights and obligations; judges’ immunity; matters in the field of judicial and court administration; issues related to court administration, position of the court police and other issues pertaining to the operation of courts and the judicial system.

The Court Rules of Procedure regulate the courts’ internal organisation; court register and other book keeping; management of documents and forms; proceedings on international legal assistance and proceedings upon complaints; election and allocation of lay judges; appointment of official court translators; interpreters and experts, statistics and record keeping and professional staff training; as well as other issues of significance for the operation of courts.

The Supreme Court’s Rules of Procedure regulate the organisation of the Supreme Court of the Republic of Macedonia and its operation, the work of its President, court chambers, judicial departments, joint session of judicial departments and session of judges and the General Session.

The Law on the Court Budget regulates the procedure of preparation, determining and implementation of the Court Budget and the establishment and operation of the Judicial Budget Council. The Court Budget provides funds for the judiciary in the Republic of Macedonia.

The Law on Judicial Council of the Republic regulates the Council’s organisation (election of its members and President, termination of office); issues within its competence (proposal, election and dismissal of judges, deciding upon disciplinary liability of judges, evaluation of the judges’ professionalism and ethics, proposing judges to the Constitutional Court of the Republic of Macedonia); its staff service; as well as issues relating to the funds for the Council’s operation.

The Judicial Council’s Rules of Procedure regulate the issues of its operation and its procedure.

The Rulebook on the Judges Disciplinary Liability Procedure regulates the procedure to determine a judge’s disciplinary liability for a major disciplinary violation.

In accordance with the Constitution of the Republic of Macedonia (Article 106), the Public Prosecutor’s Office is the single and autonomous state body that prosecutes perpetrators of criminal acts and other punishable offences as stipulated by law and performs other duties stipulated by law.

The Law on the Public Prosecutor’s Office regulates the establishment, organisation and competence of the Public Prosecutor’s Office, determines the areas of jurisdiction and the main offices of public prosecutors, stipulates the terms and proceedings of appointment and dismissal of public prosecutors and their deputies, regulates the establishment of the Public Prosecutors’ Council and

² Supreme Court’s Rules of Procedure (“Official Gazette of the Republic of Macedonia”, No. 13/98);
Judicial Council’s Rules of Procedure (“Official Gazette of the Republic of Macedonia”, Nos. 10/94, 34/00 and 3/04);
Rulebook on the Judges’ Disciplinary Liability Procedure (“Official Gazette of the Republic of Macedonia”, No. 7/98).

the Unit for Prosecution of Perpetrators of Criminal Acts in the Area of Organised Crime and Corruption, as well as other issues related to the operation of the Public Prosecutor's Office.

According to the Constitution of the Republic of Macedonia (Article 53), the Bar is an autonomous and independent public service that provides legal assistance and conducts public competence in accordance with law.

The Bar Law regulates the provision of legal assistance on the part of the bar to natural persons and legal entities in exercise and protection of their rights and legally based interests in proceedings before courts, state bodies and other legal entities. Furthermore, it regulates the implementation of public competences as determined by law; organisation of the bar; conditions for performance, termination and rendering the bar inactive, as well as lawyers' rights and obligations.

The proceedings before courts are regulated by the Law on Criminal Procedure, the Law on Litigation Procedure, the Law on Non-Contentious Procedure and the Law on Execution Procedure.

The Law on Criminal Procedure sets forth the rules ensuring that no innocent person shall be convicted further ensuring that the person pronounced guilty will be criminally sanctioned under conditions defined by the Criminal Code and based on a lawful procedure.

The Law on Litigation Procedure determines the rules for the procedure based on which the court deliberates and decides in disputes arising from intra-personal, family, labour relations, as well as property and other civil law relations of natural and legal persons, unless some of the referred to disputes are under the competence of another state body, in accordance with a separate law.

The Law on Non-Contentious Procedures defines the rules of the proceedings according to which regular courts deliberate upon and decide in personal, family, property and other legal states and relations, determined by this or another law.

The Law on Execution Procedure defines the rules according to which the court may coercively act to execute a court decision for fulfilment of obligations, and for securing claims.

The Notary Service Law regulates the provision of notary services, stipulates the terms and procedure for establishment of a notary and for appointment of notaries and determines the scope of activity of the Notary.

2. Please indicate:

a) The number of courts (by type of court);

b) The main competencies and functions of each type of court;

c) The number of judges, prosecutors, defence lawyers, bailiffs, public notaries, court clerks etc.;

d) The proportion of female judges and of judges belonging to ethnic minorities and, if data are available, the proportion of the other legal professions mentioned under c) belonging to ethnic minorities.

a)

Article 98 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), provides that the judiciary has a single form of organisation and that extraordinary courts are prohibited. Furthermore, the Constitution stipulates that the types of courts, their competence, establishment, abrogation, organisation and composition, as well as the procedure they follow, shall be regulated by a law adopted by a two-thirds majority vote of the total number of Members of the Assembly.

The Second Chapter of the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 6/95, 45/95 and 64/03), elaborates on the organisation of the judiciary. Namely, it is envisaged that, as a part of a single judicial system, the judicial power is exercised by 27 basic courts, 3 appellate

courts and the Supreme Court of the Republic of Macedonia. An appellate court is established for a territory of several basic courts.

b)

The competence of the Supreme Court of the Republic of Macedonia

The Constitution defines the Supreme Court as the highest court in the country that ensures the uniformity in the application of laws on the part of courts. It exercises the judicial power on the entire territory of the Republic of Macedonia, and its main office is in Skopje.

The Supreme Court of the Republic of Macedonia is consisted of 25 judges. Among the Supreme Court's judges, a President is elected for a term of four years, with a possibility of one re-election for another four year term. The election of the Supreme Court's President is carried out by the Assembly of the Republic of Macedonia, upon a proposal submitted by the Judicial Council of the Republic.

The Supreme Court has a Secretary, three court departments (Criminal, Civil and Department for Administrative Disputes), IT Centre, Case Law and Training registry and Service of the Court.

The Supreme Court's competences include: deciding in second instance on its Chambers' rulings pursuant to a law; deciding in third and final instance upon appeals on appellate courts' rulings and its Chambers' rulings brought in second instance pursuant to a law; judging upon extra-legal remedies against final court judgments and rulings of its Chambers pursuant to a law; judging upon conflicts of competence between basic courts falling under jurisdiction of different appellate courts, between appellate courts and basic courts and between different appellate courts, as well as deciding upon handing over the territorial jurisdiction from one court to another.

At its general sessions, the Supreme Court:

- Determines general positions and principle legal opinions on issues of importance for ensuring harmony in the application of laws on the part of courts;
- Provides opinions on draft-laws and other regulations that govern issues pertaining to the operation of courts;
- Considers issues pertaining to the operation of courts, application of laws and judicial practice;
- Adopts the Supreme Court's Rules of Procedure;
- Adopts the Court's working programme;
- Delivers opinion on election and on existence of reasons for dismissal of judges;
- Decides upon requests for protection of legality against its Chambers' rulings, and
- Considers reports on its performance and the performance of other courts.

The competences of appellate courts

Appellate courts are second instance courts. They are competent to decide upon appeals on rulings of basic courts. Besides this primary prerogative, appellate courts are empowered to decide in conflicts of competence between basic courts falling under their jurisdiction and to perform other duties determined by law.

The competences of basic courts

All basic courts are first instance courts and they are empowered to decide in first instance in cases of judicial competence in criminal, civil and non-contentious matters; execution and security; verification of title deeds; misdemeanours (unless provided by law that other bodies decide upon specific types of misdemeanours in customs, foreign exchange, foreign trade and tax issues).

Sixteen basic courts, besides the above mentioned competences, in the territory for which they are established, pursuant to Article 32 of the Law on Courts, are also competent to:

- Adjudicate in first instance and conduct matters in criminal proceedings upon criminal acts for which a sentence of over 10 years of imprisonment is prescribed, and
- Act upon business misdemeanours; property or other civil law disputes in which involved as a party to the dispute is a municipality, the city of Skopje or the Republic of Macedonia, enterprises or other legal entities, shop owners or other individuals who perform registered economic activity; decide in disputes between domestic legal and foreign natural persons, between foreign natural and legal persons; decide in bankruptcy procedures, forced settlement and liquidation and disputes arising therein, disputes concerning status changes (division, merger, incorporation and reorganisation) and execute these court rulings.

They also decide on the legality of single acts in administrative and accounting disputes, on protection against illegal activities and on recognition and permission to execute foreign courts' judgments. Finally, these courts conduct activities of international legal assistance unless other body's competence has been stipulated by law.

Only three basic courts are authorised to keep court registers: the Basic Courts of Skopje, Bitola and Štip. In order to ensure single records of the registered entries, a collective court register has been established for the entire territory of the Republic of Macedonia kept by the Skopje I Basic Court. The three aforementioned basic courts are also authorised in cases of perpetrated crimes against the armed forces.

c)

Within the court system, the judicial power is currently exercised by 632 judges. Twenty four of them are in the Supreme Court, 83 are in appellate courts and 525 judges are in the basic courts. There are 2127 clerks employed in courts. Out of this number, 31 are secretaries; 644 are independent court advisors, court advisors, expert associates and interns; 642 are minuting clerks; 650 are other employees (court executors, archivists, delivery staff) and 160 are members of the court police.

In the Public Prosecutor's Office, the number of public prosecutors and deputies is as follows:

- In the Public Prosecutor's Office of the Republic of Macedonia, besides the Public Prosecutor of the Republic of Macedonia, there are 10 deputy public prosecutors;
- The three Higher Public Prosecutor's Offices include three high public prosecutors and 24 deputies and
- In the 22 Basic Public Prosecutor's Offices, there are 22 basic public prosecutors and 132 deputies.

In the Public Prosecutor's Office, there are also 174 civil servants and other administrative and technical personnel, 56 of whom are associates, 54 are minuting clerks, and 66 are administrative personnel.

Currently registered in the Bar Association are 1314 lawyers, 7 expert associates and 337 intern lawyers.

The number of notaries in the Republic of Macedonia is 124.

d)

The following tables show the gender data:

Table 1

	Judges	Female	%	Male	%
Basic Courts	525	286	54%	239	46%
Appellate Courts	83	39	47%	44	53%
Supreme Court	24	7	29%	17	71%
Total:	632	332	53%	300	47%

Table 2

	Notaries	Female	%	Male	%
Notary service	124	66	53%	58	47%

With regard to the ethnic affiliation of judges, the structure is the following:

- Supreme Court of the Republic of Macedonia: Macedonians-17, Albanians-5, Turks-1 and others-1.
- Appellate Courts: Macedonians-72 judges, Albanians-7, Serbs-1, Turks-1, Vlachs-1 and others-1.
- Basic courts: Macedonians-464, Albanians-33, Turks-2, Serbs-8, Vlachs-13 and others-5.

Out of the other court employees (civil servants and administrative and technical personnel), 1933 are Macedonians, 71 - Albanians, 23 - Turks, 21 - Serbs, 34 - Vlachs, 25 - Roma and 20 - others.

In the Public Prosecutor's Office, the ethnic structure of public prosecutors, deputy public prosecutors and other employees is as follows:

- Public Prosecutors: Macedonians-21, Albanians-4 and Vlachs-1.
- Deputy Public Prosecutors: Macedonians- 47, Albanians-11 and others-8.
- Civil Servants and other Administrative and Technical Personnel: Macedonians-165, Albanians-4 and others-5.

The ethnic structure of the appointed notaries is the following: Macedonians-103, Albanians-12, Turks-4, Bosniaks-1 and Vlachs-4.

As part of the efforts to implement the Constitutional provisions on equitable representation of members of all the ethnic communities, amendments have been made to the Law on Courts, incorporating a provision under which in the process of election of judges and lay judges, equitable representation will be ensured for citizens belonging to all communities, while respecting the legally prescribed criteria.

3. Independence of the judiciary: Is independence guaranteed by the Constitution? How are the rights of the judiciary protected? Please describe the selection, promotion and disciplinary procedures of judges and prosecutors and indicate how they relate to the accountability and independence of the judiciary.

Independence of the judiciary

Article 93 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), guarantees the independence of the judiciary. It stipulates that courts are autonomous and independent and act on the basis of the Constitution, laws and the international agreements ratified pursuant to the Constitution.

The Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/02), includes a number of provisions which guarantee the independence of the judiciary. In performance of their functions and goals, courts are bound only by the Constitution and laws and the international agreements ratified pursuant to the Constitution. In application of the law, a judge is not bound by a superior court's legal opinion. A judge renders unbiased rulings on the basis of his/her free judgement of evidence and application of law. Any form of influence over a judge is prohibited in relation to proceedings upon specific cases and, in particular, public statements aimed at exerting influence over the course and the outcome of a court procedure. No restrictions, influences, incentives, pressures, threats or direct or indirect interference are allowed in decisions rendered by a judge. No one is entitled to restrict in any manner or prevent a judge's right to freely pronounce a ruling. A re-consideration of court rulings or changes in a court's composition aimed at influencing their judgement may not be allowed by a law or by an act of the state authority. Every state authority is obliged to refrain from committing or tolerating actions which prevent bringing of judgements or enforcement of court decisions.

The independence of the judiciary is also ensured with the provisions of the Law on Courts which provide for the inviolable effect of a legally valid court decision, as well as with the provision under which a court ruling may be changed or abolished only by a competent court and in a procedure stipulated by law. Furthermore, court decisions are binding for all natural and legal persons and are superior in authority in relation to any other body's decisions. The enforcement of a final and effective court decision shall be conducted as promptly and efficient as possible, and may not be prevented by any other state body's decision.

The judicial function is incompatible with any other public office, profession or membership in a political party. Public offices that are incompatible with the judicial office, pursuant to the Law on Courts, are the following: Member of Parliament, i.e. Member of a Municipal Council and official in a state body, municipal body or a body of the City of Skopje. In addition, the Constitution, in Article 100, paragraph 3, explicitly prohibits political organisation and activity in the judiciary. A judge may not be a member of a political party and may not conduct political office in a political party, or perform party or political activities. Judges may establish associations in order to exercise their interests further their professional education and protect the independence and autonomy of the judicial office.

Judges are granted immunity. The immunity of judges is decided upon by the Assembly of the Republic of Macedonia. A judge or a lay judge may not be held accountable for an opinion expressed or a ruling made in rendering judicial decisions. A judge may not be detained without an approval of the Assembly of the Republic of Macedonia, unless caught while perpetrating a criminal act punishable by imprisonment of at least five years. The procedure of deciding upon judges' immunity is urgent and is conducted following a prior opinion of the Judicial Council.

Significant for ensuring the independence of the judiciary are also the provisions of the Law on Courts under which a judge, while performing the judicial office, may not accept gifts from parties in a procedure or from persons having direct or indirect interests in a trial. Similarly, significant is the provision which prohibits an indemnity or another lawsuit against a judge or a lay judge instituted by a party dissatisfied with a court ruling.

Pursuant to the Law on Courts, the police may not enter the court premises. Police may enter the court premises only if necessary, in order to prevent a general threat or upon a request by the president of the court, or by a request of a judge in case of president's absence so as to prevent a punishable act. Security of courts' facilities, property, persons and keeping of order is provided by the court police.

Apart from the fact that the independence of judiciary has been guaranteed as one of the postulates of the rule of law, the right to an independent and impartial court is also guaranteed as an affirmative and personal right that every person enjoys in the course of criminal proceedings or upon decisions made in relation to a person's civil rights and duties. The independence and impartiality of the judge in the course of decision-making upon a concrete case is ensured through the application of the principle of derogation. Pursuant to Article 36 of the Law on Criminal Procedure, a judge or a lay

judge may not perform judicial office if, a) he/she has been an injured party in the criminal offence; b) the defendant, the plaintiff, their legal representative or authorised person is his/her marital i.e. non-marital partner, a lineal relative by blood of any degree or collateral relative up to the fourth degree; c) he/she has been in a relationship of a foster-parent, foster-child, adopter, adoptee, guardian, sustained, with either the defendant, his/her attorney, the plaintiff or the injured party; d) has performed investigative proceedings in the same case or has participated in the examination of the defendant prior to the main hearing, or has participated in the procedure as a prosecutor, defending attorney, legal representative or authorised person, or has been examined as a witness or an expert and e) if he/she has participated in rendering of judgement by the lower-instance court in the same case.

Similarly to the above, in civil proceedings the judge may be derogated in the event of grounds for suspicion that he or she will not be impartial (Articles 65-70 of the Law on Litigation Procedure). The rules on distribution of cases in accordance with objective and previously defined criteria ensure the right to the so-called “natural judge.”

Election of judges

Pursuant to the Constitution and the Law on Courts, judges are elected to a permanent term of office. Judges are elected and dismissed by the Assembly of the Republic of Macedonia, upon a proposal by the Judicial Council. The establishment of this body was the final stage of the process of ensuring the independent position of the judicial authorities, as it ensured that assessment in the most sensitive segment (election and dismissal of judges) is done by a professional rather than a political body.

The procedure of election of judges commences by the publication of a public announcement in the Official Gazette of the Republic of Macedonia on selection of a judge at the respective court. The number of judges in each court is determined by a decision of the Assembly of the Republic of Macedonia, upon a proposal put forward by the General Session of the Supreme Court of the Republic of Macedonia. The number of lay judges in each court is decided by the Assembly, upon a proposal of the first-instance courts and courts of appeals.

Elected as a judge may be a citizen of the Republic of Macedonia who fulfils the general, legally prescribed conditions on employment in a state administration body; who is a graduate lawyer; and who has passed the bar examination and enjoys an adequate reputation for performing the judicial office. Apart from these conditions, for a judge in a first-instance court, the candidate is required to have a working experience of over 5 years with proven results in legal matters after he/she has passed the bar examination. For a judge in a court of appeals, the candidate is required to have such experience of over 9, whereas for a judge at the Supreme Court the candidate's experience must be over 12 years. A full or a part-time university professor who has been teaching a legal subject related to the judicial practice for more than 10 years may also be elected as a judge at the Supreme Court.

A court president is elected under conditions, in a procedure and manner applied for election of judges, for a term of four years and from among the judges at the respective court, with a possibility of one re-election to another four year term. If not re-elected, the outgoing president of a court shall continue to work as a judge in the respective court.

The conditions for election of a lay judge are the following: to be a citizen of the Republic of Macedonia of legal age and to have completed at least high school and to enjoy adequate reputation for performing the duty. Lay judges are elected for a four year term with a possibility of re-election.

The Judicial Council nominates for election the person with highest professional and working merits among the candidates fulfilling the prescribed criteria. In that, particularly taken into account shall be the data on the working performance of the candidate, upon a provided opinion on the professional and working merits of each of the candidates from the court, the body or other legal entity in which he/she has been employed, by the court to which elected, a higher-instance court and the Supreme

Court of the Republic of Macedonia. On the Council Session at which a proposal is determined for election or dismissal of a judge, opinion is given by the Minister of Justice and the President of the Supreme Court.

In order to further the independence of the judiciary in the Republic of Macedonia, the system of election of judges will be changed. The foreseen changes have been clearly defined in the Judicial Reform Strategy (for more details see [I Annex 02](#)). Namely, it has been proposed that the election of judges will be excluded from the competence of the Assembly as it is a political body. Election (appointment) will be transferred to the Judicial Council that will be composed primarily of judges. Hence, its members will be selected from the judiciary itself, which will be the primary guarantee for the respect of the independence of the judiciary. Another important novelty shall be the introduction of an initial training of candidates for judges that will last between 12 and 15 months and will be performed by a School for judges. The introduction of these changes will also establish a system of career promotion, under which the Judicial Council will decide on the appointment of a judge to a higher court, on the basis of clearly defined objective criteria.

Dismissal of judges

A judge may be dismissed in cases determined by the Constitution and in a legally prescribed procedure. Pursuant to the Constitution, a judge is dismissed, a) upon his/her request; b) if he/she becomes permanently incapacitated to perform the office, which is determined by the Judicial Council; c) if he/she fulfils conditions for retirement; d) if sentenced for a criminal offence to an imprisonment of at least six months; e) if he/she commits a serious disciplinary offence, as stipulated by law, which makes him/her unsuitable to perform the office as decided by the Judicial Council and f) owing to unprofessional or negligent performance of the office, as decided by the Judicial Council in a procedure stipulated by law.

The following are considered serious disciplinary offences which make a judge unsuitable for performance of the office and owing to which he/she may be dismissed: a) serious breach of public order and peace which damages his/her reputation and reputation of the court; b) party or political activity; c) performance of another public office or profession; d) serious disturbance of relations within the court that have serious effect over the performance of the office and e) serious violation of the rights of parties and other participants in a lawsuit, with damaging effect over the reputation of the court and the judicial office.

The Council institutes a procedure for determining disciplinary liability of the judge if there are well-founded suspicions that the judge has committed a severe disciplinary violation as defined by law, which makes him/her unsuitable for performing the post of judge.

Prior to the initiation of the procedure, the Council requests from the judge to plead with regard to the allegations against him/her in the proposal for the initiation of a procedure. Until the procedure is initiated, the proceedings are confidential in order not to damage the judge's public reputation.

The Council decides on the disciplinary responsibility of judges pursuant to the factual situation determined by the Commission on Determining a Disciplinary Liability of Judges. The Commission comprises three Council members of which one chairs it. The Council appoints members of the Commission and an equal number of deputies for a three-year term.

A proposal for instituting a procedure for determining the disciplinary liability of a judge may be filed by the Court President, the President of the higher court and the General Session of the Supreme Court of the Republic of Macedonia.

As an exception, a proposal for instituting a procedure for determining a disciplinary liability of a judge in the Supreme Court of the Republic of Macedonia may only be filed by the General Session of the Supreme Court of the Republic of Macedonia.

The proposal for instituting a procedure for determining disciplinary liability of a judge is filed within 15 days from the day of detecting the severe violation. The procedure for determining disciplinary liability of the judge is instituted within 30 days from the receipt of the proposal.

The instituting and processing of disciplinary procedures becomes obsolete after a certain time frame pursuant to provisions pertaining on initiating and processing of disciplinary procedures in the Law on Labour Relations.

The judge is given the proposal on the initiation of a procedure for determining his/her liability as well as a summons to attend the Commission's debate.

The submitter of the proposal is also invited to attend the debate and he/she represents the proposal.

The Commission interrogates the judge, collects the necessary documents, inspects and examines other documents in order to determine facts and circumstances related to the disciplinary liability of the judge.

The procedure for determining disciplinary liability of a judge is conducted legally and meticulously and in a manner that does not damage the reputation and dignity of the judge.

The Council makes a decision with a two-thirds vote from the total number of members. The Council President appoints one of the Council members as a rapporteur on the disciplinary liability of the judge.

Following the determined disciplinary responsibility of a judge, the Chamber may pronounce disciplinary sanction written rebuke (reprimand) or temporary reduction of the salary of up to 15% of its monthly amount, for a period of one to six months.

A judge shall be temporarily suspended from the performance of the office while in custody. A judge may also be temporarily suspended during an investigation for criminal offence, when a disciplinary procedure has been initiated, or when a procedure has been instituted for his/her dismissal.

Appointment of public prosecutors and deputy public prosecutors

The operation of the Public Prosecutor's Office in the Republic of Macedonia has been regulated with the Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04). The procedure of appointment of public prosecutors and deputies commences by a public vacancy announcement in the Official Gazette of the Republic of Macedonia. The appointment of a public prosecutor, i.e. a deputy public prosecutor is conducted by the Assembly of the Republic of Macedonia, upon a proposal by the Government of the Republic of Macedonia, following a prior affirmative opinion provided by the Public Prosecutors Council. If the Government does not approve of the opinion provided by the Public Prosecutors Council, it may request its re-consideration. If the Public Prosecutors Council, following the re-consideration of the proposal, gives another affirmative opinion by a two-thirds majority, the Government is obliged to accept the opinion.

Public prosecutors are appointed for a term of six years. Important novelty introduced with the new Law on Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04), is the establishment of permanent term of office for deputy public prosecutors in accordance with the Recommendation (2000) 19 of the Council of Europe Committee of Ministers. This provision contributes for the strengthening of their independence. The Law on the Public Prosecutor's Office prescribes the necessary conditions for a person to be appointed as a public prosecutor or deputy public prosecutor. Namely, elected as a public prosecutor or a deputy may be a citizen of the Republic of Macedonia who fulfils the general, legally prescribed conditions for employment in a state body, and is a graduate lawyer who has passed the bar examination and enjoys adequate reputation to perform the office. In addition, a candidate for a basic public prosecutor or deputy is required to have a working experience of over 5 years with proven results in legal matters after he/she has passed the bar examination. A candidate for a high public prosecutor or deputy has to have such experience of over 9 years. For a state public prosecutor or deputy, a candidate has to be a prominent legal expert with a working experience of over 12 years, with proven results in legal matters. Another important novelty is the provision under which a public prosecutor in a basic or a high public prosecutor's office shall be, as a rule, elected from among the deputy public prosecutors in that office or from among the public prosecutor or deputy-public prosecutors in another prosecutor's office. This provision has significantly enhanced the operation of the

public prosecution and has considerably limited the possibility for external influences in the process of appointment of public prosecutors.

Additional guarantee provided for a public prosecutor who shall not be re-appointed, is the provision under which he/she shall continue to perform the office of a deputy public prosecutor in the same public prosecutor's office.

The Public Prosecutors Council is a newly established body introduced with the Law on the Public Prosecutor's Office. It comprises nine members. *Ex officio* members to the Public Prosecutors Council are the Public Prosecutor of the Republic of Macedonia, who chairs the Council; high public prosecutors and the Skopje Basic Public Prosecutor, two members determined by the Collegium of the Public Prosecutor's Office and two members determined by the Government of the Republic of Macedonia, upon a proposal put forward by the Minister of Justice.

The Public Prosecutors Council is authorised, among other, to give a positive opinion on the appointment of a public prosecutor, i.e. deputy public prosecutor; to decide in second-instance in a procedure for determining disciplinary responsibility, unprofessional performance of duties or unsatisfactory results in performance of duties. It also performs other duties stipulated by law.

Termination of office and dismissal of public prosecutors and deputy public prosecutors

The conditions for dismissal of a public prosecutor or deputy public prosecutor have been stipulated by the Law on the Public Prosecutor's Office. They shall be dismissed upon their request; if they permanently lose their mental and physical capacity for performing the office, which is determined by the Public Prosecutors Council on the basis of a finding and opinion by a competent medical committee; when they fulfil the conditions for old-age retirement; if sentenced for criminal offence in abuse of the office or for other criminal offence to imprisonment of more than six months; if sentenced to imprisonment of shorter duration or to other criminal sanction for a criminal offence which make them unsuitable for performance of the office; when it shall be determined that they have committed serious disciplinary violation of the office, as stipulated by law, thus damaging the reputation of their office; and when determined that they have performed their office in an unprofessional manner or have yielded unsatisfactory results in their office. The proposal for dismissal of deputy public prosecutors in the Public Prosecutor's Office of the Republic of Macedonia and such proposals for the basic and high public prosecutors and their deputies are submitted before the Assembly of the Republic of Macedonia by the Public Prosecutor of the Republic of Macedonia. A proposal to dismiss the Public Prosecutor of the Republic of Macedonia is submitted to the Assembly by the Government of the Republic of Macedonia.

The law determines what is to be regarded as a disciplinary violation of the office, and what shall be regarded as unprofessional manner of performance of the office or unsatisfactory results in the office. The Law determines the following conduct as a serious disciplinary violation of the office, a) serious violation of the public order and peace damaging his/her reputation and the reputation of the public prosecutor's office; b) performance of another public office or profession; c) serious violation of the rights of parties and other participants in a procedure, damaging the reputation of the public prosecutor's office; and d) dishonest behaviour towards individuals, state bodies or other legal persons, both in performance of the office and beyond.

The law determines what is unprofessional manner of performance of the office or unsatisfactory results in the office of a public prosecutor - failure to carry out duties; negligent or unprofessional performance of official duties; unjustified refusal of official duties, i.e. failure to act upon guidelines given in accordance with this Law; and violation of the regulations on protection of a state or professional secret.

A procedure to determine responsibility for serious disciplinary violation, unprofessional manner of performance of the office or unsatisfactory results in the office shall be initiated upon a proposal of the Government for the Public Prosecutor of the Republic of Macedonia; the Public Prosecutor of the Republic of Macedonia for all public prosecutors and deputy public prosecutors; a high public prosecutor for basic public prosecutor, deputy high public prosecutor and deputy basic public prosecutor; and a basic public prosecutor for a deputy basic public prosecutor.

The Law on the Public Prosecutor's Office stipulates the following disciplinary sanctions: public reprimand; a fine in the amount of 20% of a monthly salary paid in the month immediately preceding the committing of the offence; and dismissal from the office.

A procedure to determine disciplinary responsibility, unprofessional performance of duties or unsatisfactory results in performance of the office is conducted by a five-member Committee, whose composition shall be determined by the Public Prosecutor of the Republic of Macedonia. Prior to the procedure, the Committee shall request from the respective public prosecutor i.e. deputy public prosecutor to respond to the allegations in the proposal for initiation of procedure. The second-instance authority in the procedure is the Public Prosecutors Council. Following its decision, the Public Prosecutor of the Republic of Macedonia shall submit to the Assembly a proposal for dismissal of the prosecutor in question.

A public prosecutor i.e. deputy public prosecutor shall be temporarily suspended from performance of the office while in detention. He/she may also be temporarily suspended during an investigation for criminal offence, when a disciplinary procedure has been initiated for serious disciplinary offence, for unprofessional performance of duties or unsatisfactory results in performance of the office. A decision on suspension is adopted by the Public Prosecutor of the Republic of Macedonia, following a prior response on the allegations by the public prosecutor i.e. deputy public prosecutor. The decision for the Public Prosecutor of the Republic of Macedonia is adopted by the Government of the Republic of Macedonia, upon a proposal by the Minister of Justice.

4. What could be the obstacles preventing judges from enjoying the necessary discretion when deciding a case?

The judge is not bound by a higher court's legal opinion. In the principle, case law is not considered as a source of law in the Republic of Macedonia. According to the traditional approach the role of judges is considered to be interpretation and not creation of laws. However, the case law has an influence on the work of courts, which to a lesser or greater extent, base their decisions on the case law. Decisions in more important or characteristic cases are regularly published in collections of court decisions, by which the case law contributes to the correct and uniform application of the law. Uniformity in the application of laws is also ensured by the Supreme Court, as the highest instance court in the Republic of Macedonia. At its general session the Supreme Court defines positions on the principle and principled legal opinions, which are of great importance in the application of laws by courts.

Despite the fact that legal positivism is evidently strong in the Republic of Macedonia, under which courts are bound by legal norms, it is understandable that positivism cannot consistently resolve complicated cases, the resolution of which requires referring to legal theories and general principles of law. Therefore, it is clear why judges rely on moral principles to complement the principles of law. The law overall requires judges to accept, as much as possible, that the law is a structure of coherent sum of principles of justice, fairness and procedural correctness, requiring also that these principles are applied in the cases that shall be deliberated by judges. In respect of complicated cases judges are referred to apply principles, as the principles of justice and fairness, in light of their importance and weight that rules are lacking. Judges rely on these principles to complement the rules. A certain policy, a standard which defines the goals of the community of economic, political or social nature, can also be used.

The basic principles of the Law on Courts prohibit any influence on the judge in connection with deliberating in a specific case prohibiting especially any public statement aimed at influencing the course or outcome of the court proceedings. A court decision may be changed or derogated only by a competent court in a procedure prescribed by law.

A judge may not be taken liable due to an opinion or a decision made when judging. No restriction, influence, encouragement, pressure, threat or direct or indirect interference in the procedure are allowed over a judge when deciding in a case. The judicial function is incompatible with any other public office or profession. A judge may not be a member of a political party. He/she may not perform

political office in a political party nor carry out party or political activities. A judge may not receive presents from parties or other persons with direct or indirect interest in a trial. The independence of judges has been ensured by their permanent office (a judge is elected to a permanent term of office) as well as by the immunity set forth in Article 100 of the Constitution of the Republic of Macedonia.

In addition, procedural laws, include provisions that point to the inviolability of the discretionary rights of judges when deciding.

Namely, Article 8 of the Law on Litigation Procedure ("Official Gazette of the Republic of Macedonia", Nos. 33/98 and 44/02), stipulates that a Court decides on the basis of its own judgement on the evidence that shall be taken as proven, based on a conscientious and careful evaluation of each evidence individually and of all evidence jointly, as well as on the basis of the results of the entire procedure.

Article 339 of the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04), provides that a Court makes its ruling only upon facts and evidence presented during the principal process. The Court is obligated to assess conscientiously each evidence individually and in relation with other evidence and on that basis to draw conclusion on whether certain fact has been proven.

Judges decide based on free assessment of evidence and application of laws. This implies that a Court is not bound by any formal evidence rules, but evaluates evidence freely and in accordance with its conviction. However the Law on Criminal Procedure envisages strict evidence related prohibitions in connection with evidence gathered in an illegal manner or by violating the rights and freedoms, set forth by the Constitution, law and ratified international treaties, and the ensuing evidence. Such evidence may not be used and the court decisions may not be based on such evidence. In the Republic of Macedonia all constitutional and legal pre-conditions have been put in place for impartial ruling and for prevention of any kind of pressure over court's judgement.

However, the transition, implementation of privatisation, redistribution of power, and occurrence of organised crime increase the potentials for pressures on judges. What's more, judges' salaries are not proportionate to the status, dignity and responsibility of their office.

An indirect obstacle to full discretionary ruling by judges could be the existing manner of election and promotion of judges, facilitating political influence. Aimed at resolving this problem, the Judicial Reform Strategy defines an appropriate solution (for more details see [I Annex 02](#))

5. What is the rate of appeal compared with the number of first-instance decisions in civil and criminal matters?

The rate of appeal compared with the number of first-instance decisions in civil and criminal matters is presented in the chart below:

	2004 (first 6 months)			2003			2002			2001		
	decisions	appeals	%	decisions	appeals	%	decisions	appeals	%	decisions	appeals	%
Criminal (adults)	5996	2385	39,8	10894	3783	34,7	9877	3390	34,3	9123	3258	35,7
Criminal (juvenile)	593	25	4,2	1091	28	2,6	934	28	3	1308	31	2,4
Civil cases	17857	8446	47,3	34306	14555	42,4	30875	12691	41,4	29219	11303	38,7
Commercial cases	4090	1702	41,7	7846	3004	38,3	6991	3051	43,6	7046	2812	40
Source: State Statistical Office												

The indicated data reveals that in the period 2001-2004, the percentage of appeals filed against decisions in criminal cases was 32.50 %, in civil cases 41.9% and in commercial cases 40,7%.

6. What is the average duration of cases for (a) civil and (b) criminal decisions? In case of delays in handling cases, which problems are they mainly linked with? (For example: complex summoning process; intentional delays by attorneys; prolonged period for collection of evidence; police evidence not being accepted in courts; failure by witnesses to appear; failure by judicial experts to appear; workload associated with enterprise registration; workload associated with high number of appeals; absence of alternative dispute resolution mechanisms; complex case management; lack of technical equipment.)

The average duration of cases for civil and criminal decisions is presented in the chart bellow:

Average duration of cases		2001	2002	2003	2004 (first 6 months)
Civil Cases	basic courts	10 m. & 10 days	10 m. & 1 day	8 m. & 26 days	9 m. & 16 days
	appealed civil cases (second instance proceedings)	30 days	1 m. & 11 days	1 m. & 9 days	1 m. & 24 days
	Supreme Court	1 y. & 6 m. & 22 days	1 y. & 6 m. & 26 days	11m. & 10 days	7 m. & 15 days
Criminal cases	basic courts	9 m. & 13 days	9 m. & 24 days	8 m. & 27 days	9 m. & 7 days
	appealed criminal cases (second instance proceedings)	1 m. & 1 day	28 days	26 days	26 days
	Supreme Court	1 m. & 12 days	2 months	1 m. & 29 days	2 m. & 6 days
Source: State Statistical Office					

The analysis of the performance of the judicial system in the Republic of Macedonia demonstrates that the delivery of court summons or documents has been one of the main reasons for delays in the proceedings. The legal provisions that govern this matter leave large space for abuse on the part of the involved parties by avoiding to receive court summons or documents, or by indicating incorrect or concealing the accurate address. The principle of personal delivery that has been accepted in the procedural legislation (both criminal and civil) as a condition associated with individual freedoms and rights, does not correspond consistently with the other regulation (for residence registration) that would allow greater civil obedience and functioning of a so-called "mail box" system.

Furthermore, laws allow for an abuse of the institute of exemption (in practice, besides the request for exemption of the sitting judge, and after a negative ruling upon such a request, an exemption could also be requested for the Court's President and even for the Court itself, and even more on several occasions during the same proceedings upon a single case).

Frequent delays of trial hearings also occur as a result of the failure of the involved parties, attorneys, witnesses or court experts to appear before the court, despite having been orderly summoned. Such occurrence has been typical in particular for cases involving larger number of parties, i.e. defendants and attorneys.

The existing legal provisions which allow new facts and evidence to be presented in proceedings upon appeals, directly contribute to the delays in proceedings (if a party is not satisfied with the Court's ruling, by presenting new facts and evidence in the appeal, it exercises a possibility that the decision may be revoked by a higher court and the case be remanded to the court of first instance for re-trial and re-assessment).

Regarding the alternative resolution of disputes, until now there has been no such system developed in the Republic of Macedonia. Mediation has been stipulated neither in civil nor in criminal proceedings. The Law on Litigation Procedure, in Chapter 30 ("Official Gazette of the Republic of Macedonia", Nos. 33/98

and 44/02), regulates the procedure before selected courts; however its scope of application has been very limited.

Additional reasons for delays in procedure are the non-existence of adequate registers and records, as well as the low level of technical equipment available to the courts in their handling of cases. Namely, there is still lack of an integrated and authorised access to good-quality information, as well as of generation and storage mechanism for all documents from the initiation up to the permanent filing of a case (inappropriate document management).

At the same time, the flow, organisation and analysis of data are a slow process.

7. Please provide statistics (separate figures for civil, criminal and administrative cases) on the number of pending cases over the last five years.

The enclosed charts include figures on the received new cases in procedure, decided cases in the course of the current year, total cases in procedure and the backlog of cases at the end of the year. The provided figures are for the Supreme Court of the Republic of Macedonia, Appellate Courts and Basic Courts in the Republic of Macedonia.

If administrative disputes are set aside the figures lead to the conclusion that the Supreme Court is efficient in deciding upon civil and criminal cases. Similarly efficient in deciding are the appellate courts. In basic courts, majority of cases are in the domain of misdemeanours. Furthermore, a large number of the newly received cases for procedure in the courts are enforceable civil (general and commercial) cases.

An analysis of the performance of courts in the Republic of Macedonia points to the fact that per year, they manage to decide a number of cases almost equal to the number of the received cases.

R E V I E W
of the total volume of case work and the total results in all kinds of cases
in the Supreme Court of the Republic of Macedonia in the period 1999 - 2003

CRIMINAL in third degree	1999	2000	2001	2002	2003
Received new cases	1	3	4	6	8
Total in procedure (pending)	1	3	4	7	11
Decided cases	1	3	3	4	9
Pending as of 31.12	0	0	1	3	2
Requests for Protection of Legality					
Received new cases	189	256	246	228	252
Total in procedure	211	286	320	389	409
Decided cases	181	212	159	232	312
Pending as of 31.12	30	74	161	157	97
Extra - legal remedies					
Received new cases	2003	1425	1101	943	1156
Total in procedure	4313	3842	3206	2239	2052
Decided cases	1896	1737	1910	1343	1652
Pending as of 31.12	2417	2105	1296	896	400
Administrative disputes in first instance					
Received new cases	2365	2199	2235	2237	3086
Total in procedure	5993	5394	5220	4798	6167
Decided cases	2798	2409	2659	1717	2092
Pending as of 31.12	3195	2985	2561	3081	4075
TOTAL					
Received new cases	4747	4058	3734	3529	4655
Total in procedure	10748	9755	8945	7604	8828
Decided cases	5051	4544	4870	3431	4213
Pending as of 31.12	5697	5211	4075	4173	4615

R E V I E W
of the total volume of case work and the total results in all kinds of cases
in appellate courts in the period 1999 - 2003

1	MISDEMEANOURS CASES	1999	2000	2001	2002	2003
	Received new cases	11489	9846	7545	6388	7257
	Total in procedure	11912	10112	7576	6419	7276
	Decided cases	11646	10081	7545	6400	7174
	Pending as of 31.12	266	31	31	19	102
2	CRIMINAL CASES					
	Received new cases	3924	3634	3258	3390	3637
	Total in procedure	4130	3848	3462	3563	3701
	Decided cases	3916	3644	3289	3499	3578
	Pending as of 31.12	214	204	173	64	123
3	COMMERCIAL CASES					
	Received new cases	3464	3003	2812	3051	2886
	Total in procedure	3771	3164	2948	3299	3044
	Decided cases	3610	3028	2700	3141	2836
	Pending as of 31.12	161	136	248	158	208
4	CIVIL CASES					
	Received new cases	12729	12393	11303	12691	13986
	Total in procedure	13986	13192	12513	13834	15284
	Decided cases	13187	11982	11370	12536	13503
	Pending as of 31.12	799	1210	1143	1298	1781
5	TOTAL of all kinds of cases					
	Received new cases	32545	30733	26640	26633	28921
	Total in procedure	34775	32196	28243	28246	30471
	Decided cases	33312	30591	26630	26696	28239
	Pending as of 31.12	1463	1603	1613	1550	2232

REVIEW
of the total volume of case work and the total results in all kinds of cases
in basic courts in the period 1999 - 2003

CRIMINAL DEPARTMENT

1	INVESTIGATIONS	1999	2000	2001	2002	2003
	Received new cases	3978	3649	3389	3438	4635
	Total in procedure	6448	6218	5941	6070	7234
	Decided cases	3879	3659	3309	3472	4256
	Pending as of 31.12	2569	2559	2632	2598	2978
2	INVESTIGATION ACTIONS					
	Received new cases	4435	4466	3695	3714	4592
	Total in procedure	7614	7776	6550	6591	7240
	Decided cases	4304	4913	3676	3943	4440
	Pending as of 31.12	3310	2863	2874	2648	2800
3	CRIMINAL (ADULT)					
	Received new cases	9851	10096	9991	8802	10705
	Total in procedure	17750	18247	19492	18465	19293
	Decided cases	9599	8746	9123	9877	10894
	Pending as of 31.12	8151	9501	10369	8588	8399
4	CRIMINAL (JUVENILE)					
	Received new cases	1447	1231	1052	939	1129
	Total in procedure	2343	2087	1832	1463	1658
	Decided cases	1487	1309	1308	934	1091
	Pending as of 31.12	856	778	524	529	567
5	MISDEMEANOURS					
	Received new cases	154459	184815	139956	141282	206735
	Total in procedure	401407	334446	295822	263681	310717
	Decided cases	251776	178580	173423	159699	164714
	Pending as of 31.12	149631	155866	122399	103982	146003

CIVIL DEPARTMENT

1	LITIGATION CASES	1999	2000	2001	2002	2003
	Received new cases	30700	29561	28013	30474	36386
	Total in procedure	67053	60315	55874	57764	63275
	Decided cases	36598	31938	29219	30875	34306
	Pending as of 31.12	30455	28377	26655	26889	28969
2	COMMERCIAL CASES					
	Received new cases	7143	5273	6943	6455	7539
	Total in procedure	22488	15708	15506	14915	15599
	Decided cases	11744	7724	7046	6991	7846
	Pending as of 31.12	10744	7984	8460	7924	7753
3	BANKRUPTCY CASES					
	Received new cases	1082	1626	2893	3597	4840
	Total in procedure	3968	2684	5581	6052	6753
	Decided cases	2910	1601	3279	4139	4836
	Pending as of 31.12	1058	1083	2302	1913	1917
4	LIQUIDATION					
	Received new cases	1272	2409			
	Total in procedure	1588	2858			
	Decided cases	1139	1111			
	Pending as of 31.12	449	1747			
5	OTHER NON-CONTENTIOUS CASES					
	Received new cases	7630	7792	4908	5868	10477
	Total in procedure	10479	9960	7508	7845	12901
	Decided cases	8311	7360	5531	5912	10179
	Pending as of 31.12	2168	2600	1977	1933	2722
6	INHERITANCE					
	Received new cases	7803	11034	10318	11312	13484
	Total in procedure	11098	14133	15390	16391	18168
	Decided cases	7999	9053	10311	11707	13259
	Pending as of 31.12	3099	5080	5079	4684	4859
7	ENFORCEABLE CASES (GENERAL)					
	Received new cases	130430	129907	155357	98159	194587
	Total in procedure	230968	263705	323359	329169	352643
	Decided cases	106469	84612	92349	170942	177306
	Pending as of 31.12	124499	179093	231010	158227	175337
8	ENFORCEABLE COMMERCIAL					
	Received new cases	23227	16586	22110	19401	26345
	Total in procedure	48043	33422	57547	55142	57981
	Decided cases	21517	11094	21806	23677	22730
	Pending as of 31.12	26526	22328	35741	31465	35251
9	TRADE REGISTER					
	Received new cases	30914	16324	15810	18364	17982
	Total in procedure	43408	31584	21847	22731	20577
	Decided cases	28147	25547	17480	20136	18469
	Pending as of 31.12	15261	6037	4367	2595	2108
10	COURT REGISTER					
	Received new cases	323	120	146	108	179
	Total in procedure	334	137	171	124	196
	Decided cases	317	112	155	107	180

	Pending as of 31.12	17	25	16	17	16
11	CITIZENS'S ASSOCIATIONS					
	Received new cases	2393	814	760	1041	880
	Total in procedure	2879	1222	1085	1273	1070
	Decided cases	2471	897	853	1083	933
	Pending as of 31.12	408	325	232	190	137
12	TOTAL in all kinds of cases					
	Received new cases	549415	558773	520694	480394	731804
	Total in procedure	1085569	1021309	1034232	1020973	1163319
	Decided cases	622962	508160	493654	589459	661613
	Pending as of 31.12	462607	513149	540578	431514	501706

8. Are there plans to reduce the backlog of cases? If so, please provide details.

A conclusion may be drawn from the information given in the answer to the question [I D 7](#) that the largest backlog of cases has been in the basic courts. Taking into account the inflow of cases and the dynamics in their resolution, the appellate courts have been efficient in their procedure. If the structure of the backlog of cases is analysed, we see that the three most serious bottlenecks in courts are misdemeanours, enforceable civil cases and administrative disputes.

The reasons for backlogs of cases in courts are complex. Partly, they are of a subjective and partly of an objective nature. Most typical are the difficulties with the delivery, abuse of procedural powers by the involved parties, certain weaknesses in the procedural laws, organisational position of courts etc. In addition the large number of court cases is due to the privatisation process, the layoffs resulting from the economic reforms, the emergence of certain forms of organised crime and other phenomena typical of transitional societies.

In order to overcome the problem with backlog of cases in courts, the Republic of Macedonia has undertaken serious measures and actions defined in the Judicial Reform Strategy (see [I Annex 02](#)). The enhancement of the efficiency in the judiciary is a short term priority within the judicial system reform and it shall be fulfilled by taking action in several directions. Simplification of procedures, changes in the organisation and competence of courts, completion of the process of installation of IT in courts and introduction of a system of measures for alternative resolution of disputes are the crucial points at which action shall be taken as part of the reform of the judiciary in the Republic of Macedonia. The effects of these reforms should be - increased efficiency of courts and their enhanced independence.

Namely, amendments will be proposed to the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/03), in respect to the responsibility and the obligation for case management and organisation of court delivery service or engagement of specialised delivery services. In parallel with this activity, appropriate amendments shall be proposed to procedural laws that govern the delivery process.

Simplification of judicial procedure is a basic precondition to increase the efficiency of the judiciary. In that direction, reforms of the criminal procedure law have been envisaged, and in a short time the adoption of a new Law on Litigation Procedure (passed first reading in Parliament) and Law on Execution and Security (second reading is ongoing), that will include novelties which will allow for an efficient enforcement of civil judgments, is foreseen.

In the sphere of legislation governing criminal proceedings, and in order to speed up the proceedings, solutions have been incorporated in the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04), and Law on Misdemeanours ("Official Gazette of the Republic of Macedonia", Nos. 15/97 and 35/97), based on European standards for accelerating the procedure and for exercising the right to a trial within a reasonable time. Amendments refer to the efficiency of delivery, elimination of the abuse of procedural rules by the involved parties aimed at its intentional postponement, reduction of terms, reassessment of legal remedies and the manner of deciding upon them.

In the new Law on Litigation Procedure, changes have been envisaged in the following direction: ensuring clear position of court and parties in the case; more order and discipline in procedural actions; making sure that the requests and proposals submitted to the court are clear, accurate, well-argument and submitted in the determined time frame so as to allow the Court to accurately apply the law and make the decision. The new law will also revise the principle of substantive truth - the burden of proof will pass on to the parties; the principle of concentration of procedure will be strengthened; presentation of new facts and evidence in proceedings upon appeals will be prevented; conditions and procedure of disqualification will be revised; financial sanctions for abuse of procedural powers on the part of the involved parties will be introduced; a new mechanism of delivery will be developed; the institute of inactivity of proceedings will be abandoned and certain extra-legal remedies will be redefined.

As far as the alternative dispute resolution mechanisms are concerned, given that the extra-judicial resolution of disputes by the application of the institute of mediation contributes most directly to reducing the number of cases and in that way relieving the judiciary from the burden of acting upon cases that could be resolved in this manner, the Strategy recognises the need to draft a Law on Mediation that would regulate the various forms of mediation and reconciliation, the arbitral resolution of conflicts, as well as the legal effect of acts and rulings reached in such an extra-judicial procedure.

With regard to the workload in courts associated with enterprise registration, the Strategy envisages that the registration is to be conducted out of courts, and that courts only determine the facts of registration. The objective that is to be achieved is to relieve the courts from acting upon purely administrative matters related to registration of enterprises and thus accelerate and simplify the registration procedure itself.

In the sphere of administrative disputes, it has been stipulated that they are derogated from the competence of the Supreme Court and that they pass into the competence of basic courts.

Reforms aimed at reducing the backlog of misdemeanour cases have been envisaged to be carried out in two stages. In the first stage, a new Law on Misdemeanours will be adopted that will stipulate a prior procedure of mandatory sanctions and mediation and settlement between the body competent to initiate the misdemeanour procedure and the perpetrator of the misdemeanour, and in that way alleviate the pressure of misdemeanour cases on courts. The second stage will include initiation of amendments to constitutional provisions which stipulate an exclusive court competence over misdemeanours as punishable acts. The new constitutional solution should provide for a competence of administration to decide upon specific minor misdemeanours in traffic, customs, finance and business, providing at the same time constitutional and legal guarantees for legal protection of citizens against illegal acts of the state administration.

With regard to the measures and activities pertaining to the changes in the courts' organisation and jurisdiction, particularly important is the introduction of a double system of first instance competence by establishing higher courts of first instance and transformation of certain courts of "minor competence" into departments within other courts.

In order to simplify and speed up procedures before courts and handle court cases more efficiently, the implementation of the Judicial IT project will be intensified in the forthcoming period by implementing its sub-projects in all segments of the judiciary as a follow-up to the already completed project of introduction of IT in courts. Namely, this project has started with the PHARE 2000 and will be finalised with CARDS 2003 Programme.

9. What is the rate of enforcement of civil and criminal decisions (in percentage)? How much time elapses, on average, until the enforcement of judgements? Is there any plan to improve enforcement? What part of the backlog is connected with the enforcement of civil judgements?

Average time period between the delivery and the execution of rulings in civil and criminal cases				
	2001	2002	2003	2004 (first 6 months)
Civil Cases	11 months & 11 days	6 months & 18 days	6 months & 23 days	7 months & 12 days
Criminal Cases	2 year & 9 months & 16 days	3 year & 1 months & 5 days	2 year & 3 months & 21 days	1 year & 11 months & 29 days
Source: State Statistical Office				

The area of enforcement of civil judgments represents one of the most serious problems in the judiciary. Namely, at the end of 2003 there was a backlog of 175.000 enforceable general cases and around 35.000 enforceable commercial cases. (For more details see [I D 6](#) and [I D 7](#))

The already identified weaknesses in the system of enforcement of civil judgments, such as: the inappropriate legal framework, favouring of the debtor at the expense of the creditor, which is a residue from the previous political system, lack of adequate registers and records and the low level of the available technical equipment, funds and personnel in the court's enforcement units, will be to a great extent overcome by the adoption of the new legal framework.

The new Law on Execution and Security, that is in parliamentary procedure (second reading), will shorten the deadlines for using the appeal and petition rights, will substantially reduce the grounds for using these institutes and will develop a concept whereby the position of favouring the debtor will be abandoned. Furthermore, the new law will create a basis for proper staffing and provision of funds and technical capacities in courts' enforcement units and will develop a system of enforcement of rulings out of courts that will be conducted by authorised persons who will be issued a working licence by the Minister of Justice.

In order to improve the use of certain records and registers in the country and thus make the information on debtors, necessary in the execution procedure, available to the competent judicial bodies and trial parties, changes will be proposed to the laws governing the central register, banking, cadastre and court register.

On the basis of the aforementioned, the difficulty with the enforcement of civil judgments has been identified in the Judicial Reform Strategy as a priority that should be tackled in short term. (For more details see [I Annex 02](#))

10. Please describe the procedure for executing civil judgements. Is a separate execution decision by a judge normally required?

The Law on Execution Procedure ("Official Gazette of Republic of Macedonia", Nos. 53/97, 59/00 and 64/03), regulates the rules according to which the courts may act to enforce a ruling imposing obligations, and to secure claims. (Article 1)

Execution and security procedures are initiated upon the proposal of the creditor or ex officio when so determined by law. Execution and security is approved and performed by the court (Article 3). The court is obliged to act urgently in carrying out execution and security procedure.

For execution of decisions in civil matters, the judge needs to adopt a separate execution decision, which is passed in an execution procedure.

An individual judge conveys the first-instance execution procedure, while a council of three judges conveys the second-instance ones. The rulings are adopted in a form of a decision or a conclusion. By a

conclusion, an official person is ordered to enforce certain action(s). The execution conclusion also contains decisions on other issues related to administering the procedure.

The court allows the execution of procedures on the basis of execution documents (court decision, court settlement, a decision or settlement in an administrative procedure if it refers to securing claims, notary documents) or valid documents (invoice, bill, cheque, public document, excerpts from certified business records, a personal document certified pursuant to law, a document signifying a public document).

The proposal on execution must specify the creditor and the debtor, the legally valid or authentic document, the obligation of the debtor, the method and subject to execution and other data relevant for the execution. More creditors, who realise their claims from a single debtor and in the same matter, shall be disbursed in the order in which they have acquired the right to disbursement in that particular matter.

The court adopts a decision on the proposal, which includes the same elements as the proposal. The execution decision shall be delivered to both, the creditor and the debtor, while a decision rejecting the proposal shall be delivered only to the creditor.

Following the execution decision, the judge may undertake execution measures for enforcement of a ruling imposing obligations, as well as for securing claims.

The execution is conveyed within the limits prescribed by the execution decision.

The execution procedure provides for the following legal remedies: appeal, as a legal remedy against a first instance execution decision adopted on the basis of a legally valid document; and plea as a legal remedy against an execution decision adopted on the basis of an authentic document. An appeal shall be filed within 8 days from the day of the delivery of the first instance decision. No revision or re-opening of the procedure is allowed against a legally valid decision adopted in the execution and security procedure.

In case the execution document has been legally annulled, amended, abrogated or repealed; if the debtor has disbursed the creditor's claims during the execution procedure; if the execution decision has been legally annulled or amended; if the execution conveyed over the funds registered at a debtor's account within the holder of the payment operations or by cash payment has been declared inadmissible, then the debtor may file a proposal with the court for counter-execution, requesting that the creditor pays back what he/she has been given with the execution.

Execution aimed at recovery of claims may be carried out through: execution over movable objects; execution over financial claims of a debtor; execution over claim to hand over or deliver movable objects or hand over a real estate; execution over shares; execution over other property rights and execution over real estate. Execution over movable objects is performed by an inventory and assessment of the objects; by selling the objects and disbursing the creditor out of the acquired amount. The Law includes separate provisions governing the execution over property of legal entities in order to provide for recovery of outstanding money claims.

Execution to recover non-financial claims shall be performed through: hand-over and delivery of movable objects; clearing and delivery of real estate; obligation to act, obligation to be a subject to an action or obligation to refrain from acting; return of an employee at work; entry of rights in a public register; division of objects and making a statement of will.

The Law separately regulates the security procedure. As security measures only the following may be allowed: right to lien on property; establishment of rights to lien on real estate and movable objects, upon an agreement between the parties; prior measures; and temporary measures.

The Law on Execution Procedure in Article 12 prescribes execution and security restrictions to foreign state properties in the Republic of Macedonia. Namely, such execution or security may be allowed only by prior consent from the Ministry of Justice. This consent shall not be necessary if the foreign state has explicitly agreed on the execution or security.

11. How do you ensure that natural and legal persons from EU Member States have access to your courts free of discrimination compared to your own nationals?

The principle of equality of the citizens before the courts derives from the general principle of equality of the citizens as stipulated in Article 9 of the Constitution ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), according to which the citizens of the Republic of Macedonia are equal in the freedoms and rights regardless of their gender, race, colour, ethnic origin or social status. The citizens have equal rights before the Constitution and the law.

The rights of foreign citizens are determined by Article 29 according to which they enjoy freedoms and rights in the Republic of Macedonia guaranteed with the Constitution, under conditions determined by law and international treaties.

The constitutional provisions for equality are materialised with the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/03). According to Article 7 of this Law, everyone has a right to equal treatment in front of the courts for the protection of his/her rights and his/her legally based interests. Everyone has a right to a fair trial within a reasonable time by an independent and impartial court established by law. No one may be denied access to courts due to lack of material means.

The right to a fair trial in the Republic of Macedonia is guaranteed to each person accused for a criminal act, regardless of the fact whether he/she is a citizen of the Republic of Macedonia, foreigner, or a stateless person. Moreover, foreigners have additional guarantees, as in circumstances when they are detained or deprived from freedom. In such cases they have access to the consular and diplomatic representative offices as well as a right to a free assistance of an interpreter during the police and court procedure.

Concerning the civil procedure the Law on Resolving Conflict of Laws with Regulations of Other Countries in Specific Areas ("Official Gazette of SFRY", Nos. 43/82 and 72/82), Article 82, stipulates the obligation for the foreign citizens when submitting appeals to the Macedonian courts to give *cautio iudicatum solvi* (securing the costs of due process at the request of the defendant party). Due to this obligation, the foreign subjects must be released, if the Republic of Macedonia has established diplomatic or factual reciprocity with the country of origin of this subject.

With the Member States of the European Union, the Republic of Macedonia has established diplomatic reciprocity in terms of exemption from giving *cautio iudicatum solvi*, through the ratification of the following international conventions:

- Civil Procedure Convention, of Hague, 1 March 1954 ("Official Gazette of the SFRY", No. 06/62); and
- Convention on International Access to Justice, of Hague, 25 October 1980 ("Official Gazette of the SFRY", No. 04/88).

With these two Hague Conventions, legal and natural persons from the European Union are guaranteed the right to exemption from paying the court costs in case of poor financial state.

Member states of the European Union which are not members of the aforementioned Hague conventions are exempted from paying *cautio iudicatum solvi* on the basis of factual reciprocity.

The Republic of Macedonia has ratified the European Convention of Human Rights with the additional protocols and the UN International Covenant on Civil and Political Rights. The Macedonian constitutional and legal provisions are in compliance with these instruments. The Republic of Macedonia guarantees all persons under its jurisdiction (including foreign natural persons and legal entities) the right of access to the courts and the right not to interfere in the private property, as guaranteed by Article 6 of the Convention and Protocol No.1 to the European Convention on Human Rights. This convention is part of the domestic legal order and is self-executing (Article 98 and 118 of the Constitution of the Republic of Macedonia).

12. Pre-trial detention:**a) What is the average duration of pre-trial detention?****b) Please describe the rules and procedures governing pre-trial detention and, in particular, the rules on extending it.****c) How are human and secure conditions for detainees (in respect of international human rights standards) ensured by the police, justice, prosecution and penitentiary systems? What measures are taken if such standards are not respected?****d) Do police, prison and other officers receive training on human rights, including training on the rights of women and of minorities?****e) What measures have been put in place to prevent or prosecute the occurrence of torture and other inhuman or degrading treatment?****a)**

The average duration of detention in 2001 was 39 days, in 2002 - 41 days, in 2003 - 44 days, whereas in the first six months of 2004 it was 46 days. (*Source: State Statistical Office*)

b)

Pursuant to Article 12 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), a person's liberty is inviolable. No person's liberty may be restricted except by a court decision and in cases and procedure prescribed by law.

A pre-trial detention before indictment may last, by a court ruling, up to 180 days from the day the person has been deprived of liberty. Once the indictment have been submitted to the court, detention may be extended or decided upon by the competent court in cases and in a procedure determined by law.

Pursuant to Article 1 paragraph 2 of the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04), the freedom and rights of a defendant and of other persons, prior to a final ruling, may be restricted only to a necessary extent and under conditions prescribed by law.

One of the measures that may be taken against a defendant in order to ensure his/her presence and successful conduct of the criminal proceedings is detention.

The Law on Criminal Procedure in Article 183 sets forth that detention may be ordered only under conditions stipulated therein. A pre-trial detention must be reduced to the shortest necessary duration. All bodies involved in criminal proceedings and those that provide legal assistance are obliged to act with particular urgency if the defendant has been in detention. Throughout the proceedings, the detention shall be vacated as soon as the reasons for the detention cease to exist and the detainee shall be released.

Pursuant to Article 184 of the Law, detention may be ordered of a person for whom there is a reasonable suspicion of having committed a criminal offence and if:

- He/she has been hiding;
- His/her identity may not be determined or in case of other circumstances which point to a risk of his/her escape;
- A reasonable fear exists that he/she may destroy traces of the criminal act or if there are specific circumstances pointing that the person may hamper the investigation by influencing witnesses, accomplices or conceivers;
- Specific circumstances justify the fear that he/she may repeat the criminal act, attempt a crime or commit a criminal act which he/she has threatened to commit.

Detention is mandatory in case of a reasonable suspicion that the person has committed a criminal offence punishable by a sentence of life imprisonment.

Detention is ordered and vacated by an investigating judge. The detained person may appeal to the Chamber against the detention order within 24 hours from its delivery. If interrogated for the first time after this deadline has expired, the defendant may appeal while being interrogated. The appeal, along with the interrogation minutes in cases in when the detained has been interrogated, and the detention order, shall immediately be submitted to the Chamber. The appeal shall not postpone the enforcement of the order. The Chamber which decides upon the appeal has to pass its judgement within 48 hours.

Detention by a judge's order or a detention ordered by a Chamber (consisting of three judges) for the first time during an investigation may last up to 30 days from the day of the deprivation of liberty. Any deprivation of liberty shall count to the duration of detention. In the course of an investigation, the Chamber may prolong the detention for a term not longer than 60 days. If the crime in question is punishable by imprisonment of at least 5 years, after the expiry of the 60 days period, a Chamber of the immediately superior court may extend the detention by up to 90 days. The total duration of pre-trial detention may not be longer than 180 days. Upon expiration of this period, the detainee must immediately be released. During investigation, the investigating judge may cancel detention (Articles 189 and 190).

Once charges have been brought and until the completion of the main hearing, detention may be ordered, extended, or cancelled only by a Chamber's decision, either ex officio or upon request by an authorised plaintiff. The so determined detention may last up to one year (for crimes punishable by sentence of up to 15 year) and up to two years (for crimes punishable by a life imprisonment). After 30 days elapse from the validity of the latest detention order, the Chamber which has decided on the detention is obliged, even without the parties' request, to deliberate whether reasons for detention still exist and rule on its cancellation or extension. If the defendant flees, a detention period starts again (Article 191).

Prior to bringing charges in summary proceedings, detention may last as long as necessary to conduct investigation, but no longer than 8 days. Once charges have been brought and until the completion of the main hearing, detention may last up to 60 days (Article 419).

c)

Treatment of detained persons has been regulated by the Law on Criminal Procedure. Basic principles are the following: during detention, the personality and dignity of the defendant may not be offended and only such measures are allowed against him/her which may be necessary to prevent an escape or a plan that could be harmful for a successful conduct of the proceedings. The rights of the detainees have been regulated in detail in a number of provisions of the Law where their rights have been elaborated. Detainees are recognised the right to 8 hours of uninterrupted rest over 24 hours and the right to stay at least two hours per day in open air within the prison. These rights are unconditional. Furthermore, detainees are entitled to a diet at their own expense; may bring their own clothing and use their own linen; supply at their own expense books, newspapers and other objects that serve their usual needs, providing that this may not be harmful for a successful conduct of the proceedings, a matter decided upon by the investigating authority.

Following an approval by the investigating judge who conducts the investigation and under his/her supervision, a detainee may, within the house rules, be visited by his/her close relatives, or by a physician or other persons, if so requested by him/her. Particular visits may be denied if they may be detrimental to the course of the proceedings. By knowledge and under supervision of the investigating authority, a detainee may correspond with persons outside the prison. The right to send and receive letters and other parcels may be forbidden if they are detrimental for the conduct of the proceedings. No ban, though, may be imposed on submission of petition, appeal or complaint.

Foreign citizens that have been detained following an approval of the investigating judge may be visited by heads of diplomatic and consular missions in the Republic of Macedonia. Visit approval shall be requested through the Ministry of Justice. In addition, detained persons may, upon approval of the investigating judge, be visited by members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment as well as by members of the

International Committee of the Red Cross. Upon the Committee's request, the investigating judge is obliged to approve them a visit and communication with detainees. These visits may not be supervised.

In case of a disciplinary offence, the investigating judge i.e. the president of the Chamber may pronounce disciplinary sanction to restrict visits. However, this sanction does not apply to the defendant's communication with his/her attorney. Against the pronounced disciplinary sanction, appeal may be filed before court's Chamber. (Articles 193 - 196)

A provision in Article 197 of the Law on Criminal Procedure regulates the supervision over detainees. This supervision is conducted by the Court's President or a judge appointed by him/her. Appointed to conduct such supervision, though, may not be an investigating judge. The Law stipulates that they are obliged to visit the detainees at least once a week. During the visits, with no presence of a warden or a guard, they are to become acquainted with the dietary details, the way detainees are supplied with other necessities and the way they are being treated. If irregularities are observed, the court's president or a judge appointed by him/her is obliged to take measures for their elimination. A public prosecutor may be present during such visits.

As regards disciplinary liability of the security services staff and of the prison staff in general, the Law on Execution of Sanction (Official Gazette of the Republic of Macedonia Nos. 3/97, 23/99 and 74/04) refers to general regulations governing labour relations and to the Law on Organisation and Operation of State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02), Articles 205-212, which envisage disciplinary proceedings against employees for violation of employment obligations and for other violations of the work discipline when perpetrated by fault of the employee, and especially if the employee does not fulfil the entrusted tasks conscientiously and in an orderly manner, if he /she does not abide by the law and other regulations or by the rules of conduct in the course of work or in relation to the work.

Cases of unprofessional conduct by police officers are examined by the Sector for Professional Standards (at the Ministry of the Interior). Non-fulfilment of prescribed procedures implies disciplinary and/or criminal liability of the police officers. In 2002 the Internal Control and Professional Standards Sector at the Ministry of the Interior has received 220 applications, which resulted in 66 disciplinary proceedings. In 2003, 770 applications were processed, 273 of which ended in disciplinary proceedings (item 28 of the Report of the Committee for Prevention of Torture - CPT of July 2004).

The CPT Report recognises progress in respect of important issues: as compared with the previous visits, the Delegation has received fewer allegations for ill-treatment of persons deprived of freedom (item 7). However, it has been established that there remain serious problems in the system of responsibility.

On more details concerning legislative and administrative measures aimed at prevention of occurrence of torture, inhuman or degrading treatment or punishment in state institutions, prisons or police stations; on their compliance with international human rights standards; on measures that enable inspection of the premises hosting persons deprived of liberty or police stations and on the legal remedies intended for victims, please see question [I.H.12](#).

d)

Incorporation of human rights in the training of the Macedonian police is a process that has been accepted by the Ministry of the Interior as a necessity aimed at effective and efficient fulfilment of working assignments.

Human rights and freedoms have been part of the continuing professional training at the Police Academy which includes a separate subject in the curriculum: "Human Rights and the Police". There have also been additional training programmes and special courses for retraining and professional upgrading. During the seminars on *Human Rights and the Police* and *Policing in a Democracy*, which the Ministry of the Interior has organised together with the OSCE and the Helsinki Committee for Human Rights, special attention was dedicated to the protection of human rights in police custody.

In order to enhance the respect of the rights of persons held in custody, in every police station a poster has been placed, featuring a question "Do you know your rights?" On the poster, which is to be found in the most prominent part of every police station, the 6 (six) basic rights are written in seven languages - namely, 1 – the right to be immediately informed in a language he/she understands of the reasons for being deprived of liberty and of any criminal charges against him/her; 2 – right to remain silent and to choose not make a statement against him/herself or against his close persons; 3 – right to be advised by a lawyer and to have an attorney during interrogation; 4 – right that his family or other person of his/her choice be informed; 5 – right to be examined by a physician; 6 – right to be brought before a judge within 24 hours. Every police officer assigned to work with apprehended persons or those held in custody must inform and read out these rights to them. If a person held in custody invokes any of these rights, the police officer has to enable that right i.e. do everything in order to ensure respect and protection of the human rights and freedoms of the apprehended i.e. of the person held in custody, when he/she has been restricted freedom of movement.

The International Committee of the Red Cross has been engaged to organise humanitarian law seminars for the members of the Special Police Unit "Tiger" and of the Special Police Unit for Rapid Deployment, as well as other police officers of the Ministry of the Interior.

Similarly, a number of domestic and international governmental and non-governmental organisations have continuously organised seminars, forums, workshops etc. Topics include human rights in all aspects, and in particular conduct of the police while enforcing policing authority. All members of the Ministry of the Interior have been actively participating in these events.

As part of the additional and continuous training of employees of the Ministry of Interior and within the Police Training Reports, special emphasis has been given to the respect and protection of human rights while enforcing police authority. Particularly highlighted have been the following topics: Introduction to human rights and basic human rights issues; deprivation of freedom; arrest and detention within the context of restriction of the right to freedom of movement; use of force, coercion means and use of firearms within the context of protection of the right to life; human rights during interrogation in terms of ensuring a possibility for a fair trial and presumption of innocence; non-discrimination in policing on any grounds with special emphasis on the rights of vulnerable groups (children, women, elderly and persons with special needs); arbitrary interference in private life in terms of protection of the right to privacy and correspondence; policing in a democracy with an emphasis on the basics of democracy; multi-ethnic society and police; rights of minorities, their representation; and police ethics as a brief police constitution for their conduct.

The Ministry of the Interior, in cooperation with the non-governmental sector (Peace and Democracy Initiative and the Frederick Ebert Foundation – Office Macedonia), has carried out a project *Partners in Peace and Prevention*. The Project promoted the concept of conflict prevention and early warning by raising awareness among actors at the local level. Fifty police officers were anonymously surveyed on the project. This project's objective was also to obtain feedback on the new decentralisation process that will raise the level of responsibility of local authorities including the police.

With regard to multi-ethnic tolerance and policing in multi-ethnic environment, workshops have been organised on *the Police in Multiethnic Environment*, as a result of cooperation between the Ministry of the Interior and the non-governmental sector (the Citizens' Association - Centre for Open Communication), with an emphasis on the challenge of policing in multiethnic environment.

In 2004 changes to the Criminal Code ("Official Gazette of the Republic of Macedonia", No.19/04), *domestic violence* have been defined (Article 122). Within the additional police training on the rights of women, they have been treated as part of human rights Particular emphasis was put on the rights of vulnerable groups like children, elderly people and persons with special needs. Furthermore, the Ministry of the Interior in cooperation with UNICEF, Foundation Open Society Institute Macedonia and NGO' s, has organised a series of seminars and workshops on domestic violence, sexual abuse of women and children, trafficking in human beings, attended by the Ministry of the Interior personnel. This kind of additional training has been planned for 2005, as well. (For more details, see [I F 10](#))

Similarly, the Police Academy provides higher education and conducts scientific and research activities, practical work, as well as continuous training. The Police Academy provides training for the personnel of the Ministry of the Interior and other bodies, institutions and legal persons that operate in the field of security. In addition, the Academy provides continued education of persons with already acquired degree of knowledge by providing elementary police education, special training, and education and training in security management. At all levels of education, all educational components of the human rights are being incorporated, including rights of women and minorities (Constitutional law, police and human rights, police ethics and deontology, victimology, international law and international relations, conflict management, European law, police law and authority enforcement, policing in multi-ethnic society, gender difference awareness).

With regard to the prison personnel, a Prison Personnel Training Centre has been established which provides for their comprehensive education, further training and assessment of knowledge.

e)

In the prison system in the Republic of Macedonia, the right to human treatment of detainees has been guaranteed, as well as the principle to ensure that their personality and dignity are not offended.

In order to protect the psychological and physical integrity of detainees and ensure the respect of human personality and dignity the Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 03/97 and 23/99), forbids any form of torture, inhuman or degrading treatment or punishment, collective punishment, and coercion.

For violation of the rights of detainees on the part of the prison personnel, a penal procedure, disciplinary or criminal, is initiated against the official who has violated these rights.

Detainees who have been victims of torture and other forms of inhuman and degrading treatment or punishment may exercise their rights pursuant to Article 50 of the Constitution according to which, every citizen may invoke the protection of freedoms and rights set forth in the Constitution, before courts of law and the Constitutional Court of the Republic of Macedonia, in a procedure based upon principles of priority and urgency.

In cases when torture and other forms of inhuman treatment have elements of a criminal offence, detainees may exercise their right to protection by filing criminal charges to the public prosecutor. Acts subject to a private lawsuit may be filed to the court of law. For criminal offences subject to ex officio prosecution, in case the public prosecutor has dropped the charges, the victim i.e. the injured party has a right to take over the prosecution as a subsidiary prosecutor. If a person has suffered damage as a result of a criminal offence, he/she has a right to file a damages claim, and if he/she is referred to a lawsuit the case shall be resolved in a civil suit in accordance with general provisions on indemnity.

In cases of torture or other forms of inhuman or degrading treatment or punishment, protection may be sought from the Ombudsman (Articles 24, 31, 32 from the Law on the Ombudsman), who, in accordance with the Constitution, protects the freedoms and rights of citizens when they have been violated by an act or activity of state administrative bodies or bodies and organisations with public authority. If the Ombudsman detects violation of constitutionally and legally guaranteed rights of detainees, he/she may propose an initiation of a disciplinary measure against the official person, or may file to the public prosecutor a request on initiation of criminal proceedings against that person.

Furthermore, Article 20 of the Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04), states that when implementing the prosecution of perpetrators of criminal and other legally determined punishable offences, the public prosecutor is authorised to ensure consistent implementation of sanctions pronounced for punishable acts and protection of persons who have been detained.

Concerning the application of international standards on the prevention of torture and other inhuman or degrading behaviour for more details see [I.H.12](#).

13. Detention:

- a) What is the ratio of prison sentences compared with alternative sentences?**
- b) Are inquiries into cases and allegations of ill treatment of detainees followed up? If so, how is this done? What is done to ensure a thorough, transparent and independent process?**
- c) What is the average number of prisoners per cell? Are prisons over-crowded?**
- d) Is special attention devoted to female prisoners and young offenders? If yes, please provide a detailed description.**
- e) Are alternative measures to imprisonment being developed or in place? If yes, please describe the measures.**

a)

Pursuant to Recommendation Number R (92)16 of the European Rules on Community Sanctions and Measures, adopted by the Committee of Ministers of the Council of Europe on 19.10.1992, the Republic of Macedonia has incorporated in its domestic legislation alternative measures with the adoption of the Law Amending the Criminal Code ("Official Gazette of the Republic of Macedonia", No. 19/04), passed on 30.03.2004. Taking this into consideration, there are still no indicators as to the ratio between prison and alternative sentences.

However, even before the 2004 amendments to the Criminal Code, the system of sanctions had included probation, probation under supervision and court reprimand as alternative sanctions. Since these sanctions were pronounced in lieu of prison sentences, serving as indicator may be the statistical data on the ratio of the pronounced prison sentences compared with probations and court reprimands as distinct criminal sanctions, which have now, with the amendments to the Code, been transformed into alternative measures. Thus, in 2003, 5796 persons were sentenced to prison, probation was pronounced to 2831 and court reprimand was imposed on 183 persons. It follows that the ratio of pronounced criminal sanctions probation and court reprimand (which under the new Criminal Code are alternative measures) compared with the prison sentences was 52 %.

b)

Taking as the starting point the Constitutional provision that no one may be restricted freedom, except by a court decision and in cases and procedures prescribed by law (Article 12), as well as the endorsement in the Law on Execution of Sanctions, ("Official Gazette of the Republic of Macedonia", Nos. 03/97, 23/99 and 74/04), of international standards set forth in the UN Standard Minimum Rules for the Treatment of Prisoners and the European Prison Rules, persons that are subject to sanctions are treated in a humane manner, with respect for their human dignity and by protecting their physical and moral integrity. Any form of torture, inhuman or degrading treatment or punishment is prohibited.

Article 184 (paragraph 1) and 185 of the Law on Execution of Sanctions regulate the use of coercion and firearms. On the use of coercion or firearms information shall be provided to the Sanctions Enforcement Authority, which shall assess the justification of the application of these methods. If unlawful use of coercion has been determined, against the official who had used the coercion or had ordered such a use, a penal procedure, disciplinary or other, shall be initiated, depending on the extent to which the competence had been exceeded.

Pursuant to Articles 163-167 of the Law on Execution of Sanctions, the convicted persons are entitled to file complaints and other submissions to protect their rights to competent authorities and other institutions, and they are entitled to be given answers. A convicted person is entitled to an oral or a written complaint to the head of the institution, who is obliged to consider it and decide on it within 15 days. Against this decision or in case the head of the institution does not pronounce any decision on the complaint, the convicted person is entitled to file an appeal to the Directorate for Execution of Sanctions, the decision of which is final and after which the convicted person has a right to court protection.

The Ombudsman of the Republic of Macedonia, too, follows the developments in the area of protection of the rights of detained and apprehended persons or persons serving prison sentences. They are entitled to file submissions to this body. The Ombudsman may perform visits and inspections anytime without prior announcement or approval; he/she may talk to persons deprived of liberty without the presence of official persons.

In respect to this question, for more details see [I H 12](#) and [I D 12](#).

c)

In the prisons in the Republic of Macedonia, there are on average 3 to 5 persons per cell, with the exception of the premises in the two wings of the Closed Unit of the Idrizovo Penitentiary where there are 20 persons per cell, but rooms are spacious and the standard of 9 m³ per person is fulfilled. Activities are currently underway for the complete refurbishing of one of the two wings, which shall include division of rooms into smaller cells. In the third wing of the Closed Unit of the Idrizovo Penitentiary that has already been refurbished, each cell houses 2-3 persons.

Taking as the standard the criterion of 9m³ per person for housing of prisoners, the following prisons are over-crowded: the Skopje Prison (semi-open institution) which hosts 56 prisoners beyond its capacity (out of whom 43 are convicted, 10 serve misdemeanour sentences and 3 are detained) and the Tetovo Prison (semi-open institution) that hosts 13 prisoners beyond its capacity (including 3 convicted, 9 detained and one person serving misdemeanour sentence), which makes a total of 69 prisoners. It should be noted that in the Tetovo Prison, activities are currently underway for an extension of the Prison's building. Despite the fact that the aforementioned prisons are over-crowded, each of their inmates has his own bed, linen and locker in the cell where accommodated. The over-crowded accommodation refers to the fewer cubic meters than the prescribed 9m³ per person. The other semi-open or open institutions as well as the closed institution in the Republic of Macedonia are not over-crowded and their capacity is not filled if the 9m³ per person standard is taken into account, as there is room for more than the currently accommodated prisoners.

CAPACITY AND STATE OF AFFAIRS WITH CONVICTED, DETAINED OR PERSONS SERVING MISDEMEANOUR SENTENCES IN PENITENTIARIES AND CORRECTION INSTITUTIONS

no.	Penitentiary Correction Institution	CAPACITY		Situation as of 30.09.2004		
		For sentenced persons	For detained persons	Sentenced persons	Detained persons	Serving misdemeanour sentences*
1.	Idrizovo Penitentiary	1836		1108		
1.a	Open unit - Veles	82		15		9
2.	Open Penitentiary – Struga	84		31		
3.	Skopje Prison	127	120	170	123	10
3.a	Open unit – Kriva Palanka	35		2		3
4.	Bitola Prison	67	22	30	21	7
4.a	Open unit - Prilep	105		9		10
5.	Stip Prison	126	32	51	10	19
5.a	Open unit – Strumica	45		22		20
6.	Tetovo Prison	33	20	36	29	1
7.	Gevgelija Prison	48	14	27	14	7
8.	Ohrid Prison	25	20	20	10	
Total		2 613	228	1 521	207	86
9.	Correction Institution Tetovo	25		22		

Source: Ministry of Justice (Directorate for prison administration)

* Persons subject to misdemeanour penalties

Pursuant to the Law on Misdemeanours ("Official Gazette of the Republic of Macedonia", No. 15/97), a prison sentence may not be passed for less than five, nor for more than 90 days for misdemeanours.

d)

There is a separate female wing in the Idrizovo Penitentiary. Female persons serving prison sentences are accommodated in this wing. In a separate segment within the same wing, minor females serve juvenile prison sentences.

In addition to the aforementioned categories, a separate segment within this unit is the one for females to whom a correctional measure has been pronounced.

It should be noted that the number of younger female juveniles is small. Namely, currently there is only one person in this category, but there are periods with no such offenders.

Particular attention is dedicated to pregnant prisoners and mothers who are provided the necessary professional medical care. Before and after giving birth, pregnant inmates and mothers are provided a diet in accordance with the type and quantity prescribed by a physician. Pregnant inmates, upon a proposal by a physician, are transferred to the maternity unit. As a rule, the transfer is done six weeks before delivery, but it may be done earlier if so proposed by the physician. Pregnant inmates give birth in specialised health care institutions. Mothers stay in the maternity unit until the infant is one year old, unless released earlier from serving the sentence. All costs for nurturing and health care of the child are borne by the prison. Once the child has become one year of age, the Social Centre shall take the necessary measures for its accommodation. The Birth Register must not include information that the child was born in prison. With regard to the work leave during pregnancy, childbirth and maternity, the general conditions apply.

In all other aspects, female prisoners are entitled to equal rights and obligations as male prisoners.

Pursuant to the legal provisions in the Republic of Macedonia, to younger prisoners juvenile prison sentences may be pronounced of up to ten years. Male individuals serve juvenile prison sentences in a separate institution.

Correctional measure may be pronounced to younger individuals and they may be placed in correction institution. A pronounced correctional measure may last from one to five years. Male individuals serve pronounced correctional measure in a separate institution.

On reception in the institution, young offenders are evaluated by an expert team that includes psychologist, pedagogue, social worker, physician, as well as other experts if need be. Applying special scientific methods, the team conducts a social, medical, psychological and pedagogical examination of the person and designs an individual programme. Methods of corrective work with the offender are determined and these activities are coordinated with school lessons in primary and secondary education and with engagement in the workshop where practical training is conducted. Measures are also proposed for an enhanced correction process. On the basis of the results from the examination, classification is done and an correctional programme is designed so as to ensure active participation of the young offender during his/her stay in the Institution. Personal deficiencies are detected for the purpose of their elimination through individual work. In accordance with the requirements for their re-education, a type of work is determined for the inmates by taking into account their physical and intellectual capacities and the institution's available resources. When determining a type of work, individual wishes of the inmate are taken into account. An inmate who shall obtain specific qualification in the Institution shall be given a certificate which must not indicate that it had been obtained in the Institution.

At least once a year a comprehensive medical examination of the inmates is conducted. They are offered possibilities for spare time activities, such as culture, amusement and sport. They are regularly visited by the Social Centres staff. Frequent visits are enabled to their families and close persons.

Disciplinary measure of sending to a solitary confinement may last from 3 to 7 days for minors to whom corrective measure has been pronounced and up to 10 days for minors serving a juvenile

prison sentence. No measure of isolation may be pronounced to minors. A daily diet of at least 14.600 joules per person is provided to minors. Their daily stay in open air may not last less than two hours.

In all other aspects, young offenders are entitled to equal rights and obligations as other prisoners.

e)

Alternative measures were introduced in the Republic of Macedonia by the Law Amending the Criminal Code ("Official Gazette of the Republic of Macedonia", No. 19/04).

Types of alternative measures:

1. Probation;
2. Probation under supervision;
3. Conditional dismissal of charges;
4. Community service;
5. Court reprimand;
6. House arrest.

Alternative measures are executed once the court ruling by which they have been pronounced becomes final/ enforceable.

The aim of these measures is not to use punishment for lighter crimes against a criminally responsible perpetrator when this is not necessary and when it may be expected that the purpose of the punishment may be achieved by a warning with a threat of punishment (probation), by a warning itself (court reprimand) or by measures of assistance and supervision of the perpetrator's behaviour while free.

1. Probation

Probation as an alternative measure is pronounced by court when it determines a sentence of imprisonment for a perpetrator of crime and at the same time determines that the sentence shall not be executed in case the perpetrator does not commit further crimes over a period to be determined by court, which may not be shorter than one or longer than five years. Probation is provided in cases when a sentence of up to two years of imprisonment or a fine has been prescribed. When deciding upon probation, the court is guided by the offender's personality, his/her previous life, his/her conduct after the perpetration of the crime and other circumstances. Should the offender commit further criminal offences during the controlling period, the probation shall be revoked.

2. Probation under supervision

Probation may also be pronounced under supervision to be conducted by the Social Centre. Probation under supervision entails that the criminal offender shall have specific obligations to fulfil such as undergoing medical treatment, ban on use of narcotics and alcohol, family obligations, acceptance of a job etc. If the offender does not abide by the determined obligations, the court may extend the duration of the probation or revoke it.

3. Court reprimand

Court reprimand is pronounced for criminal acts punishable by prison sentence of up to 1 year. When deciding upon the reprimand, the court takes into consideration the offender's personality, his/her previous life, his/her conduct after the perpetration of the crime and the degree of criminal responsibility. In practice, this para-penal sanction has been pronounced in criminal acts such as defamation, insult, disclosure of personal or family circumstances, and other acts which contain elements of reduced social threat.

4. Conditional dismissal of charges

This alternative measure may be pronounced to a perpetrator of a criminal act punishable by a fine or by a prison sentence of up to one year. In such a case, once the defendant and the injured party have been interrogated and the injured party has given consent, the court may interrupt the proceedings, providing that the defendant does not commit further crimes during the period for which the proceedings have been dismissed (controlling period). The procedure may be dismissed for a period of up to one year, during which the period of limitation does not run. Providing that the offender does not commit further criminal acts during the controlling period, the court shall stop the proceedings. When deciding upon the use of this alternative measure, the court shall in particular take into consideration the expressed regret on the part of the offender, removal of the consequences of the criminal act, consequences suffered by the victim and compensation of the damages caused by the criminal act.

5. Community service

Community service is pronounced for a criminal act punishable by a fine or a sentence of imprisonment of up to three years. The court may pronounce this alternative measure with consent by the offender, if the crime has been perpetrated under mitigating circumstances and if the offender has not been previously convicted. This measure may be pronounced for duration of 40 to 240 hours, and it imposes on the offender an obligation to render service, with no financial compensation, in a state body, public enterprise, public institution or a humanitarian organisation. Community service is organised during state holidays, Saturdays or Sundays, with duration of at least five hours per week in a period of up to 12 months. The court conducts supervision over the execution of the responsibilities on the part of the offender. The court shall issue a written reprimand in case the offender fails to fulfil his/her responsibilities. If he/she continues with such conduct, there is a possibility that the hours of community service be extended, or that the unfulfilled part of the service be replaced with a fine or imprisonment, whereby for every three hours of community service a day of imprisonment is calculated or a daily fine i.e. an equivalent of 20 EUR in MKD.

6. House arrest

The alternative measure house arrest may be pronounced if a perpetrator of a criminal act, punishable by imprisonment of up to one year, is an elderly or exhausted person, i.e. is seriously ill or is a pregnant woman. Upon his/her prior consent, the court may decide that he/she serves the sentence in house arrest. The Court may replace a prison sentence with house arrest if conditions exist to control with modern electronic or telecommunication devices the enforcement of the house arrest. Supervision over the enforcement of house arrest shall be conducted by the court, which is also entitled to decide on specific measures of supervision to be undertaken by the police in the place where the house of the convicted is located, with an obligation for regular reports on the conducted supervision. If the offender violates the ban on leaving his/her house, the court may decide that the sentence be entirely served in a punitive institution.

14. What is the annual budget of the judiciary? Please provide a breakdown for the last five years. What is the procedure for deciding the budget?

Financing of the Judiciary

By the adoption of the Law on the Court Budget ("Official Gazette of the Republic of Macedonia", No. 60/03), a new way of judicial authority funding was introduced that contributed to the enhancement of the independence of the judiciary of the Republic of Macedonia.

Under this law, the judicial budget is a part of the Budget of the Republic of Macedonia, classified as a separate "Court System" section. This part of the Budget of the Republic of Macedonia is determined in its total amount, in accordance with the criteria decided by the Court Budget Council, on the basis of the fiscal policy and the main categories of projected revenues and expenditures. The Court Budget Council allocates these funds to the courts.

The Court Budget Council plays a key role in the financing of the judiciary. It constitutes of a President and eight members. Presiding over the Court Budget Council is the President of the Supreme Court, while its members are as follows: the President of the Judicial Council of the Republic, the Minister of Justice, Presidents of the Appellate Courts in Skopje, Štip and Bitola and three presidents of basic courts at a rotation system. The President of the Court Budget Council actively participates in the drafting and the approval of the Budget of the Republic of Macedonia. He/she represents the judiciary at the Government session when the Draft Budget is approved and at the working bodies' sessions and the plenary session of the Assembly of the Republic of Macedonia on which the Budget is discussed.

The Court Budget Council has a substantial competence in the sphere of financing of the courts' system. This body sets the criteria and methodology for drafting of the Court Budget, allocates Court Budget funds to courts, takes measures aimed at prompt execution of the Court Budget and approves funds for new jobs in courts within the determined Court Budget's total salary amount. A service unit has been established as an internal organisational entity within the Supreme Court of the Republic of Macedonia assigned with the Court Budget Council's administrative matters.

The Law on Court Budget fully prescribes the procedure of drafting, determining and execution of the Court Budget. The drafting of the Court Budget is made on the basis of the fiscal policy and the main categories of projected revenues and expenditures for the next fiscal year, as well as the internal criteria and methodology established by the Court Budget Council.

The Court Budget Council submits to the courts a circular letter including the main guidelines for drafting courts' financial plans. It also includes the methodology for drafting of the courts' financial plans (key parameters, procedure and the deadline to draft the financial plan), as well as the indicative total expenditure for each beneficiary, within which a projection has to be made by types and the necessary data that are to be attached to the budget.

On the basis of the above-mentioned guidelines, courts submit to the Court Budget Council, by 01.06 of the current year at the latest, the following data:

- Projection of the expenditures for the fiscal year, by expenditure items and sub-items;
- Projection of the expenditures for the next two fiscal years, by expenditure categories;
- Review of the required expenditures for necessary new employments;
- Proposals that include the future liabilities or several-year expenditures, including investment projects indicated separately; and
- Expenditures for each of the following years indicated separately.

Besides the indicated data, courts are obliged to submit to the Court Budget Council an explanation on the level of amounts needed per position. Once the Court Budget Council receives proposals, it drafts the Draft - Court Budget and, along with the explanation on the level of amounts, submits it to the Ministry of Finance. Before submitting the Draft Budget of the Republic of Macedonia to the Government of the Republic of Macedonia, the Minister of Finance shall necessarily harmonise the "Court System" section of the Draft Budget with the President of the Court Budget Council. If no assent is reached, Ministry of Finance prepares a report and submits it to the Government.

In the execution stage, the Court Budget Council allocates funds to courts. Each court's President is responsible for the execution of the court's financial plan.

The Court Budget Council follows the financial plan execution and in case it identifies irregularities or violations in the process on the part of a court's president, it shall notify the Supreme Court of the Republic of Macedonia, the Ministry of Justice, the Judicial Council, the Ministry of Finance and the State Audit Office.

The Law on the Court Budget is fully in line with the Law on Budgets and other regulations in the area of finance. It also provides for an internal audit over the financial plan execution in courts that shall be done by an internal auditor appointed by the Court Budget Council.

Financing of the Public Prosecution Offices

The new Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04), introduced novelties in financing of the public prosecution organisation. The main characteristics of the financing of the public prosecution offices follow the positive trends and experience acquired in the implementation of the new financing model in the judiciary.

Namely, the financing method of the public prosecution offices has been regulated under a separate chapter in the Law on Public Prosecutor's Office. Funds for the operation of the public prosecution offices are provided from the Budget of the Republic of Macedonia through the budget beneficiary – Public Prosecutor's Office of the Republic of Macedonia. Funds for the operation of the primary and the high public prosecution offices are provided from the Budget of the Republic of Macedonia through the budget beneficiary – Public Prosecutor's Office.

Before the approval and the vote on the Budget in the Assembly, the Ministry of Finance that proposes the Public Prosecution Offices Section in the Budget of the Republic of Macedonia has to submit it for an opinion to the Public Prosecutor of the Republic of Macedonia. This opinion is necessarily submitted to the Assembly of the Republic of Macedonia along with the proposal of the Public Prosecution Offices Section in the Draft-Budget of the Republic of Macedonia.

At the stage of drafting of the Budget, the Public Prosecutor's Office of the Republic of Macedonia drafts a single budgetary calculation based on the calculations submitted by the primary and the high prosecution offices and the Public Prosecutor's Office of the Republic of Macedonia. The Public Prosecutor's Office of the Republic of Macedonia submits to the Ministry of Finance the single budgetary calculation for all prosecution offices and the explanation on the level of the requested amounts. Before submitting the Draft-Budget of the Republic of Macedonia to the Government of the Republic of Macedonia, the Minister of Finance harmonises this part of the Draft Budget with the Public Prosecutor of the Republic of Macedonia.

In the stage of the Budget execution, the Public Prosecutor's Office of the Republic of Macedonia, upon a prior consent by the Council of Public Prosecutors, shall allocate to the prosecution offices the funds approved in the Budget of the Republic of Macedonia, applying adequate measures and criteria.

Judicial Budget 1999-2005

TOTAL FOR COURTS	Budget 2000		Budget 2001		Budget 2002		Budget 2003		Budget 2004		Budget 2005	
	planned	executed	planned	executed	planned	executed	planned	executed	planned	executed	planned	executed
	704.018.878	700.734.060	770.675.534	750.648.051	910.480.000	901.394.237	1.012.532.000	989.127.776	1.133.413.000	n/a yet	1.171.457.000	n/a
Salaries, wages and contributions	606.269.489	604.598.897	645.059.962	639.800.129	698.682.000	696.149.350	835.251.000	822.037.212	865.634.000	n/a yet	911.066.000	n/a
Goods and services	97.749.389	96.135.163	125.368.572	110.661.653	210.908.000	204.524.887	173.322.000	164.364.966	211.947.000	n/a yet	211.471.000	n/a
Current transfers and subsidies	0	0	30.000	30.000	0	0	0	0	0	n/a yet	0	n/a
Purchase of capital goods	0	0	217.000	156.269	890.000	720.000	3.959.000	2.725.598	55.832.000	n/a yet	48.920.000	n/a

Public Prosecution Offices Budget 1999-2005

TOTAL FOR PROSECUTION OFFICES	Budget 2000		Budget 2001		Budget 2002		Budget 2003		Budget 2004		Budget 2005	
	planned	executed	planned	executed	planned	executed	planned	executed	planned	executed	planned	executed
	129.526.126	128.838.665	150.958.471	145.498.614	156.896.000	155.359.367	181.516.000	171.025.583	188.361.000	n/a yet	195.069.000	n/a
Salaries, wages and contributions	115.641.343	115.223.155	129.391.043	126.453.313	134.221.000	133.594.215	154.786.205	145.847.712	160.441.000	n/a yet	166.853.000	n/a
Goods and services	13.884.783	13.615.510	21.567.428	19.045.301	22.675.000	21.765.152	25.676.795	24.189.714	26.987.000	n/a yet	27.251.000	n/a
Purchase of capital goods	0	0	0	0	0	0	1.053.000	988.157	933.000	n/a yet	965.000	n/a

15. How is effective access to free legal aid in criminal cases ensured? Can free legal aid also be obtained in civil cases? Please give details on the criteria for receiving legal aid in civil matters.

The right to defence is a constitutional category, which under the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) is guaranteed starting with the police procedure. The person charged in a criminal procedure has the right to defend himself/herself in person or by legal assistance of his own choosing and to have legal assistance assigned to him/her, in any case where the interests of justice so require, and without payment by him/her in any such case if he/she does not have sufficient means to pay for it. This right is not absolute in light of the fact that the accused can choose exclusively a lawyer to act on behalf of his/her defence and according to the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02, 74/04), there are cases determined in which the accused must have a defence attorney, who is appointed by the court, if the accused does not appoint one (in case the accused is a dumb or a deaf person, or incapable of defending himself/herself, or in case of a criminal procedure against him/her for a criminal act for which a prison sentence of 10 years is prescribed or life sentence is prescribed in the law, if detention has been determined or is tried in abstention). The accused may be exempt from payment of defence lawyer costs if the payment of costs would threaten his/her subsistence or of his/her family. In such cases the costs are covered by the state budget.

The accused may have free legal assistance even when there are no conditions for obligatory defence (Article 67) if the procedure is instituted against a criminal offence for which the law prescribes a prison sentence more than a year. In such cases the accused may be appointed a defence attorney on his/her request, provided that his/her property status would not allow him/her to cover the costs of defence.

Deciding upon the request shall be the President of the Chamber, while the President of the Court shall appoint the defence attorney.

The appointment of a defence attorney to an accused of poor material status is possible only upon a submitted request. The costs incurred to prove the poor material status shall be covered by the accused.

In deciding on granting free legal assistance when this is required by the interests of justice, domestic court follows the criteria established with the jurisprudence of the European Human Rights Court: seriousness of the criminal offence and the severity of the possible sanction, the complexity of the case and the personal circumstances of the accused.

Free legal assistance in civil law is regulated by the Law on Litigation Procedure ("Official Gazette of the Republic of Macedonia", Nos. 33/98 and 44/02), which prescribes the so called indigent law as a form of relief for the participants in the procedure.

The Law on Litigation Procedure stipulates that the Court shall relieve from paying the costs of procedure a party whose material status does not allow the coverage of these costs without endangering the party and his/her family's essential personal sustenance.

When making a decision to relieve from paying the costs of procedure, the Court shall closely evaluate all the circumstances, and shall in particular take into account the value of the matter of conflict, number of persons sustained by the party and the income of the party and members of his/her family.

In these procedures the court may appoint a proxy from the ranks of lawyers. Upon the request of the party to the procedure, when the party is exempt from payment of the costs for the procedure, the court shall determine that the party is represented by a proxy-lawyer is necessary for the protection of the rights of the party to the procedure (Article 160 of the Law on Litigation Procedure).

Taking as the starting point the position of the Bar in the Republic of Macedonia, which is defined as public service that provides legal assistance and performs competences in accordance with the law, free

legal assistance is prescribed in Article 6 of the Tariff on Reward and Remuneration for Lawyers' Services, which stipulates that a lawyer is obliged to provide free legal assistance to a party who may, under law, be exempt from paying the costs in the procedure (indigent law).

The Bar Association of the Republic of Macedonia offers free legal assistance through its Project "Free legal assistance, legal culture and socialisation".

The main goal of the Project is to provide regular and adequate services to specific categories of persons unable to pay for the services and whose right to free legal assistance is guaranteed by the Constitution and the laws of the Republic of Macedonia.

This group includes all social welfare users, such as: handicapped persons, single parents, family violence victims, child abuse victims and those in need of a free legal advice and protection in particular circumstances. These persons shall submit evidence for their social status by a competent state body.

These services are offered in all types of cases: civil, criminal and administrative.

Beneficiaries are offered full protection of their legally guaranteed rights, if being denied, violated or endangered. Full protection consists of free legal assistance that includes preparation and drafting of acts, legal advice, as well as a possibility to benefit from free copies of legal texts.

Free legal assistance is provided by the lawyers-members of the Bar Association of the Republic of Macedonia, who, to no compensation, represent their clients' interest in courts and other institutions, as well as in the European Court of Human Rights, in Strasbourg.

So far, the Bar Association has opened six offices for free legal assistance in Bitola, Kumanovo, Gostivar, Delčevo, Štip and Ohrid, encompassing 70% of all lawyers in the Republic of Macedonia.

16. Human resources policy:

a) Describe the methods and criteria for the selection, appointment and promotion of candidates for judicial office. How are judges and prosecutors recruited (are there competitive exams)?

b) Is the performance of holders of judicial office assessed? If yes, describe the body in charge as well as the relevant methods and criteria. Is there a merit based career system?

c) Is there a higher council of the judiciary? If so, describe its composition, role, premises and budget. How are members appointed? How long is their mandate? Can the mandate be renewed?

d) Is there an Inspection Service for the judiciary? If so, describe its composition, role, way of functioning and budget.

a)

Pursuant to the Constitution ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) and the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/02), judges are elected to an unrestricted term of office. Judges are elected and dismissed by the Assembly of the Republic of Macedonia, upon a proposal by the Judicial Council of the Republic of Macedonia.

Elected as a judge may be a citizen of the Republic of Macedonia who fulfils the general legally prescribed conditions for becoming an employee in a state administration, who is a law graduate, has passed the bar exam, and has adequate reputation for the judicial office. Besides these conditions, a candidate for a judge to a basic court, once having passed the bar examination, has to have a working experience in legal matters of over 5 years, with confirmed results. A candidate for a judge to an appellate court has to have such experience of over 9 years, whereas for a Supreme Court judge election, the candidate's experience has to be over 12 years. Elected as a judge to the Supreme Court may also be a full-time or an associate university professor with a tenure related to judicial practice for more than 10 years.

A court's President is elected under conditions, in a procedure and manner applied for the election of judges, for a term of four years and from the judges in the respective court, with a right to one re-election to another four-year term. If not re-elected, the outgoing court's President shall continue to work as a judge in that court.

The Judicial Council nominates for the election the candidate with the highest professional and work-related qualities among those fulfilling the prescribed criteria. In the process, particular account is taken of the information on the achievements of the candidate, deriving from the provided opinions on the professional and work-related qualities of each of the applicants by the court or the other legal entity in which employed, the court to which being elected, a higher-instance court and the Supreme Court of the Republic of Macedonia. At the Council's session that determines the proposal for election or dismissal of a judge, opinion is also given by the Minister of Justice and the President of the Supreme Court of the Republic of Macedonia.

The criteria for election of judges have been set forth by the Judicial Council. The general criteria upon which a Judicial Council's nomination is based are the following: the nominee should be a law graduate from the appropriate study programme, should have the reputation and authority necessary for performing the judicial function, should have undergone prior preparations for successful performance of the judicial function, should have the necessary working experience, independence, competence, diligence and commitment, conscience and impartiality, ethics, professionalism, physical and mental ability and should be a citizen of the Republic of Macedonia.

Within the existing system for election of judges in the Republic of Macedonia, there is no direct merit-based career promotion system i.e. a candidate can be appointed to a higher court only through a separate selection process in accordance with the indicated procedure and conditions. Still, in practice, the judges to higher courts are most often selected from those in the lower courts, whereas judges to basic courts are mainly selected from among the expert associates (law clerks) within the courts.

So far there has been no special school for judges authorised to provide their initial training. As has been previously indicated, the condition to be elected a judge or a appointed a public prosecutor is to have passed the bar exam. The bar examination is taken following the graduation from a law faculty and a completion of a two-year long internship. The bar examination is conducted in accordance with a specially designed programme enacted by the Minister of Justice, which includes institutes and questions of the various law branches necessary for the professional development of the law graduates. The Law on Bar Examination ("Official Gazette of the SRM", Nos. 26/80 and 07/88), provides that the bar examination consists of a written and an oral part. The written part includes questions about criminal and civil law, while the oral part includes questions about criminal law, civil law, Constitutional order and Constitutional law, business and labour law. Pursuant to the law, bar examination is taken before a Committee appointed by the Minister of Justice. The manner of taking the bar examination, application for the examination, contents of the minutes and issuance of a certificate for a passed examination have been regulated in detail in the Rulebook on the Manner of Taking Bar Examination ("Official Gazette of the SRM", No. 09/89). This examination, however, is not a competitive examination for election of judges and prosecutors. It is only one of the conditions for interested law graduates to apply at the competition. Further on, judges are elected by the Assembly of the Republic of Macedonia, upon the proposal of the Judicial Council.

In order to strengthen the independence of the judiciary in the Republic of Macedonia, improvement of the system of appointment of judges has been envisaged. The improvements have been clearly defined in the Judicial Reform Strategy (see [I Annex 02](#)). Namely, it has been stipulated that the election of judges be exempt from the competence of the Assembly, it being a political body, and be transferred to the Judicial Council, that shall primarily consist of judges. Its members shall be appointed from the judiciary itself, which shall be the essential guarantee for the judiciary's independence. Another important novelty shall be the introduction of initial training of candidates for judges, to last between 12 and 15 months and to be performed by a School for judges. The entry in the School shall be conditional on taking an entry examination. During the initial training, candidates for judges shall receive adequate financial remuneration provided by the state. The introduction of

these changes shall also establish a merit-based system of career promotion, whereby the Judicial Council shall decide on the appointment of a judge to a higher court, on the basis of clearly defined objective criteria.

b)

Pursuant to the Constitution of the Republic of Macedonia, one of the competences of the Judicial Council is to evaluate judges' expertise and ethics in performance of their office. This Constitutional provision has been further elaborated in the Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 80/92, 50/99 and 43/03). Namely, the Council evaluates the judges' expertise and ethics in case the information on the achievements, number of decided cases, working quality and efficiency suggest lack of professionalism, expertise or ethics. The assessment of professionalism and conscientiousness of judges while performing their post may not only be raised by the Council, but also by the President of the relevant court, the President of the higher court as well as by the General Session of the Supreme Court of the Republic of Macedonia.

According to the current system of election of judges, there is no direct merit-based form of career promotion. However, judges advance in career by way of being elected to a higher court. In these cases, the Council evaluates a judge's previous expertise and ethics in performance at the office, by exploring the information supplied by the Ministry of Justice on the quality and efficiency in his/her work, participation in training activities etc.

c)

The position, composition and competence of the Judicial Council have been set forth in the Constitution of the Republic of Macedonia. These Constitutional provisions have been further elaborated in the Law on the Judicial Council of the Republic of Macedonia. The Judicial Council consists of seven Members elected by the Assembly of the Republic of Macedonia from among the prominent lawyers, to a six year term of office with a right to one re-election. Three of its Members are elected by a majority vote of the total number of Members, within which there must be a majority vote of the total number of Members in the Assembly belonging to the non-majority communities in the Republic of Macedonia. From among its Members, the Council elects a President for a period of three years, with no right to re-election.

The office of a Member of the Judicial Council terminates if he/she resigns. A Council Member shall be dismissed if he/she is sentenced for a criminal offence to imprisonment without probation of at least six months, or in case he/she permanently loses the ability to perform the duties, which is determined by the Council on the basis of the finding and opinion by a competent medical committee.

Members of the Judicial Council are granted immunity, decided upon by the Assembly. The office of a Member of the State Judicial Council is incompatible with performance of any other public office, profession or membership in a political party.

The Judicial Council proposes to the Assembly election and dismissal of judges, decides on the disciplinary liability of judges, evaluates their expertise and ethics in the performance of the office, and proposes two judges to the Constitutional Court of the Republic of Macedonia.

The Judicial Council has its Service headed by a Secretary General. Number of expert associates and other employees in the service, as well as their activities and tasks, have been set forth in the Job Description and Classification Act.

Currently, the Council's Service includes 9 employees. A plan for 2005 foresees provision of further staff by employing 15 additional persons, three of whom shall be representatives of non-majority communities in the Republic of Macedonia. Premises and funds available to the Council are sufficient for the time being. Each of the Council Members and each advisor have his/her own office and a computer. The Judicial Council has an electronic data base including all relevant data on the work and training of judges. Furthermore, as part of the digitalisation of the judiciary, preparation of

software for the operation of the Judicial Council is in final stage. Next project in this sphere shall be the IT networking of the Council, courts, the Ministry of Justice and the School for judges. The chart below presents the Judicial Council's Budget for the last six years:

BUDGET OF THE JUDICIAL COUNCIL FOR THE PERIOD 1999-2005

JUDICIAL COUNCIL OF THE REPUBLIC	Budget 2000		Budget 2001		Budget 2002		Budget 2003		Budget 2004		Budget 2005	
	planned	executed	planned	executed	planned	Executed	planned	executed	planned	executed	planned	executed
	8.966.000	8.825.934	10.953.104	9.350.785	10.544.000	9.911.007	10.998.000	9.479.927	10.112.376	n/a yet	12.030.672	n/a yet
Salaries, wages and benefits	6.944.000	6.854.345	6.898.078	6.734.703	7.119.000	7.015.353	7.898.000	7.372.686	6.802.321	n/a yet	9.009.228	n/a yet
Goods and services	2.022.000	1.971.589	3.855.026	2.459.813	2.805.000	2.445.654	3.100.000	2.107.241	3.310.055	n/a yet	3.021.444	n/a yet
Purchase of capital goods			200.000	156.269	620.000	450.000	0	0	0	0	0	0

d)

In the Republic of Macedonia, there is no conventional inspection in the judiciary. Still, within the judicial administration, in the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/03), provisions of Articles 76 – 78, a competence has been stipulated of the Ministry of Justice to conduct inspection over the application of the Court's Rules of Procedure, i.e. conduct supervision over the courts' efficiency and their implementation of the Court's Rules of Procedure.

As part of the forthcoming reform in the judiciary, the establishment of a body that shall perform inspection supervision over the operation of courts has been stipulated. Namely, the Reform Strategy envisages that such body be composed of judges and that results from the conducted supervision have no effect over the judge's ruling in the actual case that has been supervised.

17. Educational system:

a) Describe the university law curriculum (content; e.g. law, languages, comparative studies, ethics etc.)

b) What percentage of law students are (i) women; (ii) from ethnic minorities?

c) Are internships for law graduates organised? If so, how is this done?

d) Is there a special school or institute for the education of judges and prosecutors? If so, give information on its programmes, staff, number of students etc.

a)

University Law Curriculum:

In the Republic of Macedonia, a degree in law is acquired at four Faculties of Law, out of which two are within the State Universities, and two are within the privately financed higher education institutions. The Faculty of Law within the Ss. Cyril and Methodius University in Skopje is a higher education institution with the longest tradition regarding education of law professionals. It was established in 1951. The Faculty of Law within the State University in Tetovo is the second state higher education institution, which introduced law studies in 2004.

Within the educational system of the Republic of Macedonia, besides the state faculties in the area of legal studies there are two private higher education institutions: The South-East European University - Tetovo, which commenced operating in the year 2001 and the Faculty of Social Sciences (Fakultet za opštествni nauki – FON) which begun organising law studies since 2004.

The Faculty of Law in Skopje organises four-year undergraduate studies (to obtain a degree - diploma of law); two-years post-graduate studies (for the degree – Master of Law) and doctoral studies (Doctor of Law). In the past period, the curricula were modified and updated, and in 1994 the

new curricula were adopted as a result of the need to provide compatibility with the legal studies in other countries, i.e., other legal systems.

The curricula of the four-year studies comprise mandatory, facultative and optional modules. In the first two years the general theoretical legal disciplines are studied, while in the higher academic years the focus of the programme, especially through the applied programmes, has the purpose of preparing the students for fast incorporation in the practice. Therefore, in the first academic year the following subjects are studied: Introduction to Law, Roman Law, History of Law, Economics, Constitutional Law, Sociology of Law, Methodology of the Legal Sciences, and a Foreign Language. In the second academic year, the students are studying the following modules: Political System: Penal law; Administrative Law; Company Law; Labour Law; General Part of the Civil and Property Law and a Foreign Language, while in the third academic year the subjects are the following: Contract Law; Trade Law; Family Law; Finance Law; International Public Law; International Private Law and Applied Economy. After the completion of the third academic year, the students are divided into specialised groups (concentrations). Beside the mandatory exams (Civil Procedure Penal Procedure, Administrative Procedure EU Law and Philosophy of Law), other modules are also studied, depending on the group the student has selected. Depending on their inclinations, the students can opt for one of the following groups: Civil Law, Trade Law, Penal Law, Constitutional Law, International Law, Financial Law or Administrative Law.

The postgraduate studies at the Faculty of Law in Skopje are organised in the following fields: Civil Law, Business Law, History of the State and the Law, Criminal Law and Criminology, International Law and International Politics; Political Sciences and Communications.

The Law Studies at the State University in Tetovo are organised as four-year studies of higher education, whereby for the academic 2004/2005 the first and the second study year are accredited.

The study programme at the Faculty of Law within the State University in Tetovo comprises of mandatory and facultative modules. The modules are distributed across the academic years according to the principle from the general towards the specialised.

In the first academic year, the following modules are mandatory: Roman Law; introduction to the Law; General History of the State and the Law and National History; Methodology of Law, Philosophy and Sociology of Law. In the second academic year, the following modules are mandatory: Constitutional Law; Criminal Law (general part); Civil and Property Law; Family Law; Inheritance Law; and Labour Law with Social Insurance. In the third academic year, the following modules are mandatory: Contract Law; International Public Law; Criminal Law (general part); Criminal Procedure; Administrative Law and Administrative Procedure. In the final, fourth year, mandatory modules are: International Private Law; Trade and Commercial Law; Law of Civil Procedure; Finances and Financial Law; Criminology and Penology; Legal Research and Legal Writing in Macedonian Language.

Beside the mandatory modules, 30% of the curriculum consists of facultative modules, among which: European studies; Information Technology and Statistics of Law; Human Rights; Legal Rhetoric and Elaboration; English Language; Banking Law; Law of the Public Notaries; Local Self-Government; Customs Law, etc.

At the Faculty of Law within the South East Europe University, the four academic years contain mandatory and facultative modules, which steam from more general to more specific disciplines. There are also mandatory and facultative modules. Upon completion of the third academic year, the students have the opportunity to choose from one of the six offered study sub-groups: International Law, Civil Law, Commercial Law, Criminal Law, Constitutional and Administrative Law, and Social and Labour Law.

In the first academic year general modules are taught, such as: Foreign Language; Macedonian and Albanian Language; Roman Law; Constitutional Law; European Studies; History of European Law; Methodology of Legal Sciences; and Interpretation of Law. In the second academic year are taught:

Civil Law and Contract Law; Administrative Law; Labour Law; Political System; Foreign Language, EU Law – Transition of the New Democracies to the EU; International Competition Law; Trade and Commercial Law; Social Law and Administrative Regulatory Law. In the third year of studies, greatest attention is paid to the Criminal Law; Property Rights; Family Law; Fiscal Law; Criminology; Comparative Legal Terminology; International Private Law; Criminal and Civil Procedures; Human Rights; Constitutional Judiciary; Foreign Languages; etc. In the fourth academic year mandatory modules are: Sociology of Law and Philosophy and Ethics of Law, while the other modules depend on the subgroup (concentration), which the student has selected.

The Faculty of Social Sciences (FON), which is established as an independent private educational institution, outside of a university, implements the following annual study programmes in the area of legal sciences: a study programme on European Law and Law of the European Union and a study programme on Diplomacy and International Politics.

The study programme on European Law and Law of the European Union comprises a total of 33 modules, each of which lasts one semester. In the first year, the following modules are taught: History of Law and of Law of the EU; Sociology of Law; Penal Law; Introduction to Law; International Relations; Economics; Informatics; Foreign Language I and Foreign Language II. In the second year: EU Institutions; Constitutional Law; International Public Law; Civil Law; International Economic Relations; Foreign Language I and Foreign Language II. In the third year, the subjects are divided into mandatory and facultative modules, where mandatory according to the curriculum are: Finance Law (general part and EU Law); Company Law in the EU; Procedures before the EU Institutions and the Council of Europe; Administrative Law; EU and Human Rights; Labour Law with International Labour Law; and Foreign Language I; while the student has the right to select one course from the group of four facultative modules: Foreign Language II; European Penal Law; Law of Insurance; Customs Law in the EU. The same situation exists in the fourth academic year, where mandatory modules are: International Trade Law; International Private Law; Patent Law and Copyright; Judicial and Arbitration Protection in the EU; Legal Writing and Drafting; EU in the International Political Relations; Foreign Language I; while the facultative modules are: Foreign Language II; Tax Law of the EU; International Transport and International Humanitarian Law. The students in all four years can continue studying the second foreign language if they select it from the group of facultative modules.

Within Diplomacy and International Politics curricula a total of 32 modules are taught, each of which lasts for one semester, where the students have as early as in the first year the right to select one of the following facultative modules: Political Psychology; Basics of Applied Politics; Public and State Administration; and Administrative Law. In the second year, the following modules are facultative: EU Common Foreign and Security Policy; System of Collective and Mutual Security; Modern Warfare and Organisation of the Armed Forces; International Organised Crime; Terrorism and Proliferation. In the third year, the students select one of the following facultative modules: Business Language, Methodology (with Statistics), Modern Political History and Foreign Policy Analysis. In the fourth year facultative modules are: Project Management, Business Language, Globalisation and Industrial Property. The students in the first and the second year study a foreign language, which they can continue studying also in the third and the fourth year, if they select it from the group of facultative modules.

b)

The percentages of law students in the state and in the private universities, of female gender, as well as the ratio of members of communities, are provided in the table below:

Law studies
Iustinianus Primus Faculty of Law
Ss. Cyril and Methodius University (Skopje) – state university

		Total		Macedonians		Albanians		Turks		Roma		Vlachs		Serbs		Others	
				Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)
1999/ 2000	total	1771		1544	87,18	118	6,66	22	1,24	10	0,56	18	1,01	42	2,37	17	0,95
	female	1061	59,91%	958	62,05	40	33,90	9	40,91	7	70,00	10	55,56	29	69,05	8	47,06
2000/ 2001	total	2705		2386	88,20	160	5,91	20	0,73	14	0,51	33	1,21	56	2,07	36	1,33
	female	1610	59,52%	1449	60,73	63	39,38	12	60,00	10	71,43	21	63,64	39	69,64	16	44,44
2001/ 2002	total	2942		2563	87,11	174	5,91	41	1,39	17	0,57	41	1,39	59	2,00	47	1,59
	female	1711	58,16%	1535	59,89	65	37,36	23	56,10	8	47,06	23	56,10	34	57,63	23	48,94
2002/ 2003	total	3352		2937	87,61	198	5,90	38	1,13	25	0,74	52	1,55	53	1,58	49	1,46
	female	1994	59,49%	1795	61,12	78	39,39	20	52,63	13	52,00	34	65,38	28	52,83	26	53,06
2003/ 2004	total	3643		3289	90,28	172	4,72	32	0,87	15	0,41	36	0,98	59	1,61	40	1,09
	female	2124	58,30%	1939	58,95	79	45,93	19	59,38	8	53,33	18	50,00	37	62,71	24	60,00

Legal studies
Law Faculty
South East European University (Tetovo) – higher education self-financing institution

		Total		Macedonians		Albanians		Turks		Roma		Vlachs		Serbs		Bosniaks		Others	
				Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)
2004/ 2005	total	1233		191	15,49	1007	81,67	25	2,03	-	-	-	-	1	0,37	9	0,73	-	-
	female	515	41,77%	101	52,88	402	39,92	10	40	-	-	-	-	1	100	1	11,11	-	-

European Law and the Law of European Union
Faculty of social sciences – higher education self-financing institution

		Total		Macedonians		Albanians		Turks		Roma		Vlachs		Serbs		Bosniaks		Others	
				Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)
2004/ 2005	total	349		317	90,83	16	4,58	3	0,86	-	-	-	-	10	2,86	2	0,57	11	3,15
	female	163	46,70%	150	47,31	5	31,2	1	33,33	-	-	-	-	4	40	0	0,00	3	27,27

Law studies
Law Faculty
State University of Tetovo (Tetovo)

		Total		Macedonians		Albanians		Turks		Roma		Vlachs		Serbs		Others	
				Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)	Num.	(%)
2004/ 2005	total	330		-	-	330	100,00	-	-	-	-	-	-	-	-	-	-
	female	n/a	n/a	-	-	n/a	n/a	-	-	-	-	-	-	-	-	-	-

c)

Organisation of law graduates internships:

The issue of the apprenticeship of the law graduates is regulated by the Rulebook on the Mode for Performance of the Apprenticeship of Graduated Lawyers in the Bodies of the Judiciary ("Official Gazette of the SRM", No. 09/89). Namely, it establishes the mode for performance of the apprenticeship – graduated lawyers in the bodies of the judicial system. The establishment of the mode for performance of apprenticeship has the purpose of empowering the apprentice to perform activities and tasks to which they are assigned and to prepare them for the bar exam. Pursuant to the Rulebook, the apprentices are alternately assigned to perform certain activities and tasks and in the course of the apprenticeship are introduced to and have their skills developed to perform all activities and tasks from within the scope of the justice system bodies. The Rulebook regulates in detail the area to which the apprentices are assigned in the justice system bodies where they perform the apprenticeship; the period is defined within which they acquire the practice in each of the services within the body, as well as the mode for performance of the practice. For the individual apprenticeship of each apprentice, a programme is prepared, which establishes the specific tasks, which they need to perform, the employee responsible for their apprenticeship, as well as the records maintained of the performed tasks. The provisions from the aforementioned Rulebook are also related to both, volunteers and graduated lawyers, which are sent to practice in the bodies of the judiciary from other bodies and organisations.

d)

School or institute for judges:

In the Republic of Macedonia there is no system of initial training for judges and public prosecutors. However, there is a system of continuing education of the judges and the prosecutors, executed by the Centre for Continuing Education (CCE). The CCE was established in March 1999 within the Macedonian Judges Association, as a form of continuity from the Committee for Education, which primarily focuses on continuing education and professional improvement of the judges, law clerks, and the court administration.

The programme and the activities of the CCE are directed towards increased competence, professionalism and ethical conduct of the judicial personnel, promotion and strengthening of the judicial independence, public confidence and respect towards the judiciary.

A Board composed of nine members with voting rights manages CCE, out of which five are representatives of the Macedonian Judges Association and the President of the Association is a member by virtue of their position. The remaining three members are representatives of the Ministry of Justice, of the Supreme Court of the Republic of Macedonia and of the Judicial Council of the Republic. The executive manager of the CCE is present at the Board sessions and is authorised to participate in its work, but has no right to vote. Also, a representative from the Foundation Open Society Institute – Macedonia (FOSIM) and the Constitutional and Legal Policy Institute (COLPI), as well as one representative of the American Bar Association – Central and Eastern European Law Initiative (ABA/CEELI) which financially support this project, participate as Board members, without the right to vote (About the role of the Centre for Continuing Education, its programme and implemented trainings, for more details see [I D 18](#)).

The system for election of judges and of public prosecutors is explained in [I D 3](#), where it is indicated that, besides the other prerequisites, the candidates need to have passed the bar exam. The bar exam can be passed after a completed two-year apprenticeship, after the graduation from the Faculty of Law. The bar exam is taken according to a special curriculum adopted by the Minister of Justice, which contains institutes and questions from certain legal branches, necessary for skills development of the graduated lawyers. The Law on the Bar ("Official Gazette of the Republic of Macedonia", Nos. 26/80 and 7/88), establishes that the bar exam consists of a written and an oral part. In the written part, Criminal and Civil law are subjects of examination, and in the oral part Criminal Law, Constitutional Order and Constitutional Law, Commercial Law and Labour Law. Pursuant to the Law, the bar exam is taken before a committee appointed by the Minister of Justice.

The mode for taking the bar exam, application for the exam, contents of the minutes and issuance of a certificate for the passed bar exam are regulated in detail in the Rulebook on the Mode for Taking the Bar Exam ("Official Gazette of the Republic of Macedonia", No. 09/89).

Introduction of a system of initial training of candidates for judges and public prosecutors is envisaged as a priority in the Judicial Reform Strategy (see [I Annex 02](#)), whereby the Centre for Continuing Education will grow into a public institution – School for Education of Judges, Public Prosecutors and other employees in the courts and the Public Prosecutor's Office. The programmes for continuing education will be established by a Board of the School for Education of Judges and Public Prosecutors, where members will be representatives from the Supreme Court of the Republic of Macedonia, the Public Prosecutor's Office of the Republic of Macedonia, the Ministry of Justice, the Judicial Council, the Council of Public Prosecutors, Macedonian Judges Association and the Association of Public prosecutors, as well as relevant higher education institutions.

The introduction of the initial training would raise the level of quality of the judges and public prosecutors, having in mind the fact that they would undergo a planned and systematically structured training before entering the position of a judge or a public prosecutor. Namely, the Strategy foresees that upon a Job Advertisement for candidates for judges and public prosecutors, the candidates should take an entrance exam to enrol in the School for Judges and Public Prosecutors. After the completed initial training, they would take a final exam, and only then would be appointed as judges and public prosecutors.

18. Training:

- a) Is there an independent national training centre for the judiciary? What is its role? If there is more than one, is the training harmonised?**
- b) Are specific training courses organised for judges in new areas such as company law, cyber crime, financial crime etc., but also on ethics in justice as well as on human rights and fundamental liberties? Is there any continued training for judges?**
- c) How many and what types of specialised judges and prosecutors are there?**
- d) Is there in-service training? Is it compulsory? Please describe the extent and how often it occurs.**
- e) What percentage of judges, prosecutors and other staff in the judicial sector has received further training over the last 5 years (compared with the profession as a whole)?**

a)

Pursuant to Article 51 of the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/02), judges have a right to and an obligation for continued professional training in the course of their terms of office. The Law on the Court Budget ("Official Gazette of the Republic of Macedonia", No. 60/03), stipulates that at least 2% of the total funds allocated for the financing of the judiciary shall necessarily be earmarked for professional training of judges, civil servants, court police and other court employees.

The judges' continued education is conducted by the Centre for Continuous Education (CCE) established in May 1999 within the Judges Association of the Republic of Macedonia, as a follow-up to the Education Committee, primarily focused on the continuous education and professional training of judges, expert associates and court administration.

The CCE programme and activities have been focused towards enhancement of expertise, professionalism and ethics of judges, promotion and enhancement of judges' independence, public confidence and reputation of the judiciary.

CCE is managed by a Board of 9 Members with a right to vote, five of whom are representatives of the Judges Association of the Republic of Macedonia. The Association's President is an *ex officio* Member of CCE. The other three Members include representatives of the Ministry of Justice, the Supreme Court of the Republic of Macedonia and the Judicial Council of the Republic of Macedonia. CCE Director attends Board's sessions and is authorised to participate in its work, though with no right to vote. In addition, representatives from the Foundation Open Society Institute Macedonia

(FOSIM), the Constitutional and Legal Policy Institute (COLPI) and the American Bar Association – Central and Eastern Europe Legal Initiative (ABA/CEELI), that have provided financial support for the project, attend Board's sessions, with no right to vote.

The Board is responsible for establishing the CCE policy and approving its educational programme, its financial plan and its budget. Similarly, it adopts its rules of procedure and submits reports on the Centre's activities to the Governing Board of the Judges Association of the Republic of Macedonia.

Lecturers at the seminars and counselling sessions organised by the Centre for Continuous Education are domestic and foreign experts. Lecturers from the Republic of Macedonia include judges of the Supreme Court and appellate courts. Foreign lecturers are primarily Council of Europe experts.

In order to facilitate full integration in the international legal community and regular international communication and cooperation, CCE has also organised foreign language courses. Within the cooperation with the Peace Corps, volunteers have been teaching English language in a number of courts throughout the country. The Foundation Open Society Institute Macedonia has provided judges from the courts in Skopje with a possibility to attend the English language courses in its educational centre. Furthermore, as part of the cooperation of the Judges Association of the Republic of Macedonia and the Ministry of Justice of the Republic of Macedonia with the Embassy of the Republic of France and the Ministry of Justice of the Republic of France, French language courses have also been organised.

In line with the strategic commitment of the Republic of Macedonia, particular emphasis within the Centre's educational programme has been attached to the computer training of judges, expert associates and administrative personnel. For that purpose, the Centre has been organising computer courses for judges, expert associates and administrative personnel in courts in the Republic of Macedonia.

In order to enable free access to legal literature, texts of laws and latest legal publications, CCE and JARM proceeded with furnishing the library that is at a disposal to all judges, expert associates and other interested persons.

The Centre regularly distributes and submits all kinds of material, books and publications relevant for the work of judges and courts.

The training of public prosecutors has been conducted through the Public Prosecutors Association. Public prosecutors have also been included in a number of specially designed seminars organised by the Centre for Continuous Education.

The issue of the training of judges and public prosecutors has been in detail elaborated in the Judicial Reform Strategy (see [I Annex 02](#)).

b)

In its training programmes, CCE has dedicated particular attention to the training in several fields, such as are commercial law, cyber crime, financial crime, corruption, human rights etc. The enclosed charts give a review of the seminars organised by the Centre for Continuous Education in the period 1999 – 2003, their topics and the number of judges, public prosecutors and other participants.

APPENDIX

Seminars (1999)					
No	Topic	Opening	Close	Days	Total participants
1.	Right to lien on movable objects and rights	23.03.1999	23.03.1999	6	56
2.	Right to lien on movable objects and rights	06.04.1999	06.04.1999	6	60
3.	Acting upon administrative and accounting disputes	29.04.1999	29.04.1999	4,5	57
4.	Bankruptcy	06.05.1999	07.05.1999	10	40
5.	Practical application of the Bankruptcy Law	20.05.1999	21.05.1999	10	35
6.	Harmonisation of the application of the provisions of the Trade Companies Law and the Rulebook on the Entry into the Trade Register	04.06.1999	05.06.1999	10	20
7.	Acting upon labour relations disputes	25.06.1999	26.06.1999	10	70
8.	Acting upon labour relations disputes	02.07.1999	03.07.1999	10	49
9.	Application of specific articles of the European Convention on Human Rights and its Protocol 1.	16.09.1999	18.09.1999	15	49
10.	Practical application of the Law on Citizens' Associations and Foundations	19.11.1999	20.11.1999	10	42
11.	Preparation of standardised forms in the bankruptcy procedure	24.11.1999	24.11.1999	4	20
12.	Entry into the Trade Register	26.11.1999	27.11.1999	10	16
13.	Preparation of standardised forms in the bankruptcy procedure	10.12.1999	11.12.1999	10	20
14.	Juvenile proceedings	17.12.1999	17.12.1999	4	44
	TOTAL			119,5	578

Seminars (2000)					
No.	Topic	Opening	Close	Days	Total participants
	Juvenile proceedings	17.12.1999	17.12.1999	1	44
	Entry into the Trade Register	28.01.2000	29.01.2000	2	29
	Working meeting of the criminal units in the courts of appeals	17.02.2000	18.02.2000	2	34
	Trade companies management in the Republic of Macedonia and the USA	24.02.2000	24.02.2000	1	44
	Entry into the Trade Register	17.03.2000	18.03.2000	2	29
	Trade companies management in the Republic of Macedonia and the USA	29.03.2000	29.03.2000	1	24
	Trade companies management in the Republic of Macedonia and the USA – round table discussion	06.04.2000	06.04.2000	1	14
	Judiciary and the media	13.04.2000	15.04.2000	3	125
	Trade companies management in the Republic of Macedonia and the USA	24.04.2000	24.04.2000	1	10
	Application of Articles 6 and 13 of the European Convention on Human Rights and Fundamental Freedoms	18.05.2000	19.05.2000	2	50
	Legal aspects of business financing	29.06.2000	29.06.2000	1	35
	Entry into the Trade Register	4.07.2000	4.07.2000	1	20
	Preparation and proceedings of the main hearing and main debate	06.07.2000	08.07.2000	3	111
	Application of specific articles of the European Convention on Human Rights	05.10.2000	06.10.2000	2	43
	Entry into the Trade Register	27.10.2000	28.10.2000	2	24
	Training of lecturers	30.10.2000	01.11.2000	3	12
	Pilot training programme for newly elected judges	02.11.2000	04.11.2000	3	20
	Financial claims by employees on all employment grounds	03.11.2000	04.11.2000	2	55
	Financial claims by employees on all employment grounds	10.11.2000	11.11.2000	2	76
	Bankruptcy	6.12.2000	7.12.2000	2	23
	Entry into the Trade Register	14.12.2000	15.12.2000	2	29
	TOTAL:			39	851

Seminars (2001)							
No.	Topic	Opening	Close	Days	Total participants	Total judges	Total expert associates
	Second multilateral exchange of experience in the field of training of judges	25.01.2001	27.01.2001	2	52		
	Software copyright violation	14.03.2001	14.03.2001	1	36	24	
	Termination of employment on all grounds stipulated in the Law on Labour Relations	06.04.2001	07.04.2001	2	60	53	7
	Securities	20.04.2001	21.04.2001	2	47	45	2
	Termination of employment on all grounds stipulated in the Law on Labour Relations	18.05.2001	19.05.2001	2	70	64	6
	Preparation and proceedings of the main hearing in criminal proceedings	25.05.2001	26.05.2001	2	51	43	8
	Securities	01.06.2001	02.06.2001	2	51	47	3
	Preparation and proceedings of the main hearing	22.06.2001	23.06.2001	2	27	20	7
	Termination of employment on all grounds stipulated in the Law on Labour Relations	28.09.2001	29.09.2001	2	49	41	8
	Entry into the Trade Register	5.10.2001	6.10.2001	2	24	15	9
	Freedom of expression in a democratic society and the role of courts and media Implementation of Article 10 of the European Convention on Human Rights on national level.	15.10.2001	16.10.2001	2	51	19	3
	Application so far and the forthcoming alterations to the Law on Citizens' Associations and Foundations: Prospects of the non-governmental sector	30.11.2001	1.12.2001	2	41	25	10
	Entry into the Trade Register	7.12.2001	8.12.2001	2	20	12	8
	Alternatives to juvenile justice in the youth policy	13.12.2001	15.12.2001	3	30	13	3
	TOTAL			28	609	421	74

Seminars (2002)					
No.	Topic	Opening	Close	Days	Total participants
1.	Acquisition, registration and legal protection of the right to real estate ownership	1.3.2002	2.3.2002	2	82
2.	Entry into the Trade Register	22.3.2002	23.3.2002	2	19
3.	Regional Institution Building Conference	16.3.2002	18.3.2002	3	3
4.	Acquisition, registration and legal protection of the right to real estate ownership	5.4.2002	6.4.2002	2	118
5.	Competition and merger control	22.4.2002	22.4.2002	1	15
6.	Application of specific articles of the European Convention on Human Rights	24.4.2002	28.4.2002	5	29
7.	Objects of general interest, neighbour law, co-ownership, joint ownership and condominium ownership	24.5.2002	25.5.2002	2	60
8.	Objects of general interest, neighbour law, co-ownership, joint ownership and condominium	14.6.2002	15.6.2002	2	74
9.	Application of specific articles of the European Convention on Human Rights	3.7.2002	6.7.2002	4	27
10.	Other ownership rights	27.9.2002	28.9.2002	2	62
11.	Trafficking in persons	3.10.2002	3.10.2002	1	5
12.	The new Law on Industrial Property	4.10.2002	5.10.2002	2	4
13.	Trafficking in persons	24.10.2002	26.10.2002	3	4
14.	Other ownership rights	25.10.2002	26.10.2002	2	51
15.	Trafficking in persons	28.10.2002	30.10.2002	3	5
16.	Application of specific articles of the European Convention on Human Rights	30.10.2002	2.11.2002	4	31
17.	Entry into the Trade Register	8.11.2002	9.11.2002	2	22

Seminars (2002)					
No.	Topic	Opening	Close	Days	Total participants
18.	Stabilisation and Association Agreement /Justice and Home Affairs	28.11.2002	29.11.2002	2	2
19.	Round table discussion: <i>Exchange of Opinions and Experience on the Procedure to Acquire Refugee Status under International and National Law</i>	6.12.2002	6.12.2002	1	16
20.	Money laundering	11.12.2002	13.12.2002	3	7
21.	Application of specific articles of the European Convention on Human Rights	11.12.2002	14.12.2002	4	30
	TOTAL:			52	666

Seminars (15.12.2002 - 31.12.2003)									
No.	Topic	Opening	Close	Hours	Total participants	Total judges	Total expert associates	Total from prosecution offices	Total guests
1.	Harmonisation of court practice in application of the Law on Citizens' Association and Foundations	21.02.2003	22.02.2003	10	13	12	1	0	0
2.	Position and procedure before the International Criminal Court for the Former Yugoslavia	28.02.2003	01.03.2003	12	49	27	0	17	5
3.	Introduction to the European integration	28.02.2003	01.03.2003	12	19	13	0	4	2
4.	Introduction to the European integration	14.03.2003	15.03.2003	12	17	10	1	5	1
5.	Basics of the EU legislation	28.03.2003	29.03.2003	10	17	10	3	2	2
6.	Basics of the EU legislation	04.04.2003	05.04.2003	10	15	10	1	3	1
7.	Basic Principles of Fair Trial and Issues Related to the Independence of the Judiciary (Regional Conference)	14.04.2003	18.04.2003	28,5	50	8	1	3	38
8.	Trafficking in persons	09.05.2003	10.05.2003	8,5	64	30	1	18	15
9.	Current issues related to the Law Amending and Altering the Law on Execution Procedure	30.05.2003	31.05.2003	10	39	35	2	0	2
10.	Trafficking in persons	06.06.2003	07.06.2003	9	80	45	0	17	18
11.	Current state of affairs in the reform of the criminal legislation in the Republic of Macedonia	20.06.2003	21.06.2003	10,5	46	16	2		
12.	Matters of dispute in the bankruptcy procedure	27.06.2003	28.06.2003	9,5	33	29	3		
13.	Application of specific articles of the European Convention on Human Rights	25.09.2003	27.09.2003	16,5	31	30	0		
14.	Forms of corruption and its criminal and legal identification	03.10.2003	04.10.2003	11	27	13	0		
15.	Trafficking in persons - implementation of the Regional Manual for Judges and Public Prosecutors	15.10.2003	18.10.2003	17	17	10	2		
16.	Fight against organised crime, corruption and money laundering	20.10.2003	24.10.2003	24,5	38	6	3		
17.	Trafficking in persons - implementation of the Regional Manual for Judges and Public Prosecutors	29.10.2003	01.11.2003	16,5	26	17	0		
18.	Proposal for Adoption of a Trade Companies Law	7.11.2003	7.11.2003	3	35	9	0		
19.	Alternative means for resolution of disputes – mediation	11.11.2003	11.11.2003	5,5	26	26	0		
20.	Proposal for Adoption of a Trade Companies Law	12.11.2003	12.11.2003	3	28	8	3		
21.	Alternative means for resolution of disputes – mediation	12.11.2003	12.11.2003	5,5	20	20	0		
22.	Proposal for Adoption of a Trade Companies	14.11.2003	14.11.2003	3	34	8	1		

Seminars (15.12.2002 - 31.12.2003)									
No.	Topic	Opening	Close	Hours	Total participants	Total judges	Total expert associates	Total from prosecution offices	Total guests
	Law								
23.	Forms of corruption and its criminal and legal identification	14.11.2003	15.11.2003	10,5	39	23	0		
24.	Trafficking in persons - implementation of the Regional Manual for Judges and Public Prosecutors	26.11.2003	29.11.2003	16,5	31	17	0		
25.	Introduction to the European Integration	27.11.2003	28.11.2003	10,5	25	9	2		
26.	Introduction to the European Legislation	3.12.2003	4.12.2003	12	18	7	2	5	4
27.	European system of protection of fundamental rights	12.12.2003	12.12.2003	2,5	59	32	0	8	19
	TOTAL:			299,5	896	480	28	82	107

Seminars (01.01.2004 - 10.10.2004)									
No.	Topic	Opening	Close	Days	Total participants	Total judges	Total expert associates	Total from prosecution offices	Total guests
1.	Alternative means for resolution of disputes	27.1.2004	27.1.2004	1	28	12	/	/	16
2.	Alternative means for resolution of disputes	28.1.2004	28.1.2004	1	26	17	/	/	9
3.	Debate on the draft text of the new Trade Companies Law – Skopje	12.2.2004	12.2.2004	1					
4.	Debate on the draft text of the new Trade Companies Law – Bitola	13.2.2004	13.2.2004	1					
5.	Drafting of a Law on Judges' Salaries	13.2.2004	14.2.2004	2	5	5	/	/	/
6.	Debate on the draft text of the new Trade Companies Law – Stip	16.2.2004	16.2.2004	1					
7.	Debate on the draft text of the new Trade Companies Law – Tetovo	18.2.2004	18.2.2004	1					
8.	Mediation in criminal proceedings	19.2.2004	21.2.2004	3	55	24	/	23	8
9.	Organised crime	11.3.2004	13.3.2004	3	6	6	/	/	/
10.	Tax crime	17.3.2004	18.3.2004	2	9	9	/	/	/
11.	Tax crime	18.3.2004	19.3.2004	2	10	10	/	/	/
12.	Trafficking in persons	1.4.2004	3.4.2004	3	12	12	/	/	/
13.	Debate on the Draft Law on Judges' Salaries – Stip	5.4.2004	5.4.2004	1					
14.	Debate on the Draft Law on Judges' Salaries – Bitola	23.4.2004	23.4.2004	1					
15.	Detained persons treatment	25.4.2004	27.4.2004	3	86	36	/	29	21
16.	DPK (USAID Court Modernisation Project) - Training of lecturers	10..5.2004	13..5.2004	4					
17.	Promotion of the Judicial Reform Index prepared by ABA/CEELI	14.5.2004	14.5.2004	1					
18.	Judiciary and the media -round table discussion	19.5.2004	19.5.2004	1	42	15	/	/	27
19.	Debate on the Draft Law on Judges' Salaries – Skopje	26.5.2004	26.5.2004	1	29	29	/	/	/
20.	Constitutional judiciary	2.6.2004	2.6.2004	1					
21.	Future strategic directions of education development - round table discussion	15.6.2004	16.6.2004	2	97	25	/	6	66

Seminars (01.01.2004 - 10.10.2004)									
No.	Topic	Opening	Close	Days	Total participants	Total judges	Total expert associates	Total from prosecution offices	Total guests
22.	Trafficking in persons	24.6.2004	26.6.2004	3	27	12	/	6	9
23.	Possibilities for agreement in criminal legislation and alternative measures in the Criminal Code of the Republic of Macedonia	24.6.2004	26.6.2004	3	47	7	/	38	2
24.	Trafficking in persons	8.7.2004	10.7.2004	3	30	15	2	8	5
25.	Introduction to the European integration	12.7.2004	14.7.2004	3	28	19	/	2	7
26.	Application of specific articles of the European Convention on Human Rights	9.9.2004	11.9.2004	3	41	18	2	16	5
27.	International court cooperation in legal and business cases	13.9.2004	14.9.2004	2	39	27	/	1	11
28.	Judicial Reform Strategy – round table discussion – Stip	22.9.2004	22.9.2004	1	17	8	/	8	1
29.	Course on the Management of the Flow of Cases through Courts – Kriva Palanka	24.9.2004	24.9.2004	1	10				
30.	Course on the Management of the Flow of Cases through Courts – Prilep	28.9.2004	28.9.2004	1	25				
31.	Judicial Reform Strategy – round table discussion – Skopje	28.9.2004	28.9.2004	1	18	13	/	4	1
32.	Course on the Management of the Flow of Cases through Courts – Prilep	29.9.2004	29.9.2004	1	23				
33.	Course on the Management of the Flow of Cases through Courts – Bitola	30.9.2004	30.9.2004	1	22				
34.	Judicial Reform Strategy - round table discussion – Bitola	30.9.2004	30.9.2004	1	11	6	/	1	4
35.	Trade Companies Law	1.10.2004	2.10.2004	2	41	33	3	/	5
36.	Course on the Management of the Flow of Cases through Courts – Bitola	1.10.2004	01.10.2004	1	18				
37.	Course on the Management of the Flow of Cases through Courts – Tetovo	5.10.2004	5.10.2004	1	22				
38.	Course on the Management of the Flow of Cases through Courts – Tetovo	6.10.2004	6.10.2004	1	23				
39.	Possibilities for a more efficient management of cases and use of mediation in the work of public prosecutors and judges	7.10.2004	7.10.2004	1	28	17	1	/	/
40.	Course on the Management of the Flow of Cases through Courts – Struga	7.10.2004	7.10.2004	1	10				
41.	Course on the Management of the Flow of Cases through Courts – Struga	8.10.2004	8.10.2004	1	6				

c)

Specialised departments are established in courts that comprise judges who decide in cases of the same legal area. There is no formal system for specialisation of judges in a specific legal area. However, as mentioned, in practice judges are specialised by their assignment to specific departments.

Pursuant to the Court Rules of Procedure, every basic court includes a criminal and a civil department. Within the criminal department, the following divisions are established: Criminal, Investigative, Juvenile, Misdemeanour and Military. Within the civil department, the following divisions are established: Civil, Enforcement, Trade, Labour, Non-Contentious, Inheritance etc. The Supreme Court includes three departments: Criminal, Civil and Administrative.

Taking into consideration the fact that judges' specialisation is conducted only in larger primary courts, below is the data on the number of judges acting upon specific types of cases: In the Skopje I Basic Court, out of the total number of 76 judges, 12 act upon criminal, 22 upon civil, 10 upon business, 2 upon bankruptcy, 2 upon non-contentious, 1 upon registrations, 5 upon enforceable civil, and 15 upon misdemeanour cases. In the Skopje II Basic Court, out of the total number of 75 judges, 20 act upon criminal cases and investigations, 22 upon civil, 7 upon business, 3 upon bankruptcy, 3 upon non-contentious, 4 upon execution civil and 16 upon misdemeanour cases. In the Basic Court in Bitola, out of the total number of 30 judges, 4 act upon criminal cases, 2 upon investigations, 10 upon civil, 2 upon business, 2 upon bankruptcy, 2 upon non-contentious, 2 upon registrations, 2 upon enforceable civil and 3 upon misdemeanour cases.

In courts of appeals, 27 judges act upon criminal and misdemeanour cases and 52 upon civil and commercial cases.

In the Supreme Court of the Republic, there are three departments, namely: Criminal, Civil and Administrative.

Certain specialisation for public prosecutors is envisaged in the Law on Public Prosecutor's Office of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 38/04), according to which a Unit for Prosecution of Perpetrators of Crimes in the Field of Organised Crime and Corruption is established.

d)

Besides the training for judges and prosecutors elaborated in the above segments a) and b) there have been computer courses organised in courts and public prosecution offices. In the beginning of the implementation of the 2001 Integrated Judicial Information System Project, the Ministry of Justice organised basic computer training for employees in the judicial institutions. The group of employees that use hardware equipment in courts includes 2100 persons (judges, expert associates, typists and administration), in public prosecution offices 300 employees (prosecutors, deputy prosecutors, expert associates, typists and administration), in the Judicial Council 20 employees (Members of the Judicial Council, advisors and administration) and in the Penitentiaries 200 employees (managers and administration). By September 2004, basic computer training was organised for the aforementioned employees (for 1500 employees in courts, 180 employees in public prosecution offices, 20 employees in the Judicial Council and for 30 employees in the penitentiaries). Funds for the training has been provided from the Ministry of Justice' budget and the PHARE 2000 programme. In the course of 2005, computer training is envisaged within the CARDS 2003 Programme for the other part of the employees in these institutions.

e)

In 1999, a total of 19 training activities were organised by the Centre for Continuous Education over 24 working days, attended by 578 participants.

In 2000, CCE organised a total of 21 training activities over 39 working days and with 851 participants.

In 2001, CCE organised 14 training activities over 28 working days and with 609 participants (including 421 judges and 74 expert associates).

In 2002, CCE organised 21 training activities over 52 working days and with 666 participants.

In 2003, CCE organised 27 training activities over 58 working days. They were attended by 480 judges, 28 expert associates, 82 public prosecutors and 107 guests.

19. Clerical staff:

- a) Give the number of clerical staff. How does this compare with the number of judges and prosecutors?**
- b) Do they have concrete job descriptions?**
- c) Do they receive particular initial and vocational training (on case management, IT, relations with the public etc.)? Which institution is in charge of offering this training?**
- d) Which equipment (computers, e-mail, fax etc.) do clerical staffs have at their disposal to perform their functions?**
- e) Are archives well managed and computerised? Is there sufficient and direct access to legal databases?**

a)

The total number of employed clerks in courts and public prosecution offices is 2301. Out of this number, 2127 are employed in the courts, while 174 work in the public prosecution offices.

The number of judges in the Republic of Macedonia is 632, whereas the number of public prosecutors and deputy public prosecutors is 122, which makes a total of 754 holders of judicial office (court and prosecution).

These figures imply that there are around 3 clerks per every holder of judicial office.

b)

Pursuant to the legal regulations in the Republic of Macedonia, court clerks are civil servants and their status, rights, obligations and responsibilities, salaries and remunerations have been set forth in the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04). Depending on their tasks, they have been divided into groups (senior civil servants, expert civil servants and expert administrative civil servants). Description of jobs and their harmonisation with the groups and positions as set forth in the Law on Civil Servants has been stipulated in the Decree of the Government of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 93/00). On the basis of the Law on Civil Servants and the Decree, each court has enacted a Job Description and Organisation Rulebook including an accurate description of jobs and working tasks of every civil servant.

On the basis of the constitutional separation of powers in the Republic of Macedonia into legislative, executive and judicial, and with the purpose of implementing the judicial independence in this segment, too, the Judicial Reform Strategy stipulates that court clerks (independent court advisors, court advisors, expert associates, court interns, junior court officers, administrative, technical and other court personnel) be exempt from the Law on Civil Servants. A Law on Court Service is envisaged to be adopted, on the basis of which court clerks shall exercise their employment rights.

c)

In the course of 2004, basic computer training was organised for the employees in courts, thus improving their skills and providing for efficient use of the court information system software, which entails successful management of cases in court procedure.

The initial computer training was conducted in the course of 2001 and 2002, when over 300 employees in all courts in the Republic of Macedonia were introduced to the basic computer skills. Over the past two years, intense computer training was also conducted for employees in the basic courts by their IT personnel.

No competent institution has been formally or legally appointed for the implementation of training. However, the Steering Committee set up under the project and comprised of representatives of all judicial institutions, which monitors and evaluates implementation of projects, necessarily provides computer training for court employees (this was conducted under PHARE 2000 and CARDS 2003 Programmes).

d)

The court personnel have at their disposal computer equipment that satisfies the needs for performing their duties (PCs with Microsoft Office packages, local and network printers, servers, switches, local area network). However, due to insufficient capacity of premises in some of the courts, full installation of additional equipment has not been possible so far.

The Project Team of the Ministry of Justice has analysed the overall state in all courts in terms of premises and staff. Within the implementation of the IT Projects in the period 2002 - 2004, 1209 PCs were installed, as well as 535 local printers, 102 network printers and 57 servers. In that way, around 60% of the total needs of the judiciary were satisfied. With an optimal distribution of the equipment, though, over 90% coverage of the judicial functions has been achieved. In addition, the Project Team has foreseen the future needs in terms of finalisation of the installation of the necessary computer equipment in courts. Expectations are that the optimum implementation of the CARDS 2003 Project, which envisages procurement of additional hardware, will ensure successful finalisation of the process of installation and use of hardware in courts. With regards to the fax equipment in courts, all courts in the Republic of Macedonia have at their disposal sufficient quantities of fax units and separate fax numbers.

Concerning e-mail services and their use by court employees, for the moment this kind of communication has not been enabled in the courts. Two of the basic courts in the Republic of Macedonia (Štip and Struga) have designed their Web pages, though these are not being updated regularly.

All courts in the Republic of Macedonia have at their disposal a local computer network, with a sufficient number of switches (a total of 55). Electronic communication has been enabled among employees of courts situated in the same building (intranet). It is expected that once the CARDS 2003 Project is fully implemented, full electronic communication will be established.

e)

As to the court archives, so far they have not been computerised. However, all prerequisites have been put in place for this to be carried out in the future. Namely, by the installation of the hardware (the process shall be completed in the course of 2005) and by the already installed software in all courts, as well as by completion of the IT training for all court employees and the implementation of the CARDS 2003 Project for establishment of legal databases, computer legal databases will be established, and managed by courts IT staff.

Furthermore, in the misdemeanour units within all 27 basic courts in the Republic of Macedonia, as part of the PHARE 1999 Programme, application software has been installed for the operation of these court units. An optimum quantity of hardware has been installed in the aforementioned units, and complete training of their employees has been conducted. Namely, over 200 employees have passed the basic computer, as well as the application software training. The application software is in Macedonian and contains over 300 entering forms, which enables its optimum and efficient use. The application is supported by a Windows SQL7; SQL2000 database and allows for electronic management of cases, their electronic archiving and automatic database creation.

In all courts in the Republic of Macedonia (the Supreme Court, 3 appellate courts and 27 basic courts) application software for court procedures has been installed. The application has been installed on 1500 PCs.

The Ministry of Justice has implemented this part of the project in two stages. The first stage included 3 pilot courts, with over 500 employees (Skopje I Basic Court, Skopje Appellate Court and the Supreme Court of the Republic of Macedonia). Besides the basic computer training, application software training has also been conducted in these courts, thus enabling the operation of the system in practice.

The application software is in Macedonian and contains over 600 windows which enables its optimum and efficient use. Application is supported by a Windows SQL7; SQL2000 database and

allows for electronic management of cases, their electronic filing and automatic database creation. Electronic management of cases has only been conducted in these three pilot courts. It should be mentioned that training has been conducted for the court procedure software application in 26 basic and 2 appellate courts for over 1650 employees.

As far as the data filing (back-up) is concerned, in the three pilot courts it has been performed at three levels - firstly, saving of data on the PC hard disc; secondly, after the end of the court's working hours, archiving at the back-up server; finally, all data of the working week are preserved on the DAT-track which is then deposited in the court's safe-deposit box.

At the moment (January 2005), every court has its own database which is being built up through the process of court application software training for all court employees and it is expected to be integrated in a single – central database in the Supreme Court of the Republic of Macedonia. Within the installed software application, all PC users in courts are connected by a LAN connection, which enables access to databases by using CDs or floppy discs. After the full implementation of the CARDS 2003 Project, optical connection of courts will be established i.e. installation of VAN connection (IPVPN lines) that is expected to be carried out in the course of 2005. The aforementioned actions are expected to result in sufficient and direct access to judicial databases, making them available to all interested parties.

The Project Team implementing the activities has prepared a Project for Legal Database IT security.

20. Accountability and discipline:

a) Is there a code of ethics for members of the judiciary? If so, by whom has it been set up? What is its legal status? How is it being implemented?

b) Are judges irremovable from the start of their career? How is such irremovability implemented and respected?

c) What is the procedure for lifting the immunity of a judge? What is done to ensure that this is clear and transparent? Give examples of how this has been implemented?

d) What is the salary scale for judges and prosecutors? How does this compare with other professions with similar responsibilities in your country (attorneys, lawyers in private enterprises...) and to the average income?

a)

The Judges Association of the Republic of Macedonia has adopted a Code of Ethics that comprises the most important principles that the judges should be guided by when performing their duties. The Code defines its goals and purposes and the principles of judges' ethics, as well as the issues of independence, protection of court's reputation, judge's personality, attitude towards parties, obligations when judging in a case, professional training, immunity and privileges, restrictions related to the performance of the judicial duty, implementation of the principles and liability for their violation. With regard to the implementation of the Code, it has been stipulated that a fair and ethical obligation of a judge is to apply, develop and enhance by personal example the Code's principles and to guide the others to their respect and application. Furthermore, an ethical liability has been stipulated for violation of the Code's principles.

b)

Pursuant to the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), and the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/02), judges are elected to an unrestricted term of office.

Namely, Article 99 of the Constitution of the Republic of Macedonia provides for an unrestricted term of office of judges. Pursuant to Articles 38 and 39 of the Law on Courts, judges are elected and dismissed by the Assembly of the Republic of Macedonia, upon a proposal by the Judicial Council of the Republic of Macedonia.

Notwithstanding the unrestricted term of office and the immunity, a judge may be dismissed under conditions and in a manner prescribed by law.

On the procedure for dismissal of judges, for more details see [I D 3](#).

c)

Pursuant to Article 100 of the Constitution, judges enjoy immunity. The immunity of judges is decided upon by the Assembly of the Republic of Macedonia. A judge or a lay judge may not be taken accountable for an opinion or a decision in court rulings. A judge may not be detained without consent by the Assembly, unless caught while perpetrating a criminal offence for which imprisonment is prescribed of at least five years. The procedure of deciding upon judges' immunity is urgent and is conducted following a prior opinion by the Judicial Council.

d)

The average salary of a judge in a basic court is 426 EUR (net amount), i.e. 738 EUR (gross amount). Salary of a judge in an appellate court is 527 EUR (net amount), i.e. 850 EUR (gross amount), whereas salary of a judge in the Supreme Court is 595 EUR (net amount) i.e. 1032 EUR (gross amount). Salaries of public prosecutors correspond to the salaries of judges at the same level.

The ratio between judges and public prosecutors' salaries and salaries in other jobs is the following: the average salary in the Republic of Macedonia in 2003 was 190 EUR (net amount), while the average salary in the public administration and defence for 2004 was 373 EUR (gross amount), in the education 316 EUR (gross amount) and in the health care sector 324 EUR (gross amount).

21. Mobility of judges:

a) What procedure governs the allocation of judges to particular courts and regions?

b) Can judges be required to move between courts and regions?

a)

Transfer of judges to work in other courts and regions has been regulated in the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/03). Pursuant to Article 37 of the Law, a judge performs judge's duties in the court to which appointed. Against his/her will, a judge may not be transferred neither from one court to another, nor from one court department to another. The allocation of judges is conducted by way of an annual schedule for the operation of the court. A judge may request to be reassigned from one court department to another.

b)

The reassignment to another court may only be temporary (six months at most) and refers only to the judges of basic courts and of appellate courts. Upon their consent, these judges may temporarily be transferred to judge in another court of the same instance or in a lower ranking court or from one court department to another, on the basis of clearly determined reasons. Namely, reasons for such transfer may be if the regular court's functioning would be effected, due to inability or derogation of a judge, increased extent of work, or due to complexity of cases.

A transfer of a judge from one court to another is exercised by the President of the higher ranking court. A reassignment from one department of a court to another is exercised by the President of the court.

As an exception, by a decision of the President of the Court, a judge may be transferred to another court department against his/her will, only if this is necessary due to the scope and the subject matter of the court's operation.

The Law also stipulates a provision under which a judge may request transfer from one court department to another. Against a decision for assignment to another court department or a decision rejecting the request for assignment to another court department, a judge may submit an appeal to the President of the Supreme Court of the Republic of Macedonia, who is obligated to decide on it within 7 days.

22. Equipment:

a) Is case administration in the courts computerised? Are systems and software compatible across the country?

(The need to manage the computerisation on the national level calls for a central capacity to define needs, implement computerisation, including procurement of software and hardware, as well as to advise and help computerised courts.)

b) Is there a Supreme Court database with case law accessible to courts, legal and judicial professions?

c) Are databases of other law enforcement agencies accessible by courts?

a)

The current situation in courts in the Republic of Macedonia has been assessed as partially computerised. Out of the total number of 2.127 employees in courts, 1.209 use personal computers with installed court system application software. In the Supreme Court of the Republic of Macedonia, the Skopje Appellate Court and the Skopje I Basic Court, full IT training has been conducted for all employees, including both the basic computer as well as application software training. Currently, due to the still ongoing application software training in the remaining 26 basic and 2 appellate courts for their 1662 employees, the case management has still not been computerised. Computerisation is envisaged to be introduced following the completion of training for the use of the application software and the additional installation of the necessary hardware, as well as after the enactment of the Rulebook on the Electronic Management of Court Rules of Procedure by the Minister of Justice.

As regards the compatibility of the equipment and software around the country, the equipment in all courts is compatible both in terms of its contemporary brand name (HP–Compaq and Siemens) and in terms of its configuration (Pentium 3). The already installed software application (on a Microsoft platform) proved optimally compatible with the equipment.

Regarding the project for computerisation of the judiciary, a study is now being prepared for the establishment of an Information Technology Centre within the Supreme Court of the Republic of Macedonia, which shall define the organisational, personnel and technical capacities for the legal database management.

b)

Currently, the Supreme Court of the Republic of Macedonia has at its disposal a case law database (in paper) in a form of periodical collections of case law.

The Project Team, in cooperation with foreign consultants, has already prepared a project by which, in addition to the cases processed to the Supreme Court that have been published as case law, court cases will be selected from all courts in the Republic of Macedonia through an electronic legal database and will be delivered to the IT Centre within the Supreme Court of the Republic of Macedonia. The equipment for electronic case law management has already been installed in the Supreme Court and once the optical link has been installed and the Legal Database Project (CARDS 2003) implemented, an optimum technical level will be achieved that will allow access to case law data by court employees and other legal professions.

c)

In all courts of the Republic of Macedonia Local Area Network is currently used on each court's level, and a possibility is allowed for the use of Intranet. However, courts have no access to databases of other law enforcement bodies.

It should be noted that by the completion of the stage of implementation of the Integrated Judicial IT System and implementation of CARDS 2003 Project, by the establishment of legal database, by providing optical link between courts and other judicial institutions and by the installation of the already prepared application software for the Public Prosecutor's Office, the Judicial Council and the Penitentiary administration, sufficient pre-conditions would be put in place for judicial institutions'

access to databases of other law enforcement institutions, as well as to that of the Official Gazette of the Republic of Macedonia.

23. General working conditions:

a) Do judges and prosecutors have sufficient and separate offices, do they have computers, printers, fax machines, secretaries, law clerks?

b) Do judges and prosecutors have access to the archives and legal databases?

a)

The organisational structure of the judiciary in the Republic of Macedonia consists of 31 courts (27 basic courts, 3 appellate courts and the Supreme Court of the Republic of Macedonia) and the public prosecution offices (22 basic public prosecutor's offices, 3 higher public prosecutor's offices and the Public Prosecutor's Office of the Republic of Macedonia). The working conditions are specified below.

The premises of the basic public prosecutor's offices are situated in the 22 buildings of basic courts.

In Kavadarci and Strumica, premises of the basic courts and the public prosecutor's offices are separate and due to the considerable financial investment over the past period, the working conditions of judges and prosecutors have been improved.

In number of cities where organisational structure of basic courts exists (Kruševo, Negotino, Vinica and Kratovo), there are no present basic public prosecutor's offices and in that sense, judges in these courts work in fairly good conditions.

Generally speaking, the Ministry of Justice has, over the recent period and through its own budget, by way of implementation of capital investment projects, resolved the problems of the general working conditions in the Basic Courts in Bitola, Prilep, Struga, Kriva Palanka, Debar. The acute difficulties, however, remain due to the insufficient number of trial chambers in the Basic Courts in Veles, Gevgelija and Kumanovo.

It has been estimated that the optimisation of the premises within the buildings hosting the Basic Courts and the Basic Public Prosecutor's Offices in Tetovo, Gostivar, Kičevo, Ohrid, Resen, Štip, Sveti Nikole, Kočani, Berovo, Delčevo and Radoviš, has provided the judges and the prosecutors with good basis for realisation of their working activities. In that sense, the Ministry of Justice and the Judicial Budget have pursued a consistent investment policy aimed at the general improvement of working conditions.

The dispersion of the largest court in the country – Skopje I Basic Court, in three different buildings in Skopje has been pointed out as an acute problem. The envisaged structure shall enable the principle of a separate office for every judge – a principle that has already been implemented in the Supreme Court of the Republic of Macedonia, in the appellate courts in Skopje, Štip and Bitola, in the Skopje II Basic Court, as well as in the basic courts in Tetovo, Gostivar, Kičevo, Struga, Ohrid, Resen, Bitola, Prilep, Kruševo, Kavadarci, Negotino, Sveti Nikole, Štip, Kočani, Vinica, Berovo, Delčevo, Strumica, Gevgelija, Kratovo and Kriva Palanka.

The Ministry of Justice has over the past four years carried out a number of projects aimed at the improvement of the working conditions for judges and prosecutors. In the period 2001-2003, over 2 million EUR were invested for all courts in the Republic of Macedonia (new building of the Supreme Court was put in operation, superstructure and extension was carried out in the buildings of the Basic Courts in Prilep, Struga, Kriva Palanka, Debar and Bitola). All courts were provided with new electrical installation, central heating and new furniture. In the course of 2003, over 20 digital switchboards and over 20 digital copiers were procured for a number of courts. In 2004 in accordance with the new Law on Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04), the Government enacted the Programme on Public Investment in Public Prosecution Offices under which, over the next several years, digital switchboards, digital copiers and laser fax units will be supplied for all public prosecution offices in the Republic of Macedonia.

As regards the insufficient number of clerks in courts and in public prosecution offices, it has been pointed out that their number needs to increase and their status within institutions needs to improve as part of the comprehensive judicial reform.

b)

On the availability of the legal data base, for more details see [I D 22](#).

24. How is co-operation between actors (judges, prosecutors, investigators, clerks, judicial police etc.) in the criminal justice system ensured to facilitate the functioning of the system?

a) Do the different actors have clear roles and responsibilities? How is it ensured that an overlap of responsibilities is avoided? How is efficient communication between the different actors ensured?

b) Are court procedures supervised by a higher ranking court? Please describe the current appeal procedures.

a)

The role and responsibilities of all parties involved in criminal cases have been clearly defined both in the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04), and other relevant laws.

Namely, the competences of courts and public prosecution offices have been delimited by the Constitution of the Republic of Macedonia, the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/03), and the Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04). Judicial power is exercised by courts which are autonomous and independent state bodies. The Public Prosecutor's Office is a single and autonomous state body that prosecutes the perpetrators of criminal and other punishable acts. Types of courts, their competence, establishment, abrogation, organisation and composition have been regulated by the Law on Courts, while the establishment, organisation, competence, territory of jurisdiction and main public prosecution offices have been regulated by the Law on the Public Prosecutor's Office.

Furthermore, pursuant to Article 9 of the Law on the Public Prosecutor's Office, in matters of importance for performing their functions and matters of general interest, public prosecutors cooperate with the bodies detecting criminal and other offences and their perpetrators, as well as with courts and other bodies and legal entities.

Pursuant to Article 21 of the Law, the Public Prosecutor's Office, in order to carry out the prosecution, in co-operation with the investigative and other competent bodies and legal entities, ensures that the measures and actions are taken to detect criminal and other punishable acts and their perpetrators. A public prosecutor guides the work of the authorised officials in the Ministry of the Interior and in other competent state bodies in order to take the necessary measures for detecting a perpetrator of a criminal offence, for ensuring that a perpetrator or an accomplice does not hide or flee, and for detecting and providing traces of a criminal act and objects that may serve as evidence. He/she may request that the Ministry of the Interior and other competent bodies or legal persons collect all information and take other measures to detect criminal or other punishable acts and their perpetrators. A public prosecutor may ask from the Ministry of the Interior that documents and other items of evidence found when detecting the criminal or other punishable acts and their perpetrators be made available to him/her for inspection. A public prosecutor may request from the state bodies, the bodies of the local self-government units, as well as from the organisations with public mandates, that they submit documents, papers, cases or announcements that may be necessary for his/her carrying out the actions within his/her competence. Similarly, he/she may request information from other legal entities and individuals for whom there are reasonable doubts that they possess such data or information, and may also consult or take an opinion by experts in the respective field, which may be necessary to him/her in order to make a decision.

Competences of courts have been specifically determined in the Law on Courts (Articles 30 – 35). Within their determined competences, appellate courts decide upon conflicts of competence between basic courts that fall under their jurisdiction. On the other hand, the Supreme Court of the Republic of Macedonia decides on conflicts of competence between basic courts falling under the jurisdiction of different appellate courts, on conflicts of competence between appellate courts and basic courts and such conflicts between different appellate courts, as well as on handing over the territorial jurisdiction from one court to another. Besides being regulated by these provisions, courts' competences have also been stipulated by procedural laws.

Pursuant to Articles 18 and 19 of the Law on Courts, courts are obligated to provide mutual legal assistance. On the request by a court in performing its competence, state bodies and other legal persons are obligated to submit without any delay all necessary information, papers or documents that are available to them and which are needed in the procedure.

The role of the Court Police has been regulated in Article 103 of the Laws on Courts. The Court Police provides security of facilities, property, persons and keeps order in courts.

b)

The right to appeal has been guaranteed in the Constitution of the Republic of Macedonia. Pursuant to Article 15 of the Constitution of the Republic of Macedonia, a right to appeal is guaranteed against individual legal acts issued in proceedings before a court, an administrative body or organisation or other institutions with public competences. The two-instance principle is one of the basic principles of all court proceedings.

Pursuant to Articles 350 and 351 of the Law on Criminal Procedure, against a first instance decision, parties, defence attorney, legal representative of the defendant and the injured party may submit appeal within 15 days from the day of the delivery of the judgment. On behalf of the defendant, appeal may be submitted by his/her marital, i.e. extramarital partner, his/her first degree blood relative, his/her adoptive parent, his/her adopted child, his/her brother, sister and custodian.

The Law on Criminal Procedure stipulates the following 4 grounds to appeal a first instance judgment: 1) substantive violation of the procedure; 2) violation of the Criminal Code; 3) incorrectly or incompletely determined factual situation; and 4) a decision on criminal sanctions, deprivation of material gain, criminal procedure expenses, property and legal requests or a decision to announce the verdict in the press, radio or television. Most important essential violations of the criminal procedure rules include: violation of rules on the court composition, violation of rules of compulsory presence at the main hearing, exclusion of the public from the main hearing in violation of the Law, exceeding of the indictment, violation of the prohibition to found the judgment on evidence collected in an illicit manner and by a violation of freedoms and rights as determined by the Constitution, laws and ratified international treaties, violation of the right to an interpreter in the proceedings etc.

The second instance court decides on the appeal at a session of the Chamber or on the basis of a conducted hearing (Article 363). Notified of the session of the Chamber shall be the defendant and his/her attorney, the injured party as a plaintiff who, within the time limit prescribed for appeals or answers to appeals, have requested to be notified of the session or have proposed that hearing be held before the second instance court. The Chairperson of the Chamber may decide that parties be notified of the session even when they have not requested it, in case their presence would contribute for the matters to be clarified.

If the defendant has been detained or is serving a sentence and has an attorney, his/her presence would be provided only if the Chairperson of the Chamber or the Chamber finds it worthwhile.

The public may be excluded from a session of the Chamber attended by the parties due to the same reasons prescribed for exclusion of the public from a first instance court. (Article 362)

Pursuant to Articles 364 and 365 of the Law on Criminal Procedure, a hearing before the second instance court shall be conducted only if, due to an incorrectly or incompletely determined factual

situation, this is necessary in order to present new evidence or repeat the previously presented evidence or in case justified reasons exist to not return the case to the first instance court for a renewed main hearing. Summoned to the hearing before the second instance court, shall be the defendant and his/her attorney, the prosecutor, the injured party, his/her legal representatives and agents, as well as witnesses and experts that the Court decides to be examined. If the defendant has been detained, the Chairperson of the Chamber of the second instance court shall undertake all necessary measures to bring him/her to the hearing. At the hearing, parties may present new evidence and facts.

The second instance court reviews the judgment in the part that has been challenged by the appeal, however it must *ex officio* always examine: whether there has been any violation of the criminal procedure provisions on the court's composition and competence; whether there has been any violation of the rules prohibiting use of illegally obtained evidence; whether the indictment has been exceeded; whether the pronouncement of the verdict has been contradictory, incomprehensible or whether there have been no reasons for the judgment or those reasons have been incomprehensible or contradictory; or whether the main hearing, contrary to the provisions of this Law, has been held in absence of the defendant, or in case of a mandatory defence, in absence of the defendant's attorney. The second instance court must *ex officio* examine whether the Criminal Code has been violated to the detriment of the defendant. (Article 367)

If an appeal has been submitted only on behalf of the defendant, the verdict may not be changed to his/her detriment in reference to the legal assessment of the deed and the criminal sanction (Article 369).

If, in reference to the appeal, the second instance court finds that reasons due to which it has decided in favour of the defendant are also beneficial to any of the co-defendants who have not submitted an appeal or whose appeal had not been in that direction, it shall *ex officio* act as if such an appeal had existed. (Article 371)

The second instance court, may upon an appeal decide as follows: reject the appeal as untimely or not allowed; reject the appeal as unfounded and confirm the judgment of the first instance court (when it determines that there are no reasons to challenge the judgment and that there have been no violation of the law); endorse the appeal, cancel the first instance judgment and return the case to a renewed trial (in case it determines that there has been essential violation of the criminal procedure, or in case it considers that, due to an incorrectly or incompletely determined factual situation, a renewed main hearing has to be ordered before the first instance court); or endorse the appeal and alter the first instance judgment if it determines that the decisive facts have been correctly determined and that in view of the determined factual situation and by an appropriate application of law, a different judgment has to be brought. If in a renewed trial on the same case the second instance court finds that the factual situation has been incorrectly or incompletely determined, it shall hold a hearing and bring judgment. (Articles 372-380)

The Law on Criminal Procedure (Article 381) also allows for a right to appeal the judgment of the second instance court only in a limited number of cases, namely:

- If the second instance court has pronounced a sentence to life imprisonment or has confirmed the first instance verdict by which such a sentence had been pronounced;
- If the second instance court has, on the basis of a conducted hearing, determined different factual situation than the first instance court and has, on the basis of the so determined factual situation, founded its decision;
- If the second instance court has altered the first instance judgment by which the defendant had been released from the charges and has pronounced a judgment by which the defendant has been found guilty;

Upon an appeal against a second instance judgment, a court decides in third instance at a session of the Chamber, pursuant to the provisions that apply to the second instance procedure. The sole exception is that there may be no hearing before the third instance court.

E. ANTI-CORRUPTION MEASURES

1. Please provide succinct information on legislation or other rules governing this area, and adhesion to relevant international conventions (e.g. the Council of Europe Civil and Criminal Law Conventions on Corruption, the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of proceeds from crime and the OECD Conventions on Combating Bribery of Foreign Public Officials in International Business Transactions and on Bribery in International Business Transactions)

The following laws regulate the area of prevention and suppression of corruption:

The Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", Nos. 28/02, 46/04 and 83/04-consolidated text) foresees preventive and protective mechanisms for prevention of corruption defined as abuse of official position, public authorisations, official duty or position for acquisition of personal gain, or gain for any other person.

The Law on Prevention of Money Laundering and Other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No. 46/04), is an important factor in the prevention of money laundering and other forms of crime. It provides a legal basis for more efficient system of preventive measures and actions against money laundering. At the same time, the Law is in compliance with the United Nations Convention against Trans-national Organised Crime, European Union Directive on Prevention of the Use of Financial System for the Purpose of Money Laundering 91/308/EEC and the European Union Directive 2001/97/EEC amending the previous one, and the FATF Forty Recommendations on Prevention of Money Laundering and the FATF Eight Special Recommendations Against Financing of Terrorism).

The Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03 and 19/04) stipulates efficient measures for prevention of corruption and enhancement of the penal repression, defining at the same time efficient instruments for combating crime. The Criminal Code foresees criminal liability for legal entities as a precondition for successful fight against organised crime and corruption. The legal institute of confiscation of property or proceeds from criminal offences has also been stipulated.

The Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) has been brought into line with the commitment to create legal basis for combating organised crime and corruption. In that manner, harmonisation of the domestic legislation with that of the European Union and with the provisions of the ratified international documents was ensured. Namely, with the amendments to this Law, an implementation of special investigative measures has been introduced in the legal system of the Republic of Macedonia. Furthermore, measures to secure defendant's presence in the proceedings have been enhanced; protection has been ensured for witnesses, collaborators of justice and victims; a procedure has been prescribed to determine liability of legal entities as well as a procedure of confiscation of property and proceeds.

The Law on the Public Prosecutor's Office of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 38/04) regulates the procedure for efficient detection and prosecution of perpetrators of criminal acts related to organised crime and corruption.

The Republic of Macedonia has undertaken a number of activities on international level, by ratifying numerous international documents in the area of prevention and fight against corruption and their implementation in the domestic legislation.

The Republic of Macedonia has ratified the following international anti- corruption conventions:

- Council of Europe Criminal Law Convention on Corruption (CETS 173) ratified on 28.07.1999 and entered into force on 01.07.2002 ("Official Gazette of the Republic of Macedonia", No. 32/99);

- Council of Europe Civil Law Convention on Corruption (CETS 174) ratified on 29.11.2002 and entered into force on 01.11.2003 ("Official Gazette of the Republic of Macedonia", No. 13/02);
- Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (CETS 141) ratified on 19.05.2000 and entered into force on 01.09.2000 ("Official Gazette of the Republic of Macedonia", No. 58/99);
- United Nations Convention against Trans-national Organised Crime (Palermo Convention) with its Protocols ratified on 28.09.2004 ("Official Gazette of the Republic of Macedonia", No. 70/04);
- European Convention on Mutual Assistance in Criminal Matters (CETS 030) and its Additional Protocol (CETS 099) ratified on 28.07.1999 and entered into force on 26.10.1999 ("Official Gazette of the Republic of Macedonia", No. 32/99) and
- Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (CETS 182) ratified on 24.06.2003 ("Official Gazette of the Republic of Macedonia", No. 44/03);

In the forthcoming period, the Republic of Macedonia shall proceed towards ratification of the Additional Protocol to the Criminal Law Convention on Corruption (CETS 191) signed on 15.05.2003 and the United Nations Convention against Corruption, adopted by the UN General Assembly on 31.10.2003. Consultations have been initiated between the competent ministries regarding the accession of the Republic of Macedonia to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

The Republic of Macedonia has also ratified the Council of Europe Convention on the Transfer of Sentenced Persons (CETS 112) ratified on 28.07.1999 and entered into force on 01.11.1999 ("Official Gazette of the Republic of Macedonia", No. 32/99) and its Additional Protocol (CETS 167) ratified on 28.07.1999 and entered into force on 01.06.2000 ("Official Gazette of the Republic of Macedonia", No. 32/99); the European Convention on Extradition (CETS 024), its Additional Protocol (CETS 086) and the Second Additional Protocol (CETS 098) ratified on 28.07.1999 and entered into force 26.10.1999 ("Official Gazette of the Republic of Macedonia", No. 32/99); the European Convention on the Transfer of Proceedings in Criminal Matters (CETS 073) ratified on 29.11.2004 ("Official Gazette of the Republic of Macedonia", No. 49/04) and the Council of Europe Convention on Cyber-crime (CETS 185) ratified on 15.09.2004 ("Official Gazette of the Republic of Macedonia", No. 41/04);

2. What anti-corruption laws exist? How and by which bodies are they implemented?

a) Lex specialis is the **Law on Prevention of Corruption** ("Official Gazette of the Republic of Macedonia", Nos. 28/02, 46/04 and 83/04 - consolidated text). This law introduces efficient measures for prevention of corruption. More precisely, the law defines the measures and the activities for prevention of corruption in exercising power, public authority, official duty and in politics; the measures and activities for prevention of conflict of interests; prevention of corruption while performing matters of public interest as well as prevention of corruption in the private sector. The penalties for acts of corruption remain in the sphere of the penal laws.

b) **Penal laws** that prohibit corruption and related acts and regulate the procedure:

The Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03, and 19/04), in Chapter XXX includes the perpetration of criminal offences that are committed in exercising of duty and public authority which primarily violate the public authorisations as well as some other goods, rights or property. Corruption is incriminated in the following criminal offences: *Receiving a bribe* (article 357); *Giving a bribe* (article 358); *Unlawful intermediation* (article 359); *Abuse of official position and public authority* (article 353); *Unconscientious performance of duties* (article 353-v); *Concealing the resources of disproportional acquired property* (article 359-a); *Abuse of public, business or military secret* (article 360-a).

In addition, the criminal code contains articles which define the acts of *giving a bribe during elections and voting* (article 162), and *unauthorised reception of gifts* (article 253) as special criminal offences.

The act of *money laundering and other proceeds from crime* (article 273) is incriminated as a specific criminal offence. The new definition of this offence contains elements which are in compliance with the European Union Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering (91/308/EEC and 2001/97-EEC amending the previous one), as well as with the following ratified conventions: The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No.58/99); the United Nations Convention against Trans-national Organised Crime with its Protocols (the Palermo Convention) ("Official Gazette of the Republic of Macedonia", No.70/04).

The Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) establishes specific provisions for the use of special investigative measures (articles 142-b, 142-v, 142-d and 142-e), which are in accordance with the European standards for the use of adequate investigative measures necessary in discovering organised crime, corruption, money laundering, and other forms of serious crime offences.

The new provisions (articles No. 202, 203-a, 203-b, 203-g, and 207) in Chapter XVIII - *Investigative Actionss*- of the Law on Criminal Procedure stipulate the procedure for applying the measure of temporary securing of property or resources that are related with criminal offence. The measure in question can be applied as temporary freezing, seizure and confiscation of funds.

These new legal instruments are harmonised with the following ratified conventions regulating this area: The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No. 58/99); the United Nations Convention (the Palermo Convention) against Trans-national Organised Crime with the Protocols ("Official Gazette of the Republic of Macedonia", No.70/04) and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and Precursors (the Vienna Convention) ("Official Gazette of the SFRY", No.14/90)

The **Draft Law on Interception of Communications** which implements the Amendment XIX of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos 52/91, 01/92, 31/98, 91/01 and 84/03) in relation to Article 17 is in parliamentary procedure. The amendment in question relates to the legalisation of the interception of communications, under certain conditions and procedure stipulated by law, if this is necessary for the prevention or revelation of criminal offences, for the course of a criminal procedure or if it is required by the interests of security and defence of the Republic.

The **Law on Protection of Witnesses** which will provide protection to witnesses that reveal information and are witnesses of acts of corruption and organised crime is also in parliamentary procedure.

c) Other laws containing provisions for prevention or suppression of corruption:

The Law on Prevention of Money Laundering and Other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No.46/04) provides and establishes an efficient system for organisation and control of the state bodies responsible to carry out measures and actions for discovering and prevention of money laundering and other proceeds from crime. It also regulates the competencies and authorisations of the bodies authorised for conducting an investigation.

The Law on Financing of Political Parties ("Official Gazette of the Republic of Macedonia", No. 76/04) creates prerequisites for greater transparency, public responsibility, and accountability of the political parties. This law provides larger prerogatives for the responsible agencies to inspect and control the financing of the political parties.

The new **Law on Public Procurement** ("Official Gazette of the Republic of Macedonia", No. 19/04), establishes precise mechanisms and procedures for procurement of public goods, which outrule discretionary practices in the decision making, and provide transparency in the procedure. In addition, according to the provisions of the Law, a Public Procurement Bureau has been established.

The **Law on State Audit** ("Official Gazette of the Republic of Macedonia", Nos. 65/97, 70/01, 31/03, 19/04 and 73/04 – consolidated text) strengthens the existing control mechanisms of state auditing. Besides this, the provisions of this law also stipulate that the Annual Report on Conducted Audits should include data on all material cases of corruption, of which the State Commission for Prevention of Corruption was notified (Article 11).

In accordance with the Strategy for Judiciary Reform, the planned reforms for strengthening the independence and efficiency of the judiciary are generally aimed at strengthening the integrity of the judiciary. In that regard, the **Law on the Court Budget** ("Official Gazette of the Republic of Macedonia", No. 60/03) strengthens the independence of the judiciary in the field of financing and decision-making regarding the need for financial resources necessary for efficient functioning of the judiciary in the Republic of Macedonia.

The abovementioned laws are implemented by the following state bodies:

According to the Law on Prevention of Corruption a **State Commission for the Prevention of Corruption** has been established. For more details on the composition and the competencies of this Commission, see answer [I E 04](#).

The Public Prosecutor's Office of the Republic of Macedonia, on the basis of the Law on Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04) takes legal actions against persons who commit criminal offences. Pursuant to article 29 of this law, in the framework of the Public Prosecutor's Office, a special Unit for fighting organised crime and corruption was established in September 2004. The Unit acts upon cases of this kind before all courts in the Republic of Macedonia, depending on their territorial jurisdiction and jurisdiction *ratione materiae*. With the establishment of this Unit, the Republic of Macedonia has implemented the recommendation of the Greco Group of the Council of Europe for the fight against corruption. This law gives a basis for strengthening the co-operation between the competent state bodies.

The police is performing its function of detecting the perpetrators of criminal acts according to the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 19/95, 55/97, 38/02, 33/03 и 19/04), the Criminal Code and the related secondary legislation. In accordance with the adopted Action Plan of the Police Reform Strategy, a Department for Organised Crime was established in January 2005. Within the framework of this Department in the Sector for Financial Crime, a Section for Money Laundering and Corruption is working on discovering cases of bribery and other corruptive actions.

For implementing the anti-corruption laws, a **Directorate for Prevention of Money Laundering**, has been established in accordance with the Law on Prevention of Money Laundering and Other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No.46/04). The Directorate for Prevention of Money Laundering, as an administrative body within the Ministry of Finance, is responsible to gather data and process reports submitted by the subjects obliged to undertake measures and actions to detect and prevent money laundering, such as the Customs Office, the state bodies competent to carry out supervision, as well as other state bodies. The Directorate is also responsible to gather and process data from competent institutions from other countries. If during the processing of the reports, the Directorate finds that some transaction is suspicious, it is obliged to undertake a detailed analysis, to request additional information and documentation from state bodies or financial institutions or to gather information from foreign competent institutions for fight against money laundering and financing of terrorism.

The competencies of the Financial Police are regulated with the Law on Financial Police ("Official Gazette of the Republic of Macedonia", No. 55/02). It is responsible to control the implementation of the tax and custom regulations. It collects information and data in co-operation with the Ministry of Finance, the Ministry of the Interior, the Public Prosecutor's Office and other state bodies in order to discover law violations in cases of tax evasion, money laundering, smuggling, trafficking of goods and products and other types of criminal offences that involve large or significant amount of taxes, customs or other revenues.

The Financial Police within its competencies has special powers (law enforcement agency) in finance-related matters. In case of a reasonable doubt of a crime, the Financial police carry out investigative activities ex officio, upon request of the Public Prosecutor's Office, Ministry of Finance, Ministry of the Interior, Public Revenue Office, Customs Office as well as the Directorate for Prevention of Money Laundering, or upon information of other administrative bodies or persons.

The Law on Customs Administration ("Official Gazette of the Republic of Macedonia", No. 46/04) clearly defines the competencies of the **Customs Administration** as a state body that secures the implementation of laws in the sphere of customs administration operations and other laws that fall under its competency, as well as the competencies, rights and special authorisations of the customs officers/officials.

For more information on state bodies responsible for the implementation of anti-corruption laws, see answers [I E 4](#) and [I E 8](#).

3. Is there a national anti-corruption strategy? What is its status? Does it cover both law enforcement and preventive measures? Was this the subject of broad consultation at all levels (e.g. interdepartmental at national, regional, local level, among stakeholders in the private sector and civil society, media etc.)? Is the strategy being implemented and, if so, how is this being done?

Based on Article 55 of the Law on Prevention of Corruption, the State Commission for the Prevention of Corruption is authorised and obliged to draft and adopt a National Programme for Prevention and Suppression of Corruption. In addition, the State Commission is obliged by law to adopt annual programmes and plans for the National Programme implementation. In line with its legal obligations and its working programme the State Commission prepared, and on 17.06.2003 adopted the National Programme for Prevention and Suppression of Corruption, along with an Action Plan.

After its adoption, the National Programme was forwarded to the Assembly, the Government and the Supreme Court of the Republic of Macedonia, as well as to all other institutions and state bodies having specific competences in its implementation; to all embassies and representatives of international organisations in the Republic of Macedonia; to the relevant international organisations, such as Council of Europe, OECD and others; and to all diplomatic and consular missions abroad.

Additionally it was communicated to the Government to harmonise and coordinate the activities in terms of implementation of the proposed measures and actions.

Hence, the Government adopted Guidelines on the Cooperation between the State Commission for the Prevention of Corruption and the State Administrative Bodies, Public Enterprises, Public Institutions and other legal entities managing with state capital ("Official Gazette of the Republic of Macedonia", No. 81/04). The Guidelines provide for co-operation by harmonising the activities and measures in the fight against corruption; by establishing and maintaining communication; by providing technical assistance through exchange of professional, academic and technical know-how, as well as by providing of information on persons suspected to have perpetrated actions which include elements of corruption. Pursuant to the Guidelines, an opinion is requested from the State Commission for the Prevention of Corruption whenever legal acts or their amendments regulating issues concerning the prevention of corruption are drafted.

The National Programme includes recommendations as to the necessary measures and activities that are to be undertaken in order to establish an efficient system of prevention and suppression of corruption.

The approach that was taken when drafting the National Programme was identification of possible solutions to the problems by applying empirical methods. This has enabled specification of optimal measures, which if fully implemented, would enable the creation of an efficient system of prevention and suppression of corruption in the Republic of Macedonia. The fact that constitutional amendments, a series of amendments to the existing laws and adoption of new ones followed, as well as the establishment of new institutions, can be seen as an additional confirmation of the

comprehensive approach adopted in the preparation of the National Programme. This also speaks in favour of the fact that without deep and fundamental reforms in the state order and political system, in the judiciary, law enforcement institutions and the administration, statements on the commitment to the rule of law and democratic society are irrelevant.

An integral part of the National Programme is the Action Plan for its implementation which envisages short, medium and long-term objectives, as well as a system of monitoring and evaluation of the implementation.

According to the Action Plan, priority shall be given to preparation and adoption of new or amendments to existing laws, setting up new or strengthening the existing institutions, and strengthening the control mechanisms.

Taking into consideration the significance of this document, the need to ensure its acceptance of all structures in the political life and the society as well as the need for multidisciplinary approach and the need to provide its efficient implementation, the State Commission, when preparing the National Programme, established fruitful cooperation with the Government, the Assembly, the Public Prosecutor's Office, Ministry of the Interior, Ministry of Economy, State Audit Office, Civil Servants Agency, the Ombudsman etc. Particular contribution in the preparation of the National Programme was also provided by academics, independent experts and representatives from non-governmental organizations and the media, as well as experts of the Council of Europe, OSCE and the Stability Pact. Furthermore, the State Commission submitted the National Programme to the Assembly together with the 2002/2003 Annual Report on its operation.

As a body authorised to monitor, assess and evaluate the implementation of the National Programme, the State Commission has conducted two levels of evaluation.

In late September 2003, the State Commission submitted a request to the Government and to other competent bodies to provide information on the measures and activities undertaken for implementation of the Programme recommendations. The Government instructed all relevant institutions to report on the implementation status. Subsequently, part of the ministries and other institutions competent for the implementation of the National Programme submitted the requested information.

The implementation evaluation contains information which specifies that the competent institutions had focused their activities during the first three months on the preparations of new laws stipulated in the Programme. In this period the drafting of the following laws commenced: Law on the Public Prosecutor's Office, Law on the Public Attorney's Office, Law on Prevention of Money Laundering and Other Proceeds from Crime, Law on Customs Administration, Amendments to the Criminal Code, Amendments to the Law on the Judicial Council of the Republic, Law on Court Budget, Law on the Ombudsman, Law on Criminal Procedure, Law on Public Institutions, Law on Administrative Inspection, Law on Free Access to Public Information, Law on Political Parties, Law on Prevention of Conflicts of Interests, Law on Civil Servants, Law on Associations of Citizens and Foundations, Law on Elections etc. In all these laws, particular attention was dedicated to the implementation of the National Programme.

The Commission assessed that the implementation of the recommendations of the National Programme have largely proceeded within the determined timeframes although a number of institutions have not submitted the requested information,

The second evaluation of the implementation of the National Programme was carried out in June 2004, at the Annual Conference organised by the State Commission. The assessment indicated that the National Programme had been implemented according to the Action Plan. However, the State Commission, together with the members of the working group that prepared the National Programme were assigned with concrete activities to amend the Programme with recommendations for implementation of the already adopted laws and institutional changes. Particular attention was suggested in the amending of the Programme following the recommendations for specific measures for prevention of corruption within the decentralised local self-government.

4. Do specialised anti-corruption services exist? If so, please describe these indicating their legal and institutional status, composition, functions and powers. How is the independence of these services ensured?

For the prevention and suppression of corruption in the Republic of Macedonia the following anti-corruption bodies have been founded:

1) The State Commission for the Prevention of Corruption

The State Commission for the Prevention of Corruption has been established according to the Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", Nos. 28/02, 46/04 and 83/2004- consolidated text). According to the Law, the State Commission is autonomous and independent in carrying out the activities stipulated by this law. The State Commission in accordance with the Law on Amending the Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", No. 46/04) is a legal entity and has its own budget. A Secretariat has been established within the Commission to carry out the professional, administrative and technical matters, which enhances the autonomy and independence of the State Commission.

The State Commission is comprised of seven members, elected from the rank of eminent experts in the field of law and economics and enjoy public reputation in their respective fields. The members of the State Commission are appointed and dismissed by the Assembly of the Republic of Macedonia. The current members of the State Commission were appointed by the Assembly on 12.11.2002.

In accordance with the amendments to the Law, the members of the State Commission are appointed on a five-year non-renewable term. During their term, they perform their function professionally, which means that they are employed in the State Commission. This provision does not refer to this term of office, which had started before the adoption of the new Law.

The members of the State Commission elect a President among themselves for a one-year non-renewable term.

A member of the State Commission may be released of duty before the expiry of his/her term in the following cases: upon his/her request, if he/she has been convicted for a criminal offence to unconditional imprisonment of at least six months, and if he/she has permanently lost the ability to perform the function.

According to the Law, the State Commission has wide competencies to achieve the general goal: prevention of corruption in exercising power, public authority, official duty and in politics, prevention of conflict of interests, prevention of corruption while undertaking matters of public interest, as well as prevention of corruption in the private sector.

The State Commission has the following competencies:

- Adopts a National Programme for Prevention and Repression of Corruption;
- Adopts annual programmes and plans for the implementation of the National Programme;
- Provides opinion on draft laws of importance for the prevention of corruption;
- Raises initiatives before competent bodies for conducting a control over the material and financial operations of political parties, trade unions, and associations of citizens and foundations;
- Raises initiatives for conducting procedures before competent bodies for dismissal, reassignment, removal, criminal prosecution or implementation of other measures of accountability of elected or appointed officials, official or responsible persons in public enterprises and other legal persons managing with state capital;
- Considers cases, determined by Law, where conflicts of public and private interest have occurred;

- Maintains records and monitors the property situation and the changes in the property situation of elected or appointed officials, official or responsible persons in public enterprises and other legal persons managing with state capital;
- Co-operates with other state bodies in the prevention of corruption, especially with the Government of the Republic of Macedonia and the competent ministries, the Public Revenue Office, Custom Office, Public Prosecutor's Office, Public Attorney, State Audit Office, the Central Registry, the Central Depository, the Agency for Privatisation, the Directorate for Prevention of Money Laundering, the Financial Police, and other state and financial institutions.

The State Commission, apart from co-operating with institutions in the country, has an active co-operation with the respective national institutions and bodies from other countries (especially with those from the region), as well as with international organisations active in the field of prevention of corruption.

One of the crucial tasks of the State Commission identified as the focus of activities in the near future is the training and the education of the institutions responsible for discovering and prosecuting corruption and other types of crimes. In addition, an important task is to inform the public about its activities, to raise public awareness on non acceptance of corruption and about the harmful consequences of corruption in all segments of the society, and especially its negative impact on the economic growth and its contribution to the growth of poverty.

The members of the State Commission are responsible before the Assembly of the Republic of Macedonia. For their work, they submit Annual Report to the Assembly. This report is also submitted to the President of the Republic of Macedonia, Government of the Republic of Macedonia, and the mass media.

Elected and appointed officials, officials or responsible persons in public enterprises and other legal entities managing with state capital, upon election, appointment, employment or termination of office, have an obligation, in a given time frame, to submit a declaration to the State Commission on their property situation, and on the property situation of the members of their families. During the office term, they are obliged to report to the State Commission any changes in their property, or in the property of the members of his/her family; about their participation in public tenders; use of donations and other foreign aid; acquiring shareholder rights; using state loans, etc.

The State Commission also acts in cases when there are indications that an official or other official or responsible person has brought a discretionary decision as a result of corruption.

In order to carry out its competency in prevention of the so-called electoral corruption, the State Commission informs the Assembly of the Republic of Macedonia on the potential misuse of budgetary funds and public funds, as well as funds of public enterprises used during electoral campaigns.

In this context, the State Commission has the right to request from competent bodies to carry out control on the funds used for financing a political party or an election candidate in case there are indications of use of illegal funds.

The State Commission competency for the prevention of corruption in companies is aimed to preventing monopolistic position on the market; discrimination against other companies or legal entities; distortion of the market and causing damage to other subjects on the market, not resulting from loyal competition.

The prevention of corruption in the companies also includes a prohibition for a company or another legal entity to establish business relations with another company or a legal entity when a conflict of interests occurs. In cases when there is a well founded suspicion based on the data in the annual account and other financial data in the business books of a legal entity, the State Commission has the authority to request the Public Revenue Office to carry out control in the material and financial documents of that legal entity.

Acting upon submitted complaints, and in cases when there is a well founded suspicion of committed criminal offence- misuse of public function and corruption, the State Commission may require from authorised institutions to carry out control on the work of the suspected legal entities, as well as to raise an initiative before the Public Prosecutor's Office for initiating a criminal procedure.

For the prevention of corruption in the judiciary, and acting in cases when there are indications or well-founded suspicion for misuse of the office of specific judges, the State Commission submits a request to the Judicial Council of the Republic for determining the liability of those judges.

Since its establishment, up to the end of October 2004, the State Commission has raised initiatives on different grounds, such as: 11 initiatives for determining of criminal liability; in 9 cases- considering conflict of interest issues and dismissal; 13 cases- considering the activities of certain state bodies; discretionary rights and determining of liability. In addition, the State Commission has reviewed 7 cases on possible abuse in public procurements, one case regarding protection of person who collaborated with the State Commission and one case each on corruption in judiciary, money laundering, education and politics.

Since November 2002, 926 complaints have been submitted to the State Commission by the citizens, out of which, 266- regarding the state bodies activities; 122- related to privatisation process; 186 -on the judiciary work, 126 -regarding the activities of the public enterprises, health and education sector, 75 –regarding various indications for deviations in the companies, 54 –on irregularities during bankruptcy procedures and 97 other cases. Besides submitted complaints, the State Commission has raised 26 procedures on its own initiative. The State Commission handled 672 cases, out of which 258 are finalised. In 132 complaints the State Commission found it self not competent for further proceedings; in 26 cases after receiving additional information, it determined that there is no ground for further proceedings (no irregularities were found), 67 cases were submitted to the competent bodies for proceedings, and for 21 cases, an initiative for instituting procedures and taking appropriate measures, was raised before competent state bodies.

According to the Article 34, paragraph 1, of the Law on Prevention of Corruption, 2.786 property declarations were submitted to the State Commission, including data for property of elected and appointed officials and members of their families, including a certified statement on revoking protection of banking secrecy in regard to all domestic and foreign bank accounts. Furthermore, in accordance with Article 34 of the Law, 81 reports on changes in property situation in a value which exceeds twenty average salaries, were submitted. The total number of persons who submitted property declarations includes all elected and appointed persons who have acquired this status in the period after establishment of the State Commission, as well as, all elected and appointed persons having this status when the Law entered into force, before the State Commission was established. The State Commission submitted to the competent court request for instituting procedure for misdemeanour against 82 persons who failed to submit property declarations. In 13 cases misdemeanour warnings were delivered or the proceedings were terminated.

2) The Public Prosecutor's Office of the Republic of Macedonia – Unit for Fight Organised Crime and Corruption

In accordance with Article 106 of the Constitution of the Republic of Macedonia, the Public Prosecutor's Office is a single and autonomous state body. It performs its functions on the basis and within the framework of the Constitution and the law. The Public Prosecutor is appointed and discharged of office by the Assembly of the Republic of Macedonia for a six-year term. Therefore, the term of office of the Public Prosecutor differs from the one of the members of the Assembly.

On the basis of Article 29 of the Law of the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04) – a special Unit for Fight Organised Crime and Corruption was established within the Public Prosecutor's Office.

The Unit has competencies to act *ex officio* in cases of criminal offences committed by an organised group comprised of at least three persons that operates in a given period with the aim of achieving a direct or indirect financial gain or other kind of material gain, and which will commit one or more

criminal offences as well as for other criminal offences for which the law stipulates imprisonment of at least four years.

The Unit has responsibility to act before competent courts on the entire territory of the Republic of Macedonia.

According to the Rulebook on Internal Organisation and Operation of the Public Prosecutor's Office, the Unit is comprised of at least 10 members - public prosecutors and deputy public prosecutors. The members of the Unit are assigned by the Public Prosecutor of the Republic of Macedonia for a four-year term with a possibility of another assignment.

3) Ministry of the Interior

According to the Action Plan on Police Reform, the Department for Organised Crime has started with its activities from mid of January. It is deemed as one of priorities of the Republic of Macedonia in prevention of organised crime and also in prevention of corruption.

The restructuring of the Unit on Organised Crime in a special Department, represent strengthening of this office, which achieved broader structure and units specialised for different types of crime. The assumptions for starting with activities have been created, only after the completion of the internal structure and the adoption of the Rulebook on the Organisation and Operation of the Ministry of the Interior (describing workings tasks and special qualifications for each working post).

The activities on combating corruption and serious economic crime are realised in the framework of the Sector for Financial Crime, comprised of Section for Economic Crime and Section for Money Laundering and Corruption. The Sector permanently oversee the situations, movements and forms of economic and financial crime and corruption that occur, and on this base, plans and organises the most appropriate and most efficient measures and activities for warning and combating of such criminal activities.

In this framework, the Sector co-operates with other organisational units in the Ministry of the Interior, state bodies, legal entities, police departments from other countries and international associations; makes control over the activities of police departments and provides professional and other assistance in combating economic and financial crime and corruption. It also plans and provides training of inspectors on this issue; participates in drafting regulations, reports and on other expert's materials and exercises other activities from its domain.(For more details see answer [24 I 07](#))

4) Financial Police

The Financial Police as a body within the Ministry of Finance with specific competencies and working agenda for the first time was introduced with the Law on Financial Police ("Official Gazette of the Republic of Macedonia", No. 55/02). Besides this, the law enable the strengthening of the already established competencies in the operational activities for discovering financial crimes that cannot be directly substantiated considering the existing evidence. In this context, methods for direct and indirect proving of evidence are used in accordance with the law. This law also sets forth a separation and transfer of the police supervision over financial crime from the Ministry of the Interior to the Ministry of Finance, whereby a specialised team will trace the money proceeding from criminal activities.

The Financial Police is a state body within the Ministry of Finances and it exercises its competencies on the entire territory of the Republic of Macedonia. The Financial Police is managed by a Director. The Financial Police is comprised of ten financial police officers-economists and lawyers transferred from the Public Revenue Office, the Ministry of the Interior, and the Public Prosecutor's Office. The Director of the Financial Police is appointed by the Government of the Republic of Macedonia and he/she is responsible for his/her work to the Ministry of Finance and the Government. Financial police officers are selected and appointed according to the Rulebook on Examination of the Competencies and Evaluation of the Personal Capacities of the Persons Performing the Work of the Financial Police

("Official Gazette of the Republic of Macedonia", No. 31/04), which provides the special pre-conditions for appointment.

This law provides the Financial Police with specific authorities for detecting of perpetrators of sophisticated types of crime, tax evasion, money laundering and smuggling. The law also provides specific competence for detecting the following types of criminal offences: illegal trade of goods and products; criminal offences that include evasion of large or significant amounts of taxes and customs duties; and giving legal form to profits deriving from criminal offences. If these crimes can not be detected directly, with the existing evidence, the Financial Police detects them with application of special methodology for indirect and direct verification of incomes determined by the Law on Financial Police, and proscribed with other regulations in the area of finances.

5) Public Revenue Office

There are separate departments and responsible persons within this state body that have competencies for undertaking anti-corruption measures.

The Sector for Inspection Supervision is established within the framework of the General Directorate of the Public Revenue Office. Within the framework of each Regional Directorates (in total 6) of the Public Revenue Office, one person in each is selected to carry out procedures in accordance with the Law on Prevention of Corruption.

According to the Rulebook for Internal Organisation and Operation of the Public Revenue Office the Section for Investigations, within the Sector for Inspection Supervision, in the General Directorate, has the responsibility to prepare methodology and instructions for its enforcement and to carry out procedures proscribed by Law where the usual tax procedure (anti-corruption measures) is not proscribed. The Section is also responsible to realise the following measures: organisation of training for investigative techniques and procedures, developing and coordinating of programme for identification and fight against grey economy, and cooperate in that field with the Regional Directorates.

The persons subject to declaring assets, on the basis of Article 34 of the Law on Prevention of Corruption, besides to the State Commission for the Prevention of Corruption, have to submit the property declaration to the Section for Investigations. Within the Section, the property declarations are filed, their formal correctness and completeness is checked and a comparison with the submitted applications to the State Commission is performed. Concerning these persons (the submitters) this Section also compares the data from the property declaration with the data from property registers that are kept in the Public Revenue Office. If a discrepancy is found when comparing the data of the property declaration with the data that is kept by the Public Revenue Office, it is considered that the person has submitted incorrect or incomplete data and a procedure for investigating the origin of the material wealth and property is initiated.

The procedure for investigating the origin of the assets is carried out in the Regional Directorates of the Public Revenue Office (Skopje, Tetovo, Bitola, Prilep, Strumica, and Štip). For carrying out this procedure in every Regional Directorate, upon the proposal of the Director of the Regional Directorate, the Director of the Public Revenue Office selects one person who is authorised to implement procedures for investigating the origin of the material wealth and property. These persons are autonomous in taking procedural measures (preparation of minutes, hearing of a given person, preparation of notes, evidence gathering and so on) against given persons.

The Public Revenue Office can perform a procedure for investigating the origin of the assets against persons performing duties of public interest, if his/her property and the property of the members of his/her family at the time of performing of the duties have disproportionately increased in relation to his/her income. The Public Revenue Office also carries out a procedure against, a responsible person in a company or other legal entity or a member of body of a legal entity, if in the procedure of supervision of the financial activity of this legal entity, the Public Revenue Office finds irregularities.

After the procedure of investigating the origin of the assets of a given person is carried out, the Public Revenue Office, in accordance with the Law on Prevention of Corruption, prepares a decision for taxation. If it is found out that the assets of that given person have been disproportionately increased, the Public Revenue Office will raise an initiative before the Public Prosecutor's Office for initiating a procedure.

5. Is corruption defined as a criminal offence in line with the Council of Europe Criminal and Civil Law Convention? Which type of conduct can be sanctioned as corruption? Is active and/or passive bribery sanctioned? In the public and/or private sector? Trading in influence? What kind of sanctions exist (e.g. possibility of confiscation of proceeds, disqualification measures)?

The provisions of the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03 and 19/04) on *receiving a bribe* (Article 357) and *giving a bribe* (Article 358), are harmonised with the Council of Europe Criminal and Civil Law Convention definitions on Corruption ("Official Gazette of the Republic of Macedonia", No. 32/99 and "Official Gazette of the Republic of Macedonia", No. 32/99) as well as with the Convention on Protection of the European Communities' Interests and its I and II Protocol.

Article 2 of the Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", Nos. 28/02, 46/04 and 83/04-consolidated text) defines corruption as abuse of the official position, public authorisation, official duty and position for acquisition of personal gain, or gain for any other person.

The offence of ***receiving bribe*** (Article 357) of the Criminal Code is defined as a **passive form of corruption** committed by bribing an official or responsible person, i.e. was perpetrated when an official shall request or receive a gift or some other benefit, or receives a promise for a gift or some other benefit, in order to perform an official action within the framework of his/her own official authority which he/she should not perform, or to refrain from an official action which he/she otherwise should perform. Under the Code, the official person, committing this offence shall be punished with imprisonment of one to ten years.

Furthermore, an official who requests or receive a gift or some other benefit, or receive a promise for a gift or some other benefit, in order to perform an official action within the framework of his/her own official authority which he/she should perform, or to refrain from an official action which he/she otherwise should not perform, shall be punished with imprisonment of six months to five years.

An easier form of passive corruption (Article 357, paragraph 3) is the act of the official person who after performing the official duty, request or receive a gift or some other benefit. The prescribed prison sentence in such cases is from three months to three years.

The same penalties are prescribed for the responsible person and person that perform duties of public interest, if the act has been committed in relation with acquiring or cessation of rights determined by law or in order to acquire benefits, or to cause a damage to other; a responsible person in a foreign legal entity; as well as a foreign official that shall commit an offence in order to cause damage to the Republic of Macedonia, its citizen or to a legal entity. (Article 357, paragraph 4)

In all these cases, the received gift or acquired property gains shall be confiscated.

The provisions defining the crime of ***giving a bribe*** (Article 358) incriminates **active corruption**, which consists of offering, giving or promising an official or responsible person a gift or other benefit, so that he/she would perform an official action within the framework of his/her official authority which he/she should not perform, or to refrain from an official action which he/she otherwise should perform. The mediation in the realisation of this act is also sanctioned by the law. For all this crimes an imprisonment of six months to five years is prescribed. When the perpetrator is a legal entity, it will be punished with a fine.

According to the Code, a person who offers, gives or promises to an official or responsible person a gift or other benefit, so that he/she would perform an official action within the framework of his/her official authority which he/she must perform, or to refrain from an official act which he/she should not perform, or a person who mediates for, shall be punished with a monetary fine, or with imprisonment up to three years.

In both cases, the received gift or proceeds shall be confiscated.

Beside the distinction between an official person and a responsible person, Articles 357 and 358 of the Criminal Code have introduced a significant novelty. Namely the Code prescribes possible exemption from sanction for the person who has offered, given or has promised a bribe upon a request from an official person, and has reported it, before the act of bribery was detected. In such cases, the presented gift or proceeds shall be returned to the person who has given the bribe.

Aimed at implementing the Law on Prevention of Corruption (Official Gazette of the Republic of Macedonia, Nos. 28/02; 46/04 and 83/04- consolidated text), the Criminal Code envisages new criminal offences such as: *Unconscientious performance of duties* (Article 353-v) and *Concealing the resources of disproportional acquired property* (Article 359-a).

In order to increase the preventive measures for protection from illegal acquiring of state owned property, means from Budget and public funds, the Criminal Code in Article 353-v- *Unconscientious performance of duties*- incriminates the abuse of official position by unconscientious exercise of public duties i.e unconscientious disposal with the entrusted property. Depending on the scope of the acquired proceeds and caused damage, the Law envisages imprisonment from three months to 10 years.

The said prison sentences are also imposed on responsible persons, including those from a foreign legal entity having franchise in Republic of Macedonia, or on a person performing activities of public interest, if the act has been committed in the performance of the special authorities or duties.

In cases when the official or responsible person of a public enterprise or a public institution presents false data on his/her incomes, or when it has been found that the property of such persons is significantly beyond his/her legally acquired and taxed income, or that the person conceal the true sources of the income, shall be punished with an imprisonment of six months to five years and a fine. In addition, the disproportionately acquired proceeds shall be confiscated. (Article 359-a)

The Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", Nos. 28/02, 46/04 and 83/04-consolidated text) proscribes the **bribery of voters** (Article 14). The Law envisages that giving or promising a gift or other benefits for oneself or for other, to voters during elections or referendum, in order to vote or abstain from voting, or to vote in favour of a specific candidate or a specific decision shall be considered as election corruption.

Granting privileges or discriminating after elections is also proscribed (Article 15). The State Commission is authorised to request the competent bodies to undertake appropriate measures and activities within their competencies, if it finds out any privileges or discrimination in regard to the contracts, public procurements and other deals aimed to gain profits, concluded or executed in the period of one year after the completion of any elections.

The Law also forbids **exerting influence during election, appointment and discharge from managerial positions** (Article 16), when the influence has been exerted by a political party or a person acting on behalf of the political party, meaning that the party i.e. person may not exert any influence on election, appointment or discharge of a person from an official, managerial or other public important position or duty. In addition, the Law envisages that a political party or a person acting on behalf of the political party may not exert influence in respect of employment, assignment to positions and termination of employment relationship of an official person (Article 17).

Furthermore, **influence over employing close relatives** (Article 30) is also forbidden. Thus, the Law sets forth a prohibition for an elected or appointed official to employ or promote close relatives by

exercising influence either over the state body in which he/she is elected or appointed or over other body. The elected or appointed official have the obligation to inform the State Commission about any employment, promotion or appointment or a member of his/her family in a state body, local self-government body, public enterprise or other legal entity managing with state capital.

For all these prohibited activities, the State Commission for Prevention of the Corruption has the obligation to initiate proceedings before the competent bodies for establishing liability.

The issue of **confiscation of property and proceeds** is regulated by the provisions contained in Articles 98-100 of the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03 and 19/04).

Article 97 of the Criminal Code envisages that no one may retain the direct or indirect property and proceeds acquired through crime. The property and proceeds shall be confiscated through a court decision, with which the fact of the perpetration of the crime was established. The court may also adopt a decision on confiscation in cases when due to the facts or legal obstacles it is not possible to conduct criminal proceedings against the perpetrator. Under conditions determined by ratified international agreements the confiscated property may be returned to a third country.

Under Article 98, the property and proceeds from crime, such as money, movable or immovable objects of value, and other property gain, material and non-material rights shall be confiscated from the perpetrator. If their confiscation is not possible, another property from the perpetrator corresponding to the value of the proceeds from crime shall be confiscated. The confiscation of the property and proceeds may be enforced also from third persons to whom they have been transferred without relevant compensation, if they did not know, but could have known and who were obliged to know that the proceeds have been gained through a crime.

The **Law on Criminal Procedure** ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) regulates the procedure for enforcement of the measure of temporary securing regarding property or proceeds of crimes, such as temporary freezing, seizure, confiscation of funds, banking accounts, financial transactions or criminal proceeds.

The enforcement order shall be issued by the court that delivered the judgement in first instance, while the enforcement shall be carried out against property and proceeds designated in the order. If the order can be enforced only partially or not at all, the execution shall be carried out against the remaining property of the person subject to such a measure. No appeal is allowed against the enforcement order, and the compulsory enforcement orders may be stayed only if the person voluntarily returns the property or pays the amount of the proceeds, to an account of the court. Banks and other financial institutions holding the accounts, against which this measure is enforced, have the obligation without any delay, to execute the orders and prevent eventual transfers or financial transactions. The legal acts concluded after the perpetration of the criminal act, with the intention to decrease the value of the property subject to confiscation, are invalid. An appeal is allowed only against the orders for enforcement against the remaining property.

According to Article 29 of the Law on Prevention of Laundering Money and Other Proceeds from Crime ("Official Gazette of the Republic of Macedonia", No. 46/04) when there are reasonable grounds for suspicion that money laundering or an act of financing of terrorism has been committed, the Directorate for Prevention of Money Laundering shall file an initiative to the competent Public Prosecutor to raise proposal for enforcement of the securing measure not later than 24 hours, since it has learned that such transaction is under way. Under Article 29, 30, 31 and 32, the competent court shall pass orders for enforcement of securing measures upon the proposal of the Public Prosecutor for imposing such measures. Temporary measures consist of interrupting the transaction and temporary seizure of assets and property, while the entire procedure for ordering such measures would be complete within 72 hours. Such a short period for adopting a decision has been envisaged due to the sensitivity of the measures and their infringing upon the right of clients and their material and other interests, determined by the court, in accordance with the original decision ordering such measures in pre-trial or in a criminal procedure.

6. To what extent and from which sources are statistical data available concerning corruption cases (investigations, cases in court, convictions and sanction level), international co-operation in corruption cases, the link between corruption and organised crime and the link between corruption and money laundering?

Under the Law on State Statistics ("Official Gazette of the Republic of Macedonia", No. 54/97), the State Statistical Office is the principal agency of official statistics in the Republic of Macedonia. According to the Statistical Research Programme for the period 2003-2007, the State Statistical Office is in charge of collection, processing and dissemination of parts of crime statistics data.

Generally, data on crime is kept according to the Classification of Criminal Offences ("Official Gazette of the Republic of Macedonia", No. 60/97), which is a by-law of the Criminal Code adopted in 1996 ("Official Gazette of the Republic of Macedonia", No. 37/96). According to this Classification, a special class belongs to the criminal offences which have the distinctive features of organised crime, and criminal offences in the area of corruption.

Authorised bodies for maintenance of the statistical data on crimes are the Ministry of the Interior, Ministry of Justice, the courts and the Public Prosecutor's Office.

The modes for maintenance of the statistical data on crime rates differ depending on the bodies in charge of the individual stages of the procedure which maintain the statistical records.

In the Ministry of the Interior, which is in charge of the pre-trial procedure, the statistical data are categorised on the basis of the 'criminal offence' indicator; the statistical data in the Public Prosecutor's Office are categorised on the basis of the 'person accused of a criminal offence', while the courts categorise the statistical data on the basis of 'cases', which can sometimes comprise either several persons or several criminal offences.

The Criminal Code of the Republic of Macedonia includes corruption related criminal offences. Regarding the number of criminal offences subject to criminal charges filed pursuant to these provisions, the statistical data can be obtained from the statistical records of the Ministry of the Interior. These statistical records are maintained on the basis of the legal qualification of the reported criminal offences and for a period of one calendar year.

Within the Public Prosecutor's Office of the Republic of Macedonia, the statistical records are classified based on 'persons against whom there are indictments' for a given criminal offence. According to the mode for maintaining the annual statistical records of the Public Prosecutor's Office, the cases which are recorded, and which were not finalised are transferred into the next year.

Pursuant to the Law on State Statistics ("Official Gazette of the Republic of Macedonia", No. 54/97), the courts in the Republic of Macedonia, i.e., the basic courts submit a filled questionnaire on a defendant of age, against whom the criminal procedure has been finalised by an effective court verdict. These questionnaires are processed by the State Statistical Office. Pursuant to the Court Rules of Procedure, the courts maintain records on all cases, including those related to corruption, and therefore the data in their original form are obtained from the courts.

After the end of the calendar year the institutions in charge of maintaining statistical data on crime rates submit the statistical data to the State Statistical Office (SSO), where they are additionally processed in accordance with the accepted nomenclature, which is different from all previously mentioned. These data, after the processing, are published in Statistical Reports. The published data of the SSO also disclose the data on the rate of pronounced verdicts and the types of pronounced sanctions.

The State Commission for Prevention of Corruption, based on its competence, is not required to maintain statistical data upon any grounds, while it records data related to its activities (received property statements from elected and appointed officials; petitions received from citizens and legal entities; initiatives for instituting a procedure before competent bodies).

The data on the international cooperation in corruption cases can be received from the NCB Interpol and the Ministry of the Interior; however an efficient system for regular statistical tracking has not yet been developed. In addition, special statistical records on the interconnectivity of corruption to the organised crime and money laundering do not ex

7. Training:

a) How and by whom are relevant staff (anti-corruption prosecutors etc.) trained?

b) Which typical “accompanying offences” are covered by the training?

(fraud, tax offences and money laundering)

a)

In the last five years the professional training of judges and prosecutors in the Republic of Macedonia is performed by the Centre for Continuing Education, which operates within the Macedonian Judges Association. The Judicial Reform Strategy foresees institutionalisation of National School for Education of Judges and Prosecutors. One of the special programmes will be the training of the anti-corruption prosecutors.

The Centre for Continuous Education of Judges in 2003 organised the following seminars:

- Corruption and its Criminal Law Identification,
- Fight against Organised Crime, Active and Passive Corruption and Money Laundering.

Within the curricula of the Public Prosecutors Association of the Republic of Macedonia, an education seminar was organised in cooperation with the Programme for Development, Assistance and Training for the Public Prosecutor’s Offices in Macedonia (OPDAT) within the USA Embassy, on the topic of Organised Crime, which took place from 11-13.03.2004. In addition, a workshop/seminar was organised for public prosecutors, judges, criminal inspectors, financial police, custom officials and for personnel in the Directorate for Prevention of Money Laundering on the topic of Investigations and Criminal Prosecution of Offences of Organised Crime, which took place between 8-11.10.2004 in Skopje.

One of the more important training programmes was the Council of Europe Octopus Programme against corruption and organised crime with two-year duration (2001-2003), the purpose of which was to introduce the judges and the prosecutors to the contents of the international documents and the EU member-states legislation related to the fight against organised crime and corruption. The training was carried out through regional seminar and study trips.

In terms of education especially important is the implementation of the CARDS 2001 Project, which should commence at the beginning of 2005 as the programmed tasks foresee dealing with the topics related in organised crime and corruption.

The implementation of the PACO IMPACT project is under way (Implementation of Anti-Corruption Plans in Southeast Europe), supported by the Swedish Agency for International Cooperation and Development, and implemented through the Council of Europe. The main project partner from the Republic of Macedonia is the State Commission for Prevention of Corruption. A portion of the funds is earmarked for training of prosecutors from the Unit for fight organised crime and corruption, within the Public Prosecutor’s Office of the Republic of Macedonia.

b)

Within the already completed trainings there also was training of public prosecutors and personnel from other bodies involved in the fight against corruption. The new forms of crime have been dealt with, with special emphasis on organised and trans-national crime, corruption, cyber-crime, money laundering, financial/commercial crime, terrorism, trafficking in human beings, trafficking in narcotic drugs and unauthorised possession and carrying of weapons and trafficking in weapons.

8. What is done to strengthen the rule of law enforcement bodies in the fight against corruption in general but also to fight corruption internally.

Pursuant to the National Programme for Prevention and Suppression of Corruption, and in order to strengthen the state bodies in charge of combating corruption as well as to combat corruption in the state administration itself, the following activities have been undertaken:

1) Public Prosecutor's Office

Pursuant to Article 29 of the Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04) a special Unit for fight organised crime and corruption has been established within the Public Prosecutor's Office.

2) Ministry of the Interior

In the **Department for Organised Crime** at the Ministry of the Interior within its Sector for Financial Crime, there is a Section for Money Laundering and Corruption which is in charge of suppressing corruption (see also answer [I E 04](#)). Also important is the establishment of the Sector for Criminal and Intelligence analysis, competent to collect, examine and assess information and data. Analytical information acquired in such a manner enable the execution of police actions as far as the operational plan is concerned, and as regards the strategic plan, facilitate the planning of development, technical, financial and other activities.

The Law on Interception of Communication (to be adopted) is expected to reinforce the Ministry's capacity in combating corruption.

The Ministry of the Interior established a free telephone line in May 2004 (#199) where citizens may report corruption of the Ministry's employees.

Sector for Internal Control and Professional Standards at the Ministry of the Interior

Pursuant to the Rulebook on Systematisation of Posts in the Ministry of the Interior, a Sector for Internal Control and Professional Standards has been established to carry out particular expert matters for the police and criminal police. The Sector (SICPS) has a duty to investigate cases of abuse of official position and authority as well as corruption of employees in the Ministry of the Interior. There are activities under way for establishment of two units within the SICPS:

- Criminal Affairs Unit
- Unit for Submissions, Complaints, Legal Conduct and Application of Authorities.

The work and conduct of the Sector has been regulated by the Rulebook on the Performance of Duties of the Sector for Internal Control and Professional Standards within the Ministry of the Interior.

Pursuant to the Rulebook, the Sector conducts investigation on the basis of data, information and indications received by employees in the Ministry, and on the basis of submissions of citizens related to illegal and unprofessional conduct of the Ministry's employees. The Sector may also launch an investigation upon the proposal of the Minister of the Interior.

Investigations related to illegal and unprofessional conduct of employees are carried out by 21 authorised inspectors, while inspections related to illegal and unprofessional conduct of employees in the internal affairs sectors and units are carried out by eight detached authorised officers in the seats of regional internal affairs sectors and units.

The outcome of such investigation and inspection is presented in a final report submitted to the head of sector or to the Minister of the Interior. In the event of a well-founded suspicion of a crime, the sector or the organisational unit which has been given the investigation results files a criminal charge to the Basic Public Prosecutor's Office. In accordance with the Law on Internal Affairs and the Collective Agreement of the Ministry of the Interior, a decision is rendered for a temporary removal of

the employee from his/her post and the employee is further subject to a procedure of termination of employment.

In the event that employees have been suspected of corruption, yet such suspicions have not been supported by material evidence, they are reassigned to another post.

The Sector is fully independent in its operations and in launching investigations on whatever grounds. The Sector exclusively answers to the Minister for its work.

3) **Public Revenue Office**

For the purpose of reducing the risk of abuse of official duty in the process of granting tax reliefs and exemptions (i.e. the reduction of the discretionary rights of tax officers) the Public Revenue Office has been subject to reinforced internal control. Hence, a Sector for Internal Control was established in 2002 which in 2004 became a Sector for Internal Audit. The Unit for Audit and Harmonisation of the Systems of Internal Control within this Sector, *inter alia*, carries out conformity assessment regarding the enforcement of laws, by-laws and internal acts that are in force, as well as procedural control related to complaints against the conduct and work of tax officers. Additionally, a free direct telephone line has been established (#198) for reporting an abuse of official duty of employees in the Office, as well as for reporting tax evasion and non-issuance of fiscal bills.

4) **Customs Administration**

In the interest of securing the integrity of customs officers and preventing corruption, a new function within the Customs Administration has been introduced in 2003 falling under the competence of the Sector for Professional Standards, which comprises the Internal Inspection Unit and the Internal Investigation Unit. The staffing of the Sector started in May 2003 when the Internal Investigation Unit was formed, while the Internal Inspection Unit is in the process of forming.

The Sector for Professional Standards has a mission to act preventively and detect and eliminate unprofessional conduct, fraud, losses, abuses, corruption and miss-governance, i.e. all deviant phenomena in professional conduct as stipulated in Article 123 of the Collective Agreement on Labour Relations No. 01-1984/1 adopted on 17.03.2003 at the Customs Administration of the Republic of Macedonia. The Sector exerts control over all functions in the Customs Administration sectors and customs houses regarding their lawful conduct and adherence to prescribed procedures, competence, tasks, rights and liabilities. In addition, the Sector investigates allegations on unlawful operations by employees (uniformed personnel, authorised persons, persons with a status of civil servants and persons without the status of civil servants).

In June 2003 and in August and September 2004 the advisory team of the US Customs Service SECI conducted special training for the staff of the Sector for Professional Standards.

Regarding the foregoing, the Sector for Professional Standards collects information on unlawful conduct of customs officers through the On-duty Operational Centre (the open telephone line #197 that started operating on 26.11.2003); collects information from the Sector for Control and Investigation; uses various techniques of surveillance and shadowing in accordance with law; and develops confidential contacts with participant subjects in the customs procedure.

The Sector for Professional Standards prepares official reports on the basis of *objectively collected facts and evidence* (*official notes* for internal use and *official information* for communication with the director and for further processing the case to the Disciplinary Commission), which serve as support to allegations on a customs offence. In the course of the procedure, the Sector takes account of the moral integrity of the customs officer and his/her human rights.

The Internal Investigation Unit of the Sector for Professional Standards from 01.07.2003 to 30.09.2004 instituted the following procedures:

Skopje Customs House

- A total of 27 procedures have been instituted of which 26 have been completed and the remaining one is under way;

Kumanovo Customs House

- A total of 30 procedures have been instituted of which 29 have been completed and the remaining one is under way;

Štip Customs House

- A total of 15 procedures have been initiated and completed;

Gevgelija Customs House

- A total of 20 procedures have been initiated and completed;

Bitola Customs House:

- A total of 32 procedures have been initiated and completed.

At the level of the Customs Administration in the Republic of Macedonia a total of 124 procedures have been instituted, of which 122 have been completed and 2 are under way.

In the context of the above, the Sector for Professional Standards exerts its independence through objectively collected facts and evidence regarding allegations of a customs offence, without taking part in the further procedure, i.e. without participating in the work and the relevant decision-making of the Disciplinary Commission. The Sector for Professional Liability is under direct jurisdiction of the Customs Administration Director.

For the purpose of preventing corruption, the Customs Administration has introduced an official ID as an additional part to the official uniform. The customs officer is obliged to keep his/her official ID at all times so as he/she may be identified in the event of improper performance of duty or misconduct.

Especially important for the strengthening of the institutions that enforce the rule of law in combating corruption is the training on corruption of judges and public prosecutors, carried out by the Centre for Continuous Education of Judges and Public Prosecutors within the Judges Association (in the framework of the national and regional CARDS Programme, the Council of Europe projects, etc.). For more detail on training of judges and public prosecutors, please see answer [I E 07](#).

9. Public offices: is equal access guaranteed to all citizens? Do regulations exist which are objective and founded on merit-based criteria (in terms of adequate salaries, social rights, rotation in sensitive posts, financial disclosure obligations during office)? How are such rules reconciled with the principle of equitable representation?

The Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos 52/91, 01/92, 31/98, 91/01 and 84/03) in Article 32, paragraph 2 stipulates the right to work and free choice of employment under equal conditions as one of the basic human and civil rights and freedoms. This Constitutional principle has been applied through two basic legal acts that govern the manner of employment of public and civil servants.

Equal access to jobs and selection based on qualifications are the two main principles for employment of civil servants, determined by the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04). For more details on the conditions of employment of civil servants see answer [I C 06](#).

The ways and procedures of employment of public servants that do not have a status of civil servants have been regulated by the Law on Labour Relations ("Official Gazette of the Republic of Macedonia" Nos. 80/93, 3/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03 40/03 and 80/03-consolidated text).

The Law on Labour Relations in Article 9 emphasises the principle of equal access to every working position for each citizen in general, including the public service, providing that the employer may not put a person seeking employment or an employee in an unequal position on grounds of his/her race, gender, age, health condition, i.e. disability, religious, political or other belief, trade union membership, ethnic or social background, family status, property status or other similar state of affairs. (For more details see answer [I C 06](#)).

Chapter IV of the Law on Civil Servants regulates the civil servants' system of salaries and salary supplements (for more details see answer [I C 06](#))

Because a single regulation of the salary system for public servants that do not have a status of civil servants does not exist, the Government of the Republic of Macedonia and the Trade Union of the Republic of Macedonia, as its social partner, signed in December 2002 a social agreement committing themselves to take action towards drafting a regulation for establishment of a public sector salary system. As a result of this commitment, the drafting of a law for the regulation of the salaries of public sector employees is currently underway. The solutions offered by this Law shall correspond with the solutions on salaries determined by the Law on Civil Servants.

Social rights, such as the right of daily, weekly and annual paid leave, salary during national holidays and professional training, the right of health care insurance - have been provided for the public servants with the Law on Civil Servants, Law on Labour Relations and the General Labour Agreement for Public Services, Public Enterprises, State Bodies, Local Self-Government Bodies and Other Legal Entities Performing Non-Economic Activity ("Official Gazette of the Republic of Macedonia", Nos.39/94 and 73/2001). The criteria for the length of the annual leave have been determined with the General Labour Agreement and are related to the length of the working experience, complexity of the working tasks at a specific working position, working conditions and the employee's health condition. The Constitutional base for these rights and their regulation by law and labour agreement has been determined in Article 32 of the Constitution of the Republic of Macedonia. No additional rights have been stipulated for public service employees in terms of implementation of the indicated rights and, in this regard, they are equal with other employees. Civil, as well as public servants are entitled to a salary supplement for work in special conditions: night work, work in shifts, work under high life-endangering risks, work during weekly leaves or holidays, and over-time work.

Taking into account the particularities of the work and the working assignments the difficulties and specific working conditions, as well as their effect on the employees' working capacity, the Law on Defence ("Official Gazette of the Republic of Macedonia", No. 42/01), Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos.19/95, 55/97, 38/02, 13/03 and 33/03) and Law on the Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos.3/97 and 23/99), Chapter IV of the Law on Pension and Disability Insurance ("Official Gazette of the Republic of Macedonia", Nos.80/93, 3/94,14/95, 71/96, 32/97, 24/00, 96/00, 05/01 and 50/01) provide the right of increased duration of service insurance, appropriate reduction of the age limit for exercising the right of pension and a special pension calculation method for the employees at certain positions in the defence, internal affairs and the penitentiaries. Posts affected by these additional rights shall be determined by the Government of the Republic of Macedonia upon a proposal of the Ministers of Defence, Interior and Justice.

Rotation of sensitive posts has not largely been introduced as a method for prevention of corruption. However, initial efforts have been made in some state administration bodies. For example, the Ministry of Defence introduced the obligatory rotation of the working posts for the members of the Public Procurement Commission.

The obligation to report on the property situation while in office is a highly significant and sensitive segment in the preventive set of measures and one of the most important issues regulated by the Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", Nos. 28/02, 46/04 and 83/2004-consolidated text). The Law regulates in details the ways and procedures of reporting on the overall property. By reporting on one's property, an image is created on the current property

situation of a person taking the office and a monitoring is enabled until the moment of termination of the office. The article 34 of the Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", No.83/2004) sets forth that an elected or appointed official, responsible person in a public enterprise, public institution or other legal entity managing with state capital, or an official, upon election, appointment, employment or taking an office, fills a property declaration with detailed description of the real estate, movables of substantial value, securities, claims and debts, as well as other property owned by members of his/her family. Persons indicated in Paragraph 1 of this Article are obliged to fill a property declaration within 30 days from the day after termination of the office, i.e. termination of the employment. In the Law's basic text, adopted in 2002, this obligation referred only to elected or appointed persons. However, the amendments to the Law on Prevention of Corruption of April 2004 (Official Gazette of the Republic of Macedonia, No. 46/04) have introduced an obligation for property declaration for all officials in the state administration.

The constitutional principle of equitable representation has been implemented in many laws. When recruiting is concerned, this principle applies if not contravening the criteria on expertise and competence.

10. Is integrity, accountability and transparency of public administration assured, e.g. by means of quality management tools, auditing and monitoring of standards such as the Common Assessment Framework of EU Heads of Public Administration?

The principle of legality within the state administration has been defined as a constitutional principle in the Republic of Macedonia. Article 96 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) prescribes that state administrative bodies perform the functions within their sphere of competence autonomously and on the basis and within the framework of the Constitution and laws. The principle of legality has also been determined as a basic principle in the Law on Organisation and Operation of State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02). which in Article 3 prescribes that state administration bodies carry out their competences as determined by law in accordance with principles of legality, accountability, efficiency, effectiveness, transparency, equity and predictability

From a normative aspect, the principles of integrity, accountability and transparency of the state administration have been incorporated into several laws as explicit provisions.

The Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04, and 69/04), in its Article 2 determines that civil servants carry out their official duties in accordance with the Constitution and law, in a professional, politically neutral and impartial manner. The professional integrity has been supported by principles of impartiality and autonomy in decision-making, free assessment of evidence and protection of citizens' rights and public interest, as determined by the Law on General Administrative Procedure ("Official Gazette of SFRY" Nos. 52/56, 10/65, 18/65 - consolidated text, 4/77, 11/78, 32/78 - consolidated text, 9/86, 16/86, 47/86 - consolidated text and "Official Gazette of the RM", Nos. 44/02)

In terms of implementation of principles of openness and transparency as well as citizens' participation, the Law on Organisation and Operation of State Administrative Bodies prescribes that the public is informed and consulted in preparation of laws and other regulations. As for the administration's transparency, it has been a long practice in the Republic of Macedonia that the administration offers explanation on an administrative act or decision. Law on General Administrative Procedure contains detailed provisions on the content of the explanation as an integral part of every decision. (for more details see also answer [I C 09](#))

The responsibility of the state administration and public services, institutions, public enterprises and natural and legal persons that have been given public authorities, has also been implemented through legal mechanisms of supervision by the executive government, higher administrative bodies, courts, the Ombudsman and state and internal auditors. The Law on Prevention of Corruption

contains provisions defining the principles of *legality* (Article 3), *confidentiality* (article 4), *equality* (article 5), *transparency* (article 7) and *accountability* (article 7) of the public administration. Pursuant to the Law, and within its competences, the State Commission for the Prevention of Corruption undertakes activities aimed at control and supervision of the public administration and the mode of exercising of discretionary rights.

The control mechanisms and forms of accountability create conditions for eliminating or reducing the possibility of abuse of official duty for personal gains, and they strengthen the responsibility for the legal and conscientious execution of duties. The Law on Civil Servants contains special provisions on disciplinary and material responsibility of civil servants.

The internal audit as an important control tool in a given institution, including financial and legal audit of execution of duties, is important for the efficiency and quality in operation, for the process of decision-making and for the prevention of irregularity and abuse of the position (Law on Internal Audit – “Official Gazette of the Republic of Macedonia”, No. 69/04). Given that the Law entered into force in October 2004, there is insufficiency of by-laws that would precisely define the standards and procedures. Albeit measures on promotion of the foregoing principles have been envisaged through expert training of civil servants as well as through the annual process of evaluation of their work (that shall be conducted in 2005 for the first time), more thorough activities on introducing instruments for quality administration, audit and supervision of the standards such as the Common Assessment Framework of EU Heads of Public Administration have not been undertaken within the administration as those standards have still not been introduced in the Republic of Macedonia.

11. Do precise codes of conduct exist, which indicate what is and what is not allowed, and which are subject to a permanent monitoring process?

Ethical standards are defined in detail in codes of conduct in several areas.

The Code of Conduct for Civil Servants (“Official Gazette of the Republic of Macedonia”, Nos. 96/01 and 16/04) was adopted in December 2001, regulating civil servant’s conduct and work in order to ensure adherence to the principles of legality, professional integrity, efficiency, and loyalty in carrying out their official duties.

In order to observe the elementary principles and recommendations contained in the European Code of Police Ethics, the Code of Police Ethics (“Official Gazette of the Republic of Macedonia”, No. 3/04) was adopted in January 2004. The Code regulates the behaviour, work and objectives of the police; the legal grounds for police operation; the relation of the police and criminal judiciary bodies; police organisation; the qualifications; the process of selection; police employment and training; the rights of police employees; police interventions; police accountability and monitoring; police research; and international cooperation.

In 1998, the Minister of Justice, pursuant to the provisions of the Law on Execution of Sanctions (“Official Gazette of the Republic of Macedonia”, Nos. 3/97, 23/99 and 74/04), has adopted the Code of Conduct for Officials Working in Penitentiary and Correctional Facilities, establishing that employees must act in accordance with the Constitution, law and other regulations in the field of execution of sanctions, conscientiously, responsibly and justly, without bias to convicts and detainees.

In carrying out their duties, tax officers must adhere to the principles established in the Code of Conduct for Tax Officers, adopted by the director of the Public Revenue Office in 2000, relating to the obligation of the tax officer to carry out their duty objectively, timely, honestly and in accordance with law, without abusing their official position to obtain property or other gain.

In performing their work and duties, employees of the Customs Administration act in compliance with the custom regulations and the Customs Code, stipulating a standard and unified approach to each party, without preference, taking bribe and abuse of official position.

In 1992, the Medical Chamber of the Republic of Macedonia, taking the Hippocratic Oath as the basic ethical principle of the medical profession and its humane dimension, adopted the Code of Medical Deontology;

In the field of education, every primary and secondary school, adopts a code of teacher and student conduct.

In field of the judiciary, the following codes of conduct have been adopted:

- Code of Judicial Ethics, adopted by the Macedonian Judges Association;
- Code of Public Prosecutors Ethics, adopted by the Public Prosecutors Association; and
- Code of Professional Ethics for Lawyers, Expert Associates, Associates and Trainees, adopted by the Bar Association.

12. Whistle-blowing – do clear rules and reporting mechanisms exist in both the public and the private sectors?

With the adoption of the Law on Ratification of the Civil Law Convention Against Corruption ("Official Gazette of the Republic of Macedonia", No. 13/02), in accordance with Article 9 of this Convention, the Republic of Macedonia undertook a commitment to provide in its legislation appropriate protection against any unjustified sanction for employees reporting acts of corruption.

The Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", Nos. 28/02, 46/04 and 83/04-consolidated text) contains several provisions serving to protect any citizen or official reporting a punishable act.

One of the provisions is contained in Article 5, which stipulates that anyone is entitled to prevent or report, without any consequence to himself/herself, an act that represents misuse of office, public authorisations, official duty and position, whereby personal gain is obtained or another person is harmed.

Article 18 provides for the possibility that twenty Representatives of the Assembly of the Republic of Macedonia may pose a question for establishing accountability for corruption involving elected or appointed high-ranking officials, authorised officials, responsible persons in public enterprises and other legal entities managing state capital.

According to Article 19, upon the request of the State Commission for the Prevention of Corruption, the person obliged to keep a state, military or another official secret may be relieved of such duty due to engagement in a criminal or another procedure for an act of corruption.

Article 44 prescribes the obligation to report a corruption related punishable act. The right of citizens and legal entities to lodge a complaint to the State Commission in the event of abuse of discretionary rights has been provided for (Article 46), whereas Article 47 obliges the elected and appointed high-ranking official to report an offer of bribe.

The Law on Prevention of Corruption also regulates the issue of protection of collaborators of justice and witnesses. In accordance with this law, a person who has reported data pointing to the occurrence of corruption cannot be criminally prosecuted or otherwise held accountable, whereas a person who has given a statement or who has testified in a procedure for corruption is provided with protection in accordance with law. The person is entitled to compensation for the damages that may be suffered by them or a member of their family due to the given statement or testifying (Article 20).

Furthermore, the law provides protection of persons working on the suppression of corruption by stipulating that the persons working in the bodies for detecting and suppressing corruption are ensured full protection and independence for the efficient performance of their authorisations and duties, and that they must not be subjected to pressure in their work or in taking specific actions. The persons notify the State Commission of any exerted pressure in their work or in their taking specific actions, and regarding the pressure on the members of the State Commission in their work or in their

taking specific actions the State Commission notifies the Assembly of the Republic of Macedonia (Article 21).

13. Which measures are taken to raise awareness of corruption as a serious criminal offence (e.g. campaigns, media and training)? Does the law contain provisions designed to prevent corruption?

Raising Awareness on Corruption

The Government and other state authorities, as well as the State Commission for the Prevention of Corruption undertake measures for raising awareness on the corruption as a serious crime. The civil sector is also involved.

On 04.05.2004 the Ministry of the Interior has established an open free telephone line (#199) for reporting corruption of Ministry's officials, which has been advertised both in print and electronic media. As of the establishment of this line there have been over 541 calls and all have been examined.

Within the *Surveillance over Criminal Procedures on Acts of Corruption* Project, the Ministry of the Interior and Transparency Macedonia have signed an Agreement on Cooperation in 2003 as well as a Statement of Confidence.

In 2004, the Customs Administration has carried out the project titled *Do you have something to report?* Within the project a free telephone line has been opened (#197) enabling citizens to report smuggling, corruption and embezzlement in the operations of the Customs Administration. An intensive public campaign in the print and electronic media has been carried out for the encouragement of citizens to report any such activities of the Customs Administration.

Similarly, the Public Revenue Office has established a free direct telephone line (#198) for reporting the abuse of official duty, tax evasion or non-issuance of fiscal bills.

The Ministry of Justice within the Strengthening Responsibility Project has signed a Co-operation Memorandum with Transparency Macedonia on 18.07.2003 on the joint drafting of the Law on Access to Public Information and the Law on Conflict of Interests.

In addition, the non-governmental sector undertakes a number of measures aimed at the further raising of the public awareness for the hazards from corruption. These measures have been aimed at the efficient public involvement into anticorruption activities, by encouraging public reactions on the decisions of executive and legislative authorities as well as through the monitoring of the court authority. Most of these activities have been realised by Transparency Macedonia (a non-governmental organisation), in co-operation with other non-governmental organisations (the Association of Journalists in Macedonia, Forum Strategic Research and Documentation Centre Macedonia, Macedonian Centre for International Co-operation, Open Society Institute-Macedonia, etc., competent state authorities and international organisations and institutions.

Several books and brochures on corruption have been hitherto published. In addition, researches have been conducted in the field of corruption tackling issues on the access to official information, conflict of interests, etc.

One of the more significant initiatives of the civil society has been the establishment of the coalition "Macedonia without Corruption", comprising 75 active non-governmental organisations. In general, the objectives of this project have been fulfilled. Many of the non-governmental organisations have started preparing independent projects in the field of corruption and hold round tables and workshops on a regular basis in the cities where they operate. In addition, the *Local Anti-Corruption Co-operation* project was realised concurrently with the above initiative.

In the course of 2003 and 2004 employees in competent state institutions have been more closely informed upon the forms of corruption and how to identify it in terms of legal aspects. Thus joint

seminars by the State Commission for the Prevention of Corruption and the Public Prosecutor's Office have been organised as well as a number of seminars on organised crime and on the necessity of reforms of the judiciary, the public prosecution service, the penitentiary system, the public attorney, BAR and notary service.

Legal Provisions on the prevention of corruption

Apart the organic Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", Nos. 28/02, 46/04 and 83/04 - consolidated text), there are provisions on the prevention of corruptive conduct, conflicts of interests and incompatibility of posts in the Constitution and in a number of sectoral laws and by-laws. Below are some examples of such constitutional and legal provisions.

The Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) in Article 63, paragraph 5 prescribes that holding other public offices is incompatible with the office of a Representative of the Assembly, which is subject to regulation by a separate law.

Article 83, paragraph 1 of the Constitution stipulates that the duty of the President of the Republic of Macedonia is incompatible with the performance of any other public office, profession or position in a political party.

As regards provisions related to the Government of the Republic of Macedonia, Article 89, paragraph 5 determines that the office of Prime Minister and that of a Minister is incompatible with performance of any other public office or profession.

The Constitution also lays down provisions on the incompatibility of performing a judge's office with other public office, profession or membership of a political party (Article 100, paragraph 3); the incompatibility of the office of a member of the Judicial Council of the Republic with the performance of other public offices, professions or membership of political parties (Article 104, paragraph 5); the incompatibility of the office of the Public Prosecutor with the performance of any other public office, profession or membership of a political party (Article 107, paragraph 3); and the incompatibility of the office of a judge of the Constitutional Court with the performance of other public office, profession or membership of a political party (Article 111, paragraph 1).

Law on Election of Representatives in the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 42/02, 50/02 and 46/04) in Article 6 determines the incompatibility of the office of an MP with the performance of other public offices and professions. Thus, paragraph 1 of the same Article determines that the office of an MP is incompatible with the office of the President of the Republic, Prime Minister or Minister, a judge in the Constitutional Court of Macedonia, a Judge, Public Prosecutor, Ombudsman and other offices elected or appointed by the Assembly and the Government of the Republic of Macedonia. Paragraph 2 stipulates that the office of an MP is incompatible with the office of the Mayor or Council member of the City of Skopje. Paragraph 3 determines that the office of an MP is incompatible with the performance of expert and administrative duties in state administrative bodies. Pursuant to paragraph 4, the MP office is incompatible with performing an economic or any other profit activity. Paragraph 5 determines that the MP office is also incompatible with membership in steering committees of public enterprises, public institutions, funds, agencies, institutes and other legal entities, as well as with an appointment to represent state or public capital in trade companies.

The Law on Local Self-Government ("Official Gazette of the Republic of Macedonia", No. 5/02) contains provisions stipulating that the municipal mayor during his/her term of office may not perform any other profession (Article 52, paragraph 3). The Law also contains a separate Article (53) defining the conflict of interests of the mayor: he/she may not be appointed as a member in supervisory, management or control bodies in trade companies and public services and may not participate in the process of decision-making on issues for which he/she personally or members of his/her family (spouse, children or second-degree relatives) have a financial or any other interest. A similar provision on the conflict of interests relates to the members of the municipal council (Article 44). They may not participate in the process of decision-making on issues for which they personally or their

spouses, children or second-degree relatives have financial or other interests, nor they may make decisions related to municipal public services if they are employed in these services. In addition, the council member may not be employed in the municipal administration of the municipality in which elected.

The Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03) specifies that the office of the Ombudsman is incompatible with the performance of another public office and profession or with membership of a political party (Article 8).

The Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04) determines that the public prosecutor and his/her deputy may not perform duties incompatible with their office (Article 49, paragraph 2). The office of the public prosecutor or a deputy public prosecutor is incompatible with the office of an MP, a member of a municipal council and the City of Skopje, and with other offices in the state administration, local-self government and the City of Skopje, as well as with performance of other public office or membership of a political party (Article 50). The performance of any other public office and profession may be grounds for dismissal of the public prosecutor or/and his/her deputy. As regards the prevention of corruption, Article 44 of the Law determines that a public prosecutor may not be a person whose spouse, first-degree or collateral relative to a second degree is a public prosecutor or a deputy public prosecutor in the same or higher public prosecutor's office covering the same region or in the Public Prosecutor's Office of the Republic of Macedonia. At the same time, Article 51 specifies that the public prosecutor and his/her deputies may not receive gifts or use services offered by parties that have a direct or indirect interest in the procedure of the public prosecutor's office.

The Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04, and 69/04) in Article 18 stipulates that the civil servant is obliged to perform his/her duties professionally, conscientiously, efficiently, carefully and in a timely manner, in accordance with the Constitution and law. Paragraph 2 underlines that the civil servant is obliged to perform his/her duty impartially and without the influence of political parties. Moreover, the civil servant may not be guided by his or her political convictions or personal financial interests and may not abuse competences and the status he/she has been given as a civil servant.

Article 68, paragraph 1, item 10 of the Law on Civil Servants sanctions the receipt of gifts or other benefits and defines it as disciplinary violation.

The Civil Servants Code of Ethics ("Official Gazette of the Republic of Macedonia", Nos. 96/01 and 16/04) contains provisions related to the prevention of conflict of interests. Therefore, Article 3, paragraph 2 of this Code determines that the civil servant may not be guided by a wrong, unjustified or unreasonable factual situation in decision-making as a result of conflict of interests. Article 5 regulates the use of authorities and status of a civil servant and prescribes that he/she is obliged to avoid any type of conflict of interests as well as situations that may lead to suspicion in conflict of interests. Article 8 specifies that the civil servant may not allow his/her personal financial interest to come into conflict with his/her position and status as a civil servant. The term financial interest does not only denote personal gains of the civil servant, but also gains of his/her family, relatives, friends, or natural and legal persons with whom he/she has conducted business. In addition, the civil servant may not accept co-operation with persons or organisations that have had business interests with the administrative body in which the civil servant is employed. Article 9 of the Code (which further elaborates Article 68 of the Law on Civil Servants) specifies that the civil servant may not request or accept gifts, services, aid or any other benefit that may corrupt his/her professional conduct. Article 10 prescribes that the civil servant is obliged to use state funds cost-effectively. For more details on provisions pertaining to the status of civil servants, their independence, recruitment, career structures and rewarding, which are important prerequisites for the prevention of corruption, see answer [I C 06](#).

The Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 19/95, 55/97, 38/02, 13/03, 33/03 and 19/04) envisages that employees with special duties and authorities in the Ministry of the Interior may not perform activities that are incompatible with their duties. The Police Ethics

Code ("Official Gazette of the Republic of Macedonia", No. 3/04), adopted pursuant to the Law on Internal Affairs, contains provisions for the prevention of corruption. Thus, Article 21, paragraph 2 determines that police members may not be placed in financial or any other dependence on other persons or bodies. In addition, police members may not use official authorities to gain personal profits (paragraph 3).

The Customs Administration Law ("Official Gazette of the Republic of Macedonia", No. 46/04) contains provisions regulating the performance of additional activities by customs officers (Article 60), which in particular stipulate that customs officers may not perform any other duty or activity related to gaining profits and which is in breach of their official duty or activity. They may not be members or partners in trade companies or members in management or supervisory boards of trade companies. Additionally, customs officers may not be guided by personal financial interests; may not abuse authorities and their position in performance of duties; may not use privileges and exemptions; nor they may accept material or other gains in the line of duty. They are obliged to act in accordance with the Code of Conduct of the Customs Administration.

Article 1 of the aforementioned Law on Prevention of Corruption specifies that the law stipulates measures on prevention of corruption in exercising power, public authority, anti-corruption measures against legal entities in their performance of activities of public interest as well as prevention of corruption in the private sector..

Provisions in this Law also determine measures against conflict of interests.

Chapter III of this Law related to prevention of corruption in the line of duty contains several provisions determining the prohibited activities of elected or appointed officials, official or responsible persons in public enterprises and other legal entities managing with state capital in the course of their duties. The provisions in this Chapter also specify that appointed or elected officials, or responsible persons in public enterprises are prohibited to perform duties incompatible with their office.

Article 30 proscribes the acceptance of gifts.

Another important obligation stipulated by the Law concerning the prevention of corruption is the obligation of an elected or appointed official or an official person in a public enterprise, institution or another legal entity managing state capital to report his/her property or the property of his/her family. This obligation also applies in the event of changes in property status.

Article 28 specifies that an elected or appointed official or another official person who within three years from the cessation of his/her term of office founds a trade company, or conducts a for-profit business activity in relation to his/her previous post, must notify the State Commission.

Provisions that essentially relate to anti-corruption are those in Article 29 (*prohibition of acquiring shareholder rights*); Article 30 (*prohibition of influencing decisions regarding employment of close relatives*); Article 33 (*abuse of public procurement procedures*) as well as in other articles.

The prevention of conflict of interests has especially been regulated in Chapter IV providing several articles that regulate the legality of performance of an elected or appointed official, an official or responsible person in a public enterprise, as well as any legal entity managing with state capital. Thus, it has been clearly prescribed that when a conflict of interests exists between the public and personal interest, the responsible person is bound to act in accordance with the public interest; whereby it is considered that a conflict between the personal and the public interest exists when the performance between an official and other action affects the financial or other interests of persons subjects to this Law or interests of their family members. In the event of circumstances implying conflict of interests or if doubts have been raised over the impartiality in decision-making or in the course of undertaking a certain official and other action(s), the official person is excluded from the performance of the respective action(s). In addition, the Law prescribes that if a superior gives an unlawful order, the official person must notify the administrative bodies or the State Commission for the Prevention of Corruption lest the superior continues to give such orders after he/she has been warned by his/her subordinate. Pursuant to the Law, every bearer of public office, an official person

or responsible person in a public enterprise, institution or other legal entity managing with state capital, must report a corruption-related crime.

The provisions of this Law also prohibit any form of influence. If these prohibitions have been violated, each citizen disposing of such information is obliged to notify the State Commission.

Grounds for filing a submission to the State Commission may also be a reasonable doubt that in the course of execution of a discretionary authority the decision has been brought due to corruption. With regard to anti-corruption measures, the Law prescribes that any bribe offers must be reported. In the event of corruption charges, the person charged notifies the administrative body which has elected or appointed him/her without delay as well as his/her superior and the State Commission. The Law also determines that any legal matters or particular decisions that have been adopted as a result of corruption are not legally valid, i.e. they are considered null and void. A party that has been injured as a result of corruption is entitled to indemnity.

Law on Associations of Citizens and Foundations ("Official Gazette of the Republic of Macedonia" No. 31/98) also contains provisions related to conflict of interests. Thus, pursuant to this Law, associations of citizens and foundations may not perform political activities or use their property and assets for the accomplishment of political goals (Article 3). In case of a violation of this provision the association of citizens or foundation is terminated (Article 56).

For more details on the provisions pertaining to prevention of corruption in politics see answer [I E 05](#).

14. Are there clear and transparent rules on financing of political parties, social partners and other interest groups? Are these entities subjected to external financial control in order to avoid conflicts of interest between their representatives, public officials and the private sector?

Article 20, paragraph 1 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) guarantees the freedom of association of citizens to exercise and protect their political, economic, social, cultural and other rights and convictions.

According to the constitutional concept, political parties are citizens' associations and their funding is carried out within political activities.

The Law on Financing of Political Parties adopted by the Assembly of the Republic of Macedonia in October 2004 ("Official Gazette of the Republic of Macedonia", No. 76/04) regulates the modes and procedures for obtaining financial recourses and disposing of them for current operations and activities. The Law also regulates the modes of the financial and material control of political parties.

The financing of political parties is public and transparent, and they are provided by public and private sources.

The public sources of financing are funds from the Budget of the Republic of Macedonia, municipality budgets and the Skopje City budget. The Law prescribes that the total amount for the annual financing of political parties shall be 0.06% of the total original revenues of the Budget of the Republic of Macedonia. They may only be used for the party's goals as prescribed by the laws, statutes and other regulations of the political party.

Up to 30% of the funds for the political parties secured from the central budget are allocated evenly to parliamentary and non-parliamentary political parties that have won at least 1% of the votes at the last parliamentary elections in the Republic of Macedonia or at the last local elections in the local self government unit.

Up to 70% of the funds for political parties from the central budget are allocated to parties whose candidates have been elected MPs in the Assembly of the Republic of Macedonia, proportionally to the number of their MPs. The same applies to political parties whose candidates have been elected as

mayors and councillors in municipalities, proportionally to the number of their councillors. The funds are allocated every three months, upon Guidelines adopted by the Minister of Finance.

Private sources for financing of the political parties comprise membership fees, donations, gifts, contributions, subsidies, sponsorships, endowments, sale of promotional and propaganda materials and individual incomes. The membership fee amount for a period of one year, for each member, may not exceed the average wage of the preceding year. The political parties may receive donations in a form of money, material funds or services. They may also receive non-monetary donations if, according to the statute, they can be used for the party's activities. The total amount of every single donation may not exceed 200 average wages when coming from legal entities, and 100 average wages when coming from an individual in Macedonia, where the average wage is the one paid in the month prior to the donation. This amount may not be accumulated more than once a year.

The political parties maintain a Register on donations including data on every donor's name, type and value of donations and date of granting. The political parties are required to publicise the register of donations. The political parties may not conduct business and may not acquire incomes other than those from deposit interests, leasing the party's premises, incomes from sale of print, audio-visual and digital publications and propaganda materials, and incomes from sale of tickets for party events.

The political parties may not receive funds from: foreign governments; international institutions; bodies and organisations of foreign states and other foreign persons; state and local bodies other than budgetary funds (except funds as stipulated in the election laws); public enterprises, public institutions, funds and other legal entities managing with state capital; public enterprises, public institutions and public funds founded by municipalities; enterprises with at least 20% state capital; public institutions including those in the process of privatisation; private enterprises which at the moment of donating funds for the political party carry out public services on behalf of state bodies or institutions, enterprises and funds by way of agreement; associations of citizens and religious communities; enterprises with mixed capital funds where a dominant owner is a foreign investor and anonymous or unidentified sources. The political parties may not keep funds in foreign banks or other financial institutions outside of the Republic of Macedonia.

The supervision over the financial and material operations of political parties is conducted by the Ministry of Finance and the State Audit Office. Pursuant to legal regulations, political parties submit their annual account of financial operations to the Ministry of Finance, the Public Revenue Office, the Central Register and the State Audit Office.

The political parties prepare an annual financial report for the preceding year not later than 31 March, and submit it to the State Audit Office.

The Law prescribes sanctions for the entities that do not abide by determined norms and rules on the amount of funds granted to political parties and for the political party and the responsible person; for not preparing and submitting a report to competent bodies.

The Law on Prevention of Corruption prescribes that the financing of political parties, trade unions or associations of citizens is public and they may not collect funds in cash from unidentified sources.

The Law also prescribes that political parties, unions or associations of citizens, during election campaigns, may not be funded from budgetary funds, public funds or funds of public enterprises and public institutions or legal persons managing with state capital, unless otherwise determined by law.

New investments and extraordinary payments during all election campaigns are also prohibited, unless these funds have been previously allocated for that specific purpose i.e. unless a previously determined programme is being realised. Extraordinary payments are extraordinary payments of salaries, pensions, social welfare or other payments from the Budget, or public funds.

The State Commission for Prevention of the Corruption has the authority to undertake measures when there is a suspicion of abuse of budgetary or public funds during an election campaign. If these suspicions are well founded, the Commission shall inform the responsible authorities.

The State Commission for Prevention of Corruption within three months from the day of closing the elections shall submit a report to the Assembly of the Republic of Macedonia on possible abuses of budgetary and public funds, and funds from public enterprises and other legal entities managing with state capital. The report shall also be published in the media.

At least 20 Representatives of the Assembly of the Republic of Macedonia may initiate control on possible abuse of budgetary and public funds, for which, pursuant to Article 76, paragraph 4 of the Constitution of the Republic of Macedonia, a permanent survey commission shall be set up.

A political party, union or association of citizens may be fined if they collect funds in cash or from an unidentified source. Subject to fine shall also be the responsible person in the legal entity.

The Law on State Audit was adopted in 1997 and was amended in 2001, 2003 and 2004 ("Official Gazette of the Republic of Macedonia", Nos. 65/97, 70/01, 31/03, 19/04 and 73/94- consolidated text). In order to avoid conflict of interests between the political and public positions and the private sector the amendments of the Law on State Audit adopted in 2003 have introduced the external state control (audit) of political parties funded by budget funds.

The Social partners of the Government of the Republic of Macedonia, organised on a voluntary basis in unions, are autonomous in expressing and representing their members' interests as well as in building relations with state bodies and other institutions.

The right to union organisation derives from Article 37, paragraph 1 of the Constitution of the Republic of Macedonia pursuant to which citizens have the right to establish trade unions in order to exercise their economic and social rights.

The trade union organisation has been regulated in a separate Chapter of the Law on Labour Relations ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 3/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03 40/03 and 80/03 - consolidated text). Pursuant to Article 84, paragraph 3 of the Law, accession to trade unions is subject to conditions determined by the Statute.

The Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04) that regulates the status, rights, duties and responsibilities of civil servants, also regulates the question of trade union organisation. Pursuant to Article 26 of this Law, in order to exercise their economic and social rights, civil servants may constitute trade unions and may become their members under conditions and mode determined by law. According to the Law, a civil servant, apart from other responsible bodies, may also appeal to the trade union for protection in exercising his/her rights related to his/her employment.

According to provisions found in the statutes, the trade unions in order to perform their functions provide financial resources from membership fees, gifts, contributions, sponsorships and other sources. The amount of the membership fee which is obligatory is determined in percentage from the net salary. The highest body of the trade union adopts a decision on how the membership fee shall be allocated

The financial and material operations of the trade unions are carried out in accordance with legal provisions. A Supervisory Board comprising members of trade unions shall perform the control on financial and material operations. Supervisory board members may not be members of the Assembly or Presidency of the Union. These solutions ensure a full autonomy and impartiality of the bodies established to perform duties assigned by the trade union.

Pursuant to Article 61, paragraph 1 of the Law on Associations of Citizens and Foundations ("Official Gazette of the Republic of Macedonia", No. 31/98) non-governmental organisations and foundations may acquire objects, finances and property rights. These funds are obtained from membership fees, contributions, and donations, and may be used in accordance with the Statute and a law.

The associations of citizens and foundations may receive funds from the Budget of the Republic of Macedonia, the local self-government budgets and from the budget of the City of Skopje. Budgetary funds may only be acquired on the basis of a previously prepared program (project) by the associations of

citizens and foundations which must be approved by the Government of the Republic of Macedonia, i. e. by the responsible ministries, or councils of local self-government units and the Council of the City of Skopje.

Article 63 of the Law on Associations of Citizens and Foundations determines the body that shall perform control on the inappropriate use and command of funds and incomes of the citizens' associations and foundations. The body that performs control comprises of members of the citizen's association or foundation that are elected in a manner determined by the statute. Every member has the right to require inspection on the expenditures of the funds and incomes in a mode determined by the statute.

The financing of non-governmental organisations and foundations from the Budget of the Republic of Macedonia is made on a regular basis through allocation of funds under special item. Funds are distributed pursuant to the Decision on the Criteria and Procedure for Distribution of Financial Assets to Associations of Citizens and Foundations from the Budget of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 60/00).

The allocation of the funds is realised in a transparent manner, through a public announcement published in the media annually.

The applicants to the public announcement have to submit the following documents: an annual programme; a list of completed projects and programmes for the previous year; financial support by associations of citizens and foundations determined by the Budget of the Republic of Macedonia; a project proposal for the current year financing; statute and registration permit; a report on received funds for the preceding fiscal year from the Ministry of Finance and modes of their implementation; and an approval for their own financial participation in the implementation of project proposals and programmes.

The allocation of the budgetary funds for associations of citizens and foundations is conducted by the Government upon the proposal of a special committee established for that purpose. The decision of the Government of the Republic of Macedonia is published in the *Official Gazette of the Republic of Macedonia*.

15. Do effective codes of conduct, and other measures enhancing corporate social responsibility, exist for the private sector to prevent corrupt practices?

In the last several years, in the Republic of Macedonia there has been a growing interest on the issue of social responsibility, primarily in terms of preventing corrupt practises. The role and position of the private sector in preventing corrupt practices has been considered and concrete initiatives and approaches are being defined.

The initiative for drafting the Code of Ethics in Good Corporate Governance and the Code of Ethics in Business, arising from the new Company Law ("Official Gazette of the Republic of Macedonia", No. 28/04) is aimed at strengthening the responsibility of managers and corporate governance. The development of these Codes of Ethics for companies in order to prevent corruption and encourage companies to contribute to the society they operate in is a step to be undertaken in the forthcoming period.

The new Law on Securities will enable greater competitiveness at the capital market in the Republic of Macedonia in terms of offering brokerage services, as well as a greater transparency in the work not only of banks and brokerage firms that participate in the capital market, but also of joint stock companies with specific reporting obligations, the management bodies' members, general managers, and the individual share holders. This Law inter alia envisages that large foreign brokerage firms may open branch offices in the country. In addition to creating greater competitiveness at the stock markets in the country, the new Law will facilitate significantly higher level of transparency in the work of stock market institutions.

The aforementioned Codes of Ethics considered as "soft law" are expected to be adopted in the course of 2005

The contents of the Codes of Ethics would be along the following lines:

- Prohibition of bribery (receiving and giving bribes) and other forms of corruption, such as for example tax evasion;
- Development of internal investigation and reporting systems on this issue;
- Publishing reports on the level of corruption and the actions undertaken for its suppression. Lack of such reports would imply that the company is not dealing with corruption;
- Transparency of companies in respect of contracts, licences, financing election campaigns, etc, and fully transparent payment of taxes;
- Creating incentives encouraging conduct in accordance with laws, such as for example promoting employees for such law abiding conduct;
- Preventing engagement of local subjects by foreign companies to do "dirty business" , that would mean only transfer of the blame for corrupt practise;
- Allocation of funds for support of civil society organisations which promote the rule of law and anti-corruption.

The experiences and activities of the Macedonian Chamber of Commerce and Amcham, and the activities at the Faculty of Economics at the Ss. Cyril and Methodius University could serve as an illustration of certain initiatives and activities which in the wider sense are related to the issue of advancing corporate social responsibility for purposes of preventing corrupt practices in the private sector.

The Chamber of Commerce of the Republic of Macedonia is involved primarily in training and promotional activities. One of such activities is the promotion of the *Code of Ethics in Business Activities - Association of Balkan Chambers (ABC)*, Macedonia being one of the founding countries (1994).

The Chamber is conducting these activities by periodical publishing of the Code of Ethics in its publications, in the weekly publication – the Bulletin, and in the monthly publication of the Economic Magazine.

Another institution is the Court of Honour (established in 1990) responsible for protection of good business practices in the work of the Chamber members, as well as for prevention of activities of unfair competition and monopoly conduct at the market. In respect of education and prevention activities in the private sector, under the regional project Trade and Transport Facilitation in South East Europe - TTFSE, initiated by the SECI (South East European Cooperation Initiative), financed by the World Bank and by the US Government, the Chamber of Commerce has organised 48 seminars, elaborating 3 modules within one seminar: *Business Ethics and Corruption, Foreign Trade Operations and Transport Operations, Customs Transit Procedures*.

These interactive seminars and the operative manual have been prepared by the Chamber of Commerce of the Republic of Macedonia as the host of MAKPRO –SECI –National Pro-Committee, engaging lecturers-practitioners, specially trained for these seminars at the Koc University in Istanbul. A total of 954 participants have been covered with the training, 794 entrepreneurs from 657 companies and 160 customs officers from 14 cities.

The Module *Business Ethics and Corruption* has the following thematic units: *A-Business Ethics* and *B –Corruption*. Finally, under the same Project the Chamber of Commerce/MAKPRO, using software designed by the World Bank, continually conducts an anonymous surveys (among its members, companies dealing with international trade, transport and shipping), about the efficiency and corruption of the border crossing points, departments of ministries, and other agencies at border crossings, authorised for issuance of relevant export-import documentation. The survey is a useful indicator of the situation, and a tool promoting anti-corruptive conduct.

In the Republic of Macedonia the concept of corporate social responsibility is relatively new, and in terms of education, the first time it has been elaborated in details was at the beginning of 2002. Students and professors of the Faculty of Economics at the University of Ss. Cyril and Methodius

participated in the *Future Leader's E-Conference on Corporate Social Responsibility*. One of the main issues discussed at the Conference was the relations between corporate social responsibility and corruption. A total of 1122 young people from 100 countries worldwide participated in this six week on-line conference. Macedonia, according to the number and quality of its participants, was ranked 10, preceded by Japan and followed by Canada. Today, the concept of corporate social responsibility is part of the curricula of several subjects studied at the Faculty of Economics in Skopje.

16. When did the Republic of Macedonia become a member of the Council of Europe Group of States Against Corruption (GRECO) and what measures have been taken to implement GRECO recommendations?

The Republic of Macedonia has been a member of the GRECO (Group of States against corruption) since 06.10.2000. It was the 26th GRECO country to be examined in the First Evaluation Round. The evaluation team visited the Republic of Macedonia in March 2002, after being provided by Macedonian authorities with a reply to the Evaluation questionnaire.

The visit resulted with an Evaluation Report of the Republic of Macedonia (adopted on the 12th GRECO General Meeting, 9-13.12.2002, Strasbourg), containing recommendations for government institutions. In order to implement the recommendations contained in the Report, the Republic of Macedonia undertakes a range of activities in the fields of legislation and institutions. The Progress Report on the Harmonisation and Implementation of the Recommendations of the First Evaluation Report of the Republic of Macedonia was adopted on the 21st plenary session of GRECO held in Strasbourg on 29.11.2004 – 02.12.2004.

In the meantime, the Ministry of Justice has delivered the reply to the second GRECO Questionnaire and the second monitoring visit to the Republic of Macedonia also took place (06-10.12 2004). A number of meetings between representatives of government and non-government institutions, among which: representatives of the Ministry of Justice, the Ministry of Finance, the Ministry of the Interior, the Customs Administration, State Audit, the Public Revenue Office, representatives from the judiciary and prosecution, the Civil Servants Agency, Transparency Macedonia, the Chamber of Lawyers, the Judges Association of the Republic of Macedonia, the Prosecutors Association of the Republic of Macedonia, the Centre for Continuous Education of Judges and others took place.

The priority topics of the visit were proceeds of corruption, legal entities and corruption, public administration and corruption.

Concerning the commitments of the Republic of Macedonia, in accordance with the recommendations of the GRECO evaluation team, the Republic of Macedonia ratified the Criminal Law Convention on Corruption ("Official Gazette of the Republic of Macedonia", No. 32/99) and the Civil Law Convention on Corruption of the Council of Europe ("Official Gazette of the Republic of Macedonia", No. 13/02) and has signed the Additional Protocol to the Criminal Law Convention on Preventing Corruption (15 May 2003).

The Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", No. 28/2002) was also adopted, and the Law Amending the Law on Prevention of Corruption ("Official Gazette of the Republic of Macedonia", No. 46/04) provides: raising the degree of autonomy and independence of the State Commission and enhancement of its role in the protection of persons working on suppression of corruption and protection of the members of the Commission.

In November 2002 the Assembly of the Republic of Macedonia elected the members of the State Commission for Prevention of Corruption, which has both a preventive and a supervisory role and it is autonomous and independent in carrying out its competences.

In June 2003 the Commission adopted the National Programme for Prevention and Suppression of Corruption, containing recommendations on the necessary measures and activities to be undertaken in order to establish an efficient mechanism for prevention and suppression of corruption. An integral part of the anticorruption programme of the State Commission is the Action Plan containing measures to be

undertaken in short, mid and long-term by the competent authorities for preventing and sanctioning corruption.

Along with these activities, and in accordance with the recommendations of the GRECO team, the necessary amendments to Article 17 of the Constitution of the Republic of Macedonia were adopted on 26.12.2003, whereby, the use of special investigative measures was allowed in criminal investigations for the most serious criminal offences, including corruption, but only upon a court decision, under conditions and in a procedure established by law and if this is necessary to prevent or reveal criminal offences, for conducting a criminal procedure, or when it is required by the interests of the security and defence of the Republic.

The preparation of the new Law on Interception of Communications is underway in order for the new constitutional provision to obtain its legal regulation. These legal amendments will be followed-up with appropriate training and appropriate technical equipment for police officers, prosecutors, investigative judges and judges.

In order to create and above all implement a comprehensive legal framework precisely defining measures for witness protection, establishing a procedure for interviewing collaborators of justice and other witnesses whose identity is known only to the competent judicial body, in accordance with the GRECO recommendations, the following activities are undertaken:

The new amendments to the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", No. 74/04) provide a new chapter entitled Protection of Witnesses, Collaborators of Justice and Victims (Article 270-a, 270-b). These provisions enable the public prosecutor, i.e. investigative judge or council chairman to undertake actions in the course of the procedure to ensure efficient protection of witnesses, collaborators of justice and victims if they appear in the procedure as witnesses when there is a danger of them being exposed to intimidation, threat with revenge or danger to their life, health of physical integrity, or when their protection is necessary.

The new text of the Draft Law on Witness Protection, which is in Parliament procedure, is toward the implementation of the provisions contained in the Law on Criminal Procedure.

Towards implementing one of the GRECO recommendations, is the new Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No.38/04) which present the legal base for the establishment of the Unit for fight organised crime and corruption, within the Public Prosecutor's Office of the Republic of Macedonia (Article 29 of the Law on the Public Prosecutor's Office). The Unit has been established and it acts for crimes for which prosecution is undertaken *ex-officio* and which have been committed by an organised group of at least three persons working for a certain period for the purpose of obtaining direct or indirect financial benefit or another kind of material benefit, and which commits one or more crimes, as well as for other crimes for which a prison sentence of at least four years is prescribed by law. The department is responsible to act before basic courts on the entire territory of the Republic of Macedonia.

The Law on Financial Police ("Official Gazette of the Republic of Macedonia", No. 55/2002) confirm the competence of the Financial police for investigating suspicious agreements as a form of corruptive behaviour.

As regards the GRECO recommendations concerning the issue of immunity, they are not implemented as their realisation imposes amendment to the existing constitutional solution. Namely, the issue of which person and under which conditions enjoy immunity is regulated by the Constitution.

F. INTERNAL SECURITY

1. Please describe the structure of the security forces, including possible paramilitary forces. To what extent have paramilitary forces that existed during the crisis of 2001 been dismantled? Please explain when and how this has been done.

According to the Law on Organisation and Operation of the State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 1/95, 55/9758/00 and 44/02) and the Law on Internal Affairs, ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02) the Ministry of the Interior is responsible for the internal security of the State.

The relevant structures of the Ministry of the Interior are:

I. Bureau for Public Security

The operations in the system of public security under the competence of the Bureau for Public Security are carried out through police officers with special duties and authorities (authorised officers) and civil servants without Police authorities. These operations are structured in the border and criminal Police, organised and authorised for the following issues:

1) Department for Police comprising the Sector for Public Order and Peace; Road Traffic Safety Sector; Special Task Unit and the Rapid Deployment Special Unit.

Pursuant to Article 1 of the Law on Internal Affairs, operations regarding the maintenance of public order and peace, the regulation and control of road traffic, the security of lakes and other operations falling under the authority of the Police.

The Special Task Unit—established in 1981 is engaged in all security cases and events when regular Police Units are not capable to fully respond to complex tasks in the fight against terrorism, hostage situations, countering armed resistance, providing security for VIPs and public facilities and supports the fight against organised crime. Currently, this unit consists of 220 members from the ranks of authorised officers of the Ministry as well as cadets from the Police Academy. The new organisation of the unit that was introduced on 01.11.2004 envisages the reduction of its members to 183. The new formation composition entails command, three operational groups, shadowing and surveillance team, negotiation team and a group for planning, support and logistics.

The Rapid Deployment Unit has a task to support exclusively police units on the territory of the Republic of Macedonia. Its tasks also include fight against organised crime in rural areas and securing the public order and peace. The unit has been trained to independently perform high-risk police operations in different environments, as well as temporary duties in operations of surveillance, patrolling and apprehending in rural areas. Rescue missions in mountainous regions as well as rescue missions during a natural disaster are also within the competencies of this unit.

2) Department for Border Police

The Department for Border Police performs operations regarding the protection of the state border; border crossing control; detecting and resolving border accidents and other violations of the state border, as well as other operations as determined by law.

3) Department for Criminal Police

The Criminal Police pursuant to Article 12 of the Law on Internal Affairs performs operations in the prevention of criminal acts; detects and arrests perpetrators of crimes; carries out forensic work; performs control of residence and movement of aliens; performs inspection surveillance in the protection from fires and explosions, as well as other operations.

Since January 2005 a Department for Organised Crime has been established.

II. Directorate for Security and Counter-Intelligence

Pursuant to Article 13 of the Law on Internal Affairs, the Directorate performs operations related to the protection from espionage, terrorism and other activities aimed at the endangering or destruction of democratic institutions, established in accordance with the Constitution of the Republic of Macedonia. The Directorate also has authorities in the protection from more severe forms of organised crime.

The ongoing police reform through the implementation of the Strategy and the Action Plan, has resulted in phased restructuring of the Police forces (for more details see [I F 05](#), [I F 07](#))

In the course of the crisis in 2001 and in a complex security situation in the country, the President of the Republic of Macedonia issued a Decision for Establishing a Temporary Unit for Fight Against Terrorism. Similarly, the Government of the Republic of Macedonia adopted a Decision for the Establishment of a Special Task Units for the Prevention and Fight Against Terrorism in Macedonia, incorporating units of the Army of the Republic of Macedonia designated by the President of the Republic with a special decision and Police units designated by the Minister of the Interior with a special order. Pursuant to these decisions, the Minister of the Interior has brought a Decision for the Establishment of a Police Battalion for Rapid Intervention of the Ministry of the Interior by the act Sc. No. 16.1-4475/1 of 06.08.2001, which establishes the Police Battalion for Rapid Intervention, comprising members of the Special Police Unit, Regular police officers and Reserve Police members.

The Battalion for Rapid Intervention – the Lions, as an internal organisational form of the Sector for Special Units, within the Department for Police of the Ministry of the Interior, was introduced in September 2001, in accordance with the Rulebook Amending the Rulebook on Systematisation of Posts in the Ministry of the Interior SC. No. 16.1/5091/1 of 05.09.2001. Pursuant to the changes in this Rulebook SC. No. 16.1-6239/1 of 07.11.2001, its name was changed into a Rapid Intervention Unit – Lions, as an independent internal organisational form of the Department for Police.

The procedure for the establishment of this Unit had been carried out contrary to the legal acts and by abusing the Decisions of government institutions. Most of the persons incorporated in the Unit had not been members of the Special Police Unit or members of either the regular or reserve composition of the Police. They had voluntarily joined the Police for the protection of the sovereignty and the territorial integrity of the Republic of Macedonia.

With the Decision for transformation of this unit, (No. 3/1 of 27.01.2003 adopted by the Government of the Republic of Macedonia), the Decision for the Establishment of the Special Task Unit - the Lions became null and void, as well as all acts adopted on the basis of the Decision (the Decision for the Establishment of a Police Battalion for Rapid Intervention of the Ministry and the Order for the Designation of the Ministry's Units to Enter into the Temporary Joint Unit for the Fight Against Terrorism). The Decision for transformation of this unit, also provided for the reassignment of its members (those already employed in the Ministry of the Interior) into the organisational units of the Ministry, was followed by a procedure before established commissions in the Ministry. These commissions took into consideration all relevant factors for every employee in accordance with the existing laws and on the basis of received consent for secured funds for such reassignment. Persons included into the Unit without a valid employment contract were required to surrender all arms and equipment as well as vehicles and uniforms in property of the Ministry. They were also asked to leave the facilities of the Ministry. Measures were stipulated for persons not obeying such orders in accordance with the provisions of the Decision and existing laws. Pursuant to this Decision, 430 members of the former Unit – the Lions were reassigned to regular police services throughout the country; 200 were reassigned to positions in the Army of the Republic of Macedonia, and the rest were discharged of the equipment and dismissed. Thus, the process of dismantling was finalised.

2. Is there currently a permanent police presence throughout the country?

The Ministry of the Interior is organised on a territorial principle. It performs its law-enforcement authority through twelve Sectors for Internal Affairs as regional organisational units within the Ministry. They include a total of 123 Police stations. Such organisational structure allows Police presence on the entire territory of the Republic of Macedonia.

The institutions of the Republic of Macedonia are enforcing the state legal system on its entire territory.

In the period following the 2001 crisis, the Ministry of the Interior faced cases of deteriorated security situation in certain regions of the country, manifested with citizens' lack of confidence in the institutions of the system, in particular, in the police. In that context, in accordance with the Principal Plan for Return of the Security Forces in the Crisis Regions and Establishment of Control Over these Regions, activities were undertaken for gradual stabilisation of the security situation and creation of pre-conditions for return of the internally displaced persons.

The implementation of the Principle Plan, which started in October 2001, was completed by 12.07.2002, despite certain resistance and protests by the local population. This was achieved through phased return of the Police in these regions and by consolidating citizens' confidence. In regions with population of mixed ethnic origin, police patrols were of multi-ethnic composition. Coordinator of all activities stipulated by this Plan was the Coordinating Body for Crisis Management within the Government of the Republic of Macedonia, which carried out its function in cooperation with the Ministry of the Interior, the Army of the Republic of Macedonia, local authorities and international missions to Macedonia.

The positive trend towards full establishment of the rule of law in the former crisis regions and the significant decrease in the number of incidents continued in accordance with the Plan for Police Conduct after the Implementation of the Principal Plan. A set of measures was stipulated with this Plan for continuation of the confidence-building activities between the Police and the local population. In addition, the Plan expressed the commitment for joint action in resolving everyday problems so that the citizens would restore confidence in the institutions of the system.

This was especially important in cases when citizens, living in the crisis regions, and in particular in certain areas close to the state border with Serbia and Montenegro, in the part towards Kosovo, were blocking roads, mostly in order to create pressure to fulfil their requirements for resolving infrastructural problems. In addition, the Ministry had to deal with a number of criminal gangs composed of criminals from the Republic of Macedonia and abroad, that remained as remnants of the conflict of 2001 terrorising the local population.

In these cases, the Ministry resolved the issues in a satisfactory manner for the citizens, by providing support to the local authorities through everyday contacts with them and by respecting and guaranteeing citizens' rights. In doing so, the Ministry emphasised the obligation of all citizens to exercise their rights and fulfil duties in accordance with the laws and regulations.

By acting in this manner, the Ministry of the Interior has attained the goal of being permanently present among citizens, guaranteeing their personal security, security of their property and promoting the quality of policing, i.e. becoming a true citizens' service.

3. What percentage of police officers/members of the security forces are from ethnic minorities? If available, please provide a breakdown of such figures by rank and seniority.

Adhering to the provisions of the Ohrid Framework Agreement, the Ministry of the Interior has accelerated the dynamics of employment of members of non-majority ethnic communities. A number of public vacancy announcements have been publicised for the employment of Police trainees, civil servants and for employment of persons with a higher education degree into the Criminal Police and the Directorate for Security and Counter-Intelligence.

The overall number of employees in the Ministry of the Interior is 12.462. Out of these, 82,28% are Macedonians; 13,31% are members of the Albanian community; 0,59% are members of the Turkish community; 1,74% are members of the Serbian community; 0,65% are members of the Roma community and 1,43% are members of other communities

Out of the total, the uniformed Police comprises of 8.216 employees. Out of these, 78,16% are Macedonians; 16,91% are members of the Albanian community; the Turkish community 0,68%; the Serbian community 1,85%; the Roma community 0,86% and 1,53% are from the other communities

The situation regarding the representation of various communities in the criminal Police and the operational part of the Ministry is the following: out of the total number of employees (1205), Macedonians comprise 85,56%; members of the Albanian community comprise 10,37%; members of the Turkish community comprise 0,50%; members of the Serbian community comprise 1,83%; members of the Roma community comprise 0,17% and members of other communities comprise 1,58%.

The breakdown of such figures by rank in the Police is the following: 13,3% of the senior ranking officers are from the Albanian community and 6,6% are from all the other communities. In the category of officers, there are 8,23% members of the Albanian community, 0,2% of the Turkish community, 1,2% of the Serbian community and 2% of the other communities. As for the category of junior officers, members of the Albanian community comprise 10,7%, members of the Turkish community comprise 1,4%, members of the Serbian community comprise 4%, members of the Roma community comprise 0,6% and members of the other communities comprise 2,5% out of the total number. In the category of non-commissioned officers, Albanians are represented with 19,2%, Turks with 0,6%, Serbs with 1,5%, Roma with 1% and others with 1,4%.

With regard to the managerial positions in the uniformed Police, ethnic Albanians are represented with 1,1%, Serbs with 0,28%, Turks with 0,05%, Roma with 0,06% and others with 0,2%. Regarding executive officers (the rest of the uniformed Police), Albanians are represented with 16,50%, Serbs with 1,6%, Turks with 0,7%, Roma with 0,8% and others with 1,5%.

Out of the total number of employees at the Department for Criminal Police i.e. the operational part of the Ministry: Albanians are represented with 1,7%, Serbs with 0,5%, Turks with 0,1% and others with 0,5%. In the executive part (the remaining operational part) Albanians are represented with 8,8%, Serbs with 1,8%, Turks with 0,4%, Roma with 0,1% and others with 0,86%.

MINISTRY OF THE INTERIOR	Macedonians	Albanians	Turks	Serbs	Roma	Others
Total number of employees	82,28%	13,31%	0,59%	1,74%	0,65%	1,43%
Total number of uniformed Police	78,16%	16,91%	0,68%	1,85%	0,86%	1,53%
Senior officers	80,10%	13,30%	/	/	/	6,60%
Officers	88,37%	8,23%	0,2%	1,20%	/	2%
Junior officers	8,08%	10,70%	1,40%	4%	0,60%	2,50%
Non-commissioned officers	76,80%	19,20%	0,60%	1,50%	1%	1,40%
Managerial staff	98,31%	1,10%	0,05%	0,28%	0,06%	0,20%
Executive officers	78,90%	16,50%	0,70%	1,60%	0,80%	1,50%
Total number of Criminal Police	85,56%	10,37%	0,50%	1,83%	0,17%	1,58%
Executive staff in the Criminal Police	97,20%	1,70%	0,10%	0,50%	/	0,50%
Executive officers	88,04%	8,80%	0,40%	1,80%	0,10%	0,86%

The Ministry of the Interior continues to direct its activities toward the acceleration of the implementation of provisions contained in the Ohrid Framework Agreement, which ultimately should result in equitable representation of members of all non-majority communities in every segment of the Ministry.

4. What measures have been taken to ensure the return of the police to the former crisis areas? What measures have been taken to consolidate the rule of law in the former crisis areas?

Security forces of the Republic of Macedonia, being guided by the commitment for comprehensive implementation of the 2001 Framework Agreement which brought resolution to the crisis, after the completion of the operation “Essential Harvest”, and in order to ensure phased return of the security forces, including in particular return of the Police, have envisaged numerous measures and activities, which were part of the Principle Plan for Return of the Security Forces in the Crisis Regions.

During the preparation of the Plan, officials from the Ministry of the Interior and the Army of the Republic of Macedonia had numerous meetings with the representatives of the international community in Macedonia, including representatives of OSCE, EUMM and NATO Forces (“Amber Fox”), in order to determine an optimal plan for gradual return of the security forces in the settlements. The plan resulted in re-integration of these regions into the territorial integrity of the country and the re-establishment of the sovereignty, thus enabling free movement of people and return of the internally displaced persons.

The basic guiding principles for the Ministry of the Interior in this process were the following: coordination, transparency, legality, responsibility, gradual implementation, and flexibility. These principles served as a basis for restoration of confidence between the population in these areas and the Police. The gradual implementation became a basic methodological principle for implementation of the Principle Plan. Principle coordinator of all activities stipulated by the Principle Plan has been the Crisis Management Coordinating Body within the Government of the Republic of Macedonia, which carried out its function in co-operation with the Ministry of the Interior, Army of the Republic of Macedonia, local authorities and international missions to Macedonia.

The Draft Principle Plan for Return of the Security Forces of the Republic of Macedonia in the Former Crisis Regions was submitted for review and approval by the Government. The Government adopted the Plan on 04.12.2001 and it became the framework of measures and activities for the security forces in their return to these regions. Upon a proposal by the working group comprising representatives of the Ministry of the Interior and the Army of the Republic of Macedonia, the representatives of the international community supported the approach that, prior to the initiation of the gradual return of the security forces, mixed ethnic patrols (with Macedonians and Albanians) carrying only personal arms – handguns and batons, test the implementation of the Principle Plan in five villages. Previously, a Pilot Plan was prepared for entering these five villages (Lešok and Tearce in the Tetovo region, Grušino in the Skopje region and Lopate and Opae in the Kumanovo region) on the basis of a thorough security analyses that had been previously carried out in these villages.

Once it was determined that the security situation in these five villages was stable and allowed a secure entry of Police and international community's representatives, it was decided that the Police would return to these villages. The return was successful and proved the value of the concept for gradual return of the Police in the crisis region, as set forth in the Principle Plan.

The Principle Plan stipulated return of the Police in three phases:

- First phase: entering into settlements (villages) assessed as the most stable ones;
- Second phase: entering into villages with disturbed security;
- Third phase: entering into villages with more complex security situation;

Each of these phases was implemented within specific timeframe, within the stipulated six sub-phases of measures and activities:

First sub-phase (information and preparations):

- Media campaign;
- Establishing co-operation with non-governmental organisations;

- De-mining of accessing roads;
- Assessment of the villages' status (in terms of the phase in which respective village is to be included);
- Deciding on the patrols' structure;

Second sub-phase (entering):

- Entering the villages;
- Establishing contacts with villages' leading personalities and initiation of co-operation with the population;
- Start of patrolling;
- Identification of initial problems;

Third sub-phase (patrolling):

- Evaluation of damages and threats posed by unexploded mines and explosives;
- Coordination with the non-governmental organisations' activities;
- Extension of the patrolling duration (extended presence of Police patrols in the villages)
- Enforcement of traffic control (without taking full legal measures – only warning and pointing to problems);
- Establishment and start of operation of contact offices for direct communication between citizens and the Police);
- Preparations for the establishment of Police stations;
- Fourth sub-phase (regular Police duties):
- Investigation and reporting on criminal actions;
- Policing over 24-hour period;
- Removal of Police checkpoints and their substitution with ethnically mixed Police patrols;
- Fifth sub-phase (broadened Police duties):
- Investigation of incidents during late hours;
- Establishment of regional Police stations;

Sixth sub-phase (24-hour Police patrols without presence of the international observers).

After completing the tasks and measures stipulated by the Principle Plan, the Ministry of the Interior has continued its activities and measures for consolidation the rule of law in the former crisis regions. This set of measures was stipulated in a separate document - Plan for Police Conduct After the Implementation of the Principle Plan. The Plan envisaged continued actions aimed at building confidence between the Police and the local population, as well as a commitment for joint efforts to resolve certain difficulties in order to restore citizens' trust in the institutions of the system. Contribution in this regard was provided by the Community Policing Project under which advisory groups for citizens were established, in which Police officers were ensured with active participation.

Large number of Police facilities in the crisis regions were damaged or fully destroyed in the military activities, so there was emerged need for their reconstruction that would enable a 24-hour Police presence in the villages.

Therefore, the Police facilities have been reconstructed and have been put into operation. Construction of a number of new Police stations is in the final stage. Hence, the conditions for policing in these regions will be improved.

5. What are the main elements of the reform of the security forces?

Since its independence, the Republic of Macedonia has been developing the national security system on the basis of its national interests, in order to respond to the new challenges in the security environment of the Republic of Macedonia.

The design of the internal security system is based on the constitutional principle of the rule of law, and is conditioned by the clearly expressed orientation towards adhering to European standards in the area of Justice and Home Affairs. At the same time, the design of the system of internal security has been strongly influenced by the internal political conditions and the transition changes, which have significantly modified the risks and threats to which the security systems should respond.

On the basis of the Constitution of the Republic of Macedonia from 1991, a transformation of the internal security system has taken place, which resulted in intensive legislative activities in the years following the independence. A legislative reform has been undertaken – of the criminal, substantive and procedural legislation (Criminal Code, Law on Criminal Procedure), of the laws regulating the operation of the competent administrative bodies (Law on Internal Affairs, Law on Organisation and Operation of the State Administrative Bodies) and of other laws regulating this area. The basic direction and feature of the overall reforms are the strengthening of democratic institutions in the area of security, primarily strengthening the guarantees and mechanisms for protection of human rights and freedoms and ensuring democratic control over the security forces.

In the process of development of adequate security capacities of the Republic of Macedonia, the distinction between the basic elements in the system of public and state security (intelligence and counterintelligence) is of particular importance.

In parallel with the adoption of the Law on Internal Affairs in 1995 (“Official Gazette of the Republic of Macedonia”, Nos. 19/95, 15/97, 55/97, 38/02, 13/03 and 33/03) the Law on the Intelligence Agency was adopted (“Official Gazette of the Republic of Macedonia”, No. 19/95), which created formal and legal conditions for establishment of the Agency. Its basic purpose is collecting data and information of significance for the security and defence of the Republic of Macedonia. Part of the employees of the Ministry of the Interior, who worked in the former State Security Service, and some of employees in other services as well were transferred as staff in the Intelligence Agency.

The National Security and Defence Concept (“Official Gazette of the Republic of Macedonia”, No.40/03) identifies the risks and threats against the state security, and, inter alia, clearly establishes the foundations of the internal security policy.

The established internal security policy has imposed the need of a new Police structure. It includes establishment of the border Police, i.e., transfer of competences for control and securing of the state border (“green border”) from the Ministry of Defence to the Ministry of the Interior, then establishment of a new organisation and operational methods to combat crime and suppress all its forms, especially the trans-national crime, and also changes in the relations between the Police and the public, for the purposes of joint action aiming at crime prevention.

Reforms in the Police of the Republic of Macedonia

One of the central issues is needs assessments and defining the basis for a modern model of Police organisation which comprises the competences of the Ministry of the Interior of the Republic of Macedonia and a shift in their focus following the new democratic processes.

Therefore, the Ministry of the Interior developed a Strategy for Police Reforms, which is a basis for establishment of a new organisational structure and methods of operation of the Police.

The Strategy for Police Reforms was adopted by the Government of the Republic of Macedonia, at its session of 11.08.2003 (with annexes adopted in October 2003 and January 2005), defining precise obligations which the Ministry of the Interior must fulfil in the process of transformation of the existing model of Police operation.

The Strategy for Police Reforms has identified the basic strategic objectives:

- Efficiency in the Police operation, through activities aiming towards maintenance of the public order and peace, reduction of the crime rate, institutionalisation of crime prevention, and coordination of activities with other institutions, agencies and with the public;
- Fight against organised crime, i.e., ensuring adequate and effective approach to this problem, in conformity to the UN Convention against Trans-national Organised Crime and its Protocols, as well as the relevant standards and best practices of the European Union;
- Planning, development and education of the personnel, aiming towards increased efficiency in performance of the functions, through establishment of forms and various levels of education and training in the Police Academy, as well as establishment of an appropriate mechanism for human resources management, with a special emphasis on the selection and recruitment of appropriate professional staff, its development and promotion at the Ministry of the Interior;
- Equitable representation of persons belonging to communities which do not constitute the majority in the Republic of Macedonia, in the context of ensuring a harmonised framework for the future of the democracy in the Republic of Macedonia, and enabling development of closer and better integrated relations between the Republic of Macedonia and the European structures, by designing a recruitment employment policy which enables the Police services in general to reflect the composition and distribution of the population in the Republic of Macedonia;
- Improved organisation, professionalism and cost-effectiveness in the operation, which requires precise legal definition and distinction of the activities between the criminal Police and their competence at the central, regional and local level, through establishment of relevant control and cooperation; responsibility and motivation of the employees by providing autonomy of the regional organisational units with transfer of part of the competences; technical and technological equipment with modernisation of the communication systems and forensic laboratories;
- Enhancement of the regional and international cooperation, through the existing organisational units, aiming towards implementation of the activities and obligations based on the established international relations;
- Function of the Police as a service for the public, which implies transformation of the Police from a “force” into a “service” and bringing it closer to the public, as well as applying “community policing”, with joint action of the Police and the citizens in resolving the security problems and implementation of confidence building measures by way of equitable representation of non-majority ethnic communities within the Police structure and establishment of the so-called “non-police functions” in order to implement the principles of pragmatism, efficiency and cost-effectiveness and improvement of services that certain organisational units within the Ministry of the Interior offer to the citizens, in the area of various status related rights, aiming at their transfer to the competence of other ministries or bodies.

Furthermore, special emphasis is placed on the development of regional cooperation, which is also stressed in the National Strategy for European Integration, in the Chapter on Justice and Home Affairs.

The development of the Strategy for Police Reform was supported by the European Commission Justice and Home Affairs Team (ECJHAT), as well as on a project basis (CARDS). Significant support in the implementation of the Police reforms is ensured through the presence of and cooperation with the EU Police Mission in the Republic of Macedonia, PROXIMA.

The primary objectives established in the Strategy for Police Reforms are the full transformation of the Ministry of the Interior and the establishment of new organisational structure (see: [24 Annex 04](#)). This structure is oriented towards efficient performance of the tasks, in conformity to precisely determined level of functioning (strategic, operational and tactical). Therefore, in order to ensure efficient implementation of the basic principles of modern Police operation, pursuant to the Strategy of Police Reforms, the Ministry of the Interior will be composed of:

- Services responsible for coordination, international cooperation and public relations of the Ministry, as well as establishment of the general directions for implementation of activities of the Ministry of the Interior;
- Bureau for Public Security consisting of services of advisory nature, in charge of strategic, conceptual planning and establishment of the general directions and operational standards;
- The operational services (Central Police Services, Border Police and Regional Police Services) in charge of the operational tasks of the Ministry of the Interior, by implementing specific activities and actions, aiming towards implementation of the basic functions of the Ministry of the Interior

Directorate for State Security and Counterintelligence

On the basis of the analysis of the document, and having in mind the objectives of the Police reform process, as well as the need to precisely distinguish between its competences and the competencies of certain organisational units that have functions related to the system of public security, it has been concluded that it is necessary to adequately restructure the Directorate, and especially some of its organisational units. Therefore, the Ministry of the Interior has established a special Working Group, which works on restructuring of the Directorate for State Security and Counterintelligence, and especially on precise establishment of the competences and of the cooperation between the Directorate for State Security and Counterintelligence and the Bureau for Public Security.

Additional element of the reforms is development of coordination within the Police, but also establishment of mechanisms for coordination with the other law enforcement services.

Police Academy

The Police Academy is a state-financed higher education institution in the area of security, educating personnel for the needs of the Ministry of the Interior, other state authorities, as well as other organisations, institutions and legal entities performing activities in the area of security. It establishes a modern and comprehensive system of personnel education, as well as for acquiring higher education, professional degree – specialist, academic degree – master, and academic degree – doctor of sciences, as well as continuous education of persons who have already acquired a degree.

Transparency in the process of implementation of Police reforms

In the framework of the overall process of Police reforms, the Working Group for Implementation of the Police Reforms, respecting the principle of transparency, works on the implementation of an appropriate information campaign. The employees at the Ministry of the Interior and its regional organisational units have been informed about the process of Police reforms at regular working meetings with the representatives of the Working Group. At the same time, they are actively involved in the process of implementation of the activities within the working bodies and structures of the Working Group. In that manner, a special information bulletin, for the employees at the Ministry and its regional organisational units, is published. As envisaged, the information bulletin will be regularly updated and distributed in the future stages of the implementation of the Police reform process.

Furthermore, the basic data and information related to the Strategy for Police Reforms are available at the web-site of the Ministry of the Interior, and regular press conferences are conducted, as well as organised panel debates for the employees at the Ministry and the general public.

Reforms in the Army of the Republic of Macedonia

The transformation of the system of national security requires parallel and complementary legislative and implementation activities in the systems of the defence and internal security. Such activities have been directed towards clear identification of the competences of all entities, as well as towards coordination and cooperation to ensure integrity of the entire system of national security. The

Defence Law ("Official Gazette of the Republic of Macedonia", Nos. 42/01 and 05/03) established in detail the competences and obligations of all entities in this area, as well as the deployment of the Army for civilian purposes. The participation of the Army in international missions is also defined in this Law.

On the basis of Article 36, paragraph 5 of the Law on Government of the Republic of Macedonia, ("Official Gazette of the Republic of Macedonia", No. 59/00), the Government of the Republic of Macedonia, at its session of 10.05 2004, adopted the Programme for Transformation of the Defence and the Army of the Republic of Macedonia (Strategic Defence Overview, Stage III, Skopje, May 2004), on the basis of which the Army of the Republic of Macedonia is transformed into a more efficient military force, capable of defending the country from all potential threats. In this respect, the fight against terrorism, along with the primary task to defend the territorial sovereignty and integrity, is a fundamental task of the Army. Main elements in the Army reform in the long run are creating forces capable of responding to the new security challenges upon the territory of the Republic of Macedonia, as well as enhancing the capacities for active contribution towards the collective security systems.

On the basis of the available resources, a new structure of forces of the Army of the Republic of Macedonia has been developed, envisaged to be operational and completely professional as of 01.01.2008. The number of commands and units has been reduced, which presupposes reduction of the personnel of the active forces – from 12.858 to 7696, and of the reserve forces from 16.000 to 4.850 persons.

6. How is police primacy in dealing with internal security ensured? What is the legal framework and how is it implemented? What arrangements exist for calling up army resources under police command in specific crisis situations?

The supremacy of the Police in dealing with the internal security is established in the legal system of the Republic of Macedonia, as well as in the adopted strategic documents.

The competence of the Ministry of the Interior established by law clearly locates the role of the Police in the internal security of the state.

Pursuant to the Law on Organisation and Operation of the State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02) the Ministry of the Interior performs the activities related to the enforcement of the system of the state and public security.

The Article 1 of the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 1//95, 55/97, 38/02, 33/03 and 19/04), defines the role of this body as aiming towards protection of life, personal security and property of citizens, prevention of crime, detection and apprehension of perpetrators of criminal offences and their hand over to the competent bodies, protection of human rights and freedoms, guaranteed by the Constitution, prevention of violent destruction of the democratic institutions established by the Constitution of the Republic of Macedonia.

The same Law defines the competences in the area of maintenance of public order and peace, prevention of incitement to national, racial or religious hatred or intolerance, securing of certain persons and facilities, regulation and control of traffic on the roads, and other issues related to the traffic safety, protection of the state border, control of crossing of state border and stay inside the border zone, residence and movement of aliens, establishment and resolution of border incidents and other violations of the state border, placement, control and maintenance of the marks demarcating the borderline on land and water.

Regarding the rights and duties of the Ministry of the Interior in the area of defence, the personnel of the Ministry, with regards to performance of military and other obligations in the area of defence, are, as a rule, military deployed within the Ministry of the Interior.

Pursuant to the Law, in circumstances of war or state of emergency, for protection of the security in the Republic of Macedonia or maintenance of the public order and peace when it is violated to a greater extent, the Ministry calls upon persons with a military deployment schedule and working obligations at the Ministry, i.e. members of the reserve forces, which are deployed within the Ministry for as long as the reasons due to which they were called upon last.

Pursuant to the Defence Law, the President of the Republic of Macedonia, who is also the Supreme Commander of the armed forces, enacts documents for the use of the Army and issues the orders for the use of the Army.

On the other hand, the Law establishes that the Government of the Republic of Macedonia, orders the use of the Police in the state of war, as support to the Army.

The Defence Law (Article 40) also regulates the participation of the Army in the removal of consequences of state of emergency, whereby the order is issued by the President of the State, while the instructions on the manner of participation are issued by the Minister of Defence.

The National Concept on Security and Defence ("Official Gazette of the Republic of Macedonia", No. 40/03), identifies the security risks and threats, as well as areas and instruments of the national security policy. The Concept also establishes the policy of internal security, while the system of crisis management is especially elaborated, in which respect the focus is placed on the coordination aimed at relevant assessment, prevention and resolution of specific crisis situations.

The Strategic Defence Review (enacted in October 2003) in relation to the treatment of the implications of the internal security policy on the defence policy, prescribes an obligation for the Ministry of Defence and the Army of the Republic of Macedonia to plan the provision of support to the civil authorities, as well as to participate in deterring the risks and threats against the internal security of the Republic of Macedonia. Here, especially terrorism is identified as a risk for which mutual support is necessary. Furthermore, it is established that the Army of the Republic of Macedonia provides support to the activities of the Police in dealing with such threats, placing its forces and capacities, intelligence infrastructure and the specialised personnel at the disposal of the Police.

On the basis of the aforementioned strategic national documents, further improvement to the national legislation are foreseen, aiming at establishment of precise solutions for action in specific crisis situations.

7. Is there an Action Plan for the reform of the Police, including proper budgetary allocations? What is its stage of implementation?

The Government of the Republic of Macedonia adopted the Action Plan for the Implementation of Police Reform on 10.01.2005.

The development of the Action Plan was entrusted to the Strategic Body for Management of the Police Reform Process, composed of officers of the Ministry of the Interior from various services. There are several subgroups which work on certain aspects of implementation of the reform process.

It is worth mentioning that the original version of the plan was finalised in January 2004, but due to the need of additional harmonisation, especially within the Project for Police Reforms, the adoption of the Action Plan by the Government had been postponed. Additionally, harmonisation of several ongoing projects in support to the reform process was needed. However, considering that many tasks were already established in the Strategy and the Draft Plan, the implementation of the defined activities was carried out in parallel with the finalisation of the document.

The Action Plan contains: the implementation concept, the fiscal impact analysis and the foreseen activities, grouped by areas.

The foreseen activities are the following:

Identification and operational development of the competences of the organisational units within the Ministry of the Interior, establishment of the internal organisational structure of the Ministry oriented towards efficient performance of the professional obligations and description of the jobs, as well as building an information structure appropriate to the strategic needs of the process of management, operational planning and management of the tactical operations and objectives

Implementation status:

- The internal organisational structure of the Ministry has been defined and it clearly differentiates the police posts, at the same time separating the strategic, operational and tactical level.
- The description of competences of organisational units have been defined as well as description of duties of the central and regional police services, including the structures connected directly to the Minister. The same procedure for the Border Police is under way.

Proper allocation of human resources (personnel), i.e., establishment of the system for personnel development, and especially building professional staff, its continuous advancement, establishment of rules for career development and motivation for the employees;

Implementation status:

- Breakdowns of posts and number of employees in the central and regional police offices have been prepared including those for the envisaged structures connected directly to the Minister. The same procedure shall be applied to the Border Police. With regard to the Department for Organised Crime the allocation has been carried out on the basis of the Amendments to the Rulebook on the Organisation and Operation of the Ministry and the Rulebook on the Systematisation of Posts.

Identification of needs to modify the legislation, aimed towards creating the necessary legal prerequisites for operation of the police and the methodology of operation (adoption of new, as well as amending the existing legislation necessary for the successful implementation of the reform), as well as establishment of procedures regulating the relations and procedures between the organisational units on the one hand and approximation of the national legislation to the EU acquis in the area of home affairs and its implementation within the legal system of the Republic of Macedonia, on the other hand;

Implementation status:

- The complete legislation necessary for the implementation of reforms has been identified and it envisages the adoption of new laws and by-laws and amending the existing ones. The time-frame for the adoption of the laws has also been defined (all should be adopted in 2005); while the by-laws shall be adopted six months after the respective laws have entered into force. There are approximately 100 pieces of legislation.
- The Law on Weapons ("Official Gazette of the Republic of Macedonia", No. 7/05) and the Law on Personal Data Protection ("Official Gazette of the Republic of Macedonia", No. 07/05) have been adopted.
- The Law on Interception of Communication is in parliamentary procedure.
- The drafts of the Law on the Police, Law on Residence and Movement of Aliens, and the Law on Surveillance of the State Border have already been prepared.

Special treatment of the issue of fight against organised crime, for which it is necessary to establish adequate formal, legal and institutional capacities aimed at operational development of the activities in this area and ensuring adequate and effective dealing with this issue, in conformity with the European standards and experiences (establishing of a precise definition of the notion of organised crime, reorganisation of the structure and the functions, strengthening of the research capacities, as

well as establishment of the organisational units in charge of the fight against the organised crime, and strengthening of their capacities);

Implementation status:

- Amendments to the Rulebook on Organisation and Operation of the Ministry and the Rulebook on the Systematisation of Posts was adopted;
- A Guideline for the Procedure on Conducting an Internal Public Vacancy Announcement in the Ministry was adopted;
- The managerial staff (undersecretary and heads), as well as executives in organisational units of the Department for Organised Crime were appointed.
- In accordance with a Programme, training is carried out in the Police Academy. The training for managerial staff has completed, while trainings for employees is under way and it is carried out in two groups;
- The Department started to operate on 24.01.2005.

Defining the material and technical means (finances, logistics and facilities) necessary for the implementation of the reform, and analysis of the spatial, material and technical needs of the organisational units within the new organisational structure, according to the previously established status of affairs in the Ministry regarding this issue, as well as the financial calculation for material and technical equipping and for facilities, i.e., establishment of projects for material and technical equipping and for facilities and defining the specific priorities in this segment.

Implementation status:

- An analysis of the spatial, financial and technical resources has been conducted;
- An assessment for the necessary equipment has been made on the basis of the current state and the exigencies of the reform process
- An assessment of financial implications has also been made.

Full implementation of the document Strategy for Police Reforms is expected not later than the end of 2005, whereby specific timeframe was determined to implement the necessary steps in individual segments.

A system of monitoring of the implementation of the Action Plan was envisaged, according to which the Ministry of the Interior will inform the Government of the Republic of Macedonia about the implementation of the Plan, each six months.

In this area, the establishment of the institutional cooperation between the Ministry of the Interior and the relevant ministries and institutions in the state is of special importance, in order to provide for efficiency in the operation and coordination of activities between these institutions. The aforementioned activities are supported by the obligations based on the document “Concrete Measures-Activities for Fight Against Organised Crime”, adopted by the Government of the Republic of Macedonia and supported by the Council of the European Union, with the participation of the Ministry of Justice, the Public Prosecutor’s Office of the Republic of Macedonia, the courts, the Ministry of Finance, the Customs Administration, the State Committee for Prevention of Corruption, and the Associations of Judges and of the Prosecutors.

Fiscal impact of the police reforms process

The implementation of the police reform process will have a fiscal impact, and the Ministry of the Interior undertakes specific steps to determine it precisely. Namely, according to the established parameters to determine the financial means necessary for the implementation of the police reforms (total number of population, basic elements of the new organisational structure in the Ministry of the Interior, in conformity with the Police Reforms Strategy, the number of present personnel at the

Ministry, personnel needed according to the new organisational setup, etc). The Ministry of the Interior has prepared a global fiscal impact analysis of the process of general improvement of police services, the cost of which is assessed between 100.000.000 and 120.000.000 EUR.

These financial means would be necessary for the supplying of the Ministry of the Interior with modern and sophisticated equipment, provision of adequate premises, and procurement and equipping of the police with adequate IT equipment and software, telecommunications equipment, instruments for the forensics, special equipment for the special investigative techniques, modern transport vehicles, personal, protective and other specific equipment; building, upgrading, repair and leasing of facilities; equipping of the facilities and education of the personnel.

Taking into consideration the establishment of the Organised Crime Department as the first priority in the process of police reforms implementation, a fiscal impact assessment of the priority needs of material and technical means for 2005 was made, amounting to 39.300.000 EUR.

Part of the finances necessary for the implementation of the police reforms process are provided by budgetary allocations of the Republic of Macedonia, whereby in parallel the Ministry of the Interior will work on initiating and implementing specific projects through the programmes and instruments of the European Union and on a bilateral basis.

8. What measures have been taken to ensure an increased awareness within the security forces of issues such as human rights, non-discrimination and community policing methods?

In accordance with Article 9 of the Constitution of the Republic of Macedonia (Chapter 2 - Fundamental freedoms and rights of the individual and the citizen), citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of gender, race, skin colour, ethnic or social origin, political and religion beliefs, or property and social status. Within the Police reform training, the Ministry of the Interior has set a priority task to train members of Ministry in issues regarding human freedoms and rights. The training "Human Rights and Police" is implemented through three-day seminars for employees in the police departments within the Ministry of the Interior. The Ministry, with the assistance provided by the OSCE and Helsinki Committee for the Protection of Human Rights, since 2002, has trained 4150 Police and criminal Police members, which constitutes 47,50% of the total number of Police officers.

For the successful implementation of the training, the Ministry uses specialised manuals prepared by both the Ministry and the OSCE, as well as those prepared within the Council of Europe's project "Human Rights and Police 1997/2000". In the framework of "Human Rights and Police" training, encompassed are issues of Non-Discriminatory Policing and Democratic Execution of Police Duties. The seminars cover also the following educational topics:

- Introduction in human rights;
- Treatment of general human rights issues and police conduct;
- Deprivation of freedom (arrest) and detention;
- Use of force;
- Matters that must be taken in consideration prior to interrogation;
- Fair trial and presumption of innocence;
- Non-discriminatory policing;
- Arbitrary intrusion in private life;
- Democratic implementation of Police duties;
- Policing in a multiethnic society and
- Police ethics.

Issues related to human rights are included in the curriculum of the Police Academy through the educational topics and as a separate subject within the higher education. The Human Rights and Police training has been implemented on four levels through the process of basic and specialised

training, management training and through a separate subject, in co-operation with experts from the Ministry of the Interior, Police Academy, OSCE and other institutions in Macedonia.

The Ministry of the Interior has also been implementing expert training of its police officers based on the Pre-service and In-service Training Programme (No. 192-37872&1 from 24.11.1998) that is still in force. As a result of amendments to many laws and by-laws regulating the operations of Police stations and departments, a need emerged for a new Programme on Additional Professional Training and Specialisation of Police employees. Senior officers have selected thematic units subject to the Programme's implementation, based on contents that they believe are current and important in their work.

The new Programme, after its reviewing and inclusion of the relevant suggestions by the Workgroup for Police Reforms within the Ministry of the Interior, was adopted in December 2004 and submitted for implementation in the Ministry's organisational units.

The Programme aims to provide curricula for a continuous and expert training of police members in Police Stations and Police Departments for the purpose of the successful implementation of duties within the Bureau for Public Security. The Programme encompasses provisions and thematic contents with regard to Police conduct (laws and by-laws), with emphasis in practical application of legal authorisation (Police tactics). Furthermore, the Programme includes special physical training concerning motor function capabilities as well as combined elements in wrestling sports and skills adapted for the Police (self-defence, karate, judo, boxing, and other sports).

Non-Discriminatory Policing and Democratic Execution of Police Duties are special topics within the additional training for all Police members.

The establishment of multiethnic Police forces has been a step forward in raising the awareness of Police regarding non-discriminatory conduct and differences among citizens. The challenge, necessity and inevitability of operating in multiethnic environment has made multiethnic Police units, through every-day communication with colleagues and citizens, understand the sensibility of non-discrimination and the necessity of equal treatment of citizens while enforcing police authorities.

Co-operation between Police and citizens has been a commitment of the Ministry of the Interior, which resulted from the strategic goal of the Republic of Macedonia to approximate to European standards in all areas, including security.

The Ministry of the Interior, in accordance with its legal authorities and in co-operation with international organisations, following the successful implementation of the Principal Plan for Return of the Security Forces in the Crisis Regions, the return of the majority of internally displaced persons and the return of security forces after the establishment of interim Police stations with multiethnic patrols, has carried out large-scale and intensive activities in mutual confidence building and partnership between the Police and local population.

As a result of discussions and identification of Macedonia's needs, numerous recommendations regarding communication, partnership, recommendations for media, etc. have been adopted and later on used in conferences in the former crisis regions: Kumanovo, Skopje, Tetovo and Gostivar.

The concept is being carried out through Citizens' Advisory Groups, which held regular meetings on local level, municipality, area, village, etc, among official representatives (mayors, civil society, non-governmental organisations, local media, religious communities, local population, local offices of the ministries' or local institutions), OSCE field offices' representatives and local Police representatives. These meetings are a long-term formal forum where issues and problems of mutual interest are discussed, thus agreeing on measures for resolution of those problems and looking for local solutions to local problems, which is an achievement of the whole community, regardless of political or ethnic affiliation.

In addition, Advisory Groups as a simple form of co-operation with local population should enable the Police to carry out all of their duties, thus promoting it as a service that, depending on citizens' expectations and needs, builds a more secure environment, i.e. a service open, transparent and accountable to citizens.

At the meetings, the Police have elaborated on the amendments to the Criminal Code; the action on voluntary hand over and collection of weapons; as well as human rights issues and Police conduct in relation to human rights.

Given the new approach of Police conduct, Citizens' Advisory Groups have been envisioned as a partnership concept that shall strengthen relations between citizens and Police, as well as improve communication, exchange of information and the overall quality of living.

Once the concept of the Advisory groups has been accepted, the Ministry of the Interior has appointed 32 community policing officers. These officers are from the Internal Affairs Sectors in Skopje, Kumanovo, Tetovo, Gostivar, Ohrid, Veles and from Internal Affairs Sections in Struga and Debar, who were provided with modular training by the Ministry and the OSCE's Police Development Department.

The training encompassed three modules (chapters), carried out as formal training in a classroom, while the fourth part of the training was carried out through a one-week professional specialisation in selected Police stations in the Netherlands.

The implementation of these measures began after 15.09.2002, and the groups' effective operations started in the second quarter of 2003, when Citizens' Advisory Groups in Skopje, Tetovo, Gostivar, Kumanovo, Ohrid, Veles, Struga and Debar were established by local representatives, community policing officers and representatives of the Ministry on central and local level, in co-operation with OSCE field teams.

Having in mind that the aforementioned areas were former crisis regions, most of the discussions at the beginning of Advisory Groups' operations have been related to the need of communication and co-operation between the Police and local population, aimed at resolving problems related to inter-ethnic distrust.

During the initial meetings, discussions have mostly been focused on security issues and certain problems of local population related to Police enforcement measures (such as arrest without warrant, cases of abuse of persons detained for interrogation in Police stations, etc.). At the same time, local citizens have requested employment in the Police in order to build mutual confidence and enable the Police patrol in all areas. Even though the co-operation between Police and local population was still not satisfactory in the first half of 2003, citizens have expressed support to Police actions against notorious criminals and criminal groups, which was also subject of discussion at Citizen Advisory Groups' meetings in 2004.

Discussions at such meetings do not carry the burden of post-crisis problems anymore, but are rather focused on actual local problems and current events. Hence, the Police have provided information on legal provisions related to the organisation of the early presidential elections and measures they have undertaken. With regard to current problems, participants at meetings proposed solutions and security measures that need to be undertaken in the regions. The Police have presented statistics on crime rates and information on the most common types of burglaries and robberies in the area, and exchanged opinions with local population on how they may contribute to the prevention or resolution of such crimes.

9. Please describe how coordination between municipal councils and the local heads of police is carried out. Are there any problems of coordination in practice?

The Ministry of the Interior is organised on a territorial principle, which means that it carries out its operations of law enforcement through 12 Internal Affairs Sectors operating as regional units of the

Ministry. The Internal Affairs Sector IS on a territorial basis and is a territorial service for direct enforcement of police operations. The Government upon the proposal of the Minister of the Interior determines the seat and territory of each Sector. The Internal Affairs Sector has been defined as an operational organisation of the Ministry and is vertically connected to it, while the sectors co-operate on a horizontal level and are organised on the basis of the region's size, population, number of criminal offences and misdemeanours, and other criteria. The Sectors are managed by Heads.

In accordance with the Law on Local Self-Government ("Official Gazette of the Republic of Macedonia", No. 05/02), the implementation of the decision on appointments of local Heads shall begin following the local elections in March 2005.

Pursuant to Article 36 of this Law, the Council appoints a Head that administers the Ministry's local branch. In accordance with Articles 20-a and 20-b of the Law Amending the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", No. 38/02), the local head of police is elected by Municipal Councils which fall under the jurisdiction of the Ministry's local branch, from a list containing at least three candidates proposed by the Minister. At least one of the candidates must belong to the community that represents the majority population in the municipalities.

If the Councils of respective municipalities do not select any of the candidates within 15 days from the day of the proposal, the Minister shall propose a second list that contains at least three new candidates among whom at least one must be from the majority community in the municipalities.

If after the second procedure a candidate is not elected, within 15 days from the submission of the list of candidates, the Minister, in consultation with the Government of the Republic of Macedonia, shall appoint the local head of police either from the candidates on the two previously proposed lists or from three other candidates proposed by the Councils of interested municipalities.

The Minister shall retain his/her authority for the dismissal of the local head of police in accordance with the Law.

The Local Police Head shall inform interested municipalities on a regular basis and upon their request about issues related to public security and road traffic safety.

The municipal councils and local police heads shall co-operate through contacts and meetings on issues concerning the security situation of the region under the respective jurisdiction, public peace and order, traffic, and other current problems related to infrastructure and utilities.

Practical experiences demonstrate certain coordination problems between municipal councils and local police heads, especially during security forces' attempt to return to crisis regions after the security crisis in 2001, and in the course of the implementation of "new approach" concepts of confidence building between the police and local population.

With the continuous development of the concept of co-operation between the police and citizens in confidence building, in defining local problems and in reaching joint solutions for them, citizens' advisory groups have a key role in raising awareness on the need of co-operation. In this manner, some of the problems have already been resolved.

10. What percentage of the police force has received further training over the last 5 years? Is such training obligatory? What is the average amount of training and where and by whom is it offered?

The on-going training of the employees in the Ministry of the Interior is carried out on several levels and in several different forms. The training objective is to create a profile of police capability and culture, as well as a high level of initiative, professionalism and speciality in executing the police duty.

The Police Code of Ethics adopted in 2003 establishes that the police training, in accordance with its objective and competences, is based upon the principles of democracy, rule of law and respect of

human freedoms and rights, as well as principles of fighting racism and xenophobia (Articles 26-30). The basic training of the police officer is open and transparent to the society, at the same time accompanied by regular training within the service. If there is a need, a special training in security management (management in training), is provided.

The Police Academy of the Republic of Macedonia is the only institutional form of police education. The Law on the Police Academy ("Official Gazette of the Republic of Macedonia", No 40/03) regulates the training of personnel for the Ministry and other government bodies, as well as for other organisations, bodies and legal entities that operate in the field of security – articles 2 and 3 of the Law. Hence, the Academy provides training for the following:

- Acquiring a four year university degree;
- Acquiring a one year vocational degree of a specialist;
- Acquiring a two-year master's degree;
- Continued education of persons with an already acquired degree in other institutions: elementary police education and training; special education and training; and education and training in security management.
- Acquiring a Ph.D. degree.

The Police Academy carries out its activities on two educational levels: university education and continuous education. University education is divided in graduate (four-year studies) and post-graduate (vocational and academic studies). In addition, the Academy provides continued education of persons with already acquired degree by providing elementary police education and training, special education and training, and education and training in security management.

The elementary police education is a two-year academic programme, including six months of practical field training, while the length of special and management courses depends on their programmes. The Police Academy provides courses in basic police training from 6 months to 1 year with the following contents:

- Police duty in democratic society and legal framework;
- Police conduct and legal framework;
- Criminalistics and criminology;
- Defence techniques (self-defence) with basic physical training and skill testing;
- General education (Macedonian language and orthography; foreign language, information technology, telecommunications and first aid);
- Weapons handling; shooting and bivouacking;
- Practical drills and field training;
- Current issues in police conduct improvement.

The target group of the foregoing training are persons with a secondary education degree (not older than 25).

The subsequent course is Basic Training of Border Police for a period of three months that can be divided in the following curricula:

- Basic police training;
- Criminology;
- Police conduct and defence police techniques.

The target group of the foregoing training are persons with a secondary education degree and already employed in the Army of the Republic of Macedonia.

The third course is Police Border Management Training covering basic training in police, legal, criminology and management areas. The lectures at this course are given by senior officers from regional border police centres, and target groups are members of the army's border brigade.

The fourth course is a one-week training of Instructors for the police reception on the ground.

At the time being the Police Academy conducts training in the framework of the police's continued education, with courses in basic training (for a period of 12 months of which 9 months of training takes place at the premises of the Police Academy and the rest is a field training), attended by 355 police officers from the Ministry of the Interior.

1. Following the signing of the Ohrid Framework Agreement and within the thorough reforms in the Ministry of the Interior, the Ministry has been required to organise training for the current staff as a main target group. The training is carried out through seminars in "Human Rights and Police" and "Police Conduct in Democratic Society". OSCE and the Helsinki Committee for Human Rights as partners in training have offered assistance.

The literature used for the training is part of the Council of Europe project "Human Rights and Police 1997/2000", and "Human Rights and Police after 2000" (Instructors' Manual; Torture Prevention Committee; Discussion Tools; Reference Handbook; Police Handbook; Video tape); as well as literature prepared by the Ministry of the Interior, OSCE and the Helsinki Committee (Police and Human Rights – Police Training Handbook).

As of October 2002 to the present, 4200 police and criminal police members have been trained at three-day seminars, which comprise 48% of the total number of police officers. These three-day seminars are still being conducted as an additional training for the police and all the members of the police force will pass this training.

2. OSCE is also a partner in the police training "Identification of Illegal Narcotics" conducted for 2.687 police officers (33,9%). The training continues and the target groups are the police and the criminal police.

3. From 2001 to 2004, the Ministry of the Interior and OSCE have carried out three-month courses, while currently they are conducting one-year courses with an emphasis on the establishment of multiethnic police. A number of 1.812 police officers (22,8%) have been trained with a mixed ethnic composition.

4. With regard to the Border Police, 821 officers (54% of the total number of Border Police employees) have been trained at the Police Academy on three-month seminars.

5. The six-month course at the Police Academy on training 100 inspectors (from different ethnic communities) has finished.

6. Pursuant to Article 18 of the Code of Police Ethics, the police has been organised in accordance with principles of Community Policing, which provides for the establishment of relations between the police and the public. This, in turn, facilitates the police's co-operation with other bodies, such as local-self government units, non-governmental organisations and citizens. The United States International Criminal Investigative Training Assistance Program (ICITAP) and the OSCE Mission have offered assistance in establishing and developing of the foregoing mode of police work and conduct. A number of 110 police members (senior staff) have self-trained themselves to operate in communities, as well as the Bicycle Police Team comprising 10 police officers. The self-training course is consisted of 6 Modules: *Why Changes Are Necessary; Implementation of the New Police Conduct in Co-operation with the Community; Contribution and Participation of the Community; Building Partnerships; Resolving Problems; and Progress.*

Since 2002, the Ministry of the Interior and OSCE have trained 3.000 police officers (37,8% of the total number) on one-day seminars on: police and community co-operation; what that co-operation means; problem resolution and partnership with local communities; and reactive, proactive and traditional execution of police duties.

The Ministry and OSCE have also realised a special training in executing police duties in communities on two-day seminars for 180 senior staff of the Ministry, which is 1,7% of the total number of employees.

Thirty two police members have received special training in policing within local communities. The seminar covered the following topics: Analysing the need for changes; developing skills for communication with the local population; and developing partnership techniques.

The U.S. ICITAP team and Ministry's coordinators have carried out a Pilot Project on the Police Work with the Community in the Kavadarci Department of Internal Affairs by training 25 instructors (police officers as a target group) and a Bicycle Police Team in Kavadarci DIA comprising 4 police officers.

7. In co-operation with OSCE and the Helsinki Committee, the Ministry has also carried out two seminars on human rights for 25 senior officials of the Ministry and regional offices.

8. The Ministry has been actively co-operating with non-governmental organisations, both domestic and international, by organising workshops on topics related to police conduct and misconduct, domestic violence, multiethnic society and police. Members of both the police and criminal police have attended these workshops.

9. The Ombudsman has also been part of instructor's training (a total of 30 instructors), organised by the Ministry and OSCE for the implementation of the Code of Police Ethics—the citizens' complaints and the role of the Ombudsman and the police.

10. Many materials that had already been part of seminars, have been published and are at the disposal of police officers. Thus, six thousand printed copies of *Set of Regulations Related to Human Rights* have been published, including laws, rulebooks, legal provisions, etc. Financial support has been provided from the OSCE and the Canadian Agency for Development.

11. In co-operation with the Office of the High Commissioner for Human Rights and the non-governmental organisation Information Centre for Civil Society, and with funding provided by the Dutch Organisation Pax Christi, the Ministry has published 10.000 copies in Macedonian and 1.500 in Albanian of the *Pocket Handbook of Police Conduct Pursuant to Domestic and International Human Rights Standards on Law Enforcement*, that have been disseminated to all Ministry employees and are part of the literature used for additional and continued police training.

12. The Council of Europe in co-operation with the Police Academy has organised training for senior staff in the Ministry and the Police Academy on Police Management, which was passed by 12 senior officers.

13. Since 2005 all members of police will undergo continued additional annual training (preparations are currently underway) *On-job Training*, which will cover topics in police work and new legislation. Instructors will be selected from the ranks of Ministry's senior officials, judges, public prosecutors, PROXIMA, and from other areas. The instructors shall be especially trained to carry out the training.

14. The Training Programme is presently being prepared for all police members with regard to specific situations in public order and peace when it has been violated to a larger extent. It shall start at the beginning of 2005 and all police members are a target group.

15. In 2004 the Ministry sent two high police officials to Sweden at the Centre of Peace Operations Education, to be trained in peace operations and peace support operations with a UN mandate and led by NATO, EU and OSCE.

16. In 2004 the complete police personnel have been trained at a one-day additional training by senior staff in each police station on the contents and responsibilities arising from the Rules on Conduct and Inter-Personal Relations of Employees with Special Tasks and Authorities at the Ministry of the Interior.

17. Training and education of the Special Task Unit (STU) and the Special Unit for Rapid Deployment (SURD).

The training of the Special Task Unit is being conducted on the basis of the Rulebook on the Conditions and Procedures of Deployment of the Special Task Unit. The Rulebook specifies the conditions and procedures of the Unit's operations, rights and duties of employees, deployment in the course of duty, and termination of Unit's operations. The expert training of the Unit's members is carried out in accordance with an annual programme, adopted pursuant to Article 5 of the Rulebook on Permanent Professional Training in Accordance with Programmes and Plans adopted by the Minister of the Interior.

The training of STU members has been envisaged as basic and advanced. Basic training encompasses: Programme for Basic and Expert Physical Training; Expert Police Training and Weapons; Sniper Training; Training for Operating All Types of Motor Vehicles; Operating and Undertaking Operative and Tactical Measures in Winter Conditions; Repeating and Improving Skills in Skiing and Tasks Related to Carrying Out Rescue Operations in Winter Conditions and During Natural Disasters; High-Altitude Fitness Training; Beginners' Alpine Training; Utilisation of Basic Alpine Techniques; Spatial Orientation and Cartography ; Basic Sanitary Training; Programme for Organisation and Implementation of Training on Security of Persons, Facilities, Transportations, Public Events, etc.; Programme for Organisation and Implementation of Shooting with Personal and Formation Weapons and All Other Types of Weapons that the STU Utilises.

Advanced special training of the TSU consists of Advanced Alpine Training; Diving and Under-Water Activities; Advanced Sanitary Training; Special Police Operations Programme - Specialised Training; Programmes on Organising Trainings in Explosives for the Purpose of Braking-in (breaking through doors, windows, walls, etc.) and Counter-Measures in Case of Explosives Incident; Programmes for Organising Training in Security of Persons, Facilities, Transportations, Public Events, etc.; and Programme for Organising the Selection Process of Hiring New Members of the STU and Implementing a Selected Course for Their Training. A target group of the basic training are all STU members, while target groups of advanced training are a selected number of members according to field of operation.

Training of STU members is also organised through seminars in Macedonia and other countries, such as: International Committee of the Red Cross – Dissemination of Humanitarian Law – in Slovenia and Macedonia in the 1st and 2nd stage; Specialised GIPN (Groupe d'Intervention de la Police Nationale), France; Specialised BRI France (sniper tactics); Sniper Training 1st and 2nd stage (advanced); Specialised 1st and 2nd stage Training; Diving Seminar OVD, DAIFUN and DAICAM; Alpine Training 1st and 2nd stage; Specialised Training USA 2003; VIP and GAP Seminar, France; Scouting 1 and 2 with SAS; Explosives; Seminar on Sanitary Issues, Sarajevo 2002; Trafficking in Narcotic Drugs; Anti-Terrorism, Egypt and Hungary; Explosives, USA 2001; Explosives, Turkey 2004, Specialised RAID, France (two seminars); RAID Negotiations, France; Surveillance and Shadowing, etc. Target group of these seminars are the junior and senior staff.

The Special Rapid Deployment Unit is trained in accordance with the Annual Programme of SURD Training, as well as on the basis of studies in specific areas. In addition, seminars are also considered special training, and such have been carried out in: the USA, New Mexico on Border Police; USA. Resolution of Hostage Crises; Restoring Public Peace and Order After it Has Been Disturbed to a Larger Extent; Sweden and the UK, 2004 – Weapons of Mass Destruction; Crisis Situation and Command Management – the US Embassy and International Committee of the Red Cross. Target groups of these seminars are selected employees depending on their scope of work, while all members of SURD have been trained in Human Rights and the Police.

18. As a result of the Ministry's co-operation with the non-governmental sector in 2004 – the Friedrich Ebert Foundation, Macedonia Office, and the Building Peace and Democracy Initiative within the project Partners in Peace and Prevention – the Ministry has promoted the concept of conflict containment and early warning by notifying local authorities and senior police staff. A survey was also conducted of all members of the project to acquire feedback. Fifty members of the police were part of

the project. The project's objective was also to obtain feedback on the new decentralisation process that shall generate a number of changes in the Republic of Macedonia. It was also intended to raise the level of local authorities' responsibility, including the police.

19. In 2004 the Ministry, in co-operation with the non-governmental sector (the Citizens' Association - Centre for Open Communication), has organised workshops on *The Police in Multiethnic Environment*, with an emphasis on the challenge, necessity and inevitability of the police's work in multiethnic environment. A total of 50 police members have attended these workshops.

20. From 1999 to 2001, the Ministry in co-operation with the Open Society Institute Foundation (OSI) has carried out seminars on sexual abuse of women and children, targeting 150 police and criminal police members.

21. In 2001 the Ministry in co-operation with UNICEF has carried out a seminar for 70 police officers, mainly targeting police and criminal police departments, with the topic Training in Juvenile Delinquency, Children's Rights and Abuse of Children.

22. In 2003 the Ministry in co-operation with OSI-Macedonia held two seminars for 45 administration personnel of the Internal Affairs Sector in Skopje on domestic violence. Target group were members of police and criminal police.

23. In 2004, as a result of the co-operation between OSI and the Ministry, two seminars were held covering topics of sexual abuse of children and women and domestic violence, for 240 police officers in the Police Unit (PU) and Criminal Police Department (CPD).

Pursuant to the Collective Agreement of the Ministry of the Interior, Chapter 5 and articles 91-92, the Ministry's employees have a right and duty to attend professional training, and thus additional training and specialisation has been a strategic goal. The police training and education is a continuous process, and the foregoing percentages are changeable depending on the number of police officers presently under training.

11. Please detail the inspection and internal control systems to ensure fairness, transparency and accountability in the security forces, at all levels, particularly at the central level and among senior officers.

In order to secure equity, transparency and accountability of security forces on all levels, and especially on the central level among the senior civil servants, the Ministry of the Interior is implementing systems of inspections and internal control. The Ministry implements these systems in order to adhere to constitutional principles, laws and by-laws that regulate the operations of the Ministry, as well as to apply the single working methodology for the respect and protection of human rights of all people regardless of their skin colour, gender, ethnic, racial, religious or political affiliation.

Chapter IV of the Code of Police Ethics ("Official Gazette of the Republic of Macedonia", No. 03/04) Police and Criminal Justice Authorities, Article 16, prescribes that police members of all levels are personally responsible and accountable for their actions, errors or omissions, as well as for orders received by superiors and given to subordinates. Article 19 of the same Chapter prescribes that the Police inform the public on their activities in an impartial manner, pursuant to principles of confidentiality of data (with regard to protection of personal integrity of citizens, respect of the principle of presumption of innocence, and for criminal procedure purposes). Hence, professional procedures for relations with the media have been established.

Chapter VIII of the Code, "Rights of Employees in the Police", Article 34 imposes that disciplinary decisions against police members may always be disputed in a court of law, while Article 35 prescribes that Members of police subject to groundless accusations regarding their legal authorities and duties are entitled to legal assistance through the Ministry, free of charge.

Chapter X of the Code "Police Responsibility and Control", Article 60 prescribes that the Police shall be responsible before the state, citizens and their representatives, through external control of their operations, and Article 61 stipulates that state control over the police has been divided between the legislative, executive and judicial authorities. Article 62 of the Code imposes that for the purpose of developing relations between the police and the public, accountability mechanisms based on communication and mutual understanding between the police and the public need to be promoted. Police members are responsible for their actions before the citizens of the Republic of Macedonia. In the case where police members violate constitutionally guaranteed rights, citizens may invoke the protection of these rights before the Ombudsman.

Article 100 of the Rulebook on Performing Duties of the Ministry of the Interior ("Official Gazette of the Republic of Macedonia", Nos. 12/98 and 15/03) prescribes that pursuant to a prior approved plan, organisational units of the Ministry are subject to supervision and inspection.

Chapter V of the Rules on Conduct and Inter-Personal Relations prescribes special duties and authorisations that superiors are given to perform control to their subordinates.

Departing from the aforementioned principles and organisational establishment of the Ministry of the Interior that operates under principles of hierarchy and subordination, higher organisational units of the Ministry may inspect the operations of the lower units. Inspections consist of examining official records or other written material regarding the enforcement of official duties and application of authorities that restrict human rights. The inspections are carried out with a direct examination of locations where security forces perform their regular duties in maintaining public order and peace on local level, as well as in other cases if necessary.

By the application of the aforementioned principles, the Police Department, the Criminal Police Department and the Border Police Department through their organisational forms by way of regular and extraordinary controls and supervision, perform inspections in services of regional organisational units of the Ministry, as well as on central level among the senior civil servants. In addition, the Police Department on central level performs inspection on the operations of the Special Task Unit, the Special Rapid Deployment Unit, and Special Police Units in cases when these units have been engaged in restoring public order and peace disturbed to a larger extent, and in other cases when the scope and complexity of tasks demand their engagement.

For the purpose of performing control of the legal, professional and efficient execution of operations and tasks in the Ministry, pursuant to Article 37 of the Rulebook on Execution of Operations of the Sector for Internal Control and Professional Standards of the Ministry, the Minister may order the Sector to perform supervision and control, i.e. a central or local level inspections of the senior civil servants. The inspector prepares a final report for the executed supervision and control, submitted to the Head of Sector. The Head of Sector reviews and approves the final report, after which it is submitted to the Minister.

In accordance with the Rulebook, the Sector for Internal Control and Professional Standards conducts investigations and inspections, upon received information or citizens' complaints, regarding illegal and unprofessional conduct of employees in the Ministry of the Interior. The Sector may subject the Ministry's employees to medical and other examinations for the purpose of determining alcohol or/and narcotic drugs in their body after informing them about the examination reasons and with the Minister's approval. The Sector may also subject them to lining up for the purpose of identification.

If in the course of investigation (inspection) on illegal and unprofessional conduct of an employee in the Ministry certain violations with criminal elements are detected, the Sector shall inform the competent public prosecutor and the Criminal Police Department. The Sector for Internal Control and Professional Standards shall inform the Minister of the Interior about every investigation (inspection) that has detected a criminal offence, violation of the working discipline or unprofessional conduct of an employee in the Ministry. In addition, if the investigation (inspection) determines grounds for initiating a dismissal procedure due to a violation of the work discipline, the Sector, pursuant to the

Law on Labour Relations and the Collective Agreement of the Ministry of the Interior, shall propose a continuation of the investigation (inspection) before the Dismissal Committee.

Minor cases of work discipline violation, such as violation of work duties carried out by employees with a status of authorised officials, may be subject to an initiation of a dismissal procedure, pursuant to Article 133 of the Collective Agreement of the Ministry of the Interior ("Official Gazette of the Republic of Macedonia", Nos. 8/98, 12/00 and 3/04) while more severe cases have been regulated in paragraph 2 of the same article. Disciplinary responsibility of employees with a status of civil servants in the Ministry has been prescribed with the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, and 17/04).

Depending on the employee's level of responsibility, the conditions under which he/she has violated the work duties, his/her conduct, and the violation's weight and consequences, the Minister may withdraw the dismissal and impose a fine that cannot be higher than 15% of the employee's monthly salary in a period of 1 to 6 months.

In cases when the Dismissal Committee, following investigations, proposes to the Minister to adopt a dismissal decision, until the decision on dismissal becomes effective the employee is removed from the post and from the Ministry if: his/her presence directly endanger the life and health of other employees and persons; he/she destroys valuable objects; his/her presence in the Ministry is detrimental to the Ministry's operations; and if criminal procedures for a deed perpetrated at work or related to work have been initiated against the employee.

In accordance with the provisions of the Law on Labour Relations ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 14/95, 53/97, 21/98, 3/01, 50/01, 25/03 and 40/03) and the Collective Agreement of the Ministry of the Interior, the dissatisfied party (employee) may lodge a complaint to the second instance Labour Relations Commission within the Government of the Republic of Macedonia not later than 8 days from the receipt of the decision on the sanction. If the employee is not satisfied with the final decision of the competent body (the Commission), or if the Commission does not pass a decision within 15 days from the day of the complaint's submission, pursuant to Article 147 of the Law on Labour Relations, the employee may seek protection of his/her rights before the competent court of law.

From 01.01.2002 to 31.12.2002, 53 procedures for determining responsibility due to working discipline violations have been conducted against 53 employees. Out of these, upon the Dismissal Commission's proposal, decisions on dismissal have been adopted for 9 cases; another 41 cases have been resolved with fines, and in three cases the procedure has been ceased due to lack of evidence.

From 01.01.2002 to 31.12.2003, 274 procedures for determining responsibility due to working discipline violations have been conducted against 280 employees. Out of these, upon the Dismissal Commission's proposal, decisions on dismissal have been adopted for 94 cases; another 156 cases have been resolved with fines, and in 30 cases the procedure has been ceased due to lack of evidence. At the same time, 121 criminal charges have been pressed against the employees in the Ministry of the Interior to the competent Public Prosecutor, due to reasonable doubt for committed criminal offence.

From 01.01.2004 to 01.11.2004, due to determined cases of professional misconduct of employees in the Ministry of the Interior (abuse or illegal and unprofessional conduct), 245 procedures for determining professional misconduct have been filed against 260 employees. Upon the Dismissal Commission's proposal, 35 employees have been fired, 198 have been fined and in 27 cases the procedure has been ceased due to lack of evidence. At the same time, the Sector has issued proposals for pressing criminal charges to the competent Public Prosecutor against 38 employees of the Ministry of the Interior, due to a reasonable doubt that they have committed a criminal act.

On principles of hierarchy and accountability of the Ministry of the Interior see [24 G 3](#) and on systems of administrative and judicial control of the Ministry of Interior see [24 G 4](#).

12. What action has been taken in practice by the Professional Standards Unit (PSU) in dealing with police misconduct at all levels, providing for appropriate recourse and sanction? What results have been achieved (number of cases, sanctions applied etc.)?

Sector for Internal Control and Professional Standards, in accordance with the Rulebook on Operations of the Sector for Internal Control and Professional Standards, conducts investigations, and performs supervision and control in the Ministry of the Interior.

Investigation is defined as any procedure of the Sector for Internal Control and Professional Standards related to detecting and documenting illegal and unprofessional conduct of employees in the Ministry.

Supervision and control are defined as any procedure of the Sector undertaken for the purpose of control of legality and the efficient execution of duties and tasks by organisational units in the Ministry.

The Sector for Internal Control and Professional Standards conducts investigations on the basis of data, information and suspicion presented by the employees in the Ministry either on their own initiative or from citizen's complaints, or upon the order of the Minister, that relate to illegal and unprofessional conduct of the employees in the Ministry.

Citizen's complaints that relate to illegal and unprofessional conduct of employees in the Ministry are lodged in a written or oral form.

For every lodged complaint a report on received complaint is created, which contains the petitioner's first and last name, date and place of birth, place of residence and address, telephone number and other information necessary to provide further contact with the petitioner. The citizen's behaviour and appearance shall be especially described. If there is conceivable suspicion that he/she is under the influence of alcohol or narcotic drugs, such information shall also be noted.

In cases when complaints are related to human rights violation by a Ministry's employee, or in cases of corruption, excessive use of force or firearms, or other serious cases of illegal and unprofessional conduct, the Sector for Internal Control and Professional Standards:

- Shall review all relevant data, facts, information and reports;
- Shall interrogate the petitioner and the witnesses;
- Shall interrogate the employees in the Ministry that might have a certain perception with regard to the complaint;
- Shall provide photographs, medical findings and evidence;
- Shall interrogate the employee subject to investigation, and shall write the clarification by hand in form of official note or written clarification;
- Shall take on experts from specific areas for providing expert assistance and opinion, if necessary.

The Sector for Internal Control and Professional Standards keeps records, documents and determines facts utilising adequate prescribed operational and technical means and methods. If needed, and if approved by the Minister, the Sector may subject the Ministry's employees to medical and other examinations for the purpose of detecting alcohol or narcotic drugs.

Depending on the form and severity of the illegal and unprofessional conduct, the investigation time-frame may be 30 or 90 days, but not longer than six months. The Sector's inspector prepares a final report on the investigation and its results, and submits it to the Head of Sector for review and approval, after which the final investigation report is submitted to the Minister.

The investigation report, apart from giving data on the petitioner, gives reference to the allegations from the complaint; to the undertaken operational and tactical measures; to operational and technical means and methods; as well as to adopted conclusions with a proposal for measures.

In the course of carrying out its competences, i.e. during the investigation process, the Sector shall act in an objective, unbiased, legal and equitable manner, by adhering to the reputation and dignity of every employee in the Ministry of the Interior, and every citizen of the Republic of Macedonia, respectively.

The data, information or suspicion on the Sector's disposal, as well as their source, are official secret and subject to the regulations on data secrecy protection.

In cases where it has been determined that the employee has carried out a minor violation of the working discipline, in accordance with Article 75 of the Collective Agreement of the Ministry of the Interior ("Official Gazette of the Republic of Macedonia", Nos. 8/98, 12/00, and 3/04) the Sector puts forward a proposal to the employee's direct superior to pronounce a measure - to reduce his/her salary for the current month.

In cases where the investigation determines violation of working discipline or non-compliance with the duties, in accordance with Article 143, paragraph 5 and 6 of the Collective Agreement of the Ministry of the Interior, the Sector puts forward a proposed measure to the employee's direct superior for initiating a continuation of the investigation before the Commission for Dismissal, i.e. for initiating a procedure on determining the responsibility of professional misconduct.

After deliberating, the Commission determines the worker's responsibility and prepares a written proposal to the Minister for the purpose of adopting an adequate solution. If the Commission finds the worker not responsible or if the conditions for adopting a decision on termination of his/her employment have not been met, in accordance with Article 148, paragraph 2 of the Collective Agreement, the Commission proposes to the Minister to decline the proposal, i.e. to terminate the procedure. Should the Minister disagree with the proposal, he/she may return the subject to reconsideration, or adopt a different decision in accordance with Article 149, paragraph 1 of the Collective Agreement. The worker is entitled to lodge a complaint to the second-instance body, and/or file a suit before the competent court.

If it has been determined that the worker has committed a serious violation of the working discipline, depending on the level or the worker's responsibility; on the conditions under which the violation has been carried out; on his/her conduct; on the severity of the violation and the consequences arising from it; in accordance with Article 148 of the Collective Agreement, the Commission for Dismissal proposes to the Minister to adopt a decision for employment termination. Until the decision on the termination of employment becomes final, the employee may be removed from his/her post and from the Ministry if his/her presence endangers the workers' or other persons' life or health; if he/she damages properties of higher value; if his/her presence has a harmful impact on the Ministry's operations, or in any other case when charges have been pressed against a worker for a criminal offence carried out at work or one related to work.

If the Sector for Internal Control and Professional Standards, after completing the investigation, determines that there is a case with elements of criminal offence, in accordance with Article 3 of the Rulebook on Conducting Activities of the Sector for Internal Control and Professional Standards, it informs the competent public prosecutor and the Criminal Police Department. In addition, according to Article 142, paragraph 6 of the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) on the basis of the gathered evidence and facts, the Sector prepares criminal charges against the worker that has committed a criminal offence and files it to the competent public prosecutor together with the evidences and writs on the already undertaken measures and activities.

From 01.01.2002 to 31.12.2002, a total number of 230 complaints were lodged to the Ministry of the Interior by citizens, state bodies and institutions, citizens' associations and other organisations. The Sector for Internal Control and Professional Standards conducted analyses, which demonstrated the following: in 65 complaints the petitioners complained on the Ministry's failure to act upon measures under its competences; in 35 complaints the allegations referred to authorised officials' failure to undertake measures and official activities; in 28 complaints the allegations referred to abuse of

official position and authority; in 26 complaints allegations were made against unjustified or excessive use of force or coercion means by authorised officials; in 13 complaints allegations were made against improper and unprofessional conduct of Ministry's employees; and in four cases the petitioners complained about Accident Investigation Minutes.

For the purpose of verification of allegations in lodged complaints, the Sector for Internal Control and Professional Standards, apart from acting upon matters within its competence, forwarded 55 complaints to the Police Department; 44 to the Criminal Police Department; and 16 to other organisational units within the Ministry of the Interior.

From verifications made by the Sector or other organisational units of the Ministry of the Interior it was determined that in 7 such cases the allegations were founded, and in 5 they were partly founded. During the same period of time, due to established cases of illegal and unprofessional conduct, 53 procedures for determining professional misconduct were filed against 53 employees in the Ministry of the Interior.

From total of 53 cases, upon the Dismissal Commission's proposal, decisions on dismissal were delivered for 9 cases; another 41 cases were resolved with fines, and in three cases the procedure was terminated due to lack of evidence.

From 01.01.2003 to 31.12.2003, a total number of 770 complaints were lodged to the Ministry of the Interior by citizens, state bodies and institutions, citizens' associations and other organisations, 359 of which were lodged by citizens; 120 were anonymous complaints; 63 were lodged by legal persons; 88 were official notes and other submissions by employees of the Ministry of the Interior, 23 were official information; and 39 were letters received by non-governmental and international organisations for the protection of human rights (Amnesty International, the Helsinki Committee for Human Rights, Associations of Roma, etc).

At the same time, 14 criminal charges by citizens, 20 requests by the Public Prosecutor, 20 requests by the Ombudsman and 10 complaints submitted through lawyers were filed to the Sector for Internal Control and Professional Standards.

Acting upon the lodged complaints, the Sector for Internal Control and Professional Standards in the aforementioned period conducted 526 investigations and filed the same number of reports, as well as 144 answers to the petitioners. 15 answers were submitted to the Ombudsman; four to Amnesty International, nine to legal entities, 15 to state institutions, four to the Helsinki Committee for Human Rights, and 93 were submitted to citizens.

At the same time, due to determined cases of illegal and unprofessional conduct of employees in the Ministry of the Interior, 274 procedures for determining professional misconduct were filed against 280 employees.

Upon the Dismissal Commission's proposal, out of the total number of such procedures, decisions on dismissal were adopted for 94 cases; another 156 cases were resolved with fines, and in 30 cases the procedure was ceased due to lack of evidence.

At the same time, 121 criminal charges were pressed against the employees in the Ministry of the Interior to the competent Public Prosecutor, due to a reasonable doubt on committed criminal offence.

From 01.01.2004 to 01.09.2004, 938 complaints, submissions, etc. were filed to the Sector for Internal Control and Professional Standards, out of which 545 complaints were lodged by citizens. At the same time, 81 written anonymous charges by citizens, 48 records of oral complaints and 20 official notes for anonymous complaints made by telephone (received on 199 telephone line installed at the 24 hours Operational Centre) were submitted to the Sector for Internal Control and Professional Standards.

In addition, 37 official notes on professional misconduct of authorised officials were submitted by Sectors and Departments for Internal Affairs; six complaints were submitted by the international organisation Amnesty International; 15 complaints were submitted by the Helsinki Committee for Human Rights; 25 requests were submitted by the National Ombudsman; eight requests by the Basic Public Prosecutor's Office; four requests were submitted by courts, 18 requests were submitted by lawyers; five requests by the State Commission for Prevention of Corruption; and 130 appeals, complaints and requests were submitted by legal and natural persons.

Acting upon the submitted complaints, anonymous charges, requests, complaints and appeals, the Sector for Internal Control and Professional Standards carried out 433 investigations, determining that in 10 cases the complaints were founded; 77 cases lacked evidence or it was decided that the investigation should continue; and 193 complaints and anonymous charges, requests, complaints and appeals were unfounded.

In the period from 01.01.2004 to 01.11.2004, due to determined cases of professional misconduct of employees in the Ministry of the Interior, 245 procedures for determining professional misconduct were filed against 260 employees. Upon the proposal of the Dismissal Commission; 35 cases were resolved by termination of employment; 198 cases were resolved by decisions for fines; and 27 cases were adjourned due to lack of evidence. At the same time, the Sector issued proposals for pressing criminal charges to the competent Public Prosecutor against 38 employees of the Ministry of the Interior, due to reasonable doubt that they have committed a criminal offence.

G. HUMAN RIGHTS – HORIZONTAL ISSUES

1. Please provide succinct information on your constitutional order, your legislation or other rules governing the area of human rights, and their compatibility with the relevant international conventions.

Like most European democracies, the Republic of Macedonia has opted for constitutionalism. The provisions pertaining to individual rights and freedoms in the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) are very similar to those in the Constitutions of other European countries. The Constitutional provisions in this segment have been inspired by the international and regional human rights instruments. Rights and freedoms proclaimed in the Constitution have been rightfully considered its greatest quality and an evidence of the degree of democratisation achieved in the Republic of Macedonia. Promotion, enhancement and protection of basic human rights and freedoms are among the highest political commitments of the Republic of Macedonia. On a national level, this commitment entails consistency in the implementation of policies accepted regionally and globally, which have been transposed into international human rights instruments. Article 118 of the Constitution sets forth that once the international instruments are approved in the Assembly of the Republic of Macedonia, their provisions become part of the domestic law and may not be changed by national laws.

The Constitution of the Republic of Macedonia was adopted on 17.11.1991. In the very beginning of its preparation, it was subject to assessments in the segment of human rights and minority rights by the EU Arbitration Committee composed of presidents of nine constitutional courts and former presidents of member-countries of the European Union. The Committee was chaired by Mr. Robert Badinter. The intention was to verify the level of Constitutional regulation and protection of human and minority rights, as a pre-condition for the recognition of the country's independence. According to the Committee's arguments, the Republic of Macedonia successfully passed the evaluation. Macedonia and Slovenia were pointed in the Committee's Report (published 11.01.1992) as the only countries among the former Yugoslav Republics that meet the conditions required for their recognition as independent states.

Article 8 of the Constitution of the Republic of Macedonia includes, among the fundamental values of the Constitutional order, the basic freedoms and rights of the individual and citizen, recognised in international law and determined with the Constitution, as well as the respect of the generally accepted international legal norms.

Rights and freedoms guaranteed by the Constitution of the Republic of Macedonia and by the ratified international conventions have been incorporated into the domestic legislation and are enjoyed by all persons under the jurisdiction of the Republic of Macedonia. Their exercise is conducted directly, on the basis of the Constitution. Conditions and manners of their exercise may be prescribed by a law only if explicit constitutional authority exists thereto and only within such authority.

In Chapter II governing the Basic Rights and Freedoms, the Constitution of the Republic of Macedonia includes civil and political rights, as well as economic, social and cultural rights. In the system and the substance of fundamental freedoms and rights, the Constitution corresponds fully with the solutions incorporated into the ratified international human rights conventions.

In the segment of **civil and political rights**, the Constitution guarantees the following:

- The principle of equality of citizens before the law and the right to equal legal protection has been stipulated in Article 9 of the Constitution. It includes the anti-discriminatory clause under which citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of their gender, race, colour of skin, ethnic or social background, political or religious conviction, property or social status.
- Right to life has been guaranteed with Article 10 of the Constitution. It determines the inviolability of human life and prohibits the imposition of death penalty. The right to life may not be restricted even under state of war or emergency in the Republic of Macedonia. No one shall be deprived of the right to life on the basis of a court decision for having committed a serious punishable act. This constitutional provision is fully aligned with the provisions on abolition of the death penalty contained in the Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms (of 28.04.1983).

The right to life, however, is not absolute in any country, and this includes the Republic of Macedonia. Namely, a number of exceptions exist in relation to the general prohibition of deliberate deprivation of life. Thus, the Convention for the Protection of Human Rights and Fundamental Freedoms allows for deprivation of life in cases when the use of lethal force by authorised person is absolutely necessary: in defence of any person from unlawful violence; in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or in an action lawfully taken for the purpose of suppressing a riot or insurrection. Similar stipulations concerning the deprivation of one's right to life exist in the Republic of Macedonia. These instances are enumerated in the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 19/95, 55/97, 38/02, 33/03 and 19/04).

In accordance with the opinions of the European Commission on Human Rights, there are certain restrictions in the Republic of Macedonia of the right to terminate pregnancy, while not violating the right of a pregnant woman to private life, as guaranteed by Article 8 of the Convention.

- Prohibition of torture, inhuman or degrading treatment or punishment, slavery or forced labour, have been incorporated in Article 11 of the Constitution. It guarantees the irrevocability of the physical and moral integrity of a person. The Constitution of the Republic of Macedonia regards the physical and moral integrity as inviolable categories, in the same way as life and freedom. For that purpose, the Constitution forbids any form of torture, inhuman or degrading treatment or punishment, as well as any form of forced labour. Under the Constitution of the Republic of Macedonia, the physical and moral integrity of a person must be respected under all circumstances, both by the law enforcement officials and by individual citizens. The Constitution protects every person from any form of ill-treatment, whether free or in detention.

Citizens have also been protected against any form of mistreatment during peaceful rallies, if not applying means of force.

These Constitutional provisions prohibiting torture are identical with the provisions prohibiting torture in the Convention for the Protection of Human Rights and Fundamental Freedoms. Consequently, the Republic of Macedonia has fully accepted the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment adopted in November 1987 by the Council of Europe.

- Right to liberty and security of person has been included in Article 12 of the Constitution. Its provisions guarantee the inviolability of human freedom and determine the cases and conditions under which liberty of a person accused for a criminal offence may be restricted. The Constitution treats the right to liberty as an irrevocable right, that is a right that may not be arbitrarily restricted. Under the Constitution, this right can be restricted only by a court decision and in a procedure determined by law. Anyone who is arrested shall be brought before a judge immediately, and within a maximum of 24 hours. The judge shall decide on the legality of the deprivation of liberty. A person unlawfully or unjustifiably deprived of liberty has a right to legal redress and other rights determined by law.
- Although the right to a fair trial has not been explicitly mentioned in the Constitution, it has been guaranteed in a number of its provisions pertaining to the presumption of innocence of a person indicted for an offence (Article 13, paragraph 1); to the right to legal redress in case of unlawful conviction (Article 13, paragraph 2); to the right to a counsel of his own choosing and other rights of a person under suspicion that he/she has committed a criminal offence (Article 12). The prohibition of double jeopardy has been determined in Article 14, paragraph 4 of the Constitution. No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he/she has already been finally acquitted or convicted in accordance with the law.

The key components of the concept of a fair trial have been elaborated in detail in laws governing civil and criminal procedure which guarantee an adequate and fair opportunity to a person to present his/her arguments and evidence at a public hearing with a view to adversarial argument before an independent and impartial court.

- The principle of punishment only pursuant to law has been incorporated in Article 14, paragraph 1 which explicitly determines the principle of legality as a basic principle in punishment of perpetrators of criminal offences and in Article 52, paragraph 4 which forbids the retroactive effect of laws. No one may be punished for an offence which has not been declared an offence punishable by law prior to its being committed, and for which no punishment had been proscribed.
- The right to respect of private and family life and inviolability of home has been guaranteed by several articles of the Constitution. Article 25 provides general guarantees for the respect of privacy of a person's personal and family life and his/her dignity and reputation. A number of specific aspects of privacy have been given special constitutional protection. The freedom and privacy of correspondence and other forms of communication have been guaranteed in Article 17. It allows only for derogation of privacy of correspondence. In order to allow for introduction of certain special investigative measures required for the fight against organised crime, this Article of the Constitution has been amended. Pursuant to this Amendment to the Constitution, only a court decision may, under terms and by procedure prescribed by law, authorise non-application of the principle of inviolability of correspondence and other forms of communication, in cases where it is indispensable to prevent or reveal criminal acts, to carry out a criminal investigation or where required in the interests of security and defence of the Republic. Article 26 guarantees the inviolability of the home. The right to the inviolability of the home may be restricted only by a court decision when a detection or prevention of criminal offences or protection of the health of citizens is concerned. For the realisation of these goals, the Constitution of the Republic of Macedonia, Article 18, guarantees the security and confidentiality of personal data.

- Article 16 of the Constitution guarantees the freedom of conviction, conscience, thought and public expression of thought, speech, public address and public information. Freedom of religious confession has been guaranteed by Article 19 of the Constitution. The Constitution guarantees the freedom of public expression of thought, while putting this right in relation to the freedom of conviction and conscience. Furthermore, the Constitution guarantees the freedom of speech and public address as concrete forms of the exercise of right to expression.

As a basic instrument of democracy, the right to expression may not be restricted by any superior interests of the society or of the ruling elites. In this regard, the Constitution of the Republic of Macedonia is a step beyond the European Convention, as the latter restricts this right by the duties and responsibilities that it involves, which may often be interpreted rather broadly.

- The right to peaceful assembly and association has been covered by the guarantees for freedom of political association and activity of citizens (Article 20), the right to assemble peacefully and to express public protest without prior announcement or a special licence (Article 21), as well as by the guarantee of the right to establish trade unions and the right to strike (Articles 37 and 38). The right to peaceful assembly entails a right of citizens to assemble peacefully and to express public protest without a prior announcement or special authorisation by the responsible state bodies. This right may only be restricted in case of a state of emergency or war in the Republic of Macedonia.
- The right to participation in public affairs, the right to vote and the right to equal access to public offices have been guaranteed in Article 2; Article 8, paragraph 1, subparagraph 5 and Articles 22 and 23 of the Constitution. The right to vote in the Republic of Macedonia includes all the characteristics of the right to vote in other democratic countries: it is a general and equal right which is exercised directly and by secret ballot.
- The freedom of movement and freedom to choose one's place of residence have been guaranteed by Article 27 of the Constitution of the Republic of Macedonia, which also determines the restrictions to this right. This constitutional provision corresponds with Article 12 of the International Covenant on Civil and Political Rights.

In the segment of **economic, social and cultural rights**, the Constitution guarantees the following:

- The right to ownership of property and the right to inheritance, which have been guaranteed by Article 30; Article 31 provides for a possibility for aliens to acquire the right to property under conditions determined by law. The right to ownership of property entails a right of every natural or legal person to freely dispose of his/her property. No person may be deprived of his/her property, except in the public interest and under conditions determined by law. These provisions comply with the European Convention on Human Rights. However, the Constitution goes a step beyond the Convention, as it includes a provision under which a compensation for a seized property may not be lower than its market value.
- The Constitution also guarantees the right to work, as well as the rights deriving from employment (Article 32), which have been further elaborated in law and collective agreements. As regards the European Social Charter, the Constitution of the Republic of Macedonia fully incorporates the elements of the right to work stipulated in this document. Hence, from the normative aspect, there is no discrepancy between these two documents when the right to work is in question.

The aforementioned substance of the right to equal conditions for work in the European Social Charter have also been stipulated in the Constitution of the Republic of Macedonia and the new labour legislation. With regard to this right, there is a legal conformity between the Constitution of the Republic of Macedonia and the European Social Charter. However, problems exist on a practical level. Part of the employees may not exercise this right in all its

elements as in transitional environment, labour has been significantly undervalued in comparison with the capital.

- The Constitution of the Republic of Macedonia guarantees the right to protection at work. This right has been elaborated in detail in the labour legislation, with all elements of this right included in the European Social Charter (Article 3). Numerous regulations exist on the safety and protection at work, similarly as the numerous measures stipulated for the control over the application of these regulations. In practice, however, there have been numerous examples of violation of these regulations and measures, and hence violations of the right to protection at work.

Pursuant to the Constitution, every citizen of the Republic of Macedonia has a right to adequate remuneration. The wording *right to appropriate remuneration* is more neutral in relation to the one used in the European Social Charter – *a right to a fair remuneration*. Unlike the Constitution, the European Social Charter regulates in more details the substance of the right to a fair remuneration. Namely, remuneration has been defined as sufficient earning for a decent standard of living for the worker and his/her family; workers have been recognised the right to an increased rate of remuneration for overtime work; men and women workers have been recognised the right to equal pay for work of equal value; and all workers have been recognised the right to a reasonable period of notice for termination of employment.

In practice, the right to a fair remuneration has been distorted for large number of employees as their remunerations are insufficient for a decent standard of living for themselves and their families.

- The right to social protection and social insurance of citizens, and the special right to social protection enjoyed by special categories of citizens, have been guaranteed by Articles 35 and 36. The right to social protection entails a right of specific category of citizens to social welfare benefits in cases of unemployment or low wages or pensions. Funds for this kind of social protection are provided by the state, in a manner determined by law or by a collective agreement. This right becomes particularly emphasised in environment of high unemployment and low remunerations for large number of workers.
- The Constitution also guarantees the right to health insurance (Article 39) and the right to a healthy environment (Article 43);
- The right to marry and found a family, as well as the particular protection of family as guaranteed by Articles 40 and 41 of the Constitution;
- Rights of children have been incorporated in Article 42 of the Constitution and Article 40, paragraph 4 which stipulates particular care for parentless children and children without parental care;
- The right to education and related rights and freedoms have been guaranteed in Articles 44, 45 and 46, whereas freedom of scholarly, artistic and other creative work has been stipulated in Article 47;

The status and rights of members of communities have been initially determined in the Preamble, and further set forth in Articles 7, 8, 9, 48, 56, 69, 77, 78, 86, 104 and 114 of the Constitution. On more details concerning the rights and status of members of communities, please refer to the answer to question [I J 2](#) and [I J 3](#).

Exercise of human rights in practice requires more critical judgment than the one concerning their legislative regulation, as the practical exercise of human rights is a much more difficult task than their legislative proclamation.

The Republic Of Macedonia, ever since its independence, has been carrying out a continuous legal reform aimed at the protection and implementation of rights and freedoms guaranteed by the Constitution, the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the International Convention on Elimination of All Forms of

Racial Discrimination; the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; European Convention for the Protection of Human Rights and Fundamental Freedoms; Framework Convention for the Protection of National Minorities, and other international human rights instruments.

Numerous laws have been adopted for this purpose, including the Criminal Code ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03 and 19/04), Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04), Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 3/97, 23/99 and 74/04), Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/03), Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04), Law on the Judicial Council of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 80/92, 50/99 and 43/03), Bar Law ("Official Gazette of the Republic of Macedonia", No. 59/02), Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03), Law on Family ("Official Gazette of the Republic of Macedonia", No. 80/92, 09/96, 38/04 and 83/04- consolidated text), Law on Social Care ("Official Gazette of the Republic of Macedonia", Nos. 50/97, 16/00, 17/03 and 65/04), Law on Local Self-Government ("Official Gazette of the Republic of Macedonia", No. 5/02), Law on Political Parties ("Official Gazette of the Republic of Macedonia", No. 76/04), Law on Religious Communities and Groups ("Official Gazette of the Republic of Macedonia", No. 35/97), Broadcasting Law ("Official Gazette of the Republic of Macedonia" Nos. 20/97 and 70/03), Law on Public Gatherings ("Official Gazette of the Republic of Macedonia", No. 55/95) etc. International standards have been incorporated in all these laws.

An integral part of the legal reform has been the analysis of the harmonisation of the domestic legislation with international standards. In that respect, ratification of the conventions for the Republic of Macedonia has been not only a formal obligation and a goal in itself, but also an initiation of a continuous process of implementation of international standards at a national level. This entails an existence of a compatible and developed domestic legislation. The analysis of the compatibility of legal regulation commences during the ratification procedure of a specific international document. At this stage, possible incompatibilities are detected and solutions and measures for their overcoming are considered.

The best example of this is the comprehensive analysis of the domestic legislation conducted in 1996, prior to the ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms (for more details see [L G 2](#)).

Apart from the ratification procedure, the harmonisation is also conducted during the procedure of adoption of the laws, as early as the stage of the preliminary draft text, and at all stages of drafting. Particularly helpful in this regard has been the long-time practice of consultations and expertise established with the Council of Europe, dating back to the period prior to the formal accession of Macedonia to the Organisation. The process of harmonisation includes also the regular review of the existing laws that is conducted by the competent institutions with a view to their updating.

Macedonia also initiates a review of specific laws or a group of related laws on the basis of the conclusions and recommendations of particular bodies i.e. controlling mechanisms established by international conventions, which have pointed to such need in the course of the state reports on the implementation of the obligations under the conventions (for more details see [L G 4](#)).

The Judgments of the European Court of Human Rights also serves as a basis for harmonisation of the domestic legislation (for more details see [L G 2](#)).

Protection of human rights has been guaranteed in Article 50 of the Constitution of the Republic of Macedonia, according to which: *Every citizen may invoke the protection of freedoms and rights determined by the Constitution before the regular courts and before the Constitutional Court of the Republic of Macedonia, in a procedure based upon the principles of priority and urgency.*

The criminal and legal protection of the freedoms and rights of the individual and citizen is among the most efficient forms of protection in case of violation of human freedoms and rights. The Criminal Code, under a separate chapter *Crimes Against Freedoms and Rights of Individuals and Citizens*, stipulates the following criminal offences: *violation of the equality of citizens* (Article 137), *violation of the right to use own language and alphabet* (Article 138); *coercion* (Article 139); *illegal deprivation of freedom* (Article 140); *kidnapping* (Article 141); *torture and other cruel, inhuman or degrading treatment or punishment* (Article 142); *endangering security* (Article 144), *violation of the inviolability of the home* (Article 145); *unlawful search* (Article 146); *violation of the confidentiality of correspondence and other parcels* (Article 147); *unlawful publication of personal writings* (Article 148); *abuse of personal data* (Article 149); *prevention of access to a public information system* (Article 149-a); *unauthorised disclosure of a secret* (Article 150); *unauthorised wiretapping and audio recording* (Article 151); *unauthorised recording* (Article 152); *violation of the right to a legal remedy* (Article 153); *prevention of publication and distribution of published materials* (Article 154); *prevention or obstruction of a public gathering* (Article 155); *violation of the right to strike* (Article 156); *violation of the copyright and related rights* (Article 157).

Besides before regular courts, citizens may also exercise direct protection of freedom and rights before the Constitutional Court of the Republic of Macedonia. Namely, pursuant to Article 110, paragraph 1, subparagraph 3 of the Constitution of the Republic of Macedonia, the Constitutional Court protects the freedoms and rights of the individual and citizen relating to the freedom of conviction; conscience; thought and public expression of thought; political association and activity; and the prohibition of discrimination of citizens on the grounds of gender, race, religious, ethnic, social or political affiliation.

This instrument is known as a Constitutional Complaint and thus far, the Constitutional Court has decided upon nearly eighty petitions for human rights violations.

When deciding on the compliance of laws with the Constitution, i.e. on the compliance of by-laws with the Constitution and laws, the Constitutional Court of the Republic of Macedonia has, in a number of instances, abolished specific provisions of laws and other regulations which have constituted violation of rights and freedoms as guaranteed by the Constitution.

For the protection of constitutional and legal rights of citizens in case they have been violated by the state administrative bodies and other bodies and organisations with public mandates, the Constitution of the Republic of Macedonia establishes the institution of the Ombudsman.

2. Provide a list of human rights conventions and related protocols ratified by the Republic of Macedonia along with the date of signature and ratification. Include details of any reservations which have been made to those treaties and any declarations recognising the right of individuals to petition committees established by the conventions. In addition, please specify what national legislation and provisions have been adopted to ensure compliance with the obligations flowing from these conventions. How are these implemented and monitored?

Basic human rights and freedoms, recognised in the international law and determined by the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), constitute a fundamental value of the constitutional order of the Republic of Macedonia. In line with the commitment to respecting and promoting human rights and freedoms as a basis for the development of democracy in the country, Macedonia is a party to numerous international human rights instruments of the United Nations and the Council of Europe, including the controlling mechanisms established for the purpose of implementation of their provisions.

Table [I Annex 03](#) includes a list of international human rights treaties to which the Republic of Macedonia is a party. Macedonia has inherited the majority of the United Nations instruments by way of succession procedure from the former Federation (SFRY), on the basis of Article 5 of the

Constitutional Law on the Implementation of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 52/91 and 04/92). This was regulated by a Government Decision of 20 September 1993 ("Official Gazette of the Republic of Macedonia", No. 57/93). The reservations made by the SFRY to the International Covenant on Civil and Political Rights in relation to Articles 12 and 21, were withdrawn.

Among the conventions acceded to since the independence, the Republic of Macedonia has made reservation to the right guaranteed with Article 2 of the Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms. Pursuant to Article 45 of the Constitution of the Republic of Macedonia, the right of parents to provide education and teaching for their children in accordance with their religious and philosophical convictions could not be realised through a system of private primary education. Citizens, pursuant to the Constitution, have a right to establish private schools at all levels of education, with the exception of primary education, in accordance with law.

In relation to the European Convention on the Adoption of Children, Macedonia has made reservation to Article 7 (1) pertaining to the age of the adopter, as the Convention prescribes that the age of the adopter shall neither be less than 21 nor more than 35 years of age. Pursuant to the latest changes in the Law on Family ("Official Gazette of the Republic of Macedonia", No. 38/04), adopter in the Republic of Macedonia may be a person at the age of 18 to 45 years.

Macedonia has recognised the right of individual petition before the competent United Nations bodies on alleged violations of rights as guaranteed by international conventions. In that sense, the Republic of Macedonia has, by a declaration, recognised the competence of the following:

- The Human Rights Committee - to receive and review complaints by individuals claiming to have been subject to violations of rights as guaranteed by the International Covenant on Civil and Political Rights, which has been taken over by succession from the former SFRY;
- The Committee on the Elimination of Discrimination Against Women - to decide on individual complaints submitted on the basis of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, ratified by the Republic of Macedonia on 17.10.2003;
- The Committee on the Elimination of the Racial Discrimination - to receive and consider communications by individuals claiming to have suffered violations of rights as guaranteed by the Convention on the Elimination of All Forms of Racial Discrimination, which has been taken over by succession from the former SFRY;
- The Committee against Torture - to review individual complaints submitted on the basis of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which has been taken over by succession from the former SFRY.

During the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Republic of Macedonia submitted Declaration recognising the jurisdiction of the European Court of Human Rights, pursuant to Article 34 of the Convention.

In the legal system of the Republic of Macedonia, the relation between the domestic and the international law is a constitutional issue and has been regulated in line with the monistic theory. Pursuant to Article 118 of the Constitution, international treaties ratified in accordance with the Constitution are a part of the domestic legal order and may not be changed by law. Consequently, within the hierarchical structure of legal norms, international treaties stand above the domestic legislation.

The ratification procedure of an international document is preceded by a review of the compatibility of the legal regulation which points to the legal implications. In this sense, prior to the 1996 ratification procedure of the Convention for the Protection of Human Rights and Fundamental Freedoms, the Government undertook a comprehensive analysis of the compatibility of the domestic legislation with the provisions therein. Additional relevant basis for reviewing the Macedonian legislation and for its approximation with the internationally accepted standards is the case law of the European Court of

Human Rights. In the procedures in cases against Macedonia conducted thus far in the Strasbourg Court, there have been no violations established that would point to the need of change of certain legal provisions or practice.

The Government has supplemented the preventive action in the area of human rights by continuous consideration of the case-law of the European Court of Human Rights. A number of amendments to several domestic laws in recent years have been a result of the Court's interpretations in cases against other High Contracting Parties. As part of the criminal law reform, and in order to ensure unimpeded compliance with the decisions of international bodies for human rights protection, a possibility was introduced for re-opening court procedures in cases of violation of international obligations by applying extraordinary legal remedies. Namely, pursuant to Article 392 of the Law Amending the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", No. 44/02), the extra-legal remedy *reopening of the proceedings* has been introduced, following a pronounced judgment of the European Court of Human Rights, relating to the violation of human rights as guaranteed in Article 6, paragraph 1 of the European Convention. Similarly, the Government, through the Public Prosecutor's Office, may submit an extraordinary legal remedy *request for protection of legality for violation of obligations under international treaties*.

An integral part of the process of harmonisation of the domestic legislation has been the long-time practice of expertise and consultations established with the Council of Europe.

In addition, the Republic of Macedonia has been implementing in the domestic legislation the recommendations of the competent bodies, i.e. of the monitoring mechanisms established with the international conventions given in the reports on the country's implementation of the obligations under the conventions. In that respect, the legal framework for gender equality in the field of political participation has been improved; as part of the criminal legislation reform, the institute of *alternative measures of punishment* has been introduced; *domestic violence* has been incriminated; criminal and legal protection against discrimination has been improved; the National Committee on Children's Rights has been established which prepares the National Plan on Children's Rights; and a reform of the system of juvenile justice is underway (for more details see [I G 4](#)).

As elaborated above, the Government has played an important role in the implementation and the monitoring of the obligations under international conventions. However, bearing in mind the direct application of international agreements in the domestic legal system, the judiciary has been awarded key role. The constitutional concept of the rule of law, therefore, insists on the independent position of courts before which, by applying ordinary procedural and legal means in a fair procedure, the protection of basic rights and freedoms has been exercised as well as control over political authorities through law. The unbreakable link has been emphasised between the remedies for protection of a right and the right itself. Effective remedies of protection of rights and freedoms have taken the precedence over declarative commitments. Apart from the regular courts, an important role in the protection of human rights has been awarded to the Constitutional Court of the Republic of Macedonia, the Ombudsman, the Standing Inquiry Committee for Protection of Freedoms and Rights of Citizens within the Assembly of the Republic of Macedonia.

3. What is the rank of these conventions in your domestic legal system?

International human rights conventions are ratified by the Assembly of the Republic of Macedonia in accordance with the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), and as such they are part of the domestic legal order and may not be changed by law (Article 118 of the Constitution of the Republic of Macedonia).

International treaties are paramount to domestic laws. This has been regulated by the Constitution of the Republic of Macedonia in a way that it prohibits the alteration of international treaties by domestic laws.

International treaties in Macedonian legal order are sources of law, hence individuals can cite provisions of international treaties, and courts and administrative bodies are compelled to directly implement them (Article 98 of the Constitution of the Republic of Macedonia).

Moreover, human rights instruments enjoy even higher legal power than other international treaties. This is also reiterated in Article 8, paragraph 1, subparagraph 1 of the Constitution of the Republic of Macedonia, which determines that one of the fundamental values of the constitutional order of the Republic of Macedonia is the respect of the basic freedoms and rights of the individual and the citizen, recognised in international law and set forth in the Constitution.

4. What steps have been taken to co-operate with UN bodies dealing with human rights issues, including visits by UN special mechanisms (such as special rapporteurs), reporting to Treaty bodies and responding to Treaty body recommendations?

a)

Co-operation with UN bodies:

The design and implementation of the policy of promotion and protection of human rights and freedoms in the Republic of Macedonia is a transparent process, both towards the domestic and the international public. Accordingly, the state demonstrates a high degree of preparedness and openness for co-operation with international organisations, working on human rights related issues. In fact, the situation with the exercise of human rights and freedoms in the Republic of Macedonia has been continually analysed and monitored from the moment the country gained independence, not only through the regular mechanisms of different international organisations, but also through the numerous extraordinary mechanisms and special mandates. The openness for cooperation with the international community has proven to be the right policy, in light of the fact that, in general terms it has contributed to realistic consideration of the advantages and weaknesses of the situation of exercise of human rights in the Republic of Macedonia and has significantly influenced the setting of priorities and criteria for action, aimed towards their harmonisation with the European and universal standards in this field.

The policy of co-operation with the UN bodies has always been transparent, continuous and comprehensive. This applies both to the cooperation under special procedures – whether thematic or by country, of the Human Rights Committee (as the most relevant decision-making body in this area, globally), and to the co-operation with the treaty bodies, as key mechanisms for the implementation of international treaties for protection of human rights.

b)

Visits by UN special mechanisms:

b1) Special rapporteur for the former Yugoslavia of the UN Human Rights Commission

Starting from 1992, the Republic of Macedonia cooperated with the Special Rapporteur of the UN Human Rights Commission for the former Yugoslavia - a special mechanism established under the Resolution 1992 /S-1/1, as a reaction to the large scale violations of human rights and numerous grave breaches of the International Humanitarian Law in Bosnia and Herzegovina and in Croatia. The situation in the Republic of Macedonia did not provide for any grounds for establishment of this special procedure, but as a part of the territory of the former Yugoslavia, it was covered by this mandate, as well. Over the following five years, while Macedonia was within the mandate of the Special Rapporteur, the Government regularly cooperated with the successive holders of that mandate (Mazowiecki and Rehn), until 1997, when the State was taken out of the Resolution of the Human Rights Commission. The cooperation with the Commission continued through the Technical Cooperation Project, concluded between the Government of the Republic of Macedonia and the High Commissioner for Human Rights.

b2) High Commissioner for Human Rights

The situation with the respect of human rights in the Republic of Macedonia was again in the focus in the period between 1999 and 2002, during the Kosovo refugee crisis, which affected the region, and in the context of the 2001 crisis in Macedonia. Considering that these were situations in which the activities of all special mechanisms for protection of human rights within the UN system were intensified, in light of the increased risk of large-scale violations, the interest for international presence in the State grew significantly. Macedonia has once again proven and confirmed its cooperativeness with the international community and preparedness to actively participate in the establishment and strengthening of the peace in the State and in the Region.

In this respect, in the spring of 1999, the Republic of Macedonia has supported the Interim Special Mission of the UNHCR Office, the purpose of which was independent verification of the allegations of serious violations of human rights, which, according to the claims, took place in Kosovo, FRY. The then-High Commissioner for Human Rights, M. Robinson, sent a mission to the Region, and from 2-4.05.1999 was personally present in the Republic of Macedonia.

In relation with the 2001 developments in the Republic of Macedonia, the UN High Commissioner on Human Rights, M. Robinson joined the initiatives and activities of the international community to consolidate the situation, and sent her Special Envoy (H. Amneus) to the Republic of Macedonia (17-20.09.2001) to review the possibilities to help the Government in the given circumstances. This occasion was used to revise and finalise the previously agreed Project on Technical Cooperation in the area of Human Rights between the Government of the Republic of Macedonia and the Office of the High Commissioner (initiated in 1996), which contains: 1) introduction of topics in the area of human rights in the curricula for primary and secondary education and training of teaching staff; 2) strengthening the civil society; 3) establishment of a National Committee on Human Rights and development of a National Action Plan; 4) strengthening the Government's capacity to prepare the reports of the Republic of Macedonia under UN Conventions in the area of human rights. Several Project segments are currently in the stage of implementation.

b3) Special thematic rapporteurs (visits)

The Republic of Macedonia supports and cooperates with the thematic rapporteurs of the UN Commission for Human Rights, positively responding to the expressed interest to visit the country, and carefully taking into consideration their recommendations and suggestions towards improved protection of human rights. Furthermore, in consistency with its transparent policy in this field, and following the international trend, in the course of this year's 60th Session of the Human Rights Committee, the Republic of Macedonia, extended an standing invitation to all special thematic procedures (later accompanied by a written invitation). By this, the Republic of Macedonia has become one of the fifty Member-States of the UN that have already sent open invitations to the thematic procedures.

Thus far, there has been direct cooperation with the following thematic rapporteurs of the UN, who have expressed their interest in visiting the Republic of Macedonia:

- In 1999, the Special Rapporteur on extrajudicial, summary or arbitrary executions visited Republic of Macedonia as a part of the Special Mission of the High Commissioner for Human Rights for the Region. The purpose of the mission was from the territory of the Republic of Macedonia to monitor the large-scale violations of human rights in Kosovo, through interviews with the Kosovo refugees. Macedonia facilitated and assisted the realisation of this mission, in line with its commitment to peaceful and political solution for the problem.
- In January 2003, the Special Representative of the Secretary-General on Human Rights Defenders H. Jilani, visited the Republic of Macedonia and presented the visit report before the Human Rights Commission in the course of this year's session (15.03-23.04.2004). In this area, a visible progress has been achieved in terms of the legislation, especially by starting the procedure for enacting the Law on Free Access to Information of Public Interest (passed the first reading in the Assembly), as well as in terms of the political climate in which the human rights defenders work in the Republic of Macedonia.

b4) Special thematic procedures (correspondence)

The correspondence with the special thematic rapporteurs is a significant aspect of the cooperation and is of special interest in terms of acquiring an objective picture about the exercise of the human rights. Consequently, the Government of the Republic of Macedonia carefully reviews all cases communicated by individual thematic rapporteurs, containing allegations on violation of rights of individuals by the state, and regularly submits the relevant information and positions regarding such cases. In the recent years, several special rapporteurs have addressed the Government with such requests:

- The recent UN Human Rights Commission Special Rapporteur on Religious Intolerance, A. Amor monitored the situation with the exercise of the freedom of thought and expression, conscience and religion in Macedonia. On the basis of petitions received by concerned parties, in 1997 he requested information from the Government about the opportunities for alternative community service of the conscription military service, within the context of the right to conscientious objection to military service, as a legitimate right and an international standard. The Government presented the situation at the time regarding the exercise of the conscientious objection to military service and later initiated amendments to the Law on Defence ("Official Gazette of the Republic of Macedonia", Nos. 42/01, 05/03), which was harmonised with this international standard.

That same year, the Special Rapporteur A. Amor, requested information on the allegations about banning the entry of the Serbian clergy into Macedonia. He received an exhaustive Report about the specific cases, about the solutions provided in the Law on Religious Communities and Religious Groups ("Official Gazette of the Republic of Macedonia", No. 35/97) as well as about the essential issues in the relation between the Macedonian Orthodox Church and the Serbian Orthodox Church.

Last year, this Special Rapporteur requested the Government to present its views regarding the arrest of Zoran Vraniškovski, former Bishop Jovan, as well as regarding several other incidents of which he was informed. The competent institutions, this time again, timely informed the Special Rapporteur about the activities undertaken regarding the case.

In line with its commitments, the Government will cooperate with the new Special Rapporteur on Religious Intolerance, A. Jahangir.

- In 2000, the Special Rapporteur Against Torture, N. Rodley requested information on alleged exceeding of authorities by the police. The reply of the Government was detailed and contained the requested information about all mentioned cases.
- In late 2003, the UN Human Rights Commission Special Rapporteur on Promotion and Protection of Freedom of Thought and Expression, the Special Rapporteur on extra judicial, summary and arbitrary executions and Special Representative of the Secretary-General on Human Rights Defenders, sent an urgent joint appeal to the Government of the Republic of Macedonia in relation to the information they had received about the threats against the life of the journalist Zoran Božinovski and the life of his two daughters. The Government informed them about the case and about the measures undertaken to ensure the freedom of thought and expression, the right to life and security of the person, as well as the other rights under the mandate of these three special rapporteurs.

c)

Treaty Bodies – submission of reports

The cooperation with the UN bodies, established under international human rights treaties, for implementation of their provisions, is exceptionally important and serious obligation for every State, which has undertaken such obligation by ratifying the respective Convention.

The Republic of Macedonia is a party to six out of seven fundamental UN Conventions in the area of human rights (for more details see [I G 2](#)). The accession to the six conventions was done by forwarding a notification on the succession with regard to the former Yugoslav Federation. The Seventh Convention, on the Right on Migrant Workers and Members of their Families, is considered by the competent institutions.

In line with the obligation to submit initial reports, and thereafter periodical reports on the legal, administrative and other measures undertaken to implement the rights guaranteed by the ratified treaties, the Republic of Macedonia has, thus far, submitted initial reports on the implementation of five of such conventions. Four initial reports have been reviewed by the respective Committees. One of them remains to be considered. The preparation of the periodic reports is in progress.

Republic of Macedonia is in delay with responding to certain reporting obligations under UN human rights conventions and the Government is aware of that. However, the reasons for the delay are not owed to the lack of will for cooperation or of the political will for dialogue with the respective Committees. In fact, the delay is a result of the objective circumstances on one hand, but also of subjective, mainly technical deficiencies, on the other. The internal and external political events and processes taking place in the State, from the moment it gained its independence until the present time, owing to which the human rights situation in Macedonia has been analysed and monitored by numerous extraordinary mechanisms of all international organisations, in a longer period, should in particular be taken into consideration in this context. This, at the same time, required exceptional and extraordinary involvement of the available resources of the state institutions.

On the other hand, the regular reporting is a serious and complex process, which requires highly, qualified and trained personnel, as well as excellent inter-ministerial coordination. From the institutional viewpoint, and based on the hitherto practice of preparing the reports, the main body in charge of activities for the fulfilment of this obligation is the Unit for Human Rights, at the Ministry of Foreign Affairs, where the process commences, is coordinated and completed, where the Reports are consolidated and finalised. This Unit also prepares and defends the Reports in the dialogue with the committees. Having in mind the difficulties in ensuring continuity of the work, in maintaining the capacity, quality and quantity at a satisfactory level, or to overcome the material and financial difficulties, as one of the possible solutions, the Government has proposed that the Project for Technical Cooperation with the UN High Commissioner for Human Rights foresee an activity to strengthen the capacity of the government services participating in the preparation of the reports, especially the Unit for Human Rights at the Ministry of Foreign Affairs. In cooperation with the Office of the High Commissioner for Human Rights in Skopje, the negotiations on implementation of part of their activities are under way.

d)

Implementation of Recommendations by the Committees

The Republic of Macedonia seriously approaches the implementation of the Recommendations and the Conclusions in the findings of the Committees, made on the basis of the reviewed Reports and the dialogue with the Government. It considers them to be valuable guidelines towards improvement of the legislation or the practice in the respective areas, as well as towards general advancement of human rights protection, as a whole.

The situation with regard to submitted and reviewed Reports on each of the Conventions separately, as well as with regard to part of the implemented Committees' Recommendations is as follows:

1. The Initial, the Second and the Third Periodical Report under the International Convention on the Elimination of All Forms of Racial Discrimination reviewed before the Committee against Racial Discrimination in 1997.

On the basis of the Committee Recommendations, the Republic of Macedonia issued a Declaration, pursuant to Article 14 of the Convention (for more details see [I G 2](#)) by which it recognised the jurisdiction of the Committee to receive and review petitions by individuals, under

the jurisdiction of the State, who claim to be victims of violation of the rights guaranteed by the Convention.

In the framework of the legislative reform, the criminal law protection against discrimination has been improved in general. In this respect, the amendments to the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 04/02, 43/03 and 19/04), of March 2004, with regard to protection from discrimination, have helped achieve the following:

- In respect of the criminal offences *Violation of equality of citizens* (Article 137) and *Violation of the right to use the language and alphabet* (Article 138) criminal liability of legal persons has been introduced for committing crimes referred to under point 1 of these incriminations.
 - The criminal offence *Endangering the Security* (Article 144) introduces a new Paragraph, which enhances the criminal law protection against actions of discrimination, committed through the IT system.
 - A new incrimination has been introduced– *Crime against Humanity*.
 - A new Article 407-a has been introduced –concerning the criminal offence – *Approval or Justification of a Genocide, Crimes against Humanity or War Crimes*, which provides a qualified form of the offence, committed through IT system.
2. The Initial Report under the International Covenant on Civil and Political Rights was reviewed before the Human Rights Committee in 1998. Some of the Recommendations implemented in the meantime are related to the promotion of the gender equality in the field of the political life. Thus as part of the legislative activity for improvement of the gender equality, in 2002, in the Law on Election on Representatives in the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 42/02, 50/02 and 46/04) , Paragraph 3 of Article 37 was adopted, which provides that in the lists of nominated candidates each gender must be represented by at least 30%.

In addition, an important segment in the reform of the criminal legislation is the incrimination of the *Domestic Violence*. The Article 122 Sub-paragraph 19 of the Law Amending the Law on Criminal Code ("Official Gazette of the Republic of Macedonia", No. 19/04), adopted in March 2004 provides a definition of this incrimination.

The following Articles sanction perpetration of family violence related crimes: Article 123 - *Murder*, Article 125 - *Momentary Murder*, Article 130 – *Bodily Injury*, Article 131 – *Severe Bodily Injury*, Article 139 – *Coercion*, Article 140 - *Unlawful deprivation of liberty*, Article 144 – *Endangering Security*, Article 191 – *Intermediation in Prostitution* and Article 188 – *Sexual Assault Against a Child*.

3. The Initial Report under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment was reviewed before the Committee for Prevention of Torture in 1999. The progress made in the respect and implementation of the prohibition of torture and related rights and freedoms will be in greater details elaborated in a separate question, especially within the context of the activities and cooperation with the Committee for Prevention of Torture of the Council of Europe (for more details see [I H 11](#) and [I H 12](#)).
4. The Initial Report under the Convention on the Rights of the Child was reviewed before the Committee on the Rights of the Child in 2000. As a result of the recommendations of the Committee on the Rights of the Child, but in conformity, also, with the obligations defined at the World Summit for Children, in 2001 a National Committee was established with a mandate to develop, and then to ensure the implementation of the National Action Plan for Protection of the Rights of the Child in the Republic of Macedonia. The Action Plan being a strategic State Document will provide the guidelines for implementation of the planned governmental activities in the forthcoming ten-year period containing the legal and the administrative measures, which should be undertaken to promote the position of the children below the age of 18, in all areas of

their life. In this respect, the Plan will cover the areas such as education, healthcare, social security, legal protection, entertainment and living culture. The finalisation of the first Preliminary Draft of the National Action Plan is under way.

In the reform of the criminal legislation, the Government took account of the recommendations of the Committee of the Rights of the Child and the UN Minimum Standards on the Administration of Juvenile Justice (Beijing Rules), UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines) and the UN Rules for the Protection of Juveniles Deprived of their Liberty.

In this respect, the Law Amending the Criminal Code ("Official Gazette of the Republic of Macedonia", No. 19/04) of March 2004 introduced alternative methods of sanctioning.

In addition to the aforementioned, the Government implements activities related to drafting of a Law on Juvenile Justice. Drafting of the Law was preceded by empirical analysis of the problems of children at risk and efficiency of measures undertaken in connection with juveniles. This will be in greater detail elaborated in a separate Question on the Rights of the Child, which will also comprise other areas listed in the recommendations of the Committee on the Rights of the Child (for more details see [I I 41](#)).

5. The Initial and the Second Combined Report under UN Convention on Discrimination against Women was submitted to the respective Committee in May 2004, and it is planned that it will be reviewed at the session of the Committee in July 2005.
6. Macedonia has still not submitted the Initial Report under the International Covenant on Economic, Social and Cultural Rights. The drafting of this Report is under way.

5. What steps have been taken to ratify and implement into domestic law the Rome Statute on the International Criminal Court?

Strongly committed to developing International Criminal Law, as supranational law and to the functioning of the international criminal justice system, since the very outset, the Republic of Macedonia has supported the idea for establishment of the International Criminal Court (ICC), signing the ICC Statute and making the necessary preparations for its ratification. An analysis of the Constitution and of the substantive and procedural criminal law has been made, while the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) has been amended, by introducing provisions on enforcement of sentences of the International Criminal Court.

On 30.01.2002, the Assembly of the Republic of Macedonia adopted the Law Ratifying the Statute of the International Criminal Court ("Official Gazette of the Republic of Macedonia", No. 20/02). Hence, the Republic of Macedonia assumed the general obligations for full cooperation with the ICC in terms of implementation of investigations and prosecution for crimes under the ICC competence, as set forth in Chapter 9- *International Cooperation and Judicial Assistance*- of the ICC Statute.

In accordance with Article 87 paragraph 1 (a) of the ICC Statute, the Ministry of Justice is the body to which ICC requests and other communication is transmitted, considering that the judicial assistance is related to submission of evidence, data and information and hearing of witnesses.

The Law Amending the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", No. 74/04) introduces novelties in Article 505, envisaging that judgements of international courts shall be executed in accordance with the treaty establishing that particular court and ratified in accordance with the Constitution of the Republic of Macedonia. The criminal law Chamber of the basic court, competent in terms of territorial jurisdiction, adopts a judgement confirming its authenticity and enforceable character and determining the manner of execution of the sanction and other measures. Namely, domestic courts may approve the request of the foreign body requesting execution of a criminal law judgement of a foreign or an international court, if this is so determined by an

international treaty or on basis of reciprocity and if the sanction is also pronounced by the domestic courts in accordance with the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 37/96, 80/99, 04/02, 43/03 and 19/04) .

Aimed at implementing the provisions of the Statute in the domestic legislation, under the amendments to the Criminal Code new criminal offences have been introduced: Article 403-a sanctions *Crimes against Humanity* for which at least 10 year or life imprisonment is prescribed; Article 416 - a), b) and c), is related to *Organising Group and Inciting to Perpetration of Genocide and War Crimes*; *Command and Other Superiors' Liability*; and *Liability of Subordinates for the Crime Committed under Orders of Superiors*; there are also novelties introduced in respect of *Crimes Against the Judiciary* regarding *Presentation of False Evidence* (Article 366-a) and *Unduly Influence on Witnesses* (368-a).

6. Is there an Ombudsman with general competence in the field of human rights, the rights of women and protection of minorities? If so, provide a description of the relevant legislation, as well as statistics on the total number of cases received by him in recent years, the number of recommendations he has made, and the number of his recommendations which have been implemented by the relevant authorities.

In accordance with Article 50, paragraph 1 and 3 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), every citizen can invoke the protection of freedoms and rights before the courts and the Constitutional Court of the Republic of Macedonia, in a procedure based upon the principles of priority and urgency. The Constitution of the Republic of Macedonia also introduces the institution of Ombudsman. In accordance with Article 77 of the Constitution, the Assembly of the Republic of Macedonia elects the Ombudsman whose authority is to protect the constitutional and legal rights of citizens when those rights are violated by state administration and by other bodies and organisations with public mandates. The Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 7/97) laid down the conditions on his/her election and dismissal, as well as his/her competence and conduct.

As a result of the signing of the Framework Agreement, which expanded the scope and protection of rights of members of ethnic communities, the Constitutional Amendments replacing or amending several articles from the original text of the Constitution of the Republic of Macedonia regulate the special rights of the ethnic communities.

As a result of the constitutional changes, the Law on the Ombudsman has also been subject to amendments. The new Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03) strengthened the role and importance of this institution, expanded its competences, and brought it closer to the citizens by establishing offices in six other cities in the Republic of Macedonia.

The new Law on the Ombudsman provides novelties pertaining to the election of the Ombudsman. Pursuant to the Law, the budget of the Ombudsman is adopted as a separate part of the overall budget by the Assembly of the Republic of Macedonia. The Ombudsman may also establish offices in the form of regional organisational units. Furthermore, the Ombudsman is obliged to undertake activities to protect the principle of non-discrimination and equitable representation of the communities in public bodies on all levels as well as in other areas of public life, at the same time having at disposal adequate resources and personnel that shall enable his/her service and execution of authorities.

According to the provisions of the Law on the Ombudsman, the Ombudsman shall be elected by the Assembly with majority vote of the total number of the members of the Assembly, within which there must be a majority of the votes of the total number of representatives who belong to communities not in the majority in the population of the Republic of Macedonia.

Another novelty in the law is that the Ombudsman has been defined as a body protecting the citizens' constitutional and legal rights that have been violated by state administrative bodies or other bodies

and organisations with public mandates. The Ombudsman pays special attention to the protection of the principle of non-discrimination, and equitable representation of the members of communities in public administrative bodies, local-self government units and public institutions and services.

Pursuant to the provision in Article 29 of the Law on the Ombudsman, the Ombudsman may execute his/her competence by visiting and inspecting the public administrative bodies and other bodies and organisations with public mandates, as well as in government bodies, self-government units and public institutions and services.

It is important to note that Amendment 12 stipulates establishment of a Committee on Inter-Community Relations comprised of 19 members elected by the Assembly of the Republic of Macedonia, of whom 7 members each are from the ranks of the Macedonians and Albanians Representatives in the Assembly, and one member each from among the Turks, Vlachs, Romas, Serbs and Bosniaks. If any of the communities do not have elected representatives in the Assembly, the Ombudsman shall appoint the relevant representatives of those communities as members of the Committee, in consultation with the respective communities.

With regard to protection of citizens' rights, the Ombudsman, apart from protecting the citizens' constitutional and legal rights when they have been violated by state administrative bodies and other bodies and organisations with public mandates, also acts upon complaints lodged by members of communities who claim their specific rights guaranteed by the Constitution and other laws in the Republic of Macedonia have been violated.

Hence, the Ombudsman also acts upon cases when members of communities claim their rights have been violated with regard to expressing their ethnic and religious affiliation; the use of languages and alphabets before state administration and local self-government bodies; the education rights (elementary, secondary and higher); electoral rights; rights pertaining to execution of the census in the Republic of Macedonia; rights pertaining to police procedures (granting citizenships, issuing personal IDs, issuing travel documents, the abuse of competences of official persons); discrimination, unequal treatment and disrespect due to affiliation to any of the communities, or other violations of rights.

According to the Law, the Ombudsman is independent, autonomous, professional and qualified in performing his authority, and he/she performs operations under his/her competence in accordance with the Constitution and the Law on the Ombudsman, as well as in accordance with international legal acts on human freedoms and rights.

The Ombudsman does not make final and binding decisions. It is a controlling mechanism that monitors the operations of state administrative bodies and organisations with public mandates regarding the implementation of the Constitution and laws when the citizen exercises his/her right. Should the Ombudsman determine violation and unlawfulness, he/she tenders his/her proposals and instructions on remedies.

Apart from providing assistance to citizens in order to exercise their constitutional and legal rights, the Ombudsman's interventions assist both public organisations and state bodies in improving their operations for the more successful implementation of citizens' rights.

It is important to note that Article 8 of the Law on the Ombudsman stipulates that the Ombudsman's position is incompatible with the performance of other public offices, profession or membership in a political party.

The procedure before the Ombudsman is initiated by lodging applications that may be submitted personally at the Ombudsman's Office; by mail; orally followed by minutes at the Ombudsman's Office; or by phone, fax or electronic mail. The Ombudsman may also initiate a procedure upon his/her own initiative; however the consent of the citizen whose legal and constitutional rights have been violated is required for the continuation of the procedure. At the same time, the Ombudsman must adhere to the principle of privacy and secrecy of the petitioner's data.

The Ombudsman may undertake a number of activities stipulated in the Law on the Ombudsman. He/she may request explanations, information or evidence from bodies and organisations on the allegations in the submission; enter the official premises and perform direct inspection into the subjects and operations under the competence of the body; interrogate an elected or appointed person, an official person or any other person that could provide concrete data on the procedure; request opinions from academic and expert institutions; and may request modification of the submission from the petitioner.

If the Ombudsman ascertains that citizens' constitutional and legal rights have been violated pursuant to the provision of Article 32 of the Law on the Ombudsman, he/she may give recommendations, proposals, opinions and instructions on the remedies for the established violations; may propose a renewed procedure in accordance with the law; may initiate a disciplinary procedure against an official or competent person; and may file a request to the competent public prosecutor for initiating a procedure for determining criminal liability.

Pursuant to Article 33 of the Law on the Ombudsman, the Ombudsman may request an interim delay of the enforcement of an administrative act until a second-instance body adopts a decision or until the competent court rules on the matter.

The competent bodies to which these requests have been filed are obligated to immediately, and not later than three days from the day of reception of the request, adopt the decision on the interim delay of the administrative act to the Ombudsman.

If the body or organisation does not inform the Ombudsman on the implementation of his/her proposals and recommendations, or if it partly accepts them, the Ombudsman may directly inform the higher body, the competent ministry, the Government of the Republic of Macedonia; may inform the Assembly of the Republic of Macedonia with a special report, or may publish the case.

In 2001, out of 1107 received complaints, the Ombudsman found a violation of constitutional and legal rights of citizens in 318 cases, on which he/she submitted opinions, recommendations or suggestions. State administrative bodies complied with 186 and acted upon the instructions and recommendations given by the Ombudsman.

In 2002, a total of 1878 complaints were filed to the Ombudsman's Office, in 552 of which it was determined that constitutional and legal rights of citizens have been violated. The competent bodies were therefore given recommendations, opinions or suggestions on how to act in order to remove the irregularities and unlawfulness from their operations. In 329 cases public administrative bodies accepted the Ombudsman's interventions.

In 2003, the Ombudsman received a total of 2605 complaints, and in the course of acting upon the matters, the Ombudsman established a violation in 550 cases. In 356 of those cases the Ombudsman's interventions were respected by relevant bodies, and hence the petitioners' constitutional and legal rights were exercised.

In the course of 2004, by 31.09.2004, the Ombudsman's Office received a total of 1542 submissions, and in the course of acting upon the matters, the Ombudsman determined a violation of rights in 196 cases, for which adequate proposals were submitted and competent bodies have complied with 89 of them.

Although there has been an increase of applications every year, the violations found have been almost identical. However, there has been a positive trend and attitude on compliance with the decisions of the Ombudsman and a greater accountability on the part of the public administration.

It is important to note that Article 36 of the Law on the Ombudsman stipulates that the Ombudsman shall report to the Assembly of the Republic of Macedonia at least once a year on the level of respect, promotion, and protection of the constitutional and legal rights of citizens, as well as on the

adherence to the principles of non-discrimination and equitable representation of members of communities. The Ombudsman's report must be published in the media.

The Ombudsman may also initiate a procedure for assessing the constitutionality of laws and constitutionality and legality of other regulations if, in line of his duty, he/she appraises that they are not in compliance with the Constitution.

Violations established in the last four years												
Area	Violations											
	2001			2002			2003			31.09 2004 inclusive		
	Given opinions, suggestions, recommendations	Actions taken upon the intervention of the Ombudsman	Actions not taken upon the intervention of the Ombudsman	Given opinions, suggestions, recommendations	Actions taken upon the intervention of the Ombudsman	Actions not taken upon the intervention of the Ombudsman	Given opinions, suggestions, recommendations	Actions taken upon the intervention of the Ombudsman	Actions not taken upon the intervention of the Ombudsman	Given opinions, suggestions, recommendations	Actions taken upon the intervention of the Ombudsman	Actions not taken upon the intervention of the Ombudsman
Pension and disability insurance	28	17	11	26	24	2	34	30	4	9	8	1
Health care	21	13	8	17	13	4	15	12	3	6	6	
Property	33	16	17	84	15	69	113	73	40	57	15	42
Finances	3	2	1	3	1	2	3	2	1	8		8
Consumers' rights	32	19	13	28	14	14	39	28	11	24	14	10
Labour rights	57	21	36	60	24	36	59	23	36	26	9	17
Police procedures	17	14	3	25	12	13	41	27	14	22	12	10
Court procedures	20	18	2	13	10	3	21	18	3	9	7	2
Education, science, culture and sport	6	1	5	9	8	1	10	5	5	2	1	1
Customs												
Children's rights	23	18	5	37	28	9	30	30		5	5	
Social rights	12	8	4	13	8	5	34	6	28	4	4	
Urban planning and construction	38	22	16	37	9	28	51	21	30	9	3	6
Minority rights							1		1	2	1	1
Housing	13	4	9	186	157	29	88	71	17	6		6
Environmental rights	2	2		5	2	3	3	3		3	2	1
Rights of servicemen and conscripts	1	1		1		1	3	3		2	1	1
Other	12	10	2	8	4	4	5	4	1	2	1	1
TOTAL	318	186	132	552	329	223	550	356	194	196	89	107

7. Which resources and personnel are available to enable the Ombudsman to carry out his office? Is his budget voted separately?

Pursuant to the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03), the organisation and operation have been regulated with the Rules of Procedure of the Ombudsman and the Rulebook on Organisation and Systematisation of Posts.

The internal organisation has been systematised so that operations are carried out in three organisational units: Analytical Unit; Records, Documentation and Information Technology Unit; and Administrative, Technical and Financial Issues Unit.

In addition, a special Department for Children's Rights Protection has been operating within the institution in the last four years, and hence special attention has been given to the protection of children's rights.

Executives in the Analytical Unit that act and decide upon complaints have been divided into five groups with several areas of competence. The Ombudsman and his/her deputies aided by three advisers (graduate lawyers) are in charge of the groups. It has been assessed that this organisation and manner of operation provides for qualified, efficient and continuous execution of functions in Ombudsman's competence and monitoring of conditions in different areas.

By 01.09.2004, the Ombudsman has been carrying out all his/her constitutional and legal competences with 32 executive officers, 17 of which have been performing operations related to investigations following complaints in various areas; three officers have been performing information technology, records and documentation operations; and 12 have been in charge of administrative and technical matters. Out of 32 employees, 19 are female and 13 are male. Five of them are managerial civil servants, 13 are expert civil servants, five are expert-administrative civil servants; 10 are employees without a status of civil servant, of which five are officials.

According to ethnic affiliation, two are Albanians, two are Serbs, one is Vlach and 27 are Macedonians. After all the posts have been filled, by the end of 2004 and in 2005 the total number of employees is expected to be 69, of which 45 Macedonians, 17 Albanians, 1 Turk, 2 Roma, 1 Vlach, 2 Serbs and 1 Bosniak.

Given the increased inflow of complaints, especially in the second half of 2003, and the expanded competence, authorities and organisational system under the new law, there is a need of additional premises, staff, technical and other equipment, both in the Skopje office and in the new decentralised offices.

Preparatory activities to be carried out this year have already been planned. When staffing, pursuant to constitutionally and legally determined principles, special attention shall be paid to the equitable representation of ethnic communities' members in this institution, which fall under direct constitutional and legal competence of the Ombudsman.

On 01.09.2004, a senior associate on financial matters was appointed, and on 15.10.2004, six state advisors, four clerks and two drivers were employed in the six regional offices.

Following the completion of training at the Ombudsman's office, the appointed state advisors have started working in the regional Ombudsman offices in six cities throughout Macedonia on 01.11.2004.

The six new deputies of the Ombudsman are expected to be appointed by the Assembly very soon.

Pursuant to Article 48 of the new Law on the Ombudsman, the Budget of the Republic of Macedonia provides funds for Ombudsman's operations. The Assembly of the Republic of Macedonia votes separately on the part of the Budget provided for the Ombudsman.

The Budget of 2004 has provided funds for additional premises in Skopje and for premises of the six decentralised offices, as well as funds for employment of 37 additional employees. The Organisation for Security and Co-operation in Europe (OSCE), the Canadian Embassy Development Department and the Embassy of Italy have provided funds for procurement of computers and office equipment, and seven vehicles, six of which have been intended for the new regional offices. Other donations are expected for renovation and adaptation of premises, procurement of software, material and educational aid to employees, organisation of seminars, etc.

8. Is access to all official documents granted to the Ombudsman? Is he entitled to suspend the execution of an administrative act if he determines that the act may result in irreparable prejudice to the rights of a person? If so, how is this implemented in practice? Does the Ombudsman have the right to contest the conformity of laws with the Constitution and, if so, how is this implemented in practice?

The Ombudsman is obliged to obtain all essential facts and evidence while investigating allegations of received complaints or when initiating a procedure. Pursuant to Article 27 of the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03) state administrative bodies, other bodies or organisations with public mandates or local-self government units and public institutions are required to cooperate with the Ombudsman and upon his/her demand provide all evidence, data and information without regard to their confidentiality. On the other hand, the Ombudsman is obliged to keep a state and official secret in a manner and under conditions

prescribed by law or other regulation. Experiences hitherto show that the Ombudsman has been practising his/her legal duties unhindered.

The Ombudsman may request an interim delay of the enforcement of an administrative act until a second-instance body adopts a decision or until the competent court rules on the matter, if he/she assesses that such enforcement shall create irreparable damages to the right of interested persons (Article 33 of the Law on the Ombudsman).

In the period from 01.01.2002 to 30.09.2004, according to data from Annual Reports of the Ombudsman's Office, the Ombudsman filed 21 requests for interim delay of the enforcement of administrative acts. One of these requests has not been abided by and therefore the Ombudsman (since all legal preconditions were fulfilled) pressed charges against an official and responsible person in the administrative body to which a request had been filed.

Article 30 of the Law on the Ombudsman specifies that the Ombudsman may submit a proposal to the Constitutional Court of the Republic of Macedonia to review the constitutionality and legality of laws and other regulations or by-laws. From 01.01.2002 to 30.09.2004, the Ombudsman, either upon his/her initiative or acting upon complaints, submitted 5 initiatives to the Constitutional Court of the Republic of Macedonia to review the constitutionality of certain regulations. The Court has accepted two of them and has revoked the disputed regulations.

9. Are there decentralised offices of the Ombudsman?

The Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03) that entered into force on 01.10.2003, prescribes the establishment of six new offices organised as decentralised organisational units of the Ombudsman with a view to an improved execution of duties under the Ombudsman's competence (Article 44). The Law stipulates that such offices shall be opened in the cities of Tetovo, Kichevo, Štip, Strumica, Kumanovo and Bitola. The six offices shall be administered by Ombudsman's deputies elected by the Assembly of the Republic of Macedonia upon the Ombudsman's proposal.

The proposal of electing six new Ombudsman deputies is expected to enter parliamentary procedure as soon as possible, thus the offices and their functioning will be complete. The civil servants following the training at the Ombudsman's Office have already started working in the decentralised offices on 01.11.2004. The offices have been equipped with full office and IT equipment. Thus, all prerequisites for successful operations have been created.

H. CIVIL AND POLITICAL RIGHTS

10. Please provide an overview of legislation or case law relevant to the right to life. Also provide an overview of national legislation, case law and custom/practice relating to the death penalty.

The right to life as a fundamental human right has been guaranteed with Article 10 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), according to which: *The human right to life is inviolable*. This article stipulates unconditional protection of human life from all possible threats, and not only from intentional deprivation of life. The fundamental character of right to life has also been reiterated in Article 54 of the Constitution of the Republic of Macedonia, which stipulates the cases in which citizens' freedoms and rights may be restricted, emphasising that such restriction shall not apply to the right to life.

The legal protection of life has been laid down in the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 04/02, 43/03 and 19/04), which provides for several incriminations whose object is the protection of human life. These criminal acts have been systematised in a separate Chapter under the title *Crimes against Life and Body*. The crimes in this chapter have been divided in several groups:

- Criminal acts of life deprivation: murder (Article 123), murder with noble motives (Article 124), instant murder (Article 125), murder from negligence (Article 126), murder of a child at birth (Article 127), instigation to suicide and helping in suicide (Article 128);
- Criminal acts related to deprivation of future life (embryo): unlawful interruption of a pregnancy (Article 129);
- Criminal acts related to body injuries: body injury (Article 130) and a grave body injury (Article 131);
- Criminal acts related to endangering: participation in a brawl (Article 132), threatening with a dangerous instrument during a brawl or a quarrel (Article 133) and exposure to danger (Article 133); and
- Criminal acts related to deserting: deserting a feeble person (Article 135) and not giving help (Article 136).

Article 6 of the International Covenant for Civil and Political Rights and Article 2 of the European Convention on Human Rights prohibit the arbitrary deprivation of life. The protection from arbitrary deprivation of life and particularly the prevention of life deprivations resulting from the use of lethal force in the line of duty by police and security forces' members has been laid down in the Macedonian legislation with legal provisions on the conditions of official use of firearms. In accordance with Article 35 of the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 19/95, 15/97, 38/02, 33/03 and 19/04), an authorised official person of the Ministry of the Interior shall use firearms, if by using other means of coercion he/she cannot: a) protect the life of citizens; b) reject direct life-threatening attack on himself/herself; c) reject attack on a facility or person secured; and d) prevent the escape of a person caught in the act of committing a crime for which the sentence of at least 5-years imprisonment is provided, as well as to prevent the escape of a person arrested or a person for whom an arrest warrant has been issued for committing such a crime.

Authorised officers who officially perform duties under direct command of their superior may use means of coercion or firearms only if ordered by him/her (Article 36). Before the use of coercion means or firearms, the authorised officer shall be obliged to warn, in a loud voice, the person for whom he/she shall use coercion means, i.e. firearms.

The grounds and justification for the use of force or firearms in each and every case is directly assessed by his/her superior. If the means of coercion or firearms are used within authorised limits and in compliance with the Law, the responsibility of the authorised official person who used them shall be excluded as well as the responsibility of the person in charge who ordered use of force and firearms, including the person who, upon the call of the Ministry or the authorised official person extended assistance in the execution of official activities.

The manner of using firearms and coercion means are laid down in detail in the Guidelines on the Use of Force and Firearms, brought upon by the Minister of the Interior.

Provisions on the use of firearms and coercion means are also stipulated in Article 185 of the Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 03/97, 23/99 and 74/04), according to which: A member of security forces during official duty shall use firearms only if he/she cannot act differently: a) in order to protect human life; b) in order to reject a direct life-threatening attack; c) in order to reject an attack on the facilities he/she guards; d) in order to prevent the escape of a convicted person from a penitentiary institution, and to prevent the escape of a convicted person while escorted in the event the convict has been convicted of a criminal act for which sentence of at least 15 years or more has been prescribed.

Firearms shall only be used upon the institution director's order or upon an order of the official person in charge of the security service, and only if by use of other coercion means, he/she cannot execute the official duty. When using firearms, the member of security forces is obligated to be cautious and not endanger lives of other persons.

A report shall be created on the use of coercion means and firearms, and the Directorate for Execution of Sanctions shall be informed in writing on the justification of the use of coercion means.

The legal protection of right to life is also secured by providing for a right of compensation of damages in case the death has been caused purposely or by negligence. This right shall be implemented in accordance with the rules of civil law, contained in the Law on Obligations ("Official Gazette of the Republic of Macedonia", Nos. 18/01, 04/02 and 05/03).

Capital punishment in the Republic of Macedonia has been abolished. Article 10, paragraph 2 of the 1991 Constitution of the Republic of Macedonia reads: *The death penalty shall not be imposed on any grounds whatsoever in the Republic of Macedonia.*

The Republic of Macedonia has ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights. In the beginning of 1997, the Republic of Macedonia also ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocol No. 6 on the abolition of the death penalty. In 2004, the Assembly of the Republic of Macedonia passed a Law on Ratification of the Protocol No.13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, with regard to the abolition of death penalty in all circumstances.

The Republic of Macedonia as one of the legal successors of the former SFRY acceded to the Convention on the Prevention and Punishment of the Crime of Genocide in 1993 (ratified by the former SFRY on 21.06.1950) and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (ratified by the former SFRY on 11.11.1970).

On the basis of statistical data in 2000, criminal acts against life and body comprise 11,1% of the total number of convicted persons. In 2001 and 2002, this number was 8,9% and in 2003 it was 9%.

11. What strategies are in place to ensure the respect for fundamental rights? Please refer particularly to measures which relate to human dignity, the right to life, the right to integrity of the person, the prohibition of torture and inhuman or degrading treatment or punishment.

According to provisions of the Constitution ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) and respective laws, the Republic of Macedonia has a comprehensive system of human rights protection.

The development and promotion of human rights is one of the most important issues in international politics, through which the International Community determines its political stance toward a particular State. This is important as the human rights situation in the Republic of Macedonia is subject to continuous interest of the International Community. Hence, the adequate treatment of human rights issues on national level has been a strategic goal of the Republic of Macedonia.

Human rights issues, especially from the viewpoint of the International Law, are treated by the Unit of Council of Europe and Human Rights within the Multilateral Sector at the Ministry of Foreign Affairs, through:

- Monitoring of the political dimension of human rights through participation in international meetings and specialised bodies (committees, commissions) that tackle the human rights issues (most of all within Council of Europe, OSCE, UN, CEI and the Stability Pact);
- Monitoring, analysis and cooperation with international monitoring on the human rights situation in the Republic of Macedonia;

- Monitoring the development of International Law on Human Rights and active participation in the work of International Bodies that prepare the novelties in the area; producing analyses on the conformity of domestic legislation with relevant international documents;
- Inter-ministerial coordination in producing Reports and other duties arising from International Human Rights Conventions as well as preparing and presenting the defence;
- Producing general information on the human rights situation in the Republic of Macedonia, as well as on particular human rights cases that provoke the interest of the International Community.

As of 1997, a special Human Rights Unit within the Ministry of Justice has been operating. Its authorities are to: initiate proposals for signing and ratifying procedures of international legal instruments by analysing the legislation that needs to be changed with the ratification; participate in preparing the initial, regular and periodic Reports on the ratified international instruments within its competence; initiate the creation of studies and Reports as basis for proposing respective changes in the domestic legislation; and prepare Opinions on individual cases before International Bodies.

In 1997 the Government has also founded a Unit of Gender Equality Promotion. This Department coordinates national, regional and international activities that aim to promote the gender equality.

At the same time, the Government of the Republic of Macedonia has adopted or is preparing several national programmes intended to promote and improve the state of human rights in several areas, among which the most important are:

1. One segment of the Project for Technical Co-operation between the Government of the Republic of Macedonia and the UN High Commissioner of Human Rights is the foundation of a Human Rights National Committee as well as the preparation of a *National Human Rights Action Plan*. The project is to be realised in the near future.
2. The Government also implements the part of the foregoing Project in the field of education, by incorporating human rights topics into curricula of elementary and secondary education and by providing training for teachers.

In that respect:

- A Partnership Strategic Group has been established, comprising representatives of relevant Ministries, the civil society and International Organisations that are already implementing projects in human rights education intended for integration and harmonisation of all programmes into one.
- On 29 and 30 January 2004, a National Consultation on Human Rights Education was held in Skopje. This consultation concluded the activities taken in the period of 2002-2004. The participants at the Consultation (representatives of governmental and non-governmental organisations, independent experts, representatives of international non-governmental organisations and direct participants into the education process) have agreed to apply certain changes in the legislation (mostly in the laws regulating primary and secondary education) and to institute a national body (a national committee for human rights education) that will draft the *National Human Rights Education Action Plan*.

1. In 2002 the Government of the Republic of Macedonia adopted a *National Plan for Gender Equality* pursuant to Constitutional provisions on equality of citizens regardless of gender and special protection of maternity, children and juveniles; and pursuant to principles of the UN Charter, the Universal Declaration of Human Rights and other international human rights instruments and especially the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Declaration on the Right to Development, the Beijing Declaration and the Platform for Action.

Chapter I covering Human Rights and Women determines the following strategic goals:

- Securing the exercise of all human rights and fundamental freedoms to women and female children;
- Creating protection mechanisms for these rights; and
- Eliminating all forms of discrimination.

Chapter II covering Women in Government and Decision-Making determines the following strategic goals:

- Constructing a national mechanism for the purpose of overcoming gender inequality on all levels;
- Securing equal access to women in politics and all structures of power and decision-making; and
- Enhancing women's capabilities for quality participation in politics.

Chapter III covering Women and the Economy determines the following strategic goals:

- Long-term objectives and activities in macroeconomic policies that should stimulate the process of employment;
- Short-term measures regarding the labour market.

Chapter IV covering Women and Social Policy determines the following strategic goals:

- Securing equal treatment of genders in employment, promotions and awards;
- Raising the level of employment of the female population;
- Special care for the rural women;
- Care for the elderly;
- Special care for the marginalised women;
- Special care for female children;

Chapter V related to Women and Health determines the following strategic goals:

- Increasing women's access to adequate and quality health, information and other services;
- Strengthening prevention programmes that promote women's health;
- Undertaking gender-sensitive initiatives on sexually transmitted diseases, HIV/AIDS as well as problems in sexual and reproductive health;
- Promoting researches and widely disseminating information regarding women's health;
- Increasing funds and monitoring future activities regarding women's health;

Chapter VI related to Women and Education determines the following priorities:

- Eliminating illiteracy among women;
- Incorporating as many children as possible in pre-school institutions;
- Eliminating the drop-outs of female students in the final classes of elementary education;
- Including more female children into the secondary education from rural areas, and especially from the Albanian and Roma communities;
- Creating non-discriminatory education and training;
- Continuous (lifetime) education and easier access of women to expert training and technologies;
- Establishing gender studies.

Chapter VII related to Violence Against Women determines the following priorities:

- Determining the problem's dimensions and weight (diagnosis of the situation);
- Undertaking prevention measures and eliminating the violence against women;
- Determining the reasons for and consequences from the violence against women as well as the effects from the undertaken activities;
- Fight against trafficking in women and prostitution and helping the victims of violence.

2. The Government in February of 2003 has adopted *The National Programme for Fight Against Trafficking in Human Beings*, and it specifies the following activities:

- Harmonisation of the national legislation with the Palermo Convention and the Protocol on Trafficking in Human Beings by introducing the crime of trafficking in persons in Article 418-a of the Criminal Code, as amended in 2002;
- Development and implementation of methods for the prevention of trafficking in human beings through locating and reducing social factors that contribute to women and children becoming victims of trafficking in persons, and identifying the level of family violence and its economic and social impact on women and children;
- Support and assistance to victims of trafficking in human beings in order to improve their chances for a safe and humane departure through the establishment of shelter centres offering the victims accommodation, mental, social and medical assistance, information on their rights as well as legal aid;
- Providing the victims their right to return and reintegration into the states of origin through the signing of bilateral and multilateral agreements on cooperation and cooperating with non-governmental organisations;
- International co-operation and coordination in law enforcement through the exchange of information so that perpetrators of criminal offences related to trafficking in human beings would be efficiently prosecuted;
- Training of the operative workers in the Ministry of the Interior, the prosecution staff, customs officers, and social and health workers in order to strengthen the institutional capacities of the Republic of Macedonia;
- Coordination of activities by establishing a single information database for detected cases of trafficking in persons, criminal charges or data on felons;
- Raising awareness of the public about the fight against trafficking in human beings with an aim to prevent future cases of trafficking in persons by active media coverage and dissemination of information through videos and documentaries.

For more details on *The National Programme for Fight Against Trafficking in Human Beings* see [24 Annex 02](#).

The National Plan on the Fight against Trafficking in Children is currently being prepared.

3. *The National Youth Strategy* of the Republic of Macedonia is a comprehensive policy document of the needs and the problems of the youth in Macedonia aged 15 to 30 and it relates to the implementation of the following strategic goals:

- Social development through quality education system for the youth;
- Economic development through employment of young people;
- Participation of the youth into the society;
- Quality of living, quality of health and prevention.
- Development of local youth work.

The process of drafting of the National Youth Strategy of the Republic of Macedonia was divided in two parts: preparatory and consultative process.

The first part consisted of a "Basic Study on Youth Trends" determining the problem of the youngsters in the last ten years. The study was a basis for the creation of the strategy.

In 2004 within the consultative process several fora and a large number of local debates were held, hence incorporating a large number of young people that had not been part of youth non-governmental sector programmes. In the course of consultations experiences of countries with highly developed models of dealing with youth issues have been used.

The National Strategy envisages the following measures and activities for the realisation of its strategic goals:

- Improvement of the legislation regarding activities and programmes of the Ministries of education, science, justice, culture, health, local self-government, finance and defence in order to:

- Include a youth dimension into those programmes and activities;
- Incorporate the youth and their organisations into the creation and implementation of these programmes.
- Institutional development through the creation of mechanisms for the incorporation of youth organisations into the process of decision-making.

The National Youth Strategy was recently adopted by the Government.

4. *The National Action Plan for the Children in the Republic of Macedonia* has envisaged the following:

- To define Macedonia's policy with regard to the children's rights for the next ten years;
- To establish standards providing protection and improvement of conditions for an equal access to the basic rights of every child, as a part of the child's correct development and part of human dignity.
- To place children and their best interest on top of all priorities;
- To encompass all children and to eliminate all forms of discrimination against children and their rights;
- To reduce the differences among children; to pay equal attention to each child, especially to children coming from poor families or some ethnic communities, or children with special needs;
- To reduce poverty, which has been the main obstacle in the acquisition of basic rights as, guaranteed by the Convention on the Rights of the Child. Poverty may be reduced by investing into children as envisaged by the *Poverty Reduction Strategy - A Child's Eye View of the World and the Millennium Goals*,
- To provide access to education to every child, i.e. all male and female children should be entitled to compulsory, free of charge and proper-quality elementary education;
- To create conditions for an equal access of children to secondary education;
- To provide children with special needs with all necessary conditions and opportunities so that they may exercise their rights without being discriminated against;
- To protect children against all forms of abuse and violence;
- To provide all children with adequate standard of living necessary for normal growth and development;
- To provide children with healthy environment and with healthy food and drinking water;
- To provide every child with the highest possible level of health care and, above all, to provide them with protection against the HIV/AIDS and other infectious diseases;
- To hear children's opinion on all issues that concern their rights and interests and to include them in decision-making on issues related to the protection of their rights.

The National Action Plan unites all tasks and goals that the Republic of Macedonia needs to undertake in order to provide children, without exceptions, a full implementation of guaranteed rights based upon the principles of equality, accessibility, quality and efficiency.

For the purpose of implementing the National Action Plan's goals, the following guidelines and priorities are determined:

- Full incorporation of the Convention on the Rights of the Child provisions that address the children's rights and interests as well as its implementation into policies and practices of all individuals, institutions and the state as a whole. This requires the adoption of new laws and amendments to existing ones.
- Establishing respective mechanisms and modes of coordination of entities involved in the enforcement of the legal regulation;
- Securing all possible sources of funds and setting priorities in allocation of budgetary funds for the exercise of children's rights, with an emphasis on children living in poverty or in a difficult economic situation;

- Education of the general public on children's rights, and education of children on the concept of human rights and freedoms with an intention to train and prepare them to differentiate between rights and duties and to acquire skills in self-protection against various kinds of violations and abuses;
- Incorporation of all children into the education process, especially children from rural areas and homeless children, with state support including measures of encouragement that would give the children incentives to attend education institutions;
- Waiving health fees in health services, medicines, and orthopaedic instruments for all children aged 18 and below in order to secure the highest level of health care to every child;
- Creating a strong legal system for juveniles by adopting a separate Law on Juvenile Justice and by amending other laws, in order to: protect children from risk groups; bring alternative instead of penal measures for delinquent children; and undertake measures on rehabilitation and re-socialisation of children that had broken the law;
- Adopting respective legal solutions and change of practices with regard to protection of children from all forms of abuses, violence and exploitation;
- Promotion of cooperation between government and other institutions with regard to the exercise of children's rights, and in particular establishment of a special department in one of the Ministries that shall unite, coordinate and assist all relevant institutions and shall create a database of all aspects of children's lives.
- Promotion of co-operation between Government institutions and non-governmental organisations and a greater engagement of the non-governmental sector into matters under state competence.

The National Action Plan for the Children in the Republic of Macedonia shall be adopted during the first half of 2005.

5. *The National Strategy for Levelling the Rights of the Persons with Disabilities* in the Republic of Macedonia is a Government document adopted in 2001 consisting of thorough analyses and recommendations for adopting respective decisions on protection, education, rehabilitation, training and employment of the persons with disabilities. These recommendations in particular refer to:

- Prevention, early detection, early diagnosis and treatment;
- Pre-school education, primary education, secondary education and higher education for all persons with special needs and if possible;
- Training and employment;
- Family and social life;
- Health care;
- Social protection;
- Rehabilitation;
- Availability of services and accessories;
- Securing incomes and social security;
- Housing and providing conditions (in families, day care centres, small capacity dispensary services or apartments intended for small groups and persons with disabilities) for all persons with disabilities in need;
- Recreation and sports;
- Religion; and
- Raising public awareness.

6. *The National Strategy on the Roma* addresses the specific needs and problems of this ethnic community. The motive for creating such a document, dedicated exclusively to the Roma, has been determined by the necessity to put together a comprehensive and consistent policy

identifying the crucial subjects and problems and offering a concrete Working Programme for the implementation of the declared policy.

In the beginning of October 2004, the Republic of Macedonia prepared the Draft-Strategy for the Roma, which was offered for public discussion. The Government on its session on 31.01.2005 adopted the Strategy. The priority areas encompassed by the Strategy are the following: housing, employment, education, health, social care, culture, media, the Roma women and their special needs, and political participation. General objectives of the *National Strategy for the Roma* in Macedonia are:

- Realisation of a greater integration of the Roma into the mainstream of the Macedonian society;
- Poverty reduction in the Roma as the most marginalised group;
- Realisation of a long-term development of the Roma community in every aspect;
- Securing the full participation of the Macedonian state into the implementation of the priority resolves of the Strategy;
- Establishing normative and institutional prerequisites for the realisation of European Union standards.

In the past several years, the Republic of Macedonia has initiated a critical review of the existing legal regulations in order to put a modern legal basis in place for the legislation and practice concerning police authorities.

The Law Amending the Law on Criminal Procedure of September 2004 ("Official Gazette of the Republic of Macedonia", No. 74/04) constitutes a serious legislative effort to define comprehensively the investigative police measures. Particular attention has been dedicated to the conduct with persons detained and apprehended in police station. They may only be apprehended in specially designed and equipped police stations; specially trained officers for reception shall be responsible for these persons, who shall not be involved in police investigation, but shall rather take care of the rights and interests of persons apprehended in police. Additional novelties have been incorporated in provisions stipulating efficient access to legal representative, notification of the family, medical examination, information on the rights, special detailed files and for other mechanisms aimed at prevention of abuses of suspects.

In order to reduce the occurrences of arbitrariness and discrimination, major changes are under preparation in the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 19/95, 15/97, 38/02, 33/03 and 19/04), Law on Communication Interception (in parliamentary procedure) and other laws in this field, in terms of ensuring detailed regulation of police authorities. Changes in the national legislation and practice in the aforementioned sense is consistent implementation of the European standards incorporated in the various Council of Europe Recommendations, including the concrete Recommendations resulted from the visits of the Council of Europe's Committee for Prevention of Torture.

In 2004, the Code of Police Ethics ("Official Gazette of the Republic of Macedonia", No. 03/04) was adopted, which determines the mode of conduct, operation and goals of police; relations between the police and the judicial bodies; police interventions; responsibilities and control of police and other issues relevant for the enhancement of the democratic role of police in a legal state (for more details see [24 Annex 05](#)). Besides the efforts at the normative level, significant measures have been undertaken for enhancement of the internal control within the Ministry of the Interior and for provision of training of police in the human rights sphere.

Important segment in the overall strategy of the Ministry has been the preventive aspect. It has been implemented through additional and continuing education of the members of the Ministry in the protection and respect of human rights and freedoms. The training has been continuously carried out with the current police officers. It will also be part in the future education and police training at the Police Academy. An integral part of the education has been the instruction in the international and national instruments addressing human dignity, right to life, right to personal integrity, prohibition of torture and inhuman or degrading treatment or punishment.

The Government of the Republic of Macedonia is actively co-operating with the European Committee Against Torture (CPT). The Committee has hitherto had three regular visits to the Republic of Macedonia in 1998, 2001 and 2002 and three extraordinary in 2001, 2002 and 2004. The Government of the Republic of Macedonia has requested publication of all Reports and Comments of the Committee, except for the report based on the Committee's last visit in July 2004, which has been submitted to the Government at the end of November. The Government has thus demonstrated its strong commitment to address the issues identified by the CPT.

On 10.02.2003, the Government of the Republic of Macedonia reviewed and adopted the Information on the CPT's Report on Macedonia of July 2002 and the preliminary remarks on the visit in November 2002, in order to realise one of the key Recommendations of the Committee, which establishes that the national authorities must give a formal statement aimed at law enforcement officers saying that abuse of detainees is contrary to fundamental freedoms and rights, and shall not be tolerated. At the same time, several Conclusions have been adopted with regard to the improvement of the government's co-operation with the CPT as well as the conclusion asserting that the harassment of detainees by law enforcement officers is contrary to the basic principles and values upon which the democratic society rests, that such phenomena shall not be tolerated and that the offenders shall be subjects to rigorous punishment determined by law.

The main Recommendations of the Committee refer to two key issues: managing impunity and protection measures against harassment.

The Ministry of the Interior and the Ministry of Justice have undertaken several activities in order to overcome the detected problems.

The European Partnership Action Programme, in the part related to human rights, has given emphasis on the implementation of the Recommendations contained in the Reports of the CPT's visits to the Republic of Macedonia, and before all the Recommendations on managing impunity and protection measures against harassment. Another key activity is a continuous training in all institutions involved in the implementation of the foregoing convention.

The main activities with regard to the impunity are the following: submitting annual Reports to the Government on Detected Cases of Exceeding of Authorities; submitting Annual Reports to the Government on the Disciplinary and Criminal Procedures Undertaken; improvement of the co-operation with the public prosecutor's office and the courts of law for the resolution of such cases; strengthening of the capacities of the Professional Standards Unit at the Ministry of the Interior for detection and investigation of irregularities; improvement of the procedures for detection and investigation of irregularities and their implementation.

The Implementation of the Convention, with regard to protection measures against harassment, envisages the following: improvement of procedures for arrest and detention in police stations and prisons; keeping records on cases of violated procedures during arrest and detention; undertaking measures for the resolution of such cases; full respect of persons deprived of freedom; and training of police officers to comply with legal rights of detainees during a 24 hour detention.

12. Please provide information on specific national legislative as well as administrative measures designed to prevent the occurrence of torture, inhuman or degrading treatment or punishment in state institutions, prisons or police stations etc. In this respect, what measures are in place providing for the inspections of detention centres or police stations? Is legal redress foreseen for victims?

The prohibition of torture and other cruel, inhuman or degrading treatment and punishment is provided in Article 11 of the Constitution ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), according to which: *The human right to physical and moral dignity is irrevocable. Any form of torture, or inhuman or degrading treatment or punishment is prohibited.* Article 54, paragraph 4 of the Constitution of the Republic of Macedonia rules out any restrictions to this right.

The Republic of Macedonia has signed and ratified the following international instruments: of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Official

Gazette of the Republic of Macedonia", No. 9/91); the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment – Council of Europe ("Official Gazette of the Republic of Macedonia", No. 23/97); and the Convention for the Protection of Human Rights and Fundamental Freedom – Council of Europe ("Official Gazette of the Republic of Macedonia" No. 11/97).

The Criminal Code ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 42/2002, 43/2003 and 19/2004) in Chapter 15 titled "*Crimes against Freedoms and Rights of Individuals and Citizens*" contains a new Article 142, which reads:

An authorised official, a person induced by an official person, or a person who upon a consent by an official person, while performing his/her duty, applies force, threat or some other unacceptable means or in an unacceptable manner, with the intention of extorting a confession or some other statement from an accused, a witness, an expert or from some other person, or causes severe physical or mental pain in order to punish a person for a crime that he/she has perpetrated or been accused of, or with the intention to intimidate or force a person give up a right, or causes such pain due to any form of discrimination, shall be punished with imprisonment of one to five years.

When the injured party suffers serious body injuries or other sever consequences as a result of the foregoing crime, the perpetrator shall be punished with imprisonment from one to ten years.

Apart from this crime, the Criminal Code contains the following incriminations: *murder (Article 123); body injury (Article 130); severe body injury (Article 131); coercion (Article 139); abduction (Article 141); mistreatment in performing duty (Article 143); endangering security (Article 144); rape (Article 186); statutory rape of a helpless person (Article 187); sexual attack upon a child (Article 188); neglecting and mistreating a juvenile (Article 201); extortion (Article 258); blackmail (Article 259); mistreatment of a subordinate or younger person (Article 335); coercion against a judiciary employee (Article 375); and violence (Article 386)*, which all contain forms of torture or inhuman or degrading treatment.

No.	CRIME STATISTICS	2001			2002			2003		
		rep	Acc	Con	Rep	Acc.	Con	Rep	Acc	Con
Crimes against life and body										
1.	Murder (Article 123)	88	28	20	130	43	34	172	48	41
2.	Body injury (Article 130)	7	573	276	8	496	261	5	557	322
3.	Severe body injury (Article 131)	306	150	128	304	186	149	320	215	190
Crimes against freedoms and rights of individuals and citizens										
1.	Coercion (Article 139)	1	1	1	1	4	-	-	5	2
2.	Abduction (Article 141)	26	4	4	14	4	3	30	1	3
2.	Mistreatment in performing duty (Article 143)	27	2	1	28	2	-	35	3	2
4.	Endangering security (Article 144)	5	82	41	35	95	41	58	82	47
Crimes against sexual freedom and sexual morality										
1.	Rape (Article 186)	47	25	19	49	29	23	38	20	15
2.	Statutory rape of a helpless person (Article 187)	-	-	-	-	-	-	-	-	-
3.	Sexual attack upon a child (Article 188)	25	25	18	35	26	26	32	23	20
4.	Neglecting and mistreating a juvenile (Article 201)	46	16	13	26	26	21	30	32	26
Crimes against property										
1.	Extortion (Article 258)	30	12	9	25	16	11	25	13	8
2.	Blackmail (Article 259)	-	-	-	-	-	-	-	-	-
Crimes against Armed Forces										
1.	Mistreating a subordinate or younger person (Article 335)	-	-	-	-	-	-	-	-	-
Crimes against official duty										
1.	Coercion against a judiciary employee (Article 375)	-	-	-	-	-	-	-	-	-
Crimes against legal traffic										
1.	Violence (Article 386)	122	54	51	230	90	82	203	79	75
Source: State Statistical Office										

Source: State Statistical Office

Article 15 of the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) determines unconditional exclusion of all illegally obtained evidence, prescribing that evidence collected in an illegal mode by a violation of freedoms and rights as determined by the Constitution, laws and ratified international treaties, as well as evidence arising thereafter, may not be used in court. The Law on Criminal Procedure also determines the modes of interrogation of the accused; prescribing that in the course of interrogation his/her personality must be fully respected. At the same time the Law prohibits the use of force, threats or similar means used to obtain his/her confession. Article 251, Paragraph 2 explicitly prohibits the use of medical interventions and means against the accused or the witness that would influence their will upon giving statements. If these prohibitions are violated, the statement of the accused or the witness may not be subject to court decision i.e. it is an essential violation of the provisions of the criminal procedure against which an appeal may be filed.

Article 195, paragraphs 3 and 4 of the Law on Criminal Procedure prescribes that representatives of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the Council of Europe (CPT) have a right to visit detainees and communicate with them without surveillance and upon an approval of the investigative judge, who is obliged to issue such approval. According to paragraph 5 of the same Article, Red Cross representatives are entitled to visit detainees and communicate with them without surveillance and upon the judge's approval.

Article 20, Paragraph 1, Subparagraph 5 of the Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04) determines that the public prosecutor is obliged to observe the consistent implementation of judgements passed for punishable acts and the protection of persons who have been detained.

At the same time, Article 39 of the Law on Movement and Residence of Aliens ("Official Gazette of the Republic of Macedonia", Nos. 36/92, 26/93 and 45/02) - regulating the modes of enforcement security measures of expelling an alien, determines that an alien may not be forcibly expelled from the Republic of Macedonia into another country if such expulsion would result in torture or inhuman treatment.

The prohibition of torture or inhuman or degrading treatment or punishment has an absolute character and therefore the violation of this prohibition may not be justified by an execution of a superior's order. In that respect Article 6 of the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 19/95, 55/97, 38/2002, 33/2003 and 19/2004) prescribes that an employee of the Ministry of the Interior is obliged to execute the orders of the Minister or of a person delegated by the Minister related to execution of the Ministry's operations, unless such execution of orders is a criminal offence. The Rulebook on Modes of Executing the Duty of a Guard in Prisons contains the same provision. Pursuant to the Law on Defence ("Official Gazette of the Republic of Macedonia", Nos. 42/01 and 05/03) the orders of a superior warrant officer shall not be executed if their execution is a criminal offence.

The Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 37/96, 80/99, 04/02, 43/03 and 19/04) prescribes that a subordinate shall not be punished for a criminal act if it has been perpetrated upon the superior's order in the line of duty, unless the order has been aimed at perpetrating a war crime or any other severe crime or if the subordinate had been aware that the execution would lead to a criminal offence.

The legislation of the Republic of Macedonia explicitly determines the conditions under which the police and security services may apply coercion methods. Pursuant to Article 34 of the Law on Internal Affairs, the authorised official person may use coercion methods for the purpose of: a) restoring law and order after a large-scale disorder; b) overpowering a person disturbing the public peace and order or a person upon arrest; c) rejecting an attack from another person or a defending a guarded facility; d) forcible removal of persons from a certain place, or a person not obeying orders of an official person. Authorised official persons carrying out official duties under direct supervision of a superior may use coercion means only upon the superior's order. If the means of coercion or firearms

are used within authorised limits, the responsibility of the authorised official person who used them shall be excluded as well as the responsibility of the person in charge who ordered such use. Any case of use of firearms by an authorised officer shall be investigated and assessed by the Sector of Internal Control and Professional Standards. The manner of using firearms and coercion means by police officers has been regulated by an Instruction adopted by the Minister of the Interior.

Pursuant to Article 65 of the Law on Internal Affairs, acting in violation of rules and regulations of the Ministry or performing activities that are criminal offences (crimes against freedoms and rights of individuals and citizens, severe crimes against life and body), is a violation of the working discipline, which in accordance with the Law on Internal Affairs is an obstacle to employment in the Ministry. In the event of a more severe violation of the working discipline, the employee may be temporarily removed from the office, and he/she may be dismissed. Severer cases of working discipline violation due to which the employee has been removed from office, the dismissal period and cases when such right is not exercised are regulated by an act of the Minister.

The Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 3/97, 23/99, 74/04) in Article 184 paragraph 1 and Article 185 determines the limits to using force. The conditions under which a convicted person may be subject to coercion means are: when it is necessary to prevent his/her escape from prison or during arrest, in case of physical attacks, inflicting injury, self-injuring, inflicting material damages, or when overpowering convicted persons upon the order of an official person. The Law also defines the means of coercion: separation from a crowd, handcuffing, use of truncheons, water cannons and chemical substances. Article 19, paragraph 4 explicitly forbids collective punishment of convicted persons as well as use of coercion means as punishment.

The mode of using force and firearms are laid down in detail in the Guidelines on the Use of Firearms and Means of Coercion. A Report shall be created on the use of coercion means stating the reasons for such use. The Report is submitted to the Ministry of Justice - Directorate of Execution of Sanctions authorised to assess the justification of the use of force. If the means of coercion are used pursuant to the Law, the responsibility of the authorised official who used them or ordered such use is excluded. However, if it is determined that in the course of the use of coercion means authorities have been exceeded, the official shall be subject to a disciplinary measure.

With regard to the disciplinary responsibility of the members of security service and the prison personnel, in general, the Law on the Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 03/97, 23/99 and 74/04) points to the general labour regulations, i.e. Law on Labour Relations ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 3/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03 40/03 and 80/03-consolidated text) and Law on Organisation and Operation of State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02). These Laws stipulate disciplinary responsibility of an employee for violation of working duties or other violations of working discipline, when these have been his/her fault, and in particular when he/she has performed the duties in a negligent manner, if he/she has not abided by laws and other regulations and rules of conduct during working hours or in relation with his/her work.

Heads of diplomatic and consular missions may visit foreign citizens that have been detained following an approval of the investigative judge in the Republic of Macedonia. These visits may not be supervised.

The treatment of persons serving a sentence has been regulated by the Law on Execution of Sanctions, which contains an explicit provision in Article 12, Paragraph 2 prohibiting torture, inhuman or degrading treatment or punishment of prisoners. The principle of humaneness in execution of criminal sanctions has been stipulated in several provisions of the law.

Special provisions have regulated the disciplinary punishment of convicted persons in the Law on Execution of Sanctions prescribing the types of disciplinary punishments, conditions on applying such punishments and modes of execution.

The convicted person who seriously endangers the security of the institution or endangers the security of other persons may be subject to solitary confinement if other disciplinary measures have proved unsuccessful. The Director of the Directorate orders the placing in solitary confinement for Execution of Sanctions. The convicted person may appeal against this decision to the Minister of Justice within three days. The appeal does not postpone the execution of the decision. The procedure on deciding upon the appeal is urgent.

The Law on Execution of Sanctions contains special provisions that regulate the conduct of authorised officials toward convicted persons. Article 159 determines that officials persons in the line of duty must treat convicted persons with respect, tolerance, seriousness and with a necessary firmness and equity in order to encourage their self-esteem and a sense of personal responsibility. Official persons must carry out their duties honourably and impartially, in good faith, regardless of position, gender, race, ethnicity, religious confession or political convictions of the convicted persons.

In addition, the Law on Execution of Sanctions contains special provisions pertaining to the protection of rights of prisoners by the use of legal remedies. Article 163 stipulates that they are entitled to file complaints and other submissions to protect their rights related to their position and treatment in the institution and are entitled to discretion rights.

Information and training of police officers with regard to prohibition of torture is part of their education and training system. The Program has been prepared in the context of the legislation in force in the Republic of Macedonia and is implemented at all levels of police education in order to stimulate the development of civilised, well-mannered and humane relations between the police and citizens. The Police Academy puts special emphasis in their curricula on the humane aspects of treating citizens, and respecting their dignity.

With regard to training of institutional personnel, it is important to note that the Ministry of Justice and the Directorate for Execution of Sanctions regularly organise courses and seminars for the purpose of a successful, efficient and lawful execution of the operations at confinement institutions. The Ministry of Justice carries out this activity in cooperation with the Association of Penology of the Republic of Macedonia. In addition, in cooperation with the OSCE, a pilot project has been created for the establishment of a training centre as an organised form of training and education of employees in confinement institutions, using expert knowledge and experiences of foreign experts in the field.

Given that a medical treatment may also endanger the individual's physical integrity, Article 50 of the Law on Healthcare stipulates: *surgical and other interventions may only be undertaken with a prior consent of the ill person, or the parent or the custodian if he/she is a juvenile or disabled.*

If in the course or after the treatment permanent consequences occur (disability), the patient or his/her family have a right to request inquiry regarding the health care he/she has received. In accordance with Article 55 of the Law, the beneficiary of healthcare has a right to request compensations to damages pursuant to regulations on obligations if they have been inflicted due to errors or inadequate treatment. The State Sanitary and Health Inspectorate carries out inspection supervision in mental health institutions. The inspectors are professional doctors bound by both medical deontology and the Code of Civil Servants.

The Law on Healthcare offers possibilities not only for legal remedies but also for expert supervision of the work of professional healthcare workers. The Strategy on Promotion of Mental Health and the Law on Mental Health are expected to improve the protection and exercise of rights in this field.

The Criminal Code criminalises the unconscientious treatment of ill persons. In addition, the Code criminalises the deeds *not providing medical assistance*; and *quackery*.

An important novelty is Article 20 of the Law on Execution of Sanctions determining that the prisoners may not be subject to medical or other experiments that degrade their physical, mental and moral integrity and that the convicted persons' consent to participate does not exclude the responsibility of the person who had approved the experiments.

The Law on Criminal Procedure in Article 251 stipulates that a person may be subject to physical examination without his/her consent if such examination is necessary for the establishment of facts important for the criminal procedure. Physical examination of other persons may be performed without their consent only if it has to be determined whether certain marks or consequences of a criminal act can be found on their bodies. Medical interventions or use of means to influence the will of accused persons or witnesses upon giving statements are prohibited.

The Law on Scientific and Research Activities ("Official Gazette of the Republic of Macedonia, Nos. 13/96 and 29/02) stipulates the principle of inviolability of human integrity, the protection of personality and human dignity and the principle of ethics as main principles in the execution of scientific researches. The Code of Medical Deontology ("Official Gazette of the Republic of Macedonia", No. 24/95) adopted by the Chamber of Medical Doctors of Macedonia contains detailed provisions on bio-medical researches.

The conditions on taking, exchanging, transporting and transplanting parts of human body for the purpose of medical treatment have been regulated by a special Law. The *unauthorised transplantation of parts of the human body* is a crime pursuant to Article 210 of the Criminal Code.

Victims of torture and other forms of inhuman or degrading treatment or punishment may exercise their rights pursuant to Article 50 of the Constitution according to which every citizen may invoke the protection of freedoms and rights set forth in the Constitution, before the courts of law in a procedure based upon principles of priority and urgency.

In cases when torture and other forms of inhuman treatment have elements of a criminal offence, victims of crimes may file criminal charges to the public prosecutor, while acts subject to private lawsuit may be filed to the court of law. In cases of criminal acts subject to prosecution *ex officio*, if the public prosecutor drops the charges, the victim has a right to take over the prosecution as a subsidiary prosecutor. If as a result of a criminal act the person has been damaged, he/she has a right to file a damages claim, and if he/she is referred to a lawsuit the case shall be resolved in a civil suit in accordance with general provisions on indemnity.

In cases of torture or other forms of inhuman or degrading treatment or punishment by authorised official, the protection may be sought from the Ombudsman, Articles 24, 31, 32 from the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03), who in accordance with the Constitution protects the freedoms and rights of citizens when they are violated by an act or activity of state administrative bodies or bodies and organisations with public mandates. If the Ombudsman detects violation, he/she may propose an initiation of a disciplinary measure against the official, or may file a request to the public prosecutor on initiation of criminal proceedings against that person.

13. Is there any independent body which oversees the conditions in such institutions? Give details on disciplinary and criminal sanctions for State agents accused of ill treatment or torture during the exercise of their duties.

Pursuant to the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No 60/03), the Ombudsman is an independent and autonomous body authorised to monitor the respect and protection of constitutional and legal rights of persons in institutions and organisations where their freedom of movement has been restricted. This especially refers to apprehended, detained and imprisoned persons serving a sentence or a correctional measure in penitentiary or correctional institution (Articles 31, paragraphs 1 and 2).

The Ombudsman may carry out visits and inspections anytime without prior announcement or approval; he/she may talk to persons placed in these institutions or organisations without the presence of official persons; and he/she may receive submissions from persons deprived of liberty in a closed envelope and send them answers that may not be inspected by official persons (Article 31, paragraphs 3 and 4).

In practice, the Ombudsman has not been facing obstacles in carrying out such authorities. In accordance with its own Working Programme and legal authorities, the Ombudsman has visited such organisations or institutions at least once a year, for which he/she submits an annual report to the Assembly of the Republic of Macedonia.

In addition, pursuant to Article 195, paragraph 3 and 4, the Law Amending the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", No. 74/04), detained persons may be visited by members of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) as well as members of the International Committee of the Red Cross. Upon the CPT's request, the investigative judge is obliged to approve them a visit and communication with detained persons. These visits may not be supervised. Foreign citizens that have been detained following an approval of the investigative judge may be visited by heads of diplomatic and consular missions in the Republic of Macedonia.

Concerning the issue on whether disciplinary and penal measures have been undertaken for misconduct or torture by official persons to persons confined in organisations or institutions, from 01.01.2002 to 30.09.2004, the Ombudsman filed 4 criminal charges against officials from the Ministry of the Interior and one proposal for initiation of disciplinary measures.

Namely, performing his/her duties in the protection of human rights, and implementing his/her legal authorities pursuant to Article 32 of the Law, the Ombudsman has filed a proposal on initiation of proceedings against one official of the Ministry of the Interior for determining his/her disciplinary responsibility due to exceeding the limit of authorisation. The Ombudsman has been notified that charges have been pressed to the competent public prosecutor against this individual. At the same time the Ombudsman has filed three indictments against nine officials of the Ministry of the Interior due to a reasonable doubt that they had committed crimes of *torture* pursuant to Article 142, *violence* pursuant to Article 386 and *abuse of official duty* pursuant to Article 143 of the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" Nos. 37/96, 80/99, 04/02, 43/03 and 19/04). One person has been found guilty by the Basic Court II in Skopje; two persons are under investigation before the Basic Court II in Skopje; five are in criminal proceedings before the Basic Court in Kumanovo; and a pre-trial procedure against one person has been conducted by the Basic Public Prosecutor of Prilep.

The Directorate for Execution of Sanctions, according to data received from penitentiary institutions in the Republic of Macedonia and from the Educational and Correctional Institute in Tetovo, has not reported disciplinary measures in the course of 2001, 2002, and 2003 against employees for abuse of powers pertaining to inhuman treatment or torture of convicted or detained persons. An exception is the disciplinary measure currently underway against three employees in the Penitentiary Institution-Idrizovo for determining their responsibility in their line of duty due to exceeding authorities for the use of truncheons.

It is important to note that the reports hitherto published by the European Committee for the Prevention of Torture have not detected forms of physical abuses of detainees by the prison staff.

14. In the fields of medicine and biology, do precise rules exist which indicate what is and what is not permitted? Are these rules subject to a permanent monitoring process, in particular with regard to the right to integrity of the person?

Pursuant to Article 11, Paragraph 1 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), human physical and moral integrity is irrevocable. Article 39 of the Constitution of the Republic of Macedonia guarantees every citizen the right to health care.

Pursuant to the Law on Health Care ("Official Gazette of the Republic of Macedonia", Nos. 38/91, 46/93, 55/95, 17/97-consolidated text and 10/04) surgical and other medical interventions are undertaken only upon written consent of the hospitalised person, or his/her parent or custodian if he/she is a juvenile or has been deprived of civil capacity. If the sick person or his/her parent or

custodian does not agree with the suggested surgical or other intervention, the competent physician is obliged to inform him/her about the consequences that might arise due to his/her refusal of medical or other intervention. In addition, the physician may request a written statement or may write an official note.

Patients are obliged to adhere to internal rules of the health organisation and guidelines given by health workers. Otherwise, the health institution may refuse to provide health treatment, except in cases of emergency treatments, communicable disease subject to mandatory reporting, mental illness, or if the sick person is a juvenile.

The Ministry of Health is authorised to supervise the professional conduct.

Special rules exist in the field of taking, exchange, transport and transplantation of human body parts for medicinal purposes, prescribed by the Law on Conditions for Taking, Exchange, Transport and Transplantation of Human Body Parts for Medicinal Purposes ("Official Gazette of the Republic of Macedonia", No. 30/95).

The Law determines that individuals, while still living, and if adult and sane, may donate any parts of their body for medical purposes, if it does not seriously endanger their health. As an exception, bone marrow donors may also be juveniles, and their biological parents may only give the consent.

The transplantations of human body parts, pursuant to the Law may be carried out only by written consent of the recipient, after he/she has been informed about the potential risks to his/her health. If the recipient is a juvenile or a mentally ill person or is not in a condition to express his/her will due to his/her condition, written consent on transplantation is given by his parent or custodian. The written consent of the donor and the recipient is valid only if given voluntarily and after the nature and purpose of donating and transplantation, the involved risks and the success probability have been explicated.

The Law also determines that no monetary or property compensations may be requested for the donation of organs, including services or any other benefits.

The Law on Conditions for Taking, Exchange, Transfer and Transplantation of Parts of Human Body for Medical Treatment is in line with the Convention for the Protection of Human Rights and Dignity of the Human Being with Regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine of Oviedo, 04.04.1997, entered into force on 01.12.1999, that the Republic of Macedonia signed on 04.04.1997, although it still has not been ratified.

The Republic of Macedonia signed on 15.03.2002 (though still not ratified) also the Additional Protocol to the Convention on Human Rights and Biomedicine, on Transplantation of Organs and Tissues of Human Origin. This Protocol regulates in more detailed manner not only the medicinal, but also ethical and other aspects of transplantation of human organs. The Law on Conditions for Taking, Exchange, Transfer and Transplantation of Parts of Human Body for Medical Treatment complies with the principles of this Protocol (although the latter has been more recent than the Law and has not still entered into force), in particular in setting forth that the transplantation shall be done only for the purpose of medical treatment, in stipulating the mandatory consent of the donor and in prohibiting that transplantation yields financial gain.

Solutions included in the Law are also in line with the Guiding Principles on Human Organ Transplantation (World Health Organisation, 1991), in particular Principles Nos. 1, 2, 3, 4, 5, 6, 8 and 9.

The Ministry of Health performs control over the implementation of the Law.

Legal protection from non-compliance with provisions of the Law Regarding Conditions on Taking, Exchange, Transport and Transplantation of Human Body Parts for Medicinal Purposes has been regulated by Article 210 of the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03 and 19/04), which stipulates that a person who takes a part from the body of another for the purpose of transplantation, or who transplants a part of the body even though the taking or the transplantation is contrary to the medical profession or science, shall be punished with imprisonment of three months to five years. The same punishment

shall be applied to a person who, with the intention of transplantation, takes a part of the human body intended for transplantation before death has been determined in a prescribed manner.

Simultaneously, the Criminal Code prescribes a fine or imprisonment of up to three years for a person who takes a part of the body of another or who transplants a part of the body, without consent from the donor or the recipient, or of their legal representative. The same punishment also applies to a person who contrary to the law, for compensation, sells or mediates in the giving of parts of the body of living or deceased persons for the purpose of transplantation.

The prohibition of conducting medical or other experiments also applies to convicted persons. Namely, Article 20 of the Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 03/97, 23/99 and 74/04) prescribes that convicted persons are entitled to health care. Convicted persons may not be subject to medical or other experiments that degrade their physical, mental or moral integrity.

Regarding medicine, Article 64 of the Law on Drugs, Additional Medicines and Medical Instruments ("Official Gazette of the Republic of Macedonia", No. 21/98) determines that clinical drug testing may be conducted in accordance with ethical principles laid down in the Helsinki Declaration on the Protection of Patients' Rights. Clinical testing may only be conducted by an authorised health institution that is obliged to acquire written consent of persons subject to drug testing prior to the testing and to obtain written proof that the persons had been informed about the purpose of the testing and the possible risks to their health. Drug inspectors that are authorised to halt a clinical testing of a drug in the event that the testing had begun prior to the fulfilment of the stipulated conditions carry out the control of implementation of the Law.

Penal protection has been provided by misdemeanour provisions that prescribe a fine of 80.000-150.000 MKD to the legal entity, or 10.000-30.000 MKD to the responsible person in the legal entity performing clinical testing contrary to ethical principles. Same applies if he/she starts clinical testing of a drug without written consent of persons subject to testing. Apart from a fine, the responsible person in the legal entity shall be punished with a provisional ban on performing operations from three months to one year.

In relation to the protection of personality and integrity, worth mentioning is that the Republic of Macedonia on 12.01.1998 signed (though has not ratified yet) the Additional Protocol to the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, on the Prohibition of Cloning Human Beings, of Paris, 12.01.1998, that entered into force on 01.03.2001.

15. Has the Republic of Macedonia established specialised services specifically designed to combat trafficking in human beings? If so, what are the institutional context, the composition, the functions and the powers of these services?

In 2002, the National Programme for Fight Against Trafficking in Human Beings and Illegal Migration in the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 10/2002) was adopted, providing for legislative and preventive actions; help and support for victims of trafficking in human beings; return and reintegration of victims; international cooperation and coordination in enforcing laws; staff education, coordination of actions and informative advertising influence on the public opinion on trafficking in human beings. It also determines the carriers of these activities. The carriers of activities are determined in accordance with the legally established competencies of the Law on Organization and Operation of State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02).

In accordance with the National Programme and the competencies of state administrative bodies determined by law, most of the provided activities are within the jurisdiction of the Ministry of the Interior of the Republic of Macedonia, i.e. the organisation units in this Ministry authorised to fight against trafficking in human beings, smuggling of migrants and illegal migration (for more details see [24 E 2](#)).

A specialised Section for Trafficking in Human Beings and Other Violent Crime is established under the Sector for Violent Crime - responsible body for the prevention, detection, documenting and processing criminal offences in trafficking in human beings and illegal migration. The Sector is within the Ministry of the Interior's Department for Organised Crime.

This Section acts upon criminal offences in the field of trafficking in human beings, i.e. undertakes measures and actions to discover the perpetrators of such criminal activity. It also coordinates the work among the Sectors within Ministry of the Interior, which operate on local level. The authorised officers, within their duties, collect operative information upon which they undertake adequate legal actions against perpetrators of crimes, i.e. file criminal charges to the Basic Public Prosecutor, who will thereafter process the act before the competent courts.

The Ministry of the Interior is also responsible for the establishment of appropriate databases of the perpetrators of this kind of criminal offences and databases of the victims of trafficking in human beings, as well as databases for the identified illegal migrants.

If it is established that a case involves victims of trafficking in human beings, they will be accommodated in the Transit Centre for Aliens, opened in March 2001. There are standard operative procedures for processing victims in the Transit Centre, regulating the relations of the Ministry of the Interior, the International Organisation for Migrations and NGOs involved in the work of the Centre.

In addition to the Section for Trafficking in Human Beings, in the field of fighting trafficking in human beings within the Ministry of the Interior there are a total of 20 operative workers treating this issue.

In April 2003, a Unit for Fighting Trafficking in Human Beings with jurisdiction over the entire territory of the Republic of Macedonia was established within the Ministry upon an Order by the Minister of the Interior. This unit consists of officers with different ethnic background and has a total of 45 staff. It contains 32 people from the Special Task Unit and the Police Department, and 13 members of the Department of Organised Crime.

On 12.02.2002, within the Ministry of the Interior, with a Decision brought by the Minister, a Commission for Deciding Upon Requests for Approval of Residence on the Grounds of Employment as Dancers, Waitresses etc. in Night Clubs and Other Catering Facilities was established. This is a Multi-Sector Commission and was formed in order to establish stricter control of employment in catering facilities on the quoted grounds, and also to prevent any possible attempts at corruption in the competent sectors in the Ministry.

Within the Border Police Department, established in May 2004, in the Sector for Support of Border Operations – the Section for Illegal Immigration has four operative inspectors.

In accordance with the National Programme for Fight of Trafficking in Human Beings and Illegal Migration in the Republic of Macedonia, the carrier of the legislative activity is the Ministry of Justice, working on preparing amendments to criminal legislation. The Ministry of the Interior, the Ministry of Labour and Social Policy and the Ministry of Health are responsible for amending, i.e. making the penal provisions more stringent in the field of market, sanitary and labour inspection and modification of the legal regulations with respect to the special conditions for employing foreign citizens, as well as the conditions for granting approval for temporary residence for employment.

The following are responsible for international cooperation and coordination in enforcing legal acts: the Ministry of Justice, the Ministry of the Interior and the Ministry of Foreign Affairs. Their activities include concluding of bilateral and multilateral agreements with states to and from which people are subject to trafficking in human beings, promoting communication and cooperation among public prosecutor's offices and the police services in the states of Southeast Europe; for the purpose of efficient criminal prosecution and closing channels for trafficking in human beings, exchanging data on criminal groups and individuals with other countries; and cooperation with the appropriate government and non-governmental organisations.

In 2001, by the way of a Decision of the Government of the Republic of Macedonia, the National Commission on Fight Against Trafficking in Human Beings and Illegal Migration ("Official the of Republic of Macedonia", No. 18/01) was formed, involving representatives from the Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Labour and Social Policy, Ministry of Health and the Ministry of Finance – Customs Administration. Within this Commission a Subsection for Fighting Trafficking in Children was formed in January 2004.

The National Commission on Fighting Trafficking in Human Beings and Illegal Migration is a coordinative body responsible for monitoring and analysing the situation of trafficking in human beings and illegal migration and coordination of the activities of the competent institutions in the Republic of Macedonia which actively work on solving the problems in this field, as well as to adopt strategic determinations.

In order to establish an appropriate method of cooperation and a constructive approach in the joint action of national authorities, international organisations and the NGO sector in fighting trafficking in human beings and illegal migration in the Republic of Macedonia, the National Commission has adopted a Decision establishing a Secretariat of the National Commission. The Secretariat works within the jurisdiction of the National Commission and it is a technical and logistical body with an operative function in the process of implementation of the National Programme on Fighting Trafficking in Human Beings and Illegal Migration.

On the Organisation and mode of work of the Secretariat for more details see [24 E 2](#).

16. Please provide information on any legislative measures designed to protect and uphold respect for private and family life, home and communications. In which circumstances can these rights be infringed upon?

Everyone enjoys protection of privacy directly invoking Article 8 of the European Human Rights Convention and Article 17 of the International Covenant on Civil and Political Rights, ratified international treaties, which according to the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) are part of the domestic legal order and are directly applicable by courts and the state administration. As different from the European Human Rights Convention that summarises protection of privacy in one provision, the Constitution of the Republic of Macedonia guarantees privacy in several provisions of the Chapter on Basic Human Rights and Freedoms. The provisions on *respect for privacy of the personal and family life of the individual and his/her dignity and reputation* contained in Article 25 of the Constitution of the Republic of Macedonia provide for a wide framework for protection of privacy. Several very important aspects of privacy are protected by specific constitutional provisions related to the *freedom and confidentiality of correspondence and other forms of communication* (Article 17 of the Republic of Macedonia); *security and privacy of personal information* (Article 18 of the Constitution) and *inviolability of the home* (Article 26 of the Constitution of the Republic of Macedonia).

As designed, these provisions reaffirm the positive obligation of the state to establish legislation that would not prevent individuals in the choice of (private) lifestyle, i.e. legislation that would ensure that relevant family ties are feasible; that would make available effective legal remedies for those who consider that their right to respect for privacy of personal and family life has been violated; and that would facilitate access to information related to facts of the concerned person's previous life and to decisions that directly affect him/her; and that would ensure control of information, which could affect someone else's life.

In the context of protection of fundamental human rights and freedoms, Article 18 of the Constitution of the Republic of Macedonia guarantees security and privacy of personal information. The same Article guarantees citizens protection from violation of the personal integrity, deriving from the registering of personal information through data processing.

Aimed at ensuring privacy and confidentiality of personal information, which are subject to collection, processing, storing, using and exchange in the form of automated or hand kept databases, the Republic of Macedonia adopted a Law on Personal Data Protection in 1994 (amended in 2002).

The said Law regulated rights and obligations of persons handling the databases and data securing; the rights, limitations and court protection of rights of persons to whom the data are related; the manner of establishing and maintaining the databases; transferring data outside the Republic of Macedonia; and the manner of supervising the legality of collecting, processing, storage, use and transfer of personal data in the Republic of Macedonia.

However, the harmonisation of the national legislation with the Directive 95/46/EC of the European Parliament and of the Council of 24.10.1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data imposed the need for adopting a new Law on Personal Data Protection, that has been recently enacted ("Official Gazette of the Republic of Macedonia", No. 07/05). In respect of the legal solutions offered in the new Law on Personal Data Protection for more details see [I H 39](#).

Reaffirming fundamental human rights and freedoms, the Constitution of the Republic of Macedonia in Article 26 guarantees the inviolability of the home. The right to inviolability of the home may be restricted only by a court decision in cases of detection or prevention of criminal offences or protection of people's health. (Article 26, paragraph 2). The Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) defines the cases in which the right, i.e., principle of inviolability of the home may be infringed upon. According to the Law on Criminal Procedure a search of the home or other facilities of the accused or of other person may be conducted if there are reasonable grounds to believe that the search will result in apprehension of the accused or that traces of the criminal offence shall be found or objects of importance for the criminal proceedings (Article 198). According to the provisions of the Law on Criminal Procedure, the search is ordered by the court in a written, elaborated order, which explicitly designates the place and the person to be searched, as well as the objects, which are searched for or confiscated from the person (Article 199, paragraph 1). The search warrant is shown before the search to the person who personally or whose home will be searched. Before the search, the person to whom the search warrant refers will be asked voluntarily to turn in the person or give away objects which are searched for. (Article 199, paragraph 2) However, the search may be conducted without prior presentation of a search warrant and without previous request for turning over the person or objects if an armed resistance is presumed or when suspecting that a severe crime is conducted by a group or organisation it is considered necessary to conduct the search suddenly or if the search is to be performed in public premises. (Article 199, paragraph 3).

The householder or the holder of other premises will be summoned to be present at the search, and if he/she is absent his/her authorised representative will be summoned or some of his/her adult members of the family or neighbours (Article 200, paragraph 3). During the search of premises or persons, two adult citizens will be present as witnesses. The search of a female is performed only by a female officer, and the witnesses are also female. Before the start of the search, the witnesses will be warned to pay attention to the performance of the search and they will be reminded of their right, before signing the minutes for the search to write in their objections if they consider that the contents of the minutes are incorrect (Article 200, paragraph 3).

The Law on Criminal Procedure sets forth the possibility that the search is conducted without the presence of witnesses if their presence is not possible immediately to be provided and there is a danger of delay. The reasons for a search without the presence of witnesses must be written in the minutes (Article 200, paragraph 4).

The search of premises and persons is to be performed carefully without disturbing the order of the residence (Article 200, paragraph 7). During the performance of the search, only those objects and identity cards i.e. documents will be temporarily confiscated which are in connection with the aim of the search in that particular case (Article 200, paragraph 8).

In accordance with the provisions of the Law on Criminal Procedure, authorised officials of the Ministry of the Interior may, without a search warrant, enter a home or other premises if the person

who, according to the court order is to be detained or forcefully apprehended, is there. The court order allows only entry into the home, not search.

Authorised officials of the police may, without a search warrant, and without the presence of witnesses, perform a search of a person while enforcing a court order for apprehension or while depriving a person from freedom if it is suspected that the person possesses arms or tools for attack or if it is suspected that he/she will throw away, hide or destroy the objects which are to be confiscated from him/her as evidence in the criminal procedure (Article 202, paragraph 2).

If during the search of premises and persons, objects are found which have no connection with the crime for which the search is intended, but which point to another crime to be prosecuted *ex officio*, the objects will be confiscated and a receipt for the confiscation will be immediately issued. The public prosecutor will be immediately informed in order a criminal procedure be initiated. These objects will be immediately returned if the public prosecutor finds that there are no grounds for institution of a criminal procedure and there is no other lawful ground according to which those objects should be confiscated (Article 200, paragraph 9).

The Law on Criminal Procedure prescribes the obligation that for each search of residences or persons minutes be made. The minutes are signed by the official conducting the search, the person at whose home or on whom the search is conducted and the persons whose presence is compulsory (Article 201, paragraph 1). The objects and documents, which have been confiscated will be included and notified correctly in the minutes. (Article 201, paragraph 2)

After the adoption of Amendment XIX of the Constitution of the Republic of Macedonia passed by the Assembly of the Republic of Macedonia on 26.12.2003 ("Official Gazette of the Republic of Macedonia", No. 84/03) Article 17 of the Constitution of the Republic of Macedonia was amended. Hence, the issue of protection and freedom and inviolability of correspondence and all other forms of communication are now differently regulated. Namely, until the latest constitutional amendment, the law and practice in the Republic of Macedonia were not adequate since there was an unrealistic constitutional solution, which prohibited all forms of eavesdropping and wiretapping and similar methods of infringing upon privacy by the state. The said constitutional Amendment ensured the grounds for precise legal regulation of the use of telephone tapping and other special investigative measures in the fight against organised crime and strict judicial control of such measures.

The right to inviolability of correspondence and all other forms of communication may be limited only based on a court decision, under conditions and in a procedure set forth in law, and if necessary for prevention or detection of crimes, for purposes of instituting criminal procedures or when this is required by the interests of the security and defence of the Republic of Macedonia.

In order to precisely regulate the conditions and procedure for communication interception, the manner of implementing, storage and utilisation of acquired information and data, as well as the manner of establishing control of the legality of communication interception, the Ministry of the Interior has drafted a Law on Communication Interception, which is now in the parliamentary procedure. The Draft Law incorporates the principle that no one shall intercept communication without an order of the competent court, unless such acquired information is intended for or if there is consent on the part of the person or persons involved in the communication. The Draft Law sanctions actions that might violate the privacy of communications stipulating that the production, offering for sale, sale and keeping of communication interception devices must be subject of an approval to be applied for at the Ministry of the Interior.

Furthermore, the Law defines the character of the data collected under authorised communication interception and registers kept in this respect, envisaging that such data have confidential character and are under a special protection regime, prescribed by the Minister of the Interior, i.e. the Minister of Defence, who adopted relevant Rulebooks, by the Minister of Justice, who adopts Court Rules of Procedure and by the Public Prosecutor who issues Guidelines, each within the respective scope of their competencies.

In accordance with the proposed legal provisions, the court may order communication interception regarding a specific person when there are grounds to suspect that the person has committed a crime for which a prison sentence of at least four years is prescribed, or if it is a matter of a crime for which a five year prison sentence is prescribed and in respect of which there are grounds to suspect that it has been committed or is being committed by an organised group, gang, or other crime association. The communication interception order is issued for gathering information and evidence necessary for the successful processing of the case in a criminal procedure, which could not be gathered otherwise.

The competent Public Prosecutor lodges the request for communication interception to the court, upon the Public Prosecutor's own initiative or upon a proposal by an authorised official of the Minister of the Interior. Furthermore, the Law explicitly designates information that the request must contain, envisaging *inter alia*, that if it is necessary to enter the residence or other premises, vehicles, in order to install, maintain, use or eliminate communication interception devices, the request must contain specific reference to this, defining at the same time the period in which the measure will be applied.

If, based on the facts and circumstances described in the request, the investigative judge considers that the legally prescribed conditions are met, the judge is obliged to issue a communication interception order within 24 hours at the latest from the submission of the request. As an exception, based on additional and elaborated written proposal for urgent adoption of the interception order, the investigative judge shall issue a communication interception order within three hours from the submission of the request.

If the investigative judge does not approve the request for communication interception, the competent public prosecutor has the right to file an appeal to the criminal chamber of the competent court, within 24 hours at the latest from receiving information on non-approval of the request. The criminal chamber will deliver a decision within 24 hours from the submission of the appeal.

However, the investigative judge will reject the request for communication interception if it is related to the communication of the defence lawyer of the person whose communication is object of interception, or if it is related to the communication at the official premises of the President of the Assembly of the Republic of Macedonia, then of the President of the Republic of Macedonia, the Prime Minister of the Republic of Macedonia, or the communications at the official premises of the members of the Assembly of the Republic of Macedonia.

In accordance with the proposed legal solutions, the duration of the communication interception may not be longer than 30 days from the day of issuance of the order for communication interception. However, a possibility is provided that this period is prolonged for another 90 days, in which regard a request is lodged which shall contain explanation on the reasons for continuation of the communication interception.

The Draft Law on Communication Interception contains exhaustive list of the data that the order for communication interception must contain, and explicitly stipulates that the interception shall cease when the expected information shall have been acquired even before the period that the court has allowed communication interception has expired. In case it is necessary to enter the home, or other premises or vehicles to install, maintain, use or eliminate communication surveillance devices the order shall contain precise data on the period in which this shall be done.

In cases when the investigative judge shall issue an order for communication interception, the order is forwarded to the competent public prosecutor who further forwards it to the Minister of the Interior. Subsequently, the Minister adopts a ruling designating the authorised official who shall be in charge of the implementation of relevant activities and of the communication interception devices which are explicitly defined in the order.

When the communications are intercepted through a telecommunication system, the authorised official designated as being in charge of the implementation of activities and of the interception devices, is obliged to accordingly inform the telecommunication service provider. At the same time,

the responsible person of the telecommunication services provider is obliged to implement the measures and procedures referred to in the court order, and to keep as business secret all data contained in the court order for communication interception, based on which the activities and procedures are applied at the telecommunication services provider.

The Law on Communication Interception prescribes the obligations of the authorised official to apply the measures and devices referred to in the court communication interception order, by ensuring the authenticity, entirety and security of data collected upon communication interception. In order to accomplish the assigned task, the authorised official, by using technical means, is obliged to ensure secure registration and storage of data collected upon communication interception. Data are registered in their original form and are handled in accordance with a specially established regime.

The Draft Law prescribes the obligation that all data, lists and other materials, gathered upon implementing the court communication interception order are submitted to the competent court within the period determined in the order and that they are kept in a special folder, sealed by the judge who has ordered communication interception. The conditions and procedure for opening the folder of documents are also precisely defined, if the evidence gathered upon communication interception is to be used in criminal procedures before court.

The proposed legal solutions place the investigative judge under the obligation to forward all information acquired on the basis of the implementation of the issued order to the competent public prosecutor who is to assess whether there are legal grounds for submission of request for institution of an investigation.

If the public prosecutor does not submit a request for institution of an investigation within 30 days from the day of forwarding of the information acquired upon communication interception, the court shall adopt a decision for their destruction. The decision for destruction of the information may be also adopted in cases when it shall be considered that the collected information is of no significance for the proceedings, but based on a previously acquired opinion of the competent public prosecutor.

After a decision on the institution of an investigation has been adopted, the court shall summon the person whose communication has been intercepted to appear before the court within 8 days in order that the person is introduced with the material deriving from the interception of his/her communications. However, the Draft Law envisages certain limitations. i.e., the accused shall not be presented material from the folder of communication interception documents until the parts which according to the public prosecutor could threaten the further investigation, or which could threaten in any way the persons who have been involved in the implementation of activities and measures for communication interception or which could threaten the interests of other person who are not involved in the activities, are made illegible.

The basic objective that data and information acquired upon communication interception are used in the interest and for purposes of criminal proceedings, is realised on the basis of the provisions according to which the court may decide on the admissibility of data acquired upon communication interception as evidence in criminal proceedings, against which the parties have the right to appeal to the criminal chamber at the competent court, within 24 hours from the day of forwarding of the decision. After a legally valid court decision has been adopted following criminal law proceedings, within 15 days, the court shall adopt a decision on destruction of data. Data destruction is conducted by a committee composed of a judge, public prosecutor, and a person authorised by the Minister of the Interior.

The Draft Law prescribes the right to indemnity for persons whose communication has been intercepted contrary to the provisions of the said Law. The indemnity claim is decided upon by the court, which has adopted the communication interception order, in a summary procedure, which may not last longer than three months. The damaged party who is not satisfied with the decision of the court has the right to appeal to a higher instance court, within 8 days from the receipt of the court decision. Citizens who have suffered damages owing to publishing the collected data and information before the court has adopted a decision on the admissibility of the information as evidence in criminal

proceedings or owing to the fact that destroyed data has been published are also entitled to indemnity. The compensation funds are paid from the Budget of the Republic of Macedonia.

The Draft Law prescribes special conditions and a procedure for communication interception for purposes of protecting the country's security and defence, which are defined in a separate Chapter of the Law. The Court may order interception of communication of a person regarding whom there are reasonable grounds to suspect that prepares to commit a crime against the state, against the armed forces or against humanity and international law.

In addition to the cases referred to above, the court may order communication interception in cases of preparation, incitement to, organising or participation in an armed attack against the Republic of Macedonia or in disabling the security system to perform its functions, if there is no other way of acquiring information on such activities in order to prevent the preparation of the crime, armed attack or disabling the security system. In the said cases, the bodies competent to lodge a request for communication interception order are the Minister of the Interior and the Minister of Defence.

The Draft Law designates the Supreme Court as the competent court to decide on the approval of the request for communication interception, prescribing the possibility for lodging an appeal to the Supreme Court by the entity lodging the request if the judge does not approve the request. The decision regarding the appeal is deliberated by a three judge chamber of the Supreme Court, and the judge who has participated in the adoption of the decision regarding the communication interception request may not be one of those judges. This facilitates full implementation of the principle of judicial control and protection.

The judge of the Supreme Court shall determine the necessary duration of the communication interception measure in the order, approving the request for communication interception. However, the interception measure may not be applied longer than three months. After the end of this period, and based on an elaborated proposal, the judge may order that communication interception is continued up to a year at the most, counting as well the period of the first order.

In accordance with the principle of protection of privacy, data on the person collected on the basis of communication interception order are kept at the Ministry of the Interior, i.e. at the Ministry of Defence under a special regime, up to a year at most, following the period designated in the court order. Afterwards all data and materials in connection with the implementation of the court decision are destroyed under the supervision of the judge who has adopted the order, in which respect minutes are prepared which only register the number of the court order.

The Assembly of the Republic of Macedonia, establishing a committee of five members, supervises the implementation of the measures by the Ministry of the Interior and the Ministry of Defence. The President of the said Committee is from the ranks of the Assembly opposition party, which at the last parliamentary elections has won the most seats (among the opposition parties), two members of the Committee are from political parties in power, and two members are from other opposition parties having seats at the Assembly of the Republic of Macedonia.

Based on its consideration regarding the implemented communication interception measures and the supervision of the legality of the measures applied by the Ministry of the Interior and by the Ministry of Defence, the Committee prepares an annual report submitted to the Assembly of the Republic of Macedonia within two months after the end of the current year.

Criminal law protection of privacy is envisaged in the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 04/02, 43/03 and 19/04) which contains incriminations of the following criminal offences: *violation of the inviolability of the home* (Article 145); *illegal search* (Article 146); *violations of confidentiality of letters and other parcels* (Article 417); *unauthorised publication of personal notes* (Article 148); *abuse of personal data* (Article 149); *preventing access to public information system* (Article 149-a); *unauthorised disclosure of a secret* (Article 150); *unauthorised wiretapping and audio recording* (Article 151); *unauthorised recording* (152).

17. Elaborate how the right to marry and the right to found a family is protected within your legislation.

The Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) establishes that the state provides for particular care and protection of the family (Article 40 paragraph 1). Also, the Constitution establishes that the legal relations in the marriage, the family and cohabitation, are regulated by law (Article 40, paragraph 2). The right of the person to freely decide on procreation of children is regulated in Article 41 of the Constitution, together with the provision that the Republic of Macedonia, aiming at harmonised economic and social development, implements a humane population policy.

Regarding the relationship between the parents and the children, the Constitution in Article 40, paragraph 3, stipulates that the parents have the right and obligation to provide for sustenance and upbringing of their children, while the children have the duty to provide care to the old and powerless parents. Moreover, the Republic of Macedonia provides for special protection of parentless children and children without parental care (Article 40, paragraph 4), and it especially safeguards the maternity, children and minors (Article 42, paragraph 1).

The Law on Family ("Official Gazette of the Republic of Macedonia", Nos. 80/92, 09/96, 38/04 and 83/04 – consolidated text) regulates the marriage, the family and the family relations.

The law regulates the legal prerequisites for entering into marriage. The marriage is defined as a union of cohabitation of a man and a woman, concluded by their own freely expressed will before a certified registrar. The marital union is based on the equality of the man and the woman, mutual respect and support.

The Law on Family recognises the civil marriage, contracted before the competent administrative body, while the marriage contracted according to religions customs does not have a legal effect. However, the marital partners can perform a religious ceremony along the civil one.

A marital union can be contracted by persons of full age. A minor after the age of 16 may establish marital union only if the competent court issues a consent through a non-litigation procedure. The Court establishes whether the minor has reached physical and emotional maturity necessary to exercise the rights and the obligations entered into by contract of marriage. The Court brings the decision upon a previously obtained opinion of a healthcare institution and rendered professional assistance in a Social Work Centre.

The Law on Family prohibits entering into a marriage union of persons within a certain degree of a blood relationship, or in-law relationship (father-in-law and daughter-in-law, son-in-law and mother-in-law, step-father and step-daughter, step-mother and step-son) regardless of the fact whether the marriage on the basis of which the relationship originated had ceased to exist. The court can, in a non-litigation procedure, and due to justified reasons, permit in-law relatives to conclude a marriage.

The Law on Family prohibits bigamy – a new marriage can not be concluded before a previously concluded marriage is terminated.

A valid marriage can not be contracted by persons with permanent mental disorder, persons who are not capable of judgement, and persons with severe and most severe intellectual disabilities. The persons categorised as persons with moderate intellectual disability or people with mild intellectual disability, as well as persons suffering from severe congenital diseases in the family, can enter into a marriage after previously obtained opinion about the genetic structure from a competent institution which deals with treatment of such conditions or with genetic researches.

The marital partners decide consensually on the choice of the family name they will have after the marriage is contracted, on the joint place of residence and on the joint housekeeping.

Each of the marital partners is independent in the choice of the employment and profession. In order to satisfy the needs of their family, the partners take care jointly, each according to their abilities and capabilities.

The marriage is terminated by: the death of one of the marital partners; by declaring the missing marital partner dead; by annulment of marriage; and by divorce.

The divorce procedure takes place before the basic courts. The Social Work Centre conducts the reconciliation procedure if the parties have joint minor children, and then submits an opinion and proposal to the court to which parent to award the custody of children for their future care, custody and upbringing. The Law on Family arranges the extra-marital union of a man and wife, under the condition that it lasted for at least a year, and it considers it as equal to the marital union in terms of the right to alimony support and property relations regarding the property earned during the life of the union.

Pursuant to the Law on Family, the family is defined as a cohabitation of parents and children and other relatives, if they live within a same household. The family is created by giving birth to children or by adoption. The family relations are based on equal rights, mutual respect, mutual support and sustenance, as well as protection of interests of the minor children.

The State provides for protection of the marriage and family from dysfunctional relationships, as well as from marital or domestic violence. In addition, the law prescribes that the state creates and provides for scientific, economic and social conditions for family planning and for free and responsible parenthood, while the parents have the duty to provide optimal conditions for healthy growing and development of their child in the family and in the society.

The parenthood is established with the giving birth or adoption, while the parents have equal rights and duties towards their children (parental rights). The relationships between the parents and the children are based on the rights and duties of the parents to take care about the nursing, custody, upbringing and education of their children and development of their working skills and habits. The parental right is exercised by both parents, in accordance with the needs and interests of the children and the interests of the society. The parents have the right and duty to represent their minor children.

18. Elaborate on the legislative structures in place to ensure protection of the right to freedom of thought, conscience and religion.

a) Please give details and explain any limitations to this freedom which are permitted.

b) Please give information on the measures taken to prevent discrimination against religious minorities in the Republic of Macedonia.

c) What is the constitutional status of religions in your country? Is there any state religion? Is there a legislative framework for conscientious objection? If so, please provide details.

a)

The freedom of thought, conscience and confession of faith is guaranteed by the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03).

Namely, pursuant to Article 9 of the Constitution *citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of their gender, race, skin colour, ethnic or social origin, political or religious conviction, property or social status, and they are equal before the Constitution and law.*

In addition, Article 16, paragraph 1 the Constitution *guarantees the freedom of conviction, conscience, thought and public expression of thought.*

Article 19, paragraph 1 and 2 of the Constitution contains *special guarantee of the freedom of religious confession, as well as the right to express one's faith freely and publicly, individually or with others.*

The right to freedom of conscience, thought, public expression of thoughts and religious confessions, including other rights, pursuant to Article 54 of the Constitution *cannot be subject to restriction and*

discrimination on grounds of gender, race, skin colour, language, religion, ethnic or social origin, property or social status. Restrictions to freedoms and rights cannot be applied to freedom of conviction, thought, conscience, public expression of thoughts or religious confessions.

Simultaneously, these rights enjoy direct constitutional and court protection pursuant to Article 110, Paragraph 1, Subparagraph 3 of the Constitution determining the competence of the Constitutional Court, according to which *the Constitutional Court protects the freedoms and rights of the individual and the citizen relating to the freedom of conviction, conscience, thought and public expression of thought.*

Constitutionally guaranteed rights and restrictions to religious confession have been incorporated into the Law on Religious Communities and Religious Groups ("Official Gazette of the Republic of Macedonia", No. 35/97) as specified below.

Pursuant to Article 4, Paragraph 4 of the Law, the expression of religious confession or affiliation to a religious community or group does not release citizens from responsibilities that they have before the Constitution, laws and other regulations.

In accordance with Article 6 of the Law, religious gatherings, religious rituals, religious press, religious instruction, religious schools and other forms of expression of faith cannot be used for political aims, for inciting religious, ethnic or other intolerance or for other activities prohibited by law.

Pursuant to Article 8, Paragraph 2 of the Law, one religious confession is entitled to one religious community.

Pursuant to Article 12 of the Law, the name of the religious group should significantly differ from names of already registered religious communities or groups. The name must indicate the fact that it is a religious group and the religious confession it represents. The name of the religious community or group must not contain the words Republic of Macedonia, names of other countries, names of state or public bodies and institutions or other marks.

Pursuant to Article 16, Paragraph 2 of the Law, citizens must not be coerced to or prevented from giving contributions for religious or humanitarian purposes. According to Paragraph 3, religious communities or groups may not determine duties to believers for such contributions.

Pursuant to Article 18 of the Law, the practice of religious ceremonies cannot disturb public order and peace and religious feelings and other freedoms and rights of citizens not belonging to the religious community or group.

Pursuant to Article 20 of the Law, religious ceremonies (baptism, circumcision, etc.) for juveniles may only be practised upon the parents' or custodians' consent, and if the juvenile is over 10 years of age he/she must give consent as well. These ceremonies must only be held if necessary hygienic, health or other pre-conditions have been met.

Religious gatherings, ceremonies, press, instruction, schools and other forms of expression of the faith may not be used for political goals, for inciting religious, ethnic or other intolerance and for other activities prohibited by law. The organisation of religious gatherings and attendance of religious manifestations, pursuant to Article 21 of the Law may be prohibited by the internal affairs body in cases when measures have been undertaken for the protection of citizens' health, public order and peace, safety and larger properties. This prohibition shall last until such circumstances have ended.

The constitutionally guaranteed right of citizens to establish private educational institutions at all education levels with the exception of primary education (Article 45 of the Constitution) is, among others, also specified through the Law on Religious Communities and Religious Groups, which determines that religious communities and groups have a right to establish religious schools and student dormitories at all education levels, except in the primary education. Prior consent from the competent body on issues of religious communities and groups is obligatory for the establishment of such institutions. Religious schools may be attended by persons with completed mandatory primary education or persons whose

obligation to attend mandatory primary education has ended as prescribed by law. An instructor in a religious school may only be a citizen of the Republic of Macedonia. By derogation, a foreign citizen may also teach at religious schools, with a certificate obtained from the competent body on issues of religious communities and groups (Articles 24, 25, 26 and 27).

b)

The Law on Religious Communities and Religious Groups contains provisions prohibiting discrimination against religious minorities in the Republic of Macedonia.

Pursuant to Article 2 of the Law, religious communities or religious groups are free to practise religious activities and religious ceremonies. The Law contains explicit prohibition of any type of coercion or obstruction upon citizens to become members of a religious community or group. Furthermore, citizens must not be coerced to participate or not participate in religious ceremonies or other types of expression of faith, and they cannot be deprived of constitutional and legal rights due to religious convictions, affiliation to a religious community or a religious group, performing or participating in religious ceremonies and other ways of expression of faith (Article 4).

Pursuant to Article 7 of the Law, religious communities or religious groups may establish religious schools as well as social and humanitarian institutions and within their operations they may use media and publish printed material (Article 15).

Religious communities and religious groups exercise their right to practise religious ceremonies and other activities in churches, mosques and other temples, as well as in backyards part of these facilities, or in cemeteries and other premises in possession of the religious community or religious group (Article 18, paragraph 1).

Article 4, Paragraphs 2 and 3 of the Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 3/97, 23/99 and 74/04) proscribes discrimination against persons subject to sanctions on the basis of their race, skin colour, gender, language, faith, political and other convictions, ethnic or social origin, property and social status or any other status of the person subject to sanctions. Religious feelings, personal conviction and moral norms of persons subject to sanctions must be respected.

With regard to satisfying religious needs to convicted persons, the Law on Execution of Sanctions determines that convicted persons are entitled to satisfy their religious feelings and needs in accordance with conditions and capacities of the institution (Article 139).

Pursuant to the Criminal Code ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03 and 19/04), a person who unlawfully obstructs the practice of religious ceremonies shall be punished with a fine or sentenced to imprisonment of up to one year (Article 399).

The Macedonian Radio and Television, as a public enterprise established by law, also gives contribution to the non-discrimination of religious communities and religious minorities in the Republic of Macedonia by directly broadcasting religious solemn rites on the occasion of religious holidays such as Easter, Christmas, Ramadan, Eid, Yom Kippur, etc.

c)

The Constitution of the Republic of Macedonia guarantees that *the Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelical-Methodist Church, the Jewish Community and other religious communities and groups are separate from the State and equal before the law* (Article 19).

This Constitutional provision clearly indicates a separation of religious communities from the State, and excludes a possibility of a state religion that would be favoured.

Religious communities in the Republic of Macedonia have established relations and co-operation, due to their long tradition of mutual respect and co-operation.

The state conveys its responsibilities toward the religious communities and religious groups in an institutional way through the Commission for Relations with Religious Communities and Groups as an independent public administrative body. A director appointed by the Government of the Republic of Macedonia chairs the Commission. The Commission has been established and its competences have been determined by the Law on Organisation and Operation of State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00, 44/02). The Commission's competences relate to issues regarding the legal position of religious communities and groups and the relations between religious communities and groups and the State.

The Law on Holidays in the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 21/98) determines that citizens are entitled to celebrate religious holidays and proclaims them non-working days. Believers of the Christian faith celebrate the first day of Christmas and the second day of Easter and they are non-working days; the believers of the Islamic faith celebrate the first day of Ramadan and the first day of Kurban Bairam; and the believers of the Jewish faith celebrate the first day of Yom Kippur. In non-working days believers of the respective faith have the right to remuneration.

Conscientious objection has been regulated by the Law on Defence ("Official Gazette of the Republic of Macedonia", Nos. 42/01 and 05/03). Namely, the right to exercise freedom of consciousness is closely related to the right to conscientious objection. Thus, in terms of fulfilling the constitutional duty of a compulsory conscript service (Article 28 of the Constitution) the Law on Defence (Article 8) allows alternative conscript service through unarmed service in the Army of the Republic of Macedonia exclusively due to religious reasons. In that case, the duration of the service is 10 months instead of the regular 6 months. The Law also determines the procedures for the alternative conscript service.

The right to freedom of expression is guaranteed by the Constitution of the Republic of Macedonia in Article 16, which encompasses *freedom of personal conviction, conscience, thought and public expression of thought* (Paragraph 1).

The right to freedom of thought is guaranteed by the Constitution without any restrictions whatsoever and together with the freedom of personal conviction, conscience, public expression of thought and religious confession it has been raised on the level of a fundamental human right that cannot be restricted even in exceptional circumstances (war or state of emergency). In addition, these freedoms and rights enjoy direct court protection by the Constitutional Court of the Republic of Macedonia.

Violation of provisions of the Law on Religious Communities and Groups is subject to respective legal sanctions. Apart from misdemeanours for which the Law prescribes fines (Article 29), depending on each case the deed may also be treated as a criminal act. Namely, the Criminal Code contains a provision (Article 137) according to which a person who, based on a difference in gender, race, colour of skin, ethnic and social origin, political and religious belief, wealth and social position, the language or other personal characteristics or circumstances, takes away or limits the rights of humans and citizens, determined by the Constitution, by law or by ratified international covenant, or who based on all these differences gives citizens favours that contravene the Constitution, a law or a ratified international covenant, shall be punished with imprisonment of three months to three years. If an official person while performing his/her duty commits the crime, he/she shall be punished with imprisonment of six months to five years.

With the foregoing provisions, the Republic of Macedonia has accepted international instruments, universal and regional, such as the UN Universal Declaration of Human Rights, European Convention on the Protection of Human Rights and Fundamental Freedoms and the respective Protocols.

19. Are the freedoms of assembly and association assured?

a) Provide statistics regarding the number of non-governmental organisations and associations or foundations active in your country?

b) What is the legal status of non-governmental organisations and associations or foundations, including as regards financing, taxes, and restrictions on membership or on activities?

c) Which, if any, justifications are permitted as regards possible restrictions placed on the exercise of these freedoms? Which body may impose such restrictions?

d) Is the right to join or not to join trade unions legislated for?

e) How is the freedom of association (trade-unions, professional associations) applied in the public administration in general, and in the Army, the Police and the Judiciary in particular?

The Constitution ("Official Gazette of the Republic of Macedonia" No 52/91, 01/92, 31/98, 91/01 and 84/03) regulates the citizens' rights to assemble peacefully and to express public protest without prior announcement or a special approval. This right may only be restricted in case of a state of emergency or war (Article 21 of the Constitution).

The citizens' right to assemble peacefully for the purpose of expressing their opinion and public protest has been regulated by the Law on Public Gathering ("Official Gazette of the Republic of Macedonia", No. 55/95).

Freedom of association is also one of the fundamental and essential rights of citizens determined by the Constitution of the Republic of Macedonia. Article 20 of the Constitution of the Republic of Macedonia guarantees the freedom of association of citizens *to exercise and protect their political, economic, social, cultural and other rights and convictions*.

In order to exercise this right, citizens may freely establish associations of citizens and political parties, join them or resign from them. Only in certain cases the Constitution restricts the establishment of associations of citizens and political parties. However, the Constitution determines that programmes and activities of associations of citizens and political parties may not be aimed at the violent destruction of the constitutional order of the Republic, or at encouragement or incitement to military aggression or ethnic, racial or religious hatred or intolerance. In addition, the Constitution explicitly prohibits military or paramilitary associations, which do not belong to the Armed Forces of the Republic of Macedonia (Article 20 of the Constitution).

By these provisions, the Constitution expresses the protection of freedom of association from the aforementioned abuse.

In June 1998 the Assembly of the Republic of Macedonia passed the Law on Associations of Citizens and Foundations ("Official Gazette of the Republic of Macedonia", No. 31/98) that regulates the mode, conditions, and procedures for the establishment, registration, operations and cessation of associations of citizens and foundations .

a)

According to the provisions in the Law on Associations of Citizens and Foundations, there are three types of Registers: Register of Association of Citizens and Foundations, Register of Associations of Foreigners and Register of Foreign Organisations.

Registers are kept at basic courts, and on the basis of data entered into the Registers, the Basic Court Skopje I in Skopje keeps a Single Register of all registered associations of citizens and foundations in the State.

As of the entry into force of the Law on Associations of Citizens and Foundations, 3.100 associations of citizens and foundations have been registered (according to data obtained from the Basic Court Skopje I in Skopje).

The Registers and the Single Register of registered associations of citizens and foundations are public documents.

b)

The non-governmental activities in the Republic of Macedonia, based upon the Constitutional concept, are carried out in accordance with the Law on Associations of Citizens and Foundations, adopted in 1998.

The Law on Associations of Citizens and Foundations enables citizens to freely associate in citizens' associations or to establish foundations for the purpose of accomplishing economic, social, cultural, scientific, professional, technical, humanitarian, educational, sport and other rights, interests and convictions.

This Law regulates questions related to associations of citizens and questions related to foundations in separate chapters.

An association of citizens may be founded by at least five adults who must be citizens of the Republic of Macedonia. The association of citizens at the founding assembly brings a founding decision, programme, statute, and elects its bodies.

A member of association of citizens may be every citizen who voluntarily joins it, whereas foreign citizens may become its members if the association's statute allows such possibility.

A foundation, according to the Law, is a property mass acting as a legal person that has been provided by one or more founders (donors), for accomplishing certain statutory goals. Its founders may not use the foundation's property and assets for private purposes.

Associations of citizens and foundations may acquire monetary assets, objects and property rights from membership fees, donations, contributions, gifts, etc. All assets belong to associations of citizens and foundations, and each member has a right to inspect the use of assets and revenues.

Non-governmental organisations may also acquire assets from the budget of the Republic of Macedonia. Assets from the budget are obtained on the basis of a Law and on the basis of the Decision on the Criteria and Procedure for Distribution of Financial Assets to Associations of Citizens and Foundations from the budget of the Republic of Macedonia, adopted by the Government of the Republic of Macedonia in 2000.

Non-profit foreign and international non-governmental organisations, foundations, confederations and their branch-offices may be established on the territory of the Republic of Macedonia. Other organisations that are solely financed by bilateral and multilateral agreements for the purpose of their incorporation into the development processes of the Republic of Macedonia may also be founded on the territory of the Republic of Macedonia.

The activity of foreign organisations must not contravene neither the Constitution nor the laws in the Republic of Macedonia nor international agreements that the Republic of Macedonia has signed or to which it has acceded.

Associations of citizens and foundations may associate into confederations or into other forms of associations for a joint promotion of their operations and activities. They may co-operate, join or interconnect with international organisations if it does not contravene the Constitution and laws.

Article 13 of the Law on Associations of Citizens and Foundations stipulates that an association of citizens and foundation has a right to tax and duty relieves in accordance with a law.

The level and utilisation of donations and tax relieves have been regulated by adequate financial and customs laws. This may also be regulated in the act on delegation of public authorisation awarded by a public authority.

c)

Operations of associations of citizens and foundations may be terminated if they undertake political activities or use their property and assets for the accomplishment of political parties' objectives. Moreover, their activities may be prohibited if they undertake actions aimed at the violent overthrowing of the constitutional order of the Republic, incite or call for military aggression and incite ethnic, racial or religious hatred and intolerance (Articles 3 and 4 of the Law).

Everybody may initiate a termination of an association of citizens and a foundation if he/she has a well-founded suspicion that they perform activities contravening the Constitution and the laws.

A decision for termination of an association of citizens and a foundation is adopted by the basic court that has territorial jurisdiction according to the seat of the association of citizens and the foundation. The procedure before the basic court is initiated upon the proposal of the basic public prosecutor.

Association of citizens and foundations may appeal to the appellate court against the decision of the basic court on their termination. Also, the public prosecutor may demand protection of legality against the final decision.

d)

The right of workers to organise in trade unions is a constitutional category. The Constitution of the Republic of Macedonia in Article 37 stipulates that *in order to exercise their economic and social rights, citizens have the right to establish trade unions. Unions may constitute confederations and become members of international trade union organisations.*

The law may restrict the conditions for the exercise of the right to trade union organisation in the armed forces, the police and administrative bodies.

The trade union organisation has been regulated in a separate chapter of the Law on Labour Relations ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 03/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03, 40/03 and 80/03 - consolidated text). Article 84 of this Law regulates the labourers' rights to constitute trade unions for the purpose of exercising their economic and social rights with regard to their employment, determined by law and the Collective Agreement. Workers are free to become members or accede to trade unions.

e)

The Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04) that regulates the status, rights, duties and responsibilities of civil servants, regulates the question of trade union organisation under a separate article. Pursuant to Article 26 of this Law, civil servants may constitute trade unions and may become their members under conditions and modes determined by law, in order to exercise their economic and social rights. According to the Law, the civil servant, apart from appealing to other bodies, may also appeal to the trade union for protection in exercising his/her rights related to his/her employment.

Apart from the Constitution, the Law on Labour Relations, and the Law on Civil Servants, the trade union organisation in the Republic of Macedonia is regulated by statutes and special programmes adopted individually by trade unions.

Laws or by-laws have not restricted the right to trade union organisation in the public sector. The employees in the public sector may freely, by their own conviction, join or resign from a trade union organisation in the area of their employment.

The conditions for trade union organisation in the Republic of Macedonia have been laid down in the Law on Defence ("Official Gazette of the Republic of Macedonia", Nos. 42/01, 05/03) and the Law on Army Service ("Official Gazette of the Republic of Macedonia", Nos. 62/02, 98/02, 25/03 and 71/03). An independent trade union for the employees of the defence has been organised within the Army. This trade union has concluded an Agreement on Regulation of the Rights, Duties and Responsibilities related

to employment with the Minister of Defence. Pursuant to Article 49 of the Law on Defence, trade union organisation within the Army during war or state of emergency is prohibited.

Members of police are organised in the Macedonian Police Union. All employees in the police may freely become members of the union.

The employees in the judiciary are organised in the Union of Workers in the Administration, Justice and Associations of Citizens of the Republic of Macedonia. A statute adopted by the members' assembly has regulated the organisation, establishment and operation of the trade union.

The hitherto experiences from the implementation of the Constitution and the Law on Labour Relations, as far as trade union organisation is concerned, have not detected serious impediments in unions' operations and activities.

There are special laws in selected fields that provide for the establishment of professional associations of citizens in a certain profession, such as: health, notary, attorney, veterinary, agriculture, etc.

In the aforementioned legislative acts and provisions the Republic of Macedonia has accepted the international instruments such as the Universal Declaration of Human Rights of the United Nations, the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, as well as other international legal documents.

20. Right to asylum (see also specific section on asylum in Chapter 24 – Justice and Home Affairs): Give details on how the right to asylum is being respected, particularly with respect to the rules of the Geneva Convention and Protocol relating to the status of refugees.

In order to establish a legal and institutional framework for development of the Macedonian asylum system that would be compatible to the system in the European Union, the Republic of Macedonia, in January 1994 ratified the 1951 Geneva Convention Related to the Status of Refugees and the 1967 Geneva Protocol Related to the Status of Refugees. Hence, the Republic of Macedonia fully accepts the obligations deriving from these fundamental international agreements that regulate the asylum policy.

These obligations are implemented in the Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia", No. 49/03) that entered into force on 25.07.2004. It contains the fundamental provisions set forth in the abovementioned international agreements, thereby determining the definition, status, rights and obligations, as well as the procedure for the recognition of the right to asylum of refugees. More precisely, this Law regulates the conditions and procedure for granting and revoking the asylum status to an asylum seeker or a stateless person requiring asylum in the Republic of Macedonia, as well as the rights and duties of the asylum seekers and persons whose right to asylum has been recognised in the Republic of Macedonia. Thus, Article 2 of the Law on Asylum and Temporary Protection stipulates the right to asylum and persons to whom such right pertains, thereby explicitly asserting that definitions contained in this Article are in conformity with the 1951 Geneva Convention Related to the Status of Refugees and the 1967 Geneva Protocol Related to the Status of Refugees, as well as with the 1950 Convention on the Protection of Human Rights and Fundamental Freedoms and the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition, Article 7 of the same Law contains the "*principle of non-refoulement*" which is one of the fundamental elements stipulated in Article 33 of the 1951 Geneva Convention Related to the Status of Refugees.

The main characteristics of the Law on Asylum and Temporary Protection that have been harmonised with the relevant provisions contained in the 1951 Geneva Convention Related to the Status of Refugees and the 1967 Protocol Related to the Status of Refugees are:

- Principle of manifestly unfounded application;
- Principle of safe country of origin;

- Principle of safe third country or first country of asylum;
- Subsidiary protection;
- Shared responsibility between the ministry of the interior (a procedure for recognition of the right to asylum) and the ministry of labour and social policy (activities related to accommodation, alimentation, assistance and integration of recognised refugees);
- Normal and accelerated procedure;
- Three phases of decision-making (the ministry of the interior – section for asylum, the second instance commission for administrative procedure in the field of judiciary, internal affairs, state administration, local self-government and religion within the government of the Republic of Macedonia in second instance and the supreme court in cases of submitted lawsuit against the commission decision).

For the purpose of completing the legislative framework and determining the procedure on recognition of the right to asylum, a bylaw to the Law on Asylum was adopted in 2004 regulating all types of forms and identification documents used and issued in the course of procedure following the filed request for recognition of the right to asylum. These legal acts have been adopted pursuant to envisaged priorities on issues of asylum set forth in the National Action Plan on Asylum and Migration adopted on 09.12.2002 (for more details see [I Annex 01](#)) and prepared by a state team comprising of representatives both from the country and from Sweden, Norway, Denmark, and Bulgaria.

Prior to the adoption of the National Action Plan, Macedonia had been conducting serious activities in order to develop an institutional framework for the creation of a Macedonian asylum system in conformity with European standards. Thus, at the end of 1998 a regional unit (the Asylum Section) competent to carry out procedures upon submitted requests for the recognition of the right to asylum was established within the Ministry of the Interior. The subsequent year the Ministry of the Interior established a shelter centre for asylum seekers. The Republic of Macedonia also cooperates with the EU on establishing a national asylum system compatible to that of the EU, and much of the cooperation is conveyed through the CARDS projects.

Implementation activities of the CARDS-2002 Project started at the end of 2003 and are in their final phase. These activities have been realised in two phases:

- Construction of a new shelter centre for asylum seekers within the competence of the Ministry of Labour and Social Policy; and
- Technical assistance and training for the development and implementation of the National Action Plan on Migration and Asylum.

On the respect of the right to asylum, as well as on statistical data's for the number of asylum seekers and persons whose asylum right has been recognised, for more details see [24 F 1](#) through [24 F 11](#).

21. Are there measures in place to prevent a person from being removed, expelled or extradited to a State where there is a serious risk that s/he would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment? Which bodies are responsible for fact-finding in such cases and do they have an adequate institutional framework to facilitate effective action?

Pursuant to Article 29 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) aliens in the Republic of Macedonia enjoy freedoms and rights guaranteed by the Constitution, under conditions determined by law and international agreements. The Republic of Macedonia guarantees the right to asylum to foreign nationals and stateless persons who have been expelled because of their democratic and political conviction and activity. An alien may only be extradited pursuant to a ratified international treaty and upon the principle of reciprocity.

An alien may not be extradited for a political criminal offence. Acts of terrorism are not considered as political criminal offences. Pursuant to Article 39 of the Law on Movement and Residence of Aliens ("Official Gazette of the Republic of Macedonia", Nos. 36/92, 36/92, 66/92, 26/93 and 49/03) an alien may not be expelled from the Republic of Macedonia if his/her life would be in danger due to racial, religious or ethnic affiliation, political convictions or if he/she would be exposed to mistreatment or inhuman conduct.

Article 3 of the European Convention on Extradition with the Protocols ("Official Gazette of the Republic of Macedonia", No. 32/99) specifies that extradition may not be approved for acts that fall within the category of political criminal offences or offences related with such criminal offences. The extradition may not be approved for prosecution of persons for their racial affiliation, religion, ethnicity or political convictions.

Article 11 of the European Convention on Extradition with the Protocols specifies that extradition may be approved only if the requesting state guarantees that the death penalty shall not be executed and that it shall be exchanged with another penalty.

Pursuant to the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04), the criminal chamber of the competent court assesses whether the documentation submitted by a foreign state through the Ministry of Justice fulfils the legal prerequisites for the extradition, and adopts a decision. The competent court submits the decision to the Ministry of Justice of the Republic of Macedonia. The Minister of Justice shall not allow extradition of an alien that has been granted asylum in the Republic of Macedonia or if he/she has been accused of political or a war criminal offence. In addition, the Minister of Justice shall not allow extradition of an alien if there are serious grounds for suspicion that he/she may be exposed to torture and other form of cruel, inhuman or degrading treatment or be subject to death penalty.

The Government of the Republic of Macedonia upon the proposal of the Minister of Justice and following the detection of the foregoing facts may decide not to allow extradition, if it deems that especially justified interests of the state exist.

Obligations arising from the Convention against the Torture and Other Forms of Cruel, Inhuman and Degrading Treatment or Punishment from 1984, ratified by the Republic of Macedonia, and especially Article 3 (the principle of *non-refoulement*) of the Convention are fully applied to the Law on Asylum and Temporary Protection that entered into force in August 2003.

According to Article 7 of this Law, an asylum seeker, recognised refugee or a person under humanitarian protection may not be extradited or forcibly expelled to a country where he/she may be subject to torture, inhuman or degrading treatment or punishment. These persons in accordance with article 30 of the Law on Asylum and Temporary Protection are guaranteed the right to asylum for humanitarian protection and have concrete rights and duties.

The Section of Asylum within the Ministry of the Interior is competent to determine the actual situation of those cases (Article 12 of the Law on Asylum and Temporary Protection). Currently in the Republic of Macedonia there are 809 persons whose rights to asylum due to humanitarian reasons have been recognized by the Department in 2003 and 2004, as it has determined in the course of the procedure that they would be subject to inhuman and degrading treatment upon their return to Kosovo – Serbia and Montenegro.

The prohibition of expulsion (the principle of *non-refoulement*) in the sense of Article 4 of the aforementioned Convention has an absolute effect. Namely, pursuant to the Law on Asylum and Temporary Protection this prohibition also refers to foreign citizens who are not entitled to the asylum right, i.e. who are subject to exclusion of this right pursuant to Article 6 of the Law.

22. What steps have been taken to prevent discrimination based on membership of a national minority, ethnic or social origin, sex, race, colour, genetic features, language, religion or belief, political or any other opinion, property, birth, disability, age or sexual orientation? Has the Republic of Macedonia established specialised services to combat discrimination? If so, which legislative framework, institutional context, composition, functions and powers pertain to these services?

The Republic of Macedonia continuously undertakes activities against discrimination and promotes equality through the constitutional principles of non-discrimination, implementation of legislative measures, through establishment of an adequate institutional framework, as well as by strengthening of the implementation mechanisms.

The principle of non-discrimination is fully incorporated in the legal order of the Republic of Macedonia.

The Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) in its general provisions defines the fundamental human freedoms and rights, recognised in international law and established by the Constitution as the most relevant constitutional and legal values, i.e., as fundamental values of the constitutional order of the Republic of Macedonia.

Furthermore, fundamental human rights and freedoms have a central place in the normative part of the Constitution. Namely, the provisions establishing the fundamental freedoms and rights in the Constitutions precede the provisions on the organization of the state authority.

In this respect Article 9 of the Constitution should be especially underlined, according to which *citizens of the Republic of Macedonia are equal in their freedoms and rights, irrespectively of gender, race, skin colour, ethnic and social origin, political and religious conviction, financial and social status. This Article establishes, as well, that citizens are equal before the Constitution and law.*

In terms of fulfilment of the rights and freedoms, the Constitution is not declarative. Instead it contains all prerogatives, which provide for their efficient exercise and their full legal protection. Namely, the Constitution establishes a consistent system of protection, which provides for their implementation it prevents all possible abuses of these rights and freedoms by third persons and by the state authority itself. Furthermore, specifying the cases in which rights and freedoms of citizens may be restricted, the Constitution prescribes that such restrictions may not discriminate on the basis of gender, race, skin colour, language, religion, national or social background, property or social status.

Within the context of mechanisms available to the Macedonian citizen for protection of their rights and freedoms, it is important to mention the possibility of access by the citizens of the Republic of Macedonia to the European mechanisms, such as the European Court of Human Rights. Namely, the Republic of Macedonia, as a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms, as of the ratification of this European Convention has put into practice the right of the citizens to lodge an individual application to the European Court of Human Rights when they consider that by the acts and activities of the bodies of state authority, including the domestic courts, some of their freedoms and rights guaranteed under the Convention have been violated.

After conclusion of the Framework Agreement of 2001, the 1991 Constitution of the Republic of Macedonia was amended aiming at strengthening of the safeguards for protection of minorities. Thus in addition to the principle of non-discrimination, the principle of equitable representation of communities, as an active principle has been envisaged (for more details see [I J 2](#) and [I J 3](#)).

The legislative framework for prevention of discrimination and promotion of full and effective equality consists of the criminal, civil and the administrative legislation:

- The Criminal Code (“Official Gazette of the Republic of Macedonia”, Nos. 37/96, 80/99, 4/02. 43/03 and 19/04)

In the Chapter on Criminal Offences against *Human Rights and Freedoms*, Article 137 defines as a *violation of the equality of citizens* the conduct by which the rights established by the Constitution, law or a ratified international agreement, are denied or limited on the grounds of gender, race, skin colour, ethnic and social background, political or social affiliation, material or social status, language or another personal feature or circumstance, or the rights by which, on the basis of these differences the citizens are granted benefits in contravention to the Constitution, law or ratified international agreement.

Article 319 of the Criminal Code, in the Chapter on *Criminal Offences against the State*, establishes that a person will be sanctioned for incitement of ethnic, racial and religious hatred, discord and intolerance, if by force, maltreatment, threatening the safety, derision of the national, ethnic or religious symbols, by desecrating monuments, graves, or in another way causes or incites to national, racial or religious hatred, discord or intolerance.

Article 417 of the Criminal Code in the Chapter on Crimes against Humanity and International Law prescribes that the person who, on the basis of race, skin colour, nationality or ethnic origin violates the basic human rights and freedoms recognized by the International Community is perpetrating discrimination.

- The Law on Execution of Sanctions (“Official Gazette of the Republic of Macedonia”, Nos. 03/97, 23/99 and 74/04)

The Law prohibits discrimination on the basis of race, skin colour, gender, language, religion, political and other convictions, ethnic and social background, association, financial or social standing or another status of the person against whom the sanction is enforced.

The religious beliefs, the personal conviction and the moral norms of the person against whom the sanctions are executed must be respected.

There are provisions in both the civil and the administrative law aimed at fighting discrimination. These provisions are not contained within a single act, but are incorporated in several substantive regulations.

- The Law on Courts (“Official Gazette of the Republic of Macedonia”, Nos. 36/95, 45/95 and 64/03)

Pursuant to the Law, everyone has the right to equal access to courts to protect the human rights and legally based interests.

- Law on Secondary Education (“Official Gazette of the Republic of Macedonia”, Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/2002, 52/02- consolidated text, 40/03, 42/03, 67/04)

It establishes that everyone, under equal conditions established by this Law, has the right to secondary education. Furthermore, the same Law prohibits discriminations based on gender, race, skin colour, ethnic and social background, political and religious affiliation, property and social status.

- The Law on Higher Education (“Official Gazette of the Republic of Macedonia”, Nos. 64/2000 and 49/2003)

The Law provides that citizens of the Republic of Macedonia have, under equal conditions, right to education at the higher education institutions in the Republic of Macedonia. At the same time, foreign nationals may, applying the principle of reciprocity, study at the higher

education institutions in the Republic of Macedonia under the same conditions as the nationals of the Republic of Macedonia. In addition to foreign nationals, stateless persons, as well, have the right to higher education under conditions established by law and ratified international treaties.

- Law on Associations of Citizens and Foundations (“Official Gazette of the Republic of Macedonia”, No. 31/98)

It prescribes that the activity of the citizens’ association will be prohibited if such activity violates the human rights and freedoms guaranteed by the Constitution or incite to ethnic, racial or religious hatred or intolerance.

- Law on Political Parties (“Official Gazette of the Republic of Macedonia”, No. 76/04)

In its general provisions it establishes that the platform, statute and the activity of a political party may not be directed towards violent overthrow of the constitutional order of the Republic of Macedonia, incitement to or calling to military aggression, flaring up ethnic, racial or religious hatred or intolerance.

The Law proscribes an obligation for political parties, in their activity, to ensure the application of the principle of gender equality in the access to positions within the political party. The Law prohibits any discrimination on the basis of membership or non-membership in a political party.

- Law on Internal Affairs (“Official Gazette of the Republic of Macedonia”, Nos. 19/95, 55/97, 38/2002, 33/2003 and 19/2004)

The Law, in its general provisions, defines internal affairs as affairs related to the protection of freedoms and rights of citizens, guaranteed by the Constitution, as well as prevention of incitement to ethnic, racial or religious hatred or intolerance.

- Law on Telecommunications (“Official Gazette of the Republic of Macedonia”, Nos. 33/96, 17/98, 22/98, 28/00, 04/02, 37/04)

This law explicitly prohibits *transmission and delivery of messages inciting to ethnic, racial or religious hatred or intolerance*.

- Law on Legal Status of Religious Communities and Religious Groups (“Official Gazette of the Republic of Macedonia”, No. 35/97)

It establishes that the religious conventions, religious ceremonies, religious media, religious schools, religious teaching and other types of expression of religion may not be used for political purposes, incitement to religious, ethnic or other intolerance and other actions prohibited by law.

- Law on Courts (“Official Gazette of the Republic of Macedonia”, Nos. 36/95, 45/95 and 64/2003)

In the course of election of judges and lay judges, pursuant to the Law, there must not be any discrimination on the basis of gender, race, skin colour, ethnic or social background, property or social status.

- The Law on Labour Relations (“Official Gazette of the Republic of Macedonia”, Nos. 80/93, 3/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03 40/03 and 80/03-consolidated text)

Article 9 of the Labour Relations Law prohibits the employer to place under unequal legal treatment the job applicant or the employee because of their race, skin colour, gender, age, health status or disability, religious, political or other belief, membership in trade unions, ethnic or social background, family status, property or other personal circumstances.

This Law establishes that women and men must be provided equal opportunities and equal treatment with regard to employment, advancement, employment insurance, working conditions, working hours and cancellation of employment contracts.

Article 77 of the said Law places the employer under an obligation to pay equal salary to the employees for equal work with equal requirements, regardless of the gender.

The provisions of the employment contracts and the provisions of the collective agreements, which are in contravention to these provisions, are null and void.

- Law on Election of Representatives in the Assembly of the Republic of Macedonia (“Official Gazette of the Republic of Macedonia”, Nos. 42/02, 50/02 and 46/04)

It specifies that in the proposed list of candidates each gender will be represented by at least 30%.

- The Law on Local Elections (“Official Gazette of the Republic of Macedonia”, Nos. 46/96, 48/96, 56/96, 12/03, 35/04, 42/04, 45/04, 52/04 and 60/04)

It prescribes that in the proposed list of candidates for members of the Council of the Municipality and the City of Skopje, each gender will be represented by at least 30% in both the upper and the lower half of the list.

- Law on Culture (“Official Gazette of the Republic of Macedonia”, No. 31/98, 49/03 and 66/2003 – consolidated text)

Article 3 of the Law establishes that everyone may participate in culture, as individual, local or national interest, with a profit or non-profit purpose, in adherence to the law. Based on this, it can be concluded that the access to cultural values is related to the exercise of cultural rights of all citizens in the Republic of Macedonia.

The Article 4 of the Law establishes that everyone has the right, irrespectively of the age, education, religious, ethnic or other affiliation, to create freely, non-professionally or professionally, as well as right to education for the field of culture.

Within the meaning of this Law, the term “culture” involves participate artists, independent artists, public and private institutions, other legal and natural persons, whereby the term “artist” means and marks any natural person who creates a copyright work in the field of artistic creation or performs copyright work, or folklore work, irrespectively of their education, legal status, registration, ethnicity, other type of affiliation, etc.

- Law on Employment of Persons with Disabilities (“Official Gazette of the Republic of Macedonia”, Nos. 44/00 and 16/04)

It prescribes skill development of the disabled person for practical work for certain jobs, in conformity with the needs of the employer and the person with disability. The employer sends the employed disabled person to vocational training, if the person is not skilled to perform the appropriate tasks. The finances needed for vocational training are provided from a special fund, earmarked for this purpose. Pursuant to the Law on Social Care (“Official Gazette of the Republic of Macedonia”, Nos. 50/97, 16/00, 17/03 and 65/04) persons with disabilities have the right to non-institutional and institutional social welfare. Persons with disabilities, pursuant

to this Law, may exercise the right to social welfare. These two legal acts indicate the fact that in the Republic of Macedonia there is no discrimination on the basis of disability, and they are also measures for prevention of such type of discrimination.

- Law on Civil Servants (Official Gazette of the Republic of Macedonia, Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04).

Equal access to jobs and competence-based selection are the two fundamental principles for employment of civil servants, as envisaged in the Law on Civil Servants.

With regard to education, the Ministry of Education and Science has envisaged a programme in the elementary schools by which children attain knowledge on tolerance, non-discrimination and the democratic values.

Thus, in primary education, for pupils in grades from 1 to 8, there are programmes introduced preparing pupils for life in modern civil society. For the pupils from the primary education, a pilot project entitled "*Basics of Civil Society*" is implemented, which deals with elements from the field of human rights. In the higher grades of the primary education, in the Macedonian language courses, there are contents on the topic "The World and Us" from the UN Charter. Furthermore, within the project "*Civil Education – A Road towards the Civil Society*", there are programmes "*Basics of Democracy*" in the pre-school education and in the first four grades and "*We the People – project Citizen*" in the higher grades of the primary education. In this context, it should be added that the new concept of primary education provides that a cycle of contents within the course "*Civil Culture*" is implemented in the higher forms. In the field of the secondary education, it is important to mention the existence of the curricula implemented in all secondary schools as a result of the project for introduction of civil education in the secondary vocational schools in 1999/2000.

Within the context of gender equality, as of 2000 onwards the Ministry of Labour and Social Policy in cooperation with the local self-government and the Association of Women's Organizations in the Republic of Macedonia established eight committees on gender equality within eight municipal councils in the State and facilitated the preparation of a local action plan on gender equality in the municipality of Veles. The gender equality committees implement their activities in cooperation with the Ministry of Labour and Social Policy and the local NGOs.

In March 2000 the Macedonian Women's Lobby was established, under activities related to the Stability Pact Initiative Working Table on Gender Equality. The same year, with the support of the Ministry of Labour and Social Policy, a National Office of the Macedonian Women's Lobby was opened, which provides logistical support for the implementation of the programme activities.

Again, in the context of the gender equality, in March 2003 a Club of Women – Members of the Assembly of the Republic of Macedonia was established. The coordinator of these activities was the Ministry of Labour and Social Policy, in cooperation with the NGO Association of Women's Organizations of the Republic of Macedonia.

The Constitution provides for several forms of constitutional and legal protection of the rights and freedoms of the citizen, which directly or indirectly guarantee their exercise. In the first two forms the protection is rendered through a procedure based on the principles of expediency and priority in the decision-making.

1. Courts in the Republic of Macedonia:

Pursuant to the Law on Courts, the courts protect the rights and freedoms of the citizens, as well as the rights of other legal entities if, pursuant to the Constitution, that is outside of the scope of jurisdiction of the Constitutional Court. The jurisdiction of courts also comprises the protection of citizens from the individual illegal acts of the state bodies and of other public institutions. The regular courts have a general jurisdiction for protection of human rights.

2. Constitutional Court of the Republic of Macedonia:

Article 108 of the Constitution of the Republic of Macedonia establishes that the Constitutional Court is an body of the Republic, protecting constitutionality and legality.

Pursuant to Article 110 of the Constitution of the Republic of Macedonia, the Constitutional Court, *inter alia*, protects the rights and freedoms of citizens with regard to the freedom of conviction, conscience, thought and public expression of thought, political association and action and prohibition of discrimination of citizens on the basis of gender, race, ethnic, social and political affiliation.

The Constitutional Court exercises its jurisdiction in two ways: through constitutional review, i.e., assessment of general legal acts, and through specific procedure, i.e., through specific protection of certain rights and freedoms provided by the Constitution of the Republic of Macedonia.

3. Ombudsman:

The Amendment XI of the Constitution of the Republic of Macedonia provides for an obligation to pay particular attention to the protection of principles of non-discrimination and equitable representation of the communities in the public bodies at all levels, and in the other areas of public life.

This Constitutional Amendment was transposed into the Law on Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/2003) which establishes a new competence according to which the Ombudsman undertakes actions and measures to protect the principle of non-discrimination of the members of ethnic communities and their appropriate and equitable representation in the state bodies, bodies of the units of local self-government and in the public institutions and services.

In the practical functioning of the Ombudsman, starting in 2003 special records are maintained through which the number of submitters of petitions can be sorted according to their ethnic affiliation, according to the type of violated rights, and the institution for several years has a special *Department for Protection of Children*, which annually receives about 40 cases. This Department, aiming at improvement and promotion of children's rights, in the period from 2001 to 30.09.2004 has submitted to the Government amendments to certain laws (Law on Protection of Children, Law on Health Insurance, Criminal Code, Law on Local Self-Government, Law on Social Protection, Law on Prohibition of Smoking, Law on Catering Industry, Law on Trade, etc.) that were approved.

In relation to the principle of non-discrimination on any grounds, in the period between 01.01.2002 and 30.09.2004 approximately 50 to 60 applications were registered (out of which approximately 40 are related to issues concerning rights of the child, and other forms of discrimination), which amounts to 2,5% to 2,7% of the total number of applications submitted to the Ombudsman.

4. Assembly of the Republic of Macedonia, Permanent Survey Committee for Protection of Freedoms and Rights of Citizens:

The *Standing Inquiry Committee for Protection of Freedoms and Rights of Citizens* has the purpose of ensuring the freedoms and the rights of citizens in case of their inability to exercise the rights in the practice, or of violation of the rights by the competent state bodies. Its establishment enables institution of procedures to establish the responsibility of public officials.

5. Government of the Republic of Macedonia and state administrative bodies:

The institutional mechanisms for safeguarding the principle of non-discrimination operating within the Government are established at two levels:

- General-monitoring and promotion of human rights protection, through implementation of the international standards and enhancement of the implementation mechanisms. At this level, within the Ministry of Foreign Affairs, there is a *Unit on the Council of Europe*, while at the Ministry of Justice a *Unit for Human Rights*, Legal Analysis and Comparative Law was established.
- Ministerial level: The Ministries, within the competences established under the Law on Organisation and Operation of State Administrative Bodies, are responsible for enforcement of the laws from their respective areas, which contain anti-discriminatory clauses. Therefore, various sectors and units in the Ministries and other state bodies, in accordance with their scope of work, propose and undertake measures to prevent discrimination.

Thus, within the Ministry of Labour and Social Policy - Labour Sector, by a decision of the Government of the Republic of Macedonia in January 1997 a *Unit for Promotion of Gender Equality* was established. The basic function of the Unit is to exert a positive influence on the improvement of the position of women and promote gender equality in conformity with the international conventions that the Republic of Macedonia has ratified, ensuring the women full enjoyment of human rights. Also, the Unit initiates and coordinates activities in the area of gender equality at the level of governmental institutions, with a clear purpose and strategy to overcome the problems, which the women in the Republic of Macedonia face. At the same time the Unit cooperates, participates, supports and coordinates many activities initiated by the non-governmental organisations. Upon an initiative of the Ministry of Labour and Social Policy (the Gender Equality Unit) contact persons in the Ministry of Justice, Ministry of the Interior, Ministry of Foreign Affairs and the Ministry of Environment and Physical Planning, contact persons have been designated primarily employed at the human rights sectors, who, among other tasks, have the obligation to monitor the activities from the perspective of gender equality and to inform the Unit about certain proposals and solutions in the area of gender equality.

Cooperation with non-governmental organisations and international cooperation

The Government of the Republic of Macedonia, aware that the principle of non-discrimination in itself is not sufficient to protect the citizens from discrimination, or to provide for full and effective equality through normative regulation of the field, continuously undertakes a number of measures through implementation of many activities, such as: media campaigns, organisation of national and international seminars and workshops, open panels, researches, trainings, etc.

In this context, the Government of the Republic of Macedonia, closely and continuously cooperates with the non-governmental organisations, political parties, other institutions in the State, as well as with the international organisations.

23. Please provide details on legislative measures which ensure equality between men and women, commenting particularly on equality in areas such as employment, work and pay.

In the Chapter on fundamental human rights and freedoms, the Constitution of the Republic of Macedonia ("Official Gazette of Republic of Macedonia" Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) determines that citizens of the Republic of Macedonia are equal in their rights and freedoms, regardless of gender, race, colour of skin, ethnic and social origin, political and religious beliefs, property and social status (Article 9). The same Article guarantees equality of citizens before the Constitution and law. By introducing gender equality provisions in the substantive provisions of the Constitution the Republic of Macedonia has expressed its political will to rank itself among democratic states that base their state order on full recognition and promotion of gender equality, as one of key prerequisites for sustainable development.

The Law on Labour Relations ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 3/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03 40/03 and 80/03-consolidated text) prohibits direct and indirect discrimination regarding:

- Conditions for employment, including the selection criteria and conditions for a specific job, in any branch of economic activities and at all levels of personnel hierarchy;
- Promotion;
- Access to all types and levels of vocational training, re-training and additional training;
- All rights arising from and related to employment, including equality of pay;
- Termination of an employment contract;
- Rights of members and work of employees' or employers' associations or any other professional organization, including the membership privileges;
- Insurance at work;
- Working hours;
- Health status, i.e. disability;
- Religious, political or other belief;
- Ethnic or social origin;
- Family status;
- Property status;
- Other personal circumstances.

The Constitution of the Republic of Macedonia guarantees everyone the right to work, to free choice of employment, guaranteeing also that every job is open to all under equal conditions (Article 32).

In accordance with the above said the Law on Labour Relations contains provisions, which, *inter alia*, prohibit unequal treatment (placing a person in an unequal legal position) based on the gender of persons seeking employment. (Article 9). The same Article guarantees that men and women must be provided equal opportunities and treatment in employment, promotion, insurance at work, conditions for work, working hours, and in termination of employment contracts.

The Law on Labour Relations does not contain provisions, which explicitly prohibit referring to the gender of persons seeking jobs in the vacancy announcement.

Furthermore, the Law does not contain provisions prohibiting posing any pregnancy related questions to women when applying for any job.

As already stated, according to the Law on Labour Relations, personal circumstances, which could be related to gender or pregnancy of women seeking jobs must not be considered an obstacle to employment.

The definition of indirect and direct discrimination has not been introduced in this area of legislation (Directive 2002/73/EEC).

The provisions of the Law on Labour Relations prescribe protection of women employees (during pregnancy, as well) from underground work, strenuous physical labour or health damaging work, especially from work in night shifts.

Pregnant women may not be dismissed from work in the course of pregnancy or maternity leave.

Maternity leave, according to the Law, lasts nine consecutive months, while in cases of a birth of twins, triplets, etc., the maternity leave lasts twelve months. Maternity leave for adopted children is of the same duration. These rights are exercised under equal conditions by both parents, who have the right to be returned to the formerly held or to appropriate positions.

In cases of a legal action on grounds of employment related discrimination, the burden of proof is on the employee who has instituted the dispute. If the dispute has been resolved in favour of the employee, the costs for the legal action and other rights are determined following regulations on regular court proceedings.

Equal access to jobs and competence-based selection are the two fundamental principles for employment of civil servants, as envisaged in the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/2001, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04).

In respect of compensation for work, the Law on Labour Relations places employers under the obligation to disburse equal pay for work of equal value of the employees regardless of their gender (Article 77). The same principle is further transposed and elaborated in collective agreements, which must not be in collision with the law.

Any differences in this respect are related exclusively to differences between jobs performed mainly by women and those mainly performed by men.

24. Give an overview of possible incentives which exist for both the public and private sectors to refrain from discriminatory employment practices.

Equal access to jobs and competence-based selection are the two fundamental principles for employment of civil servants, as envisaged in the Law on Civil Servants (Official Gazette of the Republic of Macedonia, Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04).

The principle of equitable representation of citizens belonging to the communities in the state bodies and other public institutions at all levels is one of the basic values of the Constitutional order of the Republic of Macedonia. The Law on Civil Servants elaborates this principle in detail, while the criteria of expertise and competence are fully observed in employment of persons belonging to the communities in the Republic of Macedonia.

Aimed at creating preconditions for equal job opportunities, the legislation and the practice of the Employment Agency of the Republic of Macedonia, i.e. the active employment policy measures provide incentives for employment of targeted groups of persons having difficulties in employment under the usual labour market conditions.

Law on Employment of Persons with Disabilities ("Official Gazette of the Republic of Macedonia", Nos. 44/00 and 16/04) and the Rulebook on the Criteria for and Mode of Allocation of Finances from the Special Fund Creating Conditions for Employment and Work of Persons With Disabilities ("Official Gazette of the Republic of Macedonia", No. 34/04) envisage that employers who shall employ unemployed disabled persons, in accordance with the provisions of the said Law, are entitled to grant allocations from the Special Fund. The grant allocations from the Special Fund are given in the following cases:

- Grant allocation in the amount of 20 average monthly salaries paid in the Republic of Macedonia in the month prior to the long term employment of disabled persons i.e. for employment of person with sight, hearing, voice and speech impairments, physically disabled persons, persons with slight psychosocial impairments, persons with combined impairments and persons with psychosis conditions who owing to the extend of their disability have specific requirements in respect of work; or grant allocation in the amount of 30 average monthly salaries paid in the Republic of Macedonia in the month prior to employment of a blind person with sight impairment of over 97% or of a person of more than 90% physical disability.
- Under the Law on Employment of Disabled Persons, employers have the right to grant allocations from the Special Fund, in the amount of up to 30 average monthly salaries paid a month before the application has been lodged, for purposes of adjusting the work place for

disabled persons; then for purposes of procuring equipment required for employment and work of disabled persons the employer is entitled to grant allocation in the amount of up to 50 average monthly salaries paid in the Republic of Macedonia for the month prior to the lodging of application, according to the number of newly employed disabled persons; and for purposes of completion and adjustment of the facilities to employment and work of disabled persons depending on the technical-technological process, employers have the right to grant allocations in the amount of 50 average monthly salaries paid in the Republic of Macedonia for the month prior to the lodging of the application, according to the number of newly employed disabled persons.

- Furthermore, the Law on Employment of Disabled Persons envisages training for disabled persons for practical work at certain jobs according to the needs of the employer and the disabled person. The Employment Agency assigns disabled persons to training for employment purposes, while employed disabled person who are lacking relevant the employer sends job training for training. The job training may be organized at the employer's facilities or with another employer, following special programmes and under conditions and in a manner set forth by the Rulebook on Job Training of Disabled Persons.

The employer lodges the application for grant allocation from the Special Fund to the Management Board of the Employment Agency of the Republic of Macedonia, through the Employment Centre covering the specific territory employer.

The application is supported with: documents of the court registration of the company, ruling on fulfilment of hygiene-technical and fire job safety conditions, solvency certificate, a certificate that the company is not under bankruptcy proceedings, a certificate issued by the Union of Associations for the Protection of Disabled Persons of Macedonia that the conditions set forth in the Law on Employment of Disabled Persons have been fulfilled, monthly calculation of paid salary, calculated and paid personal income tax and salary based contributions for the nine months before the application has been lodged, as well as signed and certified copy of the employment contract.

One of the commitments under the employment policy to be pursued in the forthcoming period is encouraging integration of persons with less favourable position at the labour market, such as those who have left school early, unskilled labour, persons with diminished capacities, ethnic minorities etc.

The following proactive measures will be undertaken in this respect: promoting contracts for public works under infrastructure upgrading projects and specific targeting of local authorities' resources to implementing projects of public interest; support for new forms of flexible employment, especially for persons with special needs and other active measures to facilitate conditions for employment of persons in underprivileged position in terms of job opportunities.

Furthermore, the Employment Agency implements active measures to encourage employment, which are to reduce negative unemployment trends, having on the other hand a positive impact on increase of employability of specific target groups. Some of these measures are aimed at encouraging employment of young people, matching the labour market demands with jobs in demand through various education programmes. In light of the importance of education and expert proficiency *vis-à-vis* the labour market requirements, in the context of improving the general business climate, there will be a focus on improving the quality and efficiency of the education and training systems.

The Roma in the Republic of Macedonia are one of the target groups of measures for their empowering at the labour market. In order to contribute to full emancipation and integration of Roma in society, the Republic of Macedonia is one of states involved in the international project "*Decade of Roma Inclusion 2005-2015*". The goals of the Decade are to plan; design and implement actions in a ten-year period that would help improve conditions for development and full integration of Roma in all fields. In this respect, there is a National Strategy on the Roma that was approved by the Government on 31.01.2005, as well as an Action Plan of the Decade of Roma Inclusion. Considering that one of the key segments of advancing the emancipation and integration of Roma is to improve their economic status, which primarily implies their employment, the Employment Agency is involved in the Decade related activities.

Under the Programme and in the context of its regular tasks the Employment Agency focuses its activities on successful preparation of Roma for employment and their larger scale coverage by the pro-active employment measures. Hence, a series of measures are undertaken to upgrade the level of informing Roma about their rights and obligations as employed and as unemployed, through job counselling clubs. The purpose of these activities is to empower the Roma for their more successful participation in the labour market, promoting their active approach towards job seeking and employment. Considering the low skills structure of this population, it is necessary to involve them in all types of vocational training. The Employment Agency also works on facilitating their access to training programmes, re-training and advanced training.

One of the measures for job opportunities advancement is engagement of Roma on public works, in which regard in addition to pecuniary compensation for the performed job, there will be also training in order that they acquire certain knowledge and skills to enhance their competitiveness at the labour market.

Unemployed persons - social assistance beneficiaries are offered the opportunity of receiving the assistance in the form of single payment or in instalments, encouraging thus development of small, family businesses and contributing towards resolution of unemployment problems through self-employment.

In addition, the Employment Agency will design and implement other pro-active measures to alleviate the problem of unemployment among the Roma, by their successful inclusion in the labour market.

25. Elaborate on the legislative structures in place to ensure effective access to legal aid, commenting on the scope and resources of the legal aid service.

In accordance with the legal system of the Republic of Macedonia, every citizen is entitled to free access to a court and may represent himself/herself in civil cases or may defend himself/herself in criminal cases if charges have been raised against him/her.

Article 53 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03) determines that the Bar is an autonomous and independent public service providing legal assistance and carrying out public mandates in accordance with the Law.

The Bar Law ("Official Gazette of the Republic of Macedonia", No. 59/02) regulates the provision of legal assistance by the bar to natural and legal persons in exercise and protection of their rights and law-based interests in proceedings before courts, state bodies and other legal entities; implementation of public competence determined by law; organisation of the bar; terms of performance, termination and rest of the bar activity; as well as lawyers' rights and duties.

An exception to the foregoing is stipulated in the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) where in certain criminal proceedings the defendant must be appointed a defence attorney. Thus, if the defendant does not appoint a defence attorney, the state shall provide legal assistance while the Court pays expenses.

On the Answer to this Question pertaining to the part on free legal aid, for more details see [I D 15](#).

26. What is the average length of time a person may be detained without being brought before a competent legal authority? What is the average length of time between the lawful arrest and detention of a person and his trial? (See also the section on the judiciary.)

Although *arrests* are usually conducted by police, the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) empowers any person to deprive of liberty a person caught while perpetrating a criminal offence prosecutable *ex officio*. A person shall be regarded caught while perpetrating a criminal offence when seen while perpetrating the offence or

has been caught in circumstances which indicate that he/she has just committed the offence. In such case, the citizen is obliged to immediately hand over to police or court the person deprived of liberty, or notify them thereof.

The police officer, by rule, has to provide a *court order* prior to arrest. Article 12, paragraph 2 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03) strongly favours existence of court order so as to allow that a person be deprived of liberty. The Constitutional Court of the Republic of Macedonia similarly insists on this condition in a number of its decisions. In that sense, no person may be deprived of liberty if legal guarantees have not been respected consistently. The court order is regarded as one of the most important such guarantees. In that way, it has been left to the judiciary to make an unbiased assessment of the facts which indicate to whether a person has violated the law. Arrest without court order is regarded as an exception to this rule. The court may issue an order for forced apprehension, i.e. arrest if: a decision for detention has been adopted; if the regularly summoned defendant has failed to appear and has not provided justification for absence or if no orderly delivery has been possible of the summons, while the circumstances of the case clearly indicates that the defendant has been avoiding to receive the summons; or when a court warrant has been issued. The order shall be enforced by the Ministry of the Interior. *The person arrested by a court order shall be without delays brought before the competent investigative judge without delays.*

In case when the deprivation of liberty has been done under an issued warrant for person escaped from serving a prison sentence, the person shall be handed over to the penitentiary, i.e. the institution for serving criminal and misdemeanour sanctions.

Pursuant to Article 12 of the Constitution of the Republic of Macedonia and Article 188 of the Law on Criminal Procedure, the police may only by derogation *deprive a person of liberty without a court order* in cases when the person has been caught while perpetrating the offence (*in flagranti*) or in case of danger of delay (that has to be proved before court), if concurrently some of the reasons for arrest have been met.

The Law on Criminal Procedure specifically defines situations when the suspected may be *put in custody* in police station, over a maximum of 24 hours. Authorised officers of the Ministry of the Interior may place the person in police custody only when necessary in order to determine his/her identity, verify an alibi, collect necessary data for the procedure, and if simultaneously conditions for detention have been met. In all other cases, the suspect must be immediately brought before an investigative judge who shall decide on the lawfulness of the deprivation of liberty and shall order his/her release if no conditions for arrest exist (Article 188 of the Law on Criminal Procedure).

The detention may not exceed 24 hours from the moment the person has been detained. After this time, the detainee shall be either acquitted or brought before an investigative judge.

The person shall be detained in specialised police stations. The official person of the Ministry keeps records for every detainee, entering the following data: day and time of detention; reasons for deprivation of liberty; reasons for detention; the time when he/she has been legally advised; marks of visible injuries; illness; mental derangement; time when his/her family, attorney, doctor, and diplomatic-consular offices have been notified; data on interrogation; whether he/she has been transferred to another police station; acquittal or bringing before the court; and other relevant data.

When the detained person has been brought before an investigative judge, the judge shall *ex officio* examine the legality of detention for which he/she adopts a decision. If the detained person has not been brought before an investigative judge, he/she may request examination of the legality of detention within 30 days, for which the investigative judge adopts a decision. An appeal against the decision may be filed within 48 hours, and a decision on the appeal shall be adopted within three days.

The Law on Criminal Procedure in Article 185 stipulates that only the investigative judge of a competent court may order *detention*. In this manner, any other body apart from the court has been excluded from the possibility to decide upon detention.

The investigative judge may order a *short-term detention* of 48 hours of the detainee upon the proposal of the public prosecutor if there is reasonable doubt that the detainee has performed a crime and when the legal terms for detention have been met. This short-term detention is pronounced if the public prosecutor has not initiated an investigation or pressed charges against the person. If within 48 hours the public prosecutor does not request detention, the accused person shall be acquitted.

The investigative judge may order a 24-hour detention for the detainee upon the proposal of the public prosecutor if there is reasonable doubt that the person has committed a crime and legal bases for detention are met (the detainee hides; his/her identity cannot be determined; there is danger of escape; there is danger of destruction of evidence for the crime; and danger of hindering the investigation by influencing witnesses, aides or abettors), when detention is necessary to determine his/her identity or verify his/her alibi. The investigative judge may only extend this detention for another 24 hours. An appeal against the detention decision may be filed within 5 hours, and within three hours upon the receipt, the competent bodies shall adopt a decision on the appeal (Article 186-a of the Law on Criminal Procedure).

The time of the detention must be reduced to the shortest necessary duration. All bodies involved in criminal proceedings and those that provide legal assistance are obliged to act with particular urgency if the defendant is in detention. Throughout the proceedings, the detention shall be cancelled as soon as the reasons cease to exist on the basis of which it has been ordered.

Detention by a investigative judge's order or detention ordered by a Chamber for the first time during an investigation may last up to 30 days from the day of deprivation of liberty. Any deprivation of liberty shall count to the duration of detention.

Upon an elaborated proposal by investigative judge or public prosecutor, the trial Chamber of the first-instance court may extend the duration of detention by up to 60 days. If a crime is in question punishable by a prison sentence of at least 5 years, after the expiration of the 60 days period, the Chamber of the immediately superior court may extend the detention by up to 90 days, upon an elaborated proposal by an investigative judge.

The overall duration of the detention in the course of investigation, including the deprivation of liberty prior to the detention decision, may not be longer than 180 days. After the expiry of this term, the detainee shall be immediately acquitted. (For less serious offences for which summary proceedings are prescribed, detention may last only until necessary to conduct certain investigative actions, but no longer than 8 days.)

The latest Amendments to the Law on Criminal Procedure introduced absolute time frames for duration of detention, after charges have been brought and until the completion of the main hearing. Namely, detention may last up to a year for criminal offences punishable by a prison sentence of up to 15 years, and up to two years for offences punishable with life imprisonment.

For more details please refer to answer to question No. 12, Chapter I Political Criteria, D Judicial System.

27. To what extent is victim support provided?

In accordance with Article 50 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), every citizen may invoke the protection of freedoms and rights, as stipulated by the Constitution, before the courts of law and the Constitutional Court of the Republic of Macedonia, in a procedure based upon the principles of priority and urgency.

Victims of crimes may exercise their right to protection by filing criminal charges to the public prosecutor. As regards offences subject to private suits, victims may file them to a court of law. If the public prosecutor drops the charges of a criminal offence subject to prosecution *ex officio*, the victim i.e. the injured party has a right to take over the prosecution as a subsidiary prosecutor. If, as a result of a criminal offence the person has been damaged, he/she has a right to file a damages claim, and if he/she is referred to a lawsuit, the case shall be resolved in a civil suit in accordance with general provisions on indemnity.

According to Article 96 of the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04), resulting from a criminal act may be litigated in criminal procedure upon the proposal of authorised person, only if such litigation is not prolonged. may refer to indemnities, return of objects or cancellation of a legal action. In case of insurance, such claims may be filed to an insurance company. The proposal may be submitted not later than the end of the principal process before the basic court. The claimant is obliged to define his/her claim and submit evidence. Authorised persons may renounce the proposal and may exercise their right through a civil suit before the end of the principal process.

In case the defendant has been found guilty, the court brings a full or partial ruling on the property claim, and if the evidence presented is incomplete the court shall rule only on the counts of accusation, while the amount of the claim or the rest of the amount shall be subject to additional ruling. In case the defendant has been found not guilty or if the charges have been dropped, the court shall refer the injured party to claim his/her property claims in litigation. (Article 101)

The Criminal Code ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03, and 19/04) also contains provisions regarding the protection of the injured party. Namely, pursuant to Article 99, the injured party that has been referred to a litigation with regard to his/her property claims may demand that this be settled from the confiscated value, if he/she starts a litigation within six months from the day the ruling has been effective and if he/she demands indemnity from confiscated value within three months from the day the ruling has been effective. The injured party that has not petitioned a property claim may request indemnities from confiscated value if, in order to determine his/her claims, he/she has filed a lawsuit within three months from the day he/she learned about the ruling on confiscation; and not later than two years from the day the ruling on confiscation has been effective provided that within three months from the day the ruling determining his/her claims has been effective, he or she demands indemnities from the confiscated value.

The indemnification shall be determined on the basis of the indemnification rules laid down in the Law on Obligations ("Official Gazette of the Republic of Macedonia", Nos. 18/01, 4/02, and 05/03). The indemnification includes a compensation of all damages (both material and non-material) that the injured person has suffered. In case of death, body injury or health damages a financial compensation shall be determined in a form of rent covering treatment costs, losses due to working inability, losses due to missed or reduced promotion chances, etc. In addition, the Law on Obligations also prescribes indemnities for non-material damages. Pursuant to Article 189 of the Law on Obligations in case of sufferings due to physical pain, mental pain resulting from decreased life activities, disfigurement, defamation, violation of freedom or rights, death of a relative and fear suffered thereafter, the court shall rule in favour of equitable financial benefit (without regard to the material indemnification or its absence) if the intensity of pain and fear and their duration justifies it. In case of death of a person or in case of severe disability, the court may award his/her family members (spouse, children and parents) equitable indemnification for their mental pains (Article 190).

The court determines the following to be special cases of liability: liability for terrorist acts, public demonstrations or public events; liability for corruption by civil servants in the line of duty; and liability for damages due to violent criminal acts perpetrated by an unidentified offender. In all such cases the state shall indemnify damages (Articles 166, 167 and 168).

Furthermore, the Law on Criminal Procedure has been amended by a new Chapter XIX-a, "The Protection of Witnesses, Collaborators of Justice and Victims". Namely, the public prosecutor, the investigative judge and the Chamber president shall undertake activities for securing efficient protection of witnesses, collaborators of justice, and victims in the course of the procedure, if they appear as witnesses, and if there is clear and present danger of their exposure to intimidation, threats to life, health or physical integrity or if their protection is required. The protection is carried out in a special mode of interrogation and participation into the procedure. In such cases witnesses shall only be heard in the presence of the public prosecutor and the investigative judge, or the Chamber president and in a location that guarantees the protection of witness's identity. In addition, other communication and telecommunication devices may be used upon the witness's consent. Transcripts from the minutes containing the witness's testimonies without his/her signature shall be submitted to the defendant and his/her attorney, who may pose questions to the witness in writing through the court.

Protection may also be carried out through employing the Programme for the Protection of Witnesses. A request to participate into the Programme is filed to the Public Prosecutor of the Republic of Macedonia, and submitted by the competent public prosecutor, investigative judge or the Chamber president. If circumstances allow such participation, the Public Prosecutor of the Republic of Macedonia submits a proposal to a competent body to adopt a decision on participation in the Programme.

In line with the objective for protection of victims of illegal trafficking in human beings a Shelter based in Skopje has been established within the Ministry of the Interior. It sheltered 131 women in the course of 2003, all from Eastern European Countries (56 Romanian, 51 Moldovan, 14 Bulgarian, 9 Ukrainian and 1 Belarusian). Two percent of all are persons involved in juvenile prostitution.

As far as activities reflecting regional co-operation on the issue, it is important to note that in June 2004, Ministers of the Interior and representatives of countries in Southeast Europe signed a Declaration on Prosecuting Perpetrators of Criminal Acts of Human Trafficking and the Protection of the victims (witnesses).

28. What guarantees are in place to ensure a public hearing? Give details of the circumstances in which limitations may be placed on the public pronouncement of judgements and the extent to which this occurs.

Publicity in the court proceedings and the mixed composition of the court essentially contribute to the external and internal control of hearings, and indirectly to the promotion of the defendant's right to defence.

Pursuant to Article 102 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), debates before courts and the pronouncing of verdicts are public. The public may be excluded only in cases determined by law. The principle of publicity refers to debates before courts in general, and it is equally applied in criminal and civil proceedings. Article 103 of the Constitution sets forth that court tries cases in chamber, while a law prescribes when a case is tried by a single judge. Lay judges also participate in hearings, when so stipulated by law. Similarly as judges, lay judges may not be taken accountable for opinions or decisions made when rendering judgement.

Trial parties and their representatives (attorneys) and third parties not directly interested in the outcome of criminal proceedings (general public) have a right to attend the main hearing and the pronouncing of the verdict. The principle of publicity is contained in Article 279 of the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04) according to which the main hearing is public. The main hearing may only be attended by adults. The Law determines cases when the public or a part of the public may be excluded from the main hearing: a) for the protection of secrecy; b) for keeping public order; c) for the protection of morality; d) for the protection of personal matters of the defendant, witness or the injured party; and e) for the protection of the interest of a juvenile. The court may exclude the public anytime from the opening until the

completion of the main hearing *ex officio* or upon the proposal of the parties, but only after they have been heard. (Article 280)

The exclusion does not refer to the parties, the injured, or their representatives and attorney, but to third parties participating in the main hearing. The Chamber may allow the attendance of certain official persons at hearings in which the public has been excluded, and upon the request of the defendant the Chamber may allow the attendance of their spouses or partners and their close relatives (first-degree blood relatives, foster-parent, foster-child, brother, sister or custodian). The Chamber President shall warn the persons attending the main hearing at which the public has been excluded that they are obliged to keep matters from the hearing in confidence and shall notify them that revealing such secrets is a criminal offence. (Article 281)

The decision on exclusion of the public is adopted by the Chamber which must explicate and publish such decision. This decision may only be challenged in the appeal against the verdict. (Article 282)

The main hearing may only be attended by adults. If a witness younger than 14 years of age is heard, the Chamber may decide to exclude the public during his/her hearing. The juvenile attending the main hearing as a witness or as an injured party shall be removed from the courtroom as soon as his/her presence is deemed not necessary. (Article 316)

The publicity of the main hearing entails a public announcement of the verdict. Pursuant to Article 337, the verdict is pronounced and published on behalf of citizens of the Republic of Macedonia, and pursuant to Article 344, the Chamber President in the presence of the parties, their legal representatives, plenipotentiaries and attorneys shall publicly read the verdict and give a brief explication. The public announcement shall also be delivered when the party, legal representative, plenipotentiary or the defence attorney are absent. In that case the announcement is carried out before the present public. If the public has been excluded from the main hearing, the announcement of the verdict shall be carried out at a public sitting. The Chamber shall decide whether to exclude the public during the announcement of the reasons for the verdict. This only refers to cases when public has been excluded from the main hearing.

The Law on Criminal Procedure in the part regulating the procedure on juveniles includes several provisions relating to the public, i.e. the exclusion of the public in proceedings against juveniles. Pursuant to Article 467 of the Law, in a proceeding against a juvenile the public shall always be excluded. The Chamber may allow the attendance at the main hearing of persons engaged in education of juveniles or in suppression of juvenile crime, as well as academics. In the course of the main hearing the Judicial Council may decide to exclude all persons except for the public prosecutor, the defender and the representative of the guardian institution. During the exhibit of certain evidence or parties' speech, the Chamber may order a removal of the juvenile from the sitting.

The Law also prescribes certain restrictions regarding the publication of the verdict and information of the public on the proceeding against the juvenile. For instance, without the court's approval the proceeding against a juvenile or a verdict passed must not be published. Only the approved part of the proceeding or verdict may be published; however, the juvenile's name or other data revealing his/her identity must be excluded. Decisions and other information regarding the juvenile may not be submitted through their exposure on the court's information board.

With regard to the civil procedure, pursuant to the Law on Litigation Procedure ("Official Gazette of the Republic of Macedonia", Nos. 33/98, 44/02) public trial is also one of the fundamental principles.

In the course of the civil procedure, the public may be excluded by the force of law in statutory disputes (paternal, maternal and marriage disputes).

The court may exclude the public by a decision if the interests of keeping an official, business or personal secret require privacy; if interests of public order or moral reasons require privacy; and if measures on securing the order as stipulated in the Law on Litigation Procedure (Articles 291-295) do not provide an unimpeded debate.

Within the project of monitoring the implementation of international standards on fair trials in domestic courts and assessment of the courts' functioning in the Republic of Macedonia, the Coalition of citizens' associations "*All for Fair Trial*" prepared a final report in September 2004 based on monitored trials from July 2003 until July 2004. The report states that 643 criminal cases and 720 civil cases have been observed. With regard to the implementation of the principle of public trial, it has been determined that only in five criminal cases the public has been partially or fully excluded by a court's decision (in one of the cases the public has been partially excluded for lack of space in the courtroom; in another the public has been excluded for reasons of privacy of the defendant, witness or the plaintiff; and in three cases the public has been excluded for reasons of protecting a juvenile's interests). As far as civil cases are concerned in 696 out of 720 monitored trials (or 96,7%) the main hearing has been public, and only in 24 cases or 3,3% the public has been excluded. All of the 24 cases were related to a divorce.

The aforementioned provisions are in accordance with the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights and the European Convention for the Protection of Human Rights and Freedoms.

29. Is the presumption of innocence a central part of your criminal justice system and, if so, how is it applied in practice?

The *presumption of innocence* is stipulated in Article 13 of the Constitution ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03) and Article 2, paragraph 1 of the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04). Pursuant to these provisions, a person indicted for an offence shall be presumed innocent until his/her guilt is established by a final court decision. The second paragraph, Article 2 of the Law establishes the *in dubio pro reo* principle as one of the significant consequences of the application of the principle of presumption of innocence. Namely, in cases of doubt, the existence or non-existence of facts that constitute the character of a criminal offence or upon which an application depends of certain provision of the Criminal Code, is established by the court in a manner favourable for the defendant.

It follows from the principle of presumption of innocence that the burden of proof rests on the prosecution. The defendant is freed from the obligation to prove his/her innocence; he/she has a right to remain silent and not respond to allegations. A defendant may not be forced to testify against him/herself, his/her immediate family or to admit his/her guilt. Extorting a confession is forbidden and punishable (Article 10 of the Law on Criminal Procedure) and a court decision may not be based upon statements extorted under force, threat or other similar means (Article 210, paragraph 7). In line with the principle of presumption of innocence is the provision of Article 1 of the Law on Criminal Procedure under which prior to a final court judgment, rights and freedoms of a defendant and of other persons may be restricted only to a necessary extent and under conditions prescribed by law.

In addition, Article 11 of the Law on Criminal Procedure determines that a person who has been illegally deprived of liberty, detained or convicted, is entitled to compensation of damages from the budget, to rehabilitation and to other rights established by law.

The Law stipulates another procedural consequence of the principle of presumption of innocence. Namely, Article 342 sets forth that the court shall pronounce a judgment acquitting the defendant unless it has been proved that he/she has committed the offence for which accused (acquittal due to lack of evidence).

The Constitutional and legal provisions which regulate the presumption of innocence are in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Universal Declaration of Human Rights and the International Covenant on the Civil and Political Rights.

30. Regarding the rights of defence, please provide information on how the following rights are guaranteed in legislative and practical terms. (Please comment on the allocation of resources and the institutional framework in place to facilitate the exercise of these rights.)

- a) The right of the defendant to be informed promptly in a language which s/he understands of the nature and cause of the accusation against him/her;**
- b) The defendant's right to have adequate time and facilities for the preparation of his/her defence;**
- c) The right to defend oneself in person or through legal assistance of one's own choosing;**
- d) The right to examine, or have examined, witnesses against him/her and to obtain the attendance and examination of witnesses on his/her behalf under the same conditions as witnesses against him/her;**
- e) The right to have the free assistance of an interpreter if s/he cannot understand or speak the language used in the court.**

In reforming the criminal procedure, particular attention has been dedicated to the defendant's rights to fair trial with the rights and practice stipulated in the European Convention on Human Rights. The rights to defence mentioned here, the list of which is not exhaustive, reflect only a number of aspects of the fair trial concept in criminal proceedings guaranteed to the defendant as minimum rights, in order to give him/her a fair possibility to defend from state charges.

a)

The Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos.15/97, 44/02 and 74/04) contains several provisions that regulate the right of the defendant to be informed in the language he/she understands on the accusations against him/her. Article 3 determines that the person summoned, apprehended or deprived of freedom must immediately be informed in a language he/she understands on the reasons for summoning, apprehension or deprivation of freedom and on any other charges against him/her, as well as on his/her rights. The person must not be compelled to give a statement. Article 4 of the Law on Criminal Procedures determining the minimum rights to which every defendant is entitled stipulates the right of the defendant to be informed immediately in a language he/she understands and in detail on the charges and evidence against him/her. If the court violates the provisions on the language use in the course of the procedure it makes an essential violation which can be basis for disputing the verdict (Article 355).

These general provisions have been further elaborated. In the first interrogation of the defendant in investigation (Article 210), the body conducting the interrogation is obliged to notify the defendant of the charges against him/her or of the grounds of suspicion existing against him/her. The same obligation has been stipulated for cases when prior to the adoption of decision for conducting investigation, the investigative judge shall interrogate the person against whom investigation is requested (Article 152). Pursuant to Article 254, the bill of indictment includes detailed information on the offence he/she has been charged with, its legal qualification, evidence it has been based upon, etc. Somewhat more summarised information shall be contained in the summons (Article 176), the decision for detention (Article 185) and the decision to conduct investigation (Articles 151 and 152).

However, significantly less detailed information is prescribed for summary proceedings for less serious criminal offences, especially given that the indictment proposal (Article 421) includes only a brief description of the criminal offence, and the defendant has not been previously heard so as to inform him/her within the meaning of Article 210, paragraph 2.

b)

The defendant's right to have adequate time and facilities for the preparation of his/her defence has been regulated in Article 4, paragraph 2 and subparagraph 2 of the Law on Criminal Procedure as one of the minimum rights of the defendant in the criminal procedure.

The defendant is given enough time to prepare for the main hearing. Pursuant to Article 273, paragraph 3 of the Law on Criminal Procedure the summons to the defendant must be submitted in such a way that between the day of submitting the summons and the day of the main hearing the defendant is given adequate time to prepare his/her defence, or at least 8 days. In the event of

summary proceedings (for crimes punishable with imprisonment of up to three years or a fine) this period is at least three days.

The court may suspend the main hearing to allow time for the preparation of the defence if the plaintiff changes the indictment, or modifies it with new charges on crimes carried out or detected in the course of the main hearing.

As regards the time given for submitting appeals, the Law prescribes 15 days (in summary proceedings it is 8 days) from the day of submission of the verdict's transcript.

One of the conditions for the defence preparation is the right to inspection into the procedural documents. Pursuant to Article 69 of the Law, the defendant has a right to review procedural documents and subjects serving as evidence from the moment of the indictment, i.e. from the time the investigative judge before adopting a decision on opening an investigation performs the required investigation actions. The same right applies to the defendant, but only after he/she has been examined (Article 124).

Pursuant to Article 166 of the Law on Criminal Procedure, if before the completed investigation the investigative judge finds that it is in the interest of the defence to introduce the defendant and his/her attorney to important evidence collected during the investigation, he/she shall inform them within certain period of time that they are entitled to have access to the material and records referring to the evidence and that they may give proposals for presentation of new evidence.

The Law on Criminal Procedure does not contain provisions on the basis of which the public prosecution would be obliged to reveal evidence in favour of the defence; however, the obligation for objectivity must be taken into consideration (the obligation to pay equal attention to facts charging the defendant and those in his/her favour, as stipulated in Article 14 of the Law on Criminal Procedure).

c)

Article 4 of the Law on Criminal Procedure, within the minimum rights prescribed to every defendant also stipulates the right of the defendant to defend him/herself in person or through legal assistance of his/her choosing. If the defendant cannot pay for an attorney, he/she is entitled to receive free defence in the interest of justice.

The defendant's presence is one of the prerequisites for the main hearing.

Article 292, paragraph 3 of the Law on Criminal Procedure determines the conditions when the defendant may be tried in his/her absence, i.e. if the defendant is a fugitive or not available to the state agencies and there are particularly significant reasons to be prosecuted although absent. In the event the defendant is tried in his/her absence the Law guarantees him/her the right to a defence attorney (pursuant to Article 66 of the Law on Criminal Procedure the defendant tried in absence must have an attorney at the time the decision on a trial in his/her absence is adopted), as well as the option to reopen the procedure in case the defendant and his/her attorney submit a request for reopening of the procedure within the period of one year as of the day the convict has learnt of the verdict pronounced in his absence (Article 398 of the Law on Criminal Procedure).

The defendant is present at the main hearing from the beginning until the closure, and his/her presence is active. The defendant has a right to propose the determination of new facts and present new evidence until the closure of the main hearing, as well as to examine the co-defendants, witnesses and experts. An exception to this rule is the option to temporarily remove the defendant from the main hearing if he/she disturbs the order in the courtroom (Article 287).

The defendant may also be removed if other defendants or witnesses refuse to give a statement in his/her presence or if circumstances imply that his/her presence prevents the other defendants to tell the truth. The latter is carried out under the condition that the defence attorney is present and the defendant has been informed about the content of their statements.

As regards summary proceedings, if the defendant does not appear at the main hearing and if he/she has been properly summoned or the summons could not be delivered due to change of address or residence, the court may decide to hold the main hearing in his/her absence only if his/her presence is not necessary and if he/she has been examined.

Juveniles must not be tried in their absence.

The right to an attorney is a constitutionally guaranteed right. Pursuant to Article 12 of the Constitution of the Republic of Macedonia, the person summoned or detained has a right to an attorney in the police station or in court procedures.

This right has been implemented in Article 3, paragraph 2 of the Law on Criminal Procedure according to which the suspect or the defendant must first be clearly advised on his/her right to remain silent, his/her right to consult a lawyer and to acquire an attorney of his/her choosing during the examination. Pursuant to Article 63 of the Law on Criminal Procedure, the suspect in the preliminary proceedings, i.e. the defendant before the first examination must be advised that he/she has a right to an attorney of his/her choosing and that the attorney may attend his/her examination.

The defendant may defend him/herself alone and is free to choose and appoint an attorney. This right is not absolute as the defendant may only appoint a lawyer as an attorney, and Article 66 of the Law on Criminal Procedure stipulates the cases of mandatory defence. Hence, if the defendant is hearing or visually impaired, or incapable of defending himself/herself, or in case of a criminal procedure against him/her for a crime punishable with a life sentence, he/she must be represented by a defence attorney from the first hearing. In the event the defendant has been sentenced to detention, he/she shall have a defence attorney while detained. Following the indictment for a crime punishable with ten or more years of imprisonment, the defendant must have an attorney at the time of delivery of the bill of indictment against him/her. The defendant tried in absence must have an attorney upon the decision on his/her trial in absence.

If, in cases of mandatory defence the defendant has not appointed an attorney, the President of the Court shall appoint an *ex officio* attorney for the rest of the proceedings until the verdict comes into effect. The defendant shall be informed on the appointment of an *ex officio* attorney along with the issuance of the indictment.

Except cases of mandatory defence, the Law on Criminal Procedure stipulates a right to free legal assistance in cases when the defendant cannot pay the defence costs. When conditions of mandatory defence have not been met (Article 67), and the procedure is underway for crimes punishable with over one year imprisonment, the defendant may be appointed a defence attorney upon his/her request, provided that his/her property status would not allow him/her to cover defence costs.

As regards defence costs, even when the defendant has been found guilty he/she is exempted from costs when the attorney has been appointed by the court (for reasons of lack of funds of the defendant). Same applies in cases when the payment of such costs would raise the issue of the ability to support him/herself or his/her family (Article 93).

The defendant may have the advice of defence attorney during the course of the entire proceedings. A defendant who has been detained may exchange letters and talk with the defence attorney freely and without supervision (Article 70). Only by derogation, this right may be subject to supervision in the course of the proceedings if the detention has been determined due to a risk of influence over the evidence (Article 184, paragraph 2). Such an order may only be given by the investigative judge, who is sole authorised to review the written correspondence and to be present during conversation.

d)

The right of the defendant to examine the witnesses is one of the minimum rights the defendant has been guaranteed pursuant to Article 4 of the Law on Criminal Procedure. The defendant is entitled to this right both in the course of the investigation and the main hearing. Namely, the defendant and

his/her attorney may attend the examination of witnesses and have them examined by the investigative judge. Upon the judge's approval they may also directly examine witnesses. The defendant and the attorney have a right to request that their remarks be recorded in the minutes as far as the implementation of certain investigative actions is concerned, and they may request presentation of particular evidence.

Witnesses at main hearings are examined in the defendant's presence, and when the Chamber President closes the examination of a particular witness or expert the Chamber members may directly examine the witness. Upon the Chamber President's approval, the defendant and his/her attorney may directly examine witnesses and experts. The President may prohibit the examination or the response to an already posed question if such question is inappropriate (i.e. a suggestive question which implies the answer or a capricious question which takes as a starting point that the defendant has confessed something that he/she has actually not – Article 211) or if it does not refer to the subject. In that case the parties may request the Chamber's deliberation on the issue.

In practice, the Court dominates the examination of witnesses which arises from its obligation to determine all the relevant facts in the line of duty. Namely, pursuant to Article 14 of the Law on Criminal Procedure, courts and state bodies are obliged to truthfully and fully determine facts relevant for bringing a decision. They are bound to pay equal attention and determine both facts on behalf of the defendant and facts against him/her. However, parties until the closure of the main hearing may propose a presentation of new facts and collect new evidence.

Consequently, the defence may propose the examination of new witnesses, yet the court is the deciding factor on whether the examination of the proposed witnesses would contribute to the establishment of truth. Otherwise the court may refuse to examine them. This authorisation of the court is somewhat restricted by its obligation to always note the reasons on why it has refused the parties' proposals and the reasons on why it has decided not to directly examine the witness or expert whose statement has been read without the parties' consent.

Following the completion of the examination of every witness or expert, the Chamber President shall ask the parties if they have remarks. As far as probative proceedings, after their closure the Chamber President shall ask the parties if they have proposals on their modification.

The Law on Criminal Procedure stipulates that all evidence relevant to rightful decision-making must be presented before the court (the principle of directness). This principle has been reinforced by the obligation to directly examine a person if proving a fact is based on his/her witnessing. The examination may not be replaced by the reading of minutes of a previous hearing. The Law also determines the cases excluding the principle of directness, i.e. the approval to read minutes containing witnesses' statements. Namely, pursuant to Article 325 of the Law, minutes of witnesses' statements may be read upon the Chamber's decision only if the examined persons have died, have suffered mental illnesses or cannot be traced, or if their presence before the court is deemed impossible or hindered due to age, disease or other important reasons and if witnesses and experts refuse to give statements without legal grounds.

e)

Pursuant to Article 3, paragraph 1 of the Law on Criminal Procedure, the person summoned, apprehended or detained must immediately be informed in a language he/she understands on the reasons of summoning, apprehending or detaining and on any indictments against him/her, as well as on his/her rights. He/she may not be extorted a statement. Any accused person has a right to be informed immediately in a language he/she understands on the indictments and evidence against him/her (Article 4). Pursuant to Article 6 of the Law on Criminal Procedure, official language in the course of criminal proceedings is the Macedonian language and its Cyrillic alphabet. A language spoken by at least 20% of the citizens may also be used in the proceedings, pursuant to the Law.

In accordance with Article 7 of the Law on Criminal Procedure, the defendant, the injured party, the plaintiff, witnesses and other persons participating in the procedure and speaking a language other than Macedonian, have a right to use their language and alphabet in the course of preliminary

investigation proceedings and the main hearing, as well as in procedures concerning appeals. The Court shall provide oral interpreting as well as translations of documents and other written material. In addition the court shall provide translated written material of importance to the procedure or the defence.

Other parties and witnesses in the court procedure have a right to free interpreting if they do not understand or speak the language in which the procedure is conducted.

The person shall be given legal advice on his/her right to interpreting, which shall be noted in the minutes.

The translation or interpreting is carried out by a court authorised interpreter.

Pursuant to Article 8 of the Law on Criminal Procedure, indictments, appeals and other documents are submitted to the court in the language in which the procedure is conducted. Citizens who speak an official language other than Macedonian may submit their submissions in the language they speak and in its alphabet. The court shall translate the submissions and present them to other parties in the procedure. Same applies to other persons who do not speak or understand Macedonian and its Cyrillic alphabet. The defendant that does not understand the language in which the procedure is conducted is given translations into the language he/she has used in the course of the procedure.

Foreign citizens deprived of freedom or in detention may submit their submission in their language, and in other cases under conditions of reciprocity.

Pursuant to Article 9 of the Law on Criminal Procedure, indictments, appeals and other submissions are submitted to the court in the language in which the procedure is conducted. Citizens who speak an official language other than Macedonian shall receive summons, rulings and other written correspondence into their language. A defendant in detention, in prison or confined in a health institution under compulsory psychiatric treatment shall receive translations of submissions into the language he/she has used in the procedure. The defendant shall also receive a translation of the verdict in the language he/she has used in the course of the procedure.

All expenses regarding the right to translator shall be covered by the budget.

The aforementioned provisions are in accordance with the International Covenant for Civil and Political Rights and the European Convention for the Protection of Human Rights and Freedoms.

With respect to determining funds and an institutional framework enabling the exercise of the aforementioned rights, it is important to note that the Law on Criminal Procedure, Chapter IX, also regulates the issues of costs of the criminal procedure.

Namely, criminal procedure costs are costs generated from the beginning of its initiation until its closure, and costs for the undertaken investigative actions prior to the investigation. These costs comprise costs for translators, interpreters as well as awards and disbursements for the defendant. In proceedings for crimes prosecuted *ex officio* costs are paid in advance by the body carrying out the procedure and are charged afterwards from the persons obliged to recompense those costs, as prescribed by the Law. The translation costs occurring from the implementation of provisions referring to the right to a free assistance of an interpreter will not be charged to persons who according to the provisions of the Law are obliged to compensate costs.

When the court finds the defendant guilty the verdict shall note that he/she is obliged to recompense the costs of the criminal procedure. The decision determining payment of costs may exempt the defendant from his/her duty to recompense fully or partially the costs of the procedure if payment of such costs would raise the issue of the ability to support him/herself or his/her family.

When the proceedings are suspended; the court finds the defendant not guilty or the charges have been dropped, the verdict shall state that the costs of the criminal procedure are to be covered by budgetary funds.

In accordance with the Law on Court Budget ("Official Gazette of the Republic of Macedonia", No. 60/03) judicial budget costs comprise ordinary and capital costs. Costs of the proceedings are covered by ordinary costs.

31. Provide information about the elaboration and implementation of legislation regarding the following legal concepts:

- a) The principle that a person cannot be prosecuted for something that was not a criminal offence in national or international law at the time when it took place;**
- b) Non-application of a heavier sentence than was applicable at the time the criminal offence was committed;**
- c) Proportionality of the severity of the penalty to the criminal offence.**

a)

The principle of legality is defined as a constitutional principle in the legal system of the Republic of Macedonia. Pursuant to Article 14, paragraph 1 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), a person may not be punished for an offence which had not been declared an offence punishable by law, or by other acts, prior to it being committed, and for which no punishment had been prescribed. The principle of legality has been more precisely formulated in the definition of criminal offences and prescription of criminal sanctions. According to Article 1 of the Criminal Code ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03 and 19/04), a person may not be sentenced to a punishment or some other penal action for an act, which prior to its being committed, had not been determined by law to be a crime and for which no punishment had been prescribed by law.

The same principle is also regulated by the Law on Misdemeanours (Official Gazette of the Republic of Macedonia, Nos. 15/97, 35/97). The Law (Article 3) prescribes that a person may not be punished for misdemeanour for an act which, prior to its being committed, had not been determined by law as a misdemeanour and for which no punishment had been prescribed by law.

b)

One of the most important legal consequences from the principle of legality is the prohibition of retroactivity of laws prescribing punishable acts and punishments. The Constitution of the Republic of Macedonia clearly determines in Article 52, paragraph 4 that laws and other regulations may not have a retroactive effect, except in cases when it is more favourable for the citizens. In the Criminal Code this constitutional provision has been specified as a rule of validity of legal norms determining criminal offences and criminal sanctions. Article 3 of the Criminal Code prescribes that the offender may be punished with the law that had been applicable at the time when the offence had been committed. If the law has been changed once or several times after the crime had been committed, the law which is more lenient to the offender may be applied. If a new alternative, security or correctional measure has been prescribed, it may be pronounced only if it is compatible with an earlier prescribed measure and if it is not less favourable for the offender.

The criteria for assessment of the stringency or lenience of consecutively adopted laws have neither been normatively defined by the Constitution nor by the Criminal Code, and are resolved in the framework of judicial practice in every single case. In practice, Macedonian judiciary has accepted that the law resulting in a more favourable outcome for the offender is more lenient.

c)

The proportionality of the punishment's stringency to the criminal offence has been incorporated into Article 2 of the Criminal Code. Pursuant to this Article, the protection of freedoms and rights of citizens and other fundamental values as well as the use of criminal and legal coercion when it is necessary for the prevention of activities detrimental to society are a basis for determining criminal offences and prescribing sanctions.

Article 4 of the Criminal Code prescribes types of criminal sanctions applied to offenders (punishments, alternative, security or correctional measures), and Article 5 prescribes the limitations in execution of sanctions. Namely, the offender may be deprived of certain rights at the time of the sanction's execution only to the extent appropriate with the nature and content of the sanction and only if it secures the respect of the offender's personality and his/her personal dignity.

In order to ensure proportionality of the seriousness of punishment with the offence, the Criminal Code includes provisions for meting out of the punishment within the determined framework (Articles 39-47). They stipulate that when determining the punishment, the court shall take into consideration the criminal liability of the perpetrator, seriousness of the offence and the intended purpose of punishment. The court is obliged to take into account all the mitigating and aggravating circumstances. Relevant for the proportionality of the punishment and the offence are also the provisions for alleviating the punishment when the offence has been committed under particularly mitigating circumstances; acquittal of punishment for the purpose of eliminating the detrimental consequences of the criminal offence etc.

The foregoing constitutional and legal provisions are in compliance with the European Convention on the Protection of Human Rights and Freedoms.

32. Please provide details on how the right not to be tried or punished twice in criminal proceedings for the same criminal offence is interpreted in your domestic law.

Prohibition of double trial or punishment is an internationally established principle aimed at preventing that the same person is tried or punished twice for the same criminal offence (*ne bis in idem*). The Republic of Macedonia has been bound to this principle under the International Covenant on Civil and Political Rights, which in Article 14, paragraph 7 provides that *no one shall be liable to be tried or punished for an offence for which he/she has already been finally convicted or acquitted in accordance with the law*. The Republic of Macedonia has undertaken similar obligation by the ratification of the Protocol No. 7 to the European Convention on Human Rights, which, like the Covenant, is a part of the internal legal order and is directly applicable in courts.

In the Republic of Macedonia, the prohibition of trying or punishing twice the same persons for the same offences is a constitutional principle, stipulated in Article 14, paragraph 2 of the Constitution ("Official Gazette of the Republic of Macedonia", No 52/91, 01/92, 31/98, 91/01 and 84/03). Under this provision, *no person shall be tried in a court of law for an offence for which he/she already been tried and for which a final court decision has already been made*. The Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos.15/97, 44/03 and 74/04) in Article 5 contains almost the same wording which, within the meaning of the Covenant, explicitly prohibits both trying and punishing twice the same person for the same offence.

The prohibition of trying and punishing twice for the same offence yields a number of legal consequences. Like all European countries, the Republic of Macedonia acknowledges the principle that after the regular legal remedies (appeals) have been exhausted, or after the time frame for their submission has expired, the verdict shall be considered final and shall attain the quality of *res judicata*. However, extra-legal remedies are allowed against a final verdict. Pursuant to the Amendments to the Law on Criminal Procedure of 1997, extra-legal remedies may only be filed on behalf of the defendant, although this absolute prohibition for final court decisions to be challenged to the detriment of the defendant does not arise from the aforementioned international instruments. Nevertheless, re-opening of procedure is allowed (only on behalf of the convict) if it has been proved that the verdict had been found on a false statement, if new facts or evidence have been presented and in other cases determined by law (Article 388 and 389). Extra-ordinary mitigation of punishment is allowed when circumstances appear that were not present when the verdict was pronounced or the court had no knowledge of their existence, and they would have obviously led to a less serious verdict (Articles 399 - 402). A defendant who has been sentenced to imprisonment by a final verdict may file a request for extra-ordinary renewal of deliberation of the verdict due to specific violations of the Law (Articles 411 - 415 o). Against the final court decisions and against the preceding court

proceedings, the Public Prosecutor of the Republic of Macedonia may file a request for the protection of legality, in case the Law has been violated (Articles 403-410). The renewal of the procedure and the request for the protection of legality may now be also used for re-opening of procedure in cases of violation of the European Convention on Human Rights or another international treaty ratified in accordance with the Constitution.

In the domestic legal practice, certain ambiguities arose from the constitutional wording used in the provision prohibiting renewed trial or punishment of an already convicted person. This has been particularly due to the fact that the wording used therein mentions punishable acts, which means that, besides criminal offences, it also includes misdemeanours and thus involves in the delicate relationship between the misdemeanour and criminal procedure. Namely, even thus far it has not been a matter of dispute that in cases when a single offence has been incriminated both as misdemeanour and as criminal offence, only criminal proceedings shall be instituted; in case misdemeanour procedure has already been initiated, it shall be suspended. More perplexing has been the issue whether a person already convicted for a misdemeanour may be tried and punished in criminal proceedings. The court practice so far, pursuant to Article 47 of the Criminal Code, provided that in such cases, the sentence pronounced for misdemeanour shall be counted within the punishment pronounced in the criminal proceedings. However, the more recent court practice started to interpret in a more restrictive manner and in favour of the citizen this constitutional provision, i.e. to reject the possibility to try in criminal proceedings a person already convicted for misdemeanour.

33. How is the right to vote regulated? Do women and members of ethnic minorities have equal voting rights? Please indicate what measures have been taken to follow-up on the most recent OSCE/ODIHR election reports and analyses of election laws relating to the local, presidential, and parliamentary elections.

The right to vote is provided for and guaranteed by Article 22, paragraph 1, of the Constitution the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No 52/91, 01/92, 31/98, 91/01 and 84/03), which specifies that every citizen on reaching 18 years of age acquires the right to vote.

The right to vote is equal, universal and direct, and is exercised at free elections by secret ballot (Article 22, paragraph 2).

Equality as a principle of the right to vote implies that the vote of each citizen has equal value, meaning that every citizen, regardless of ethnicity or gender (male or female) has an equal right to vote.

The direct aspect of the right to vote rules out any possibility of the exercise of this right by proxy, as it is strictly linked to the person who votes.

A logical extension of the right to vote is the right explicitly provided for by Article 23 of the Constitution, that every citizen has the right to take part in the performance of public affairs, meaning that public office is accessible to every citizen.

Voting legislation in the Republic of Macedonia consists of the following laws:

- The Law on the Voters' List ("Official Gazette of the Republic of Macedonia", Nos. 42/02 and 35/04);
- The Law on the Election of Representatives to the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 42/02, 50/02 and 46/04);
- The Law on Electoral Units for the Election of Representatives to the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 43/02);
- The Law on the Election of the President of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 20/94, 48/99 and 11/04); and

- The Law on Local Elections (“Official Gazette of the Republic of Macedonia”, Nos. 46/96, 48/96, 56/96, 12/03, 35/04, 42/04, 45/04-consolidated text, 52/04 and 60/04).

After the adoption of the Amendments to the Constitution of the Republic of Macedonia, in November 2001, taking into consideration the reports of the OSCE and ODIHR concerning elections, and following the analysis of the laws on local, presidential and parliamentary elections, voting legislation was amended with the aim of creating a legal basis for the running of fair and democratic elections.

The main shortcomings of the Law on the Election of Representatives to the Assembly of the Republic of Macedonia were identified and a new Law on the Election of Representatives to the Assembly of the Republic of Macedonia was drawn up; it was enacted with the consensus of all parliamentary political parties on 14.06.2002. The Law simplified the running of elections in a single round through the introduction of a proportional electoral model involving six electoral units, based on the election of a list of candidates through proportional representation. Judges were appointed, among others, as members of the election bodies to augment the independence of decision-making in the electoral process. A higher level of professionalism was introduced in the exercise of the Representatives’ office. Voting reliability was increased with the introduction of mandatory signatures (or fingerprints), the use of a special spray and also by strengthening the security of the buildings used for voting. A 30 percent representation on the lists of candidates was guaranteed for both genders. The use of the different languages of the various communities was provided for. All internally displaced persons were given the opportunity to exercise their right to vote. The Law also stipulated the establishment of a Secretariat to support the work of the State Electoral Commission, which certainly increased the operational effectiveness of the electoral bodies.

With regard to the protection of the right to vote, modifications have been made to the earlier law, specifying that any submitter of a list of candidates has the right to make an objection before the State Electoral Commission regarding the process of voting, counting and determining the result of the vote, and also to lodge a complaint against the decision of the latter before the Supreme Court of the Republic of Macedonia. Every voter and every submitter of a list of candidates, provided that he or she discovers irregularities in the election process, can make an objection before the Regional Electoral Commission, and a complaint against the decision of the latter can be lodged before the competent appellate court. The procedures for the protection of the right to vote have been simplified by these changes which are essentially in line with the observations and comments of the OSCE/ODIHR.

An important part of the continuous development of the electoral administration should include more public education and information for voters to prevent practices such as “group voting” and “voting by proxy” (or “family voting”), which depart from the principle of individual voting, violate voting confidentiality and contribute to the “devaluation” of the status of women. To overcome this situation, the geographic areas (including specific polling stations) where constant problems were encountered in several successive elections should be identified and appropriate measures taken, including the replacement of election officials whose work has proved unsatisfactory. The OSCE/ODIHR recommended that, if possible, “supervisors” be appointed in these polling stations to improve the way in which elections are run.

The most recent elections for the election of Representatives to the Assembly of the Republic of Macedonia took place on 15.09.2002.

According to the final OSCE/ODIHR report, the new election laws passed in June 2002 efficiently addressed some shortcomings noticed earlier and generally safeguarded the necessary legal basis for elections. The parliamentary elections of 15.09.2002 were held in accordance with the guidelines of the OSCE and international standards concerning democratic elections.

As far as the running of elections is concerned, the Law on the Election of the President of the Republic of Macedonia is linked to the Law on the Election of Representatives to the Assembly of the Republic of Macedonia. In the period prior to the running of presidential elections, having analysed the existing Law on the Election of the President of the Republic of Macedonia (“Official Gazette of

the Republic of Macedonia", Nos. 20/94 and 48/99), representatives from the international community gave their opinion stating that only slight changes in the election laws were needed in order to hold successful presidential elections. Following the sudden tragic death of the President of the Republic of Macedonia, it was necessary to amend the Law on the Election of the President of the Republic of Macedonia so as to address the question of the cessation of the term of office of the President of the Republic of Macedonia during his or her mandate.

In reference to this, Article 81, paragraph 7, of the Constitution of the Republic of Macedonia prescribes that if the term of office of the President of the Republic terminates for any reason, the election of a new President should take place within 40 days of the day of termination. Article 82 of the Constitution states that in case of death, resignation, permanent inability to perform his or her duties, or in case of termination of the mandate in accordance with the provisions of the Constitution, the office of the President of the Republic is carried out by the President of the Assembly until a new President is elected. Paragraph 2 of the same article specifies that the decisions on the applicability of the conditions for the cessation of office of the President of the Republic are the official duty of the Constitutional Court.

Taking into consideration these constitutional provisions, modifications were made by the Law Amending the Law on the Election of President of the Republic of Macedonia, enacted in March 2004 ("Official Gazette of the Republic of Macedonia", No. 11/04), regarding the scheduling and holding of elections. It specified that the bodies responsible for the running of elections were the State Electoral Commission, the municipal electoral commissions and electoral boards. The content of the ballot paper and the languages in which the ballot papers for the election of the President were to be printed were determined in accordance with Amendment V of the Constitution.

This provision does not deal with the consequences of the rule concerning ballot papers in cases where there are no election candidates from some of the communities. As a result, in the second round of the elections, the names of the two remaining candidates were printed only in Macedonian, as pointed out by the OSCE.

The question of the election of a President in case of termination of the incumbent's term of office was also addressed, and the deadlines for conducting all the election procedures prescribed by the Constitution (Article 81) were specified, in particular the periods concerning the scheduling of elections, the procedures for collecting signatures for candidates running for president, the submission of lists of candidates, the duration of the election campaign (Articles 10a to 10c of the Law on the Election of the President of the Republic of Macedonia). In addition to this, the protection of a citizen's right to vote was brought into harmony with the Law on the Election of Representatives to the Assembly of the Republic of Macedonia.

The latest (early) elections for the election of the President of the Republic of Macedonia took place on 14 April (first round) and 28 April 2004 (second round). The OSCE/ODIHR report assessed that they were held in accordance with the election recommendations of the OSCE.

The 2000 local elections were held in the Republic of Macedonia in accordance with the 1996 Law on Local Elections. With regard to the running of early elections for the election of mayors, in 2003 the section of the Law on Local Elections referring to election bodies was amended in order to specify the competencies of the State Electoral Commission, to implement Amendment V as regards the use of the languages printed on ballot papers for the election of mayors and council members, to improve police protection of buildings used for voting, and to ensure greater voting reliability with the introduction of mandatory signatures (or fingerprints) and the use of a spray. More specific provisions connected to the protection of the right to vote were introduced as well.

In accordance with the recommendations of the OSCE/ODIHR concerning the forthcoming local elections to be run in March 2005, the Law on Local Elections was amended with regard to the following: the scheduling and holding of elections, the bodies responsible for the running of elections, a 30 percent representation of both genders on the lists of candidates for council members in both the upper and lower halves of the list, the use of the languages of community members, election

campaigns and the financing of local elections, the protection of the right to vote, as well as election monitoring. These provisions are harmonised with the Law on the Election of Representatives to the Assembly of the Republic of Macedonia, which, according to the OSCE recommendations, represents the groundwork for the development of a comprehensive election code.

Bearing in mind the most recent recommendations of the OSCE concerning presidential elections with regard to the implementation of Amendment V to the Constitution, the section of the Law on Local Elections as regards the use of the languages of community members in the election process during local elections was amended.

The amendments address the elements given below.

In the units of local self-government where at least 20 percent of the citizens speak an official language other than Macedonian, the forms used for taking minutes are printed in the official language and alphabet used by at least 20 percent of the citizens in that unit of local self-government, in addition to the Macedonian language and its Cyrillic alphabet (Article 16).

In the work of electoral commissions and electoral boards in the units of local self-government where at least 20 percent of the citizens speak an official language other than Macedonian, the language and alphabet used by at least 20 percent of the citizens in that unit of local self-government are in official use, in addition to the Macedonian language and its Cyrillic alphabet (Article 18).

Those submitting lists in the units of local self-government where at least 20 percent of the citizens speak an official language other than Macedonian, submit the lists of candidates, including the lists for a mayor, in the official language and alphabet used by the citizens of that unit of local self-government (Article 25).

In the units of local self-government where at least 20 percent of the citizens speak an official language other than Macedonian, the announcement of the lists of candidates, including the lists for a mayor, is made in the official language and alphabet used by the citizens in that unit of local self-government, in addition to the Macedonian language and its Cyrillic alphabet (Article 31).

The polling stations where irregularities and violations of election laws have been recorded over several election cycles and where the work of the members of election bodies has been assessed as unsatisfactory, were identified by the State Electoral Commission. These facts will be taken into consideration while forming bodies for the forthcoming local elections at all levels, and none of these persons will be a part of the administration running the elections.

The provision in the Law on Local Elections concerning the transfer of the procedures for ruling on possible complaints and objections about violations to the election process at local level is in harmony with the recommendations given in the reports of the OSCE/ODIHR monitoring missions and is in accordance with the current process of decentralisation. This means that the municipal electoral commissions are responsible for making decisions in all such cases in the first instance.

On two occasions in 2004, during the organisation of the extraordinary presidential election and the referendum, the State Electoral Commission conducted a comprehensive campaign to instruct voters, in particular women and less well-educated voters, and all members of the electoral boards (15.000 persons). The same course of action is planned for the forthcoming local elections (March 2005).

Concerning the participation of judges in the electoral administration, particularly regarding the judges of the Supreme Court who are members of the State Electoral Commission, the Government of the Republic of Macedonia will propose an amendment to Article 13 of the Law on the Election of Representatives to the Assembly of the Republic of Macedonia in order to eliminate the influence of political parties in their appointment, upon consent of the opposition.

To prevent possible manipulation with the votes of citizens of the Republic of Macedonia who are included in the voters' lists but who have moved out of the country and have officially registered

places of residence in foreign countries, supplementary amendments are planned to the Law on the Voters' List, in addition to the existing legal guarantees. Through these amendments, this category of voters would be differentiated from those citizens who have permanent residences in the Republic of Macedonia.

As described above, the changes recommended by the OSCE/ODIHR concerning election legislation have either been included into the appropriate laws and implemented in practice, or their implementation is under way.

34. Freedom of expression:

a) Provide information concerning the elaboration and implementation of legislation regarding the promotion of the freedom of expression and information in general and, specifically, freedom and pluralism of the media. Please detail measures designed to prevent interference with these freedoms.

b) Describe the media landscape (written press and audiovisual sector). How are the audiovisual media financed? Is there a supervisory body for the (audiovisual) media and, if so, how does it function? Have recommendations of experts from the Council of Europe and OSCE been taken into consideration when drafting legislation in the field of media? Is the media legislation aligned to European standards?

c) How is libel law organised, and what types of penalties are used? What is the general trend of court decisions in the area of freedom of expression (including the number of libel suits and other cases involving representatives of the news media)?

d) Please indicate how laws on telecommunications have been, or will be, amended to take account of international recommendations.

a)

The Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), in Article 16, guarantees the right to freedom of expression as a complex right composed of the following components: freedom of conviction, conscience, thought and public expression of thought (Article 16, paragraph 1); freedom of speech, public address, public information and establishment of institutions for public information (Article 16, paragraph 2); free access to information, freedom of reception and transmission of information (Article 16, paragraph 3); right to a reply in the mass media (Article 16, paragraph 4); right to a correction in the mass media (Article 16, paragraph 5) and right to protect a source of information in the mass media (Article 16, paragraph 6). Furthermore, Article 16, paragraph 7 prohibits censorship.

The right to freedom of thought is guaranteed by the Constitution without any restrictions whatsoever, and together with the freedom of personal conviction, conscience, public expression of thought and religious confession, it has been raised to the level of a fundamental human right that cannot be restricted even under exceptional circumstances (state of war or state of emergency). In addition, these freedoms and rights enjoy judicial protection, as well as direct constitutional protection by the Constitutional Court of the Republic of Macedonia.

The Criminal Code ("Official Gazette of the Republic of Macedonia" Nos. 37/96, 80/99, 04/02, 43/03 and 19/04) prohibits any form of coercion in general and hence any form of coercion in order to change certain position or conviction of a person. Political or religious conviction may not be grounds for restriction or deprivation of the constitutionally guaranteed rights. Breach of this proscription constitutes a criminal offence (Article 137 of the Criminal Code – *violation of the equality of citizens* which, among other, sanctions any deprivation or restriction of rights as guaranteed with the Constitution, the laws or international treaties, as well as any privileges granted to citizens on the basis of their political or religious convictions).

Freedom of expression and public information, freedom to establish public information institutions, as well as the freedom of access to information (access to information in international documents has been part of the right to freedom of expression) besides being regulated in the highest legal act – the Constitution, are regulated with a number of laws such as: the Broadcasting Law ("Official Gazette of the Republic of Macedonia" Nos. 20/97, 70/03), the Law on Public Information ("Official Gazette of

the SFRY", No. 84/90), the Telecommunications Law (Official Gazette of the Republic of Macedonia, Nos. 33/96, 17/98, 22/98 – consolidated text, 28/00, 04/02, 37/04). With a view to a comprehensive implementation of this right in all segments of society, as it refers not only to the media, but to all citizens, as well, articles pertaining to this right exist also in the Law on Organisation and Operation of the State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02), Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 19/95, 55/97, 38/02, 33/03 and 19/04), and the Law on Health Insurance ("Official Gazette of the Republic of Macedonia", Nos. 25/00, 34/00, 96/00, 50/01, 11/02 and 31/03). In addition, the Assembly passed the first reading and approved the Proposal to adopt the Law on Free Access to Public Information on its session of 26.01.2005, which also includes provisions regulating this area.

Constitutional provisions have been further elaborated in the Broadcasting Law. Namely, Article 4, paragraph 1 of this Law guarantees that by the broadcasting activities, freedom shall be provided of public expression of thought, freedom of speech, public address and public information. Paragraph 2 of the same Article provides that by the broadcasting activity, free access to information shall be provided, as well as freedom of reception and transmission of information, right to a reply and to a correction and right to protect sources of information.

Furthermore, in Article 8, the following principles are cited upon which the broadcasting activity is based: openness to free competition and information on various political ideas, cultural and other tendencies and opinions (subparagraph 2); independence and autonomy of broadcasting organisations with no right of state bodies to influence the concept and content of their programmes (subparagraph 5); prevention of monopoly in the influence of individuals or groups within broadcasting organisations (subparagraph 6); prohibition of censorship in broadcasting (subparagraph 9).

Article 31, which regulates the goals that are to be achieved with broadcasting programmes, cites, among others, the following: respect of freedoms and rights of persons and citizens, their dignity and reputation (subparagraph 1); free promotion of thought and convictions and provision of comprehensive and objective information to listeners and viewers (subparagraph 2).

The Law also stipulates other measures aimed at the protection of the freedom of expression and information dissemination. For instance, Article 32 sets forth that a programme may not serve one-sidedly for the purposes of a political party or certain interests. Article 33 stipulates that the programmes should encourage, among other, the free opinion-making on particular events and issues. Article 34 highlights that state bodies and bodies of the local self-government units, as well as their representatives may not influence the process of radio and TV production or their operation.

The Law also elaborates on the right to a reply and correction (Article 62 and 63), and the access to information and protection of sources of information (Article 64).

Special measures for protection of media pluralism have been stipulated in the provisions on the restriction of media concentration. Namely, Article 10 of the Broadcasting Law stipulates that a natural or legal person may be a founder of only one commercial broadcasting company and a co-founder of only one more commercial broadcasting company, with a maximum of 25% share in its total capital. A foreign natural or legal person may co-found a commercial broadcasting company with a maximum of 25% share in its total capital. More foreign natural or legal persons, being co-founders in a commercial broadcasting company, may own a maximum of 49% in its total capital. Provisions of Article 17 provide a follow-up and pursuant to it only one concession for radio i.e. television may be issued to a single commercial broadcasting company for the territory of the Republic of Macedonia. Two concessions may be awarded for broadcasting on a local level, one for radio and another for television. However, they may be issued for different, non-neighbouring regions. In addition, a broadcasting organisation may not be founded i.e. co-founded by a political party, religious association or group, a public-office holder or a political party official (Article 11, paragraph 2).

Furthermore, an additional restriction of concentration is provided by full exclusion of the possibility for associating the spheres of broadcasting and the press. A natural or legal person operating in the

sphere of the press may not found an organisation or operate in broadcasting. Similarly, a broadcasting organisation may not found a press organisation or operate in the sphere of the press (Article 11, paragraph 1).

There are ongoing activities in the Republic of Macedonia for the adoption of a new Broadcasting Law. The Government and the Ministry of Transport and Communications, which are competent to propose and define the broadcasting law, established in late August 2004 a working group which included all entities involved in the broadcasting sphere. The new law is expected to be adopted in spring 2005. The text also includes provisions guaranteeing and elaborating on the issues pertaining to the protection of freedom of expression and the dissemination of information. The text has been aligned with the European standards.

The following laws also include provisions aimed at ensuring the free access to information by citizens, as well as enabling them to be acquainted with developments in various institutions. The state administrative bodies, pursuant to the Law on Organisation and Operation of the State Administrative Bodies adopted in 2000, are obliged to ensure efficient and legal exercise of citizens' constitutional rights and to inform the public on their operation. Article 10 of the Law stipulates the following manners of involvement of the public in the preparation of laws within the state bodies' competence: by public announcements on the type, content and timeframe for the adoption of the respective law or other regulation; organisation of public forums and provision of opinions by stakeholders (citizens' associations, legal persons etc.).

The Ministry of the Interior, under the Law on Internal Affairs is also obliged to inform the public on its operation. The Law provides for restricted access only to information classified as state, business or official secret, as determined by law.

Access to information in specific bodies is ensured through citizens' participation in governing boards of public institutions, in particular when they bear broader significance for citizens, as is the case, for instance, with the Health Insurance Fund. Pursuant to the Law on Health Insurance, the Fund's Members include representatives of the insurers.

With regard to the freedom of expression or more specifically the access to information, particularly important is the existence of a law governing the access to public information. On the Session held on 26.01.2005 the Assembly passed the first reading and approved the Proposal to adopt the Law on Free Access to Public Information. It incorporates most of the recommendations of the Council of Europe, the OSCE as well as of non-governmental organisations active in issues of freedom of expression and access to information. These recommendations specify cases when exception may be made to the principle of free access to information. This has been regulated with Article 5 of the Draft-Law under which possessors of information may reject a request for access to information if it relates to: 1) data which has, under the law regulating classified information, been defined as a secret data for the purpose of protection of defence and security of the state; 2) data which has been defined as a business secret pursuant to law; 3) personal data whose disclosure would entail breach of protection of personal data pursuant to the law regulating protection of such data etc. The Draft-Text also stipulates the margin of appreciation doctrine, i.e. it stipulates that possessors of information may not refuse to give information, unless the consequences upon the interest which is being protected exceed the public interest for their disclosure. The text includes provisions defining the obligations of possessors of information. According to these norms, the possessor of information is obliged to provide information on the organisation, authorities and expenditure of operation, on the services it renders to citizens, and on its activities, to prepare and issue bulletins and to publish its decisions and measures by which it affects citizens' lives and businesses in official publications and web pages. The text also regulates the procedure for the exercise of the right to free access to information. Establishment is also envisaged of a State Commission on protection of that right.

b)

Currently, there are 12 daily newspapers published in the Republic of Macedonia, 20 weekly newspapers, 10 bi-weekly and 20 monthly magazines. In addition, 21 periodicals and 21 children magazines are published. In the sphere of the daily press, worth mentioning is the 14 million EUR

investment of the German concern WAC which now owns the majority capital share in the three daily newspapers with largest circulation - Dnevnik, Utrinski vesnik and Vest. The investment was followed by a complete reshaping of the accounting and financial control in the three companies that used to publish the three dailies, which are now serviced by the Media Print Macedonia. In early February 2004, the Vreme daily was started, which, in less than a year now, has become, widely read paper in the country. One of the dailies, Večer, that existed before 1990's and which used to have the largest circulation at that time has now been re-started. Bearing in mind the commitment to develop a multiethnic Macedonian society, 2 out of the 12 dailies are published in Albanian – Fakti and Koha Ditore, as well as one weekly in Albanian - Lobi.

Considerable number of monthly magazines is issued by the non-governmental sector. Majority of these are specialised in a particular area.

Macedonian broadcasting industry has been organised according to the European dual broadcasting model. There is a public broadcasting service and a commercial sector. At national level, the function of the public broadcasting service is performed by the Macedonian Radio and Television which broadcasts three TV channels and three radio channels. At local level, there are 29 local public broadcasting enterprises.

The total number of commercial broadcasters is 137. At national level there are eight commercial broadcasting companies, including five TV and three radio stations (Kanal 55, Antena 5 and Radio Ros). Until mid 2004, there had been only two private televisions. Then, by a Government Decision, national concessions were issued to another three TV stations - Kanal 5, Telma and ALSAT. The latter has for now been broadcasting only in the western part of Macedonia. It is a TV station broadcasting programme in Albanian. On the local level, there are 129 electronic media - 54 TV and 75 radio stations.

Commercial broadcasters have been funded by commercials and sponsorship, whereas the public broadcasting service collects most of its funds through the broadcasting fees, though it is also partially funded through commercials and sponsorship. Resources collected from the broadcasting fees paid by citizens, besides being used to fund the public broadcasting service are also used for financing of projects of public interest.

The Broadcasting Council was set up with the 1997 Broadcasting Law as a body with supervisory authority over the broadcasting media. The body has been organised in line with the principles governing the broadcasting regulatory authorities; however, its capacity, under the existing law, is incomplete. Namely, on the key issues (award and revoke of licences, allocation of funds aimed at support of radio and TV production), the Council determines proposals, whereas the final decision is made by the Government. The body follows the model of a collegial body composed of nine competent persons and experts in various fields. Members to the Council are appointed by the Assembly of the Republic of Macedonia and their term of office is guaranteed, i.e. they may not be dismissed before their term has expired.

The Council of Europe experts have been consulted on the drafting of the existing as well as on the new Broadcasting Law. The recommendations provided by international experts have been taken into consideration with the purpose of approximation with the European standards in this area. One of their major remarks regarding the 1997 Law referred to the incomplete capacity of the Broadcasting Council. This weakness of the existing Law has been fully overcome in the working version of the draft-text of the new Broadcasting Law. Pursuant to its provisions, the Broadcasting Council shall be given full capacity. This means that it should decide autonomously on awarding or revoking licences. (The existing Law stipulates awarding of concessions.) As regards the appointment of the Broadcasting Council Members, the Proposal to Adopt a new Law stipulates a system of authorised proposers, for instance: the President of the State, the Assembly's Committee on Appointment, etc. Such a system shall contribute to depolitisation and democratisation of the appointment of the Council Members. The text includes a number of other provisions in which European standards have been almost fully applied, in particular in terms of the functions and duties

of the public broadcasting service, protection of minors, protection of media pluralism, commercials and sponsorship, jurisdiction, etc.

Recommendations of the Council of Europe and OSCE experts have been taken into consideration when interventions were made in the working version of the Law on Free Access to Public Information which is a crucial law when the exercise of the freedom of expression is in question and of the right to access to information. More specifically, on the basis of the recommendations of these organisations and the recommendations of international non-governmental organisation Article 19, a Draft-Law on Free Access to Public Information has been prepared. The Assembly passed the first reading of the Law on its session held on 26.01.2005 and approved the proposal to adopt the Law on Free Access to Public Information. Meanwhile, round table discussions have been underway, organised by the non-governmental sector, including in particular the *Transparency Macedonia*. This organisation has actively participated in the drafting of the Law, while taking into account all recommendations of the international organisations. Domestic and foreign experts in the field have attended the discussions, as well as public institutions representatives, the media, etc. The intention was to raise the awareness on the substance and to point to weaknesses in order to further specify its provisions and to ensure its full implementation after its adoption. Under the Law, the Broadcasting Council shall be obliged to adopt a strategy on the development of the media which entails standards aligned with the European. Not all will be able to attain such criteria and to adapt to the new environment; thus market shall be left to those with the highest quality.

Hence, given that the remarks of the international organisations have been taken into consideration in the working version of the new Broadcasting Law, as well as in the Draft Law on Free Access to Public Information, which is in parliamentary procedure, one can say that all interventions in the laws have been made in line with the recommendations of international organisations in order to incorporate in them the European standards. As a conclusion, the existing working versions of the draft-laws have been harmonised with the European standards.

c)

In line with the basic approach that the exercise of freedom of expression may not be at the expense of freedoms and rights of other persons, the Criminal Code sanctions as criminal offences the following conducts: libel, insult, disclosure of personal or family circumstances, derogation as general criminal acts and their specified forms, i.e. the same deeds when committed through the media. The Law Amending the Criminal Code was adopted in the beginning of 2004 ("Official Gazette of the Republic of Macedonia", No. 19/04). The purpose of the amendments was to align the domestic legislation with the European standards.

Article 172 of the Code refers to the criminal act of libel. Paragraph 1 stipulates that a person, who asserts an untrue fact in relation to another person which is damaging for that person's honour or reputation, shall be punished with a fine or with imprisonment of up to six months. If such act is committed through the media or at a public gathering, its perpetrator shall be punished with a fine or with imprisonment of up to one year (Article 172, paragraph 2). If the untrue fact which has been expressed or disseminated is of such importance that it has resulted in severe consequences for the injured party, its perpetrator shall be punished with imprisonment of three months to three years (Article 172, paragraph 3). Pursuant to Article 172, paragraph 4, the defendant shall not be punished if he/she proves the truth of his/her statement or if he/she proves that he/she had reasonable grounds to believe in the truthfulness of what he/she stated. (This provision has been included in the Criminal Code upon a recommendation of the Council of Europe and has also been acknowledged in numerous rulings of the European Court of Human Rights). Article 173 refers to the criminal act of insult. Pursuant to this Article, a person who shall insult another person shall be punished with a fine or imprisonment of up to three months (Article 173, paragraph 1). If such offence has been committed through the media or at a public gathering, its perpetrator shall be punished with a fine or imprisonment of up to six months (Article 173, paragraph 2).

However, recognising the fact that freedom of expression is a necessary aspect of fulfilment of one's potential, the Criminal Code provides for exemption from incrimination of insulting statements in scientific, literary or artistic work, in serious critique, in line of duty, journalist work, political or other

societal office, in protection of the freedom of public expression of thought or of other rights and in protection of public or other justified interests, if it follows from the manner of expression or from some other circumstances of the act, that it has no significance of insult or has not resulted in considerable damage to honour and reputation of personality (Article 176, paragraph 1). Similarly, the Criminal Code stipulates that a person found guilty of such an act shall be released from conviction if he/she has apologised to the injured party or has revoked before the court what he/she had stated or disseminated. Prosecution of the aforementioned criminal offences is undertaken upon a private suit. (This provision has also been included in the Code upon a recommendation by the Council of Europe).

A prominent feature of the amendments to the Code relating to these criminal acts is the individualisation of the sentences. Namely, with the recent changes introduced in 2004, fines are imposed in daily rates, the number of which may be at least 5 and at most 360. (Determination of fines has been regulated in Article 38 of the Code). Pursuant to the Code, court shall decide on the number of daily rates in accordance with the general rules governing the determination of sentences. The court determines the amount of the daily rate by taking into consideration the personal and financial circumstances of the perpetrator. In doing so, as a rule, it takes as its starting point the average net income which the perpetrator has, or could have earned, as well as his/her family or other obligations and his/her financial status at the time of the court decision. The law determines that a daily rate shall be fixed at a minimum of the equivalent of one EUR in MKD and at a maximum of the equivalent of five thousand EUR in MKD. When determining the amount of the daily rate, the court may request notification from banks, financial or other institutions which are obliged to supply such data.

As a conclusion, sentences of imprisonment for libel and insult are generally between 3 months to 3 years.

A sentence of imprisonment of a journalist was pronounced in 2002. Namely, a sentence of 3 months imprisonment was pronounced to a journalist for a criminal offence libel committed against a political representative. However, upon an appeal, the Skopje Appellate Court returned the proceedings to the first instance court i.e. the Skopje I Basic Court. The reason for such a ruling of the Appellate Court, as was stated in its explanation, was the fact that the first instance court, when deciding on the verdict, failed to take into consideration the essence of the reasons for the deed.

Following are data on the number of lawsuits involving media employees: in 2001, 38 private libel lawsuits were registered against journalists out of the total number of 63; in 2002 - 46 libel lawsuits against journalists out of the total of 105; in 2003 - 41 private libel and insult lawsuits against journalists out of the total of 78. These are figures from the Macedonian Judges Association, presented at the Conference on *Freedom of Expression, Libel and Insult* held in late 2003 (The Conference was organised by the Journalists Association and the Council of Europe). On the general tendency in the country, it could be concluded that from the total number of libel and insult lawsuits, the majority is always filed against journalists.

Data on the reported, accused and convicted perpetrators of criminal offences are prepared by the State Statistical Office of the Republic of Macedonia in its annual statistical reviews. However, these reviews do not contain figures on the break-down by profession or for journalists. The latest statistical data (for 2002) was issued in 2003. According to these data, out of the total 315 persons accused for criminal offences against reputation and honour, 114 were for libel, 199 were for insult and 2 for other acts. Out of all, 124 were found guilty, in 137 cases the proceedings were adjourned, 37 were acquitted and in 17 cases the charges were dropped (Figures from the Statistical Review No. 2.4.3.11/449, Reported, Accused and Convicted Perpetrators of Criminal Offences in 2002, issued in September 2003 by the State Statistical Office.)

The 2001 Statistical data demonstrates that a total of 288 persons were accused of criminal offences against honour and reputation, 97 of which were for libel, 188 for insult and 3 for other offences. Out of these 288 persons, 124 were found guilty, in 117 cases the proceedings were adjourned, 37 were acquitted and in 9 cases the charges were dropped.

It follows from these data that among persons accused of criminal offences against reputation and honour, the number of those accused of insult is larger. Furthermore, with regard to persons who were found not guilty, the majority pertain to those cases in which the proceedings were adjourned, followed by those who were acquitted and finally those for whom the charges have been dropped.

The Broadcasting Law includes a number of libel-related provisions. Namely, Article 8, paragraph 1, subparagraph 12 sets forth that one of the principles of broadcasting is the protection of privacy and dignity of persons. Besides, Article 31, paragraph 2, subparagraph 2, which refers to the content of broadcasting programmes, stipulates that in broadcasting programmes, respect should be ensured of freedom and rights of persons and citizens, their dignity and reputation.

In provisions governing the right to reply and correction (Articles 62 and 63), the Law provides for the exercise of this right by a person for whom a libel has been publicised. For a broadcasting company which shall not publicise a reply or a correction, a fine has been prescribed in the amount of 30.000 to 100.000 MKD (Article 86, paragraph 1, subparagraphs 7 and 8), while the official in charge in the broadcasting company shall be fined with 5.000 to 30.000 MKD. If the broadcasting organisation refuses to broadcast a reply, the court may pronounce a security measure ban on broadcasting activity for a period of three months to one year (Article 86, paragraph 3).

d)

The existing Telecommunications Law provides that restriction of the freedom of expression may only be allowed in cases when messages that call for violent destruction of the constitutional order, incite military aggression or stir national, racial or religious intolerance are transmitted (Article 9).

The new Law on Electronic Communications (currently in procedure) provides that a right to expression through electronic communication networks may be forbidden in case there is a direct or serious threat for the public order, health, human lives or public security.

In both cases this implies all networks and means of electronic communication in general rather than broadcasting alone.

The freedom of reception in the Republic of Macedonia has been guaranteed and no legal impediments exist as to procurement of receivers that operate in frequency bands allocated for public usage, including procurement and installation of satellite antennae or receivers.

Cable operators are entitled under the existing Broadcasting Law to retransmission of foreign programmes, upon a prior consent by the Broadcasting Council. The Council may prohibit retransmission of specific broadcasting services in cases they call to violent destruction of the constitutional order, incite inter-ethnic, religious or racial intolerance, contain pornographic elements or influence adversely the development of young generations.

The new Law on Electronic Communications provides for full liberalisation of the services provided through networks, i.e. the cable retransmission, instead by a concession (as has been stipulated by the existing regulations), shall be allowed simply upon notification. The new Broadcasting Law stipulates that programmes that are retransmitted through cable shall only be registered in the Broadcasting Council.

With regard to Internet services, under the new Law on Electronic Communications, a licence will be required that shall be issued by a new regulatory body in the area of electronic communications. Content of these services is not subject to legal regulation, i.e. should be subject to self-regulation.

35. Is the right of ownership recognised by the Constitution? Is there any limitation for certain categories of persons (e.g. foreigners, EU citizens) or for certain types of property (e.g. agricultural land)? How is the right to property assured? What are the justifications permitted for any possible restrictions placed on the exercise of this right and which body or bodies may impose such restrictions?

Pursuant to Article 30 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03), right to ownership of property and right of inheritance are guaranteed; ownership of property creates rights and duties and should serve the well-being of both the individual and the community; and a person may not be deprived of his/her property or of the rights deriving from it, except in cases concerning the public interest determined by law. This article also determines that if property is expropriated or restricted, rightful compensation not lower than its market value is guaranteed.

The Constitution of the Republic of Macedonia also prescribes that aliens in the Republic of Macedonia may acquire the right to ownership of property under conditions determined by law (Article 31). This means that foreign nationals may acquire this right in accordance with a separate law.

Some real estate may not be subject to right to ownership of property, such as amenities in common use. Namely, pursuant to Article 56 of the Constitution of the Republic of Macedonia, all natural resources of the Republic of Macedonia, the flora and fauna, amenities in common use, as well as the objects and buildings of particular cultural and historical value determined by law, are amenities of common interest for the Republic and enjoy particular protection. The Law also regulates the mode and conditions under which specific items of general interest for the Republic can be ceded for use.

Hence, according to the Law on Property and Other Real Rights ("Official Gazette of the Republic of Macedonia", No. 18/01) objects in common use (streets, roads, bridges, squares, parks) are objects in state ownership and may be used by all natural and legal persons (Article 16, paragraph 4).

Pursuant to Article 16, paragraph 1 of the Law on Property and Other Real Rights, all natural resources, the flora and fauna, amenities in common use, construction land, forests and agricultural land, pastures and waters, and amenities and objects of a particular cultural and historic importance determined by law are amenities of common interest to the Republic.

Amenities that in accordance with the Constitution or particular laws have been declared to be amenities of common interest to the Republic may be subject to the right to state ownership i.e. natural and legal persons (Article 16, paragraph 2), whereas forms of ownership of construction, agricultural and forest land, and pastures and waters are regulated by special provisions (Article 16, paragraph 3).

Pursuant to the Law on Public Roads ("Official Gazette of the Republic of Macedonia", Nos. 26/96, 40/99, 96/00, 29/02 and 68/04), public roads are amenities in common use and in state ownership (Article 2, paragraph 1 and 2)

According to Article 2 of the Law on Waters ("Official Gazette of the Republic of Macedonia", Nos. 04/98 and 19/00), waters, watercourses and lakes as amenities of common interest of the Republic of Macedonia enjoy particular protection determined by this Law and are in state ownership.

Water in watercourses and lakes may be subject to concession (license) for a limited period of time to a domestic or foreign legal and natural person and in a mode and conditions determined by law.

As regards the aforementioned real estate, foreign natural and legal persons have equal legal status with domestic persons as both categories have been excluded from the possibility to acquire the right to ownership.

Article 2 of the Law on Property and Other Real Rights prescribes that all domestic and foreign natural and legal persons, including the state and local self-government units may acquire the right to ownership of property under conditions and modes determined by this and other laws. Articles 6 and 7 of this Law prescribe that legal protection of ownership of property is guaranteed, while the acquisition, protection and termination of the ownership right and other real rights are determined by law.

In addition, a separate Chapter 4 of this Law titled *Real Rights of Aliens* regulates particular conditions under which foreign nationals may acquire the right to ownership of property in the Republic of Macedonia. Hence, Article 242 of this Law determines that foreign natural and legal persons may acquire the right to ownership of movables in the same mode as domestic persons. However, with regard to acquiring real estate, the Law determines that foreign natural and legal persons may acquire this right through inheritance under conditions of reciprocity in the same mode as citizens of the Republic of Macedonia, unless otherwise determined by an international treaty. Concerning the latter, a difference has been made between natural and legal persons. Specifically, foreign natural persons may acquire the right to real estate ownership through inheritance, whereas foreign legal persons may acquire this right only on the basis of a will.

Article 244 stipulates that foreign natural person under conditions of reciprocity may acquire the right to ownership of a dwelling or residential buildings in the Republic of Macedonia in the same mode as a citizen of the Republic of Macedonia. With regard to business premises, foreign natural persons may acquire the right to ownership of property and the right to long-term lease under conditions of reciprocity and if not otherwise determined by law. In addition, foreign legal persons may acquire the right to ownership of property and the right to long-term lease of dwellings and businesses in the Republic of Macedonia under conditions of reciprocity, unless otherwise determined by law.

As far as acquiring the right to construction land ownership, this Law does not offer such possibility to foreign natural and legal persons except the right to acquire long-term lease of construction land for the purpose of erecting business buildings and premises, and residential buildings and dwellings on the territory of the Republic of Macedonia, provided that the Minister of Justice gives consent following consultations and prior opinions by the Minister of Environment and Physical Planning and the Minister of Finance. Likewise, foreign natural and legal persons may acquire the right to long-term lease of agricultural land in the Republic of Macedonia if the Minister of Justice gives consent following opinions obtained from the Minister of Agriculture, Forestry and Water Management and the Minister of Finance.

The right to acquisition of ownership by foreign states for their diplomatic and consular offices, as well as by organisations and specialised agencies of the United Nations and the Council of Europe, has been regulated by special provisions, according to which they may acquire the right to ownership of buildings and dwellings, or to erect such buildings on construction land.

The right to ownership of construction land has been regulated by the Law on Construction Land ("Official Gazette of the Republic of Macedonia", No. 53/01 and 97/01) and Law on Privatisation and Lease of State Owned Construction Land ("Official Gazette of the Republic of Macedonia", No. 04/05). Article 6 of Law on Construction Land prescribes that construction land may be in ownership of the Republic of Macedonia and domestic natural and legal persons, under conditions determined by this and other laws. Foreign natural and legal persons may only acquire the right to concession of construction land and the right to a long-term lease, under modes and conditions determined by this and other laws (Articles 14 and 19).

The Decree on the Mode and Procedure of Transfer, Lease and the Level of Special Costs of Procedures for Transfer and Lease of Construction Land in Ownership of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 79/01, 103/01, 38/02, 53/01 and 95/04) regulates the mode and procedure of transfer and lease of construction land. A separate provision of this Decree determines that mixed companies (registered legal persons with mixed capital, both foreign and domestic) may purchase construction land in the Republic of Macedonia by direct agreement for the purpose of constructing administrative, business, industrial and other business facilities; public sports and recreational facilities; residential districts; residential collective buildings and complexes and residential individual dwellings, upon the proposal of a legal person of mixed ownership registered in the Trade

Register of the Republic of Macedonia, in accordance with an investment programme adopted by the Minister of Transport and Communication.

With regard to agricultural land, right to ownership of property is only given to domestic natural and legal persons. Foreign natural and legal persons may use agricultural land on the basis of concession granted by the Government of the Republic of Macedonia and pursuant to the Law on Agricultural Land ("Official Gazette of the Republic of Macedonia", Nos. 25/98, 18/99 and 02/04), which has been regulated in Article 16 of the Law.

Pursuant to the Law on Forests ("Official Gazette of the Republic of Macedonia", Nos. 47/97, 07/00 and 89/04), forests in the sense of this law are of common interest to the Republic and enjoy special protection. Forests are in private and state ownership. State forests may not be subject to sale.

Pursuant to the Law on the Protection of Cultural Heritage ("Official Gazette of the Republic of Macedonia", No. 20/04 and 71/04), subject to ownership rights may be immovable or movable cultural heritage and it may be in the ownership of the Republic of Macedonia, the local self-government units and other legal and natural persons. Cultural heritage in state ownership of particular importance may not be transferred. With certain exceptions stipulated in the Law, cultural heritage in state ownership of particular importance may be subject to concession.

In addition, the Law on Protection of Nature ("Official Gazette of the Republic of Macedonia", No. 67/04) prescribes that only domestic legal and natural persons may acquire ownership of real estate in protected areas of nature. Furthermore, the Law stipulates that categories of protected areas in the sense of the Law are: strictly protected natural reserve, national park, monument of nature, natural park, protected areas and multipurpose areas.

Pursuant to the Law on Mineral Raw Materials ("Official Gazette of the Republic of Macedonia", No. 18/99 and 29/02), concession for detailed geological researches and for exploitation of minerals may be granted to domestic and foreign legal and natural person registered for performing such activities and in compliance with stipulations prescribed by this and other laws.

In accordance with Article 13 of the Law on Denationalisation ("Official Gazette of the Republic of Macedonia", Nos. 20/98, 31/00, 43/00-consolidated text and 42/03), a right to file a denationalisation request has a citizen of the Republic of Macedonia on the day of this law's entry into force. Hence, persons who, upon the entry into force of the Law on Denationalisation (07.05.1998) were foreign citizens (natural persons) are not entitled to file a denationalisation request or to a return of nationalised property.

Pursuant to Article 10 of the Broadcasting Law ("Official Gazette of the Republic of Macedonia", Nos. 20/97 and 70/03), a foreign natural and legal person may be co-founder of a commercial broadcasting company with maximum of 25% share in its total capital. In addition, the share owned by more foreign natural and legal persons, as co-founders in a single commercial broadcasting company may constitute a maximum of 49% in its overall capital.

As part of the envisaged changes to the Draft-Broadcasting Law, levelling is envisaged of the conditions under which foreign natural and legal persons may establish or participate in the ownership of broadcasters in the Republic of Macedonia. For changes in the ownership structure, if the participation exceeds the threshold of 10%, the broadcasting organisation is obliged to request approval from the Broadcasting Council. Thresholds have also been determined on the basis of which the Broadcasting Council shall decide in procedure for approval of ownership structure changes. The text of the new Broadcasting Law also includes provisions on transparency of the ownership structure. Broadcasters shall be obliged to submit to the Broadcasting Council, on an annual basis, the information on their operation in the previous year, and which refer to the changes in the ownership structure, company's status changes, changes in the managing bodies and sources of funding.

As regards the restriction of acquired right to ownership of property in the Republic of Macedonia, pursuant to the Constitution ownership may be expropriated or restricted only in cases concerning public interest determined by law.

Restriction to acquiring right to ownership by way of expropriation; restriction to construction rights deriving from ownership rights; as well determining public interest, have all been determined by the Law on Expropriation ("Official Gazette of the Republic of Macedonia", Nos. 33/95, 20/98, 40/99 and 31/03) and by other laws.

The Procedure for expropriation of property has been regulated by the Law on Expropriation. Expropriation procedures are also stipulated in other laws.

Article 2 of the Law on Expropriation lists facilities of public interest that may be subject to restriction of ownership or expropriation.

The expropriation procedure is strictly formal, two-sided and contradictory and may only be initiated under conditions determined by law, i.e. upon the proposal of authorised person and user of the expropriation with the involvement of two parties that have conflicting interests – the authorised person (user of expropriation) and the owner of the real estate subject to expropriation.

This procedure performed out by an expropriation body (the state administrative body competent for property issues) within the Ministry of Finance and is finalised by an act on adoption or rejection of the expropriation proposal, unless the expropriation user and the real estate owner agree on the compensation beforehand. This means they are given a chance to reach an agreement on the expropriation and compensation before the property is confiscated.

Apart from the administrative procedure, court protection has been provided for the process of expropriation and restriction of ownership, i.e. for the determination of equitable market-value compensation for the real estate subject to expropriation.

Pursuant to Article 50 of the Constitution of the Republic of Macedonia every citizen may invoke the protection of freedoms and rights determined by the Constitution before the regular courts and before the Constitutional Court of the Republic of Macedonia. This right also pertains to the right to ownership of property.

36. What are the administrative procedures which are necessary for the transfer of property? How long does it take to complete the procedure for a transfer of property? Which body is responsible for maintaining an urban and land cadastre and property register? Please provide information on the existing cadastre and land registry, and your plans for its modernisation.

The Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 1/92, 31/98, 91/01 and 84/03) guarantees the right to property and the right to inheritance. No person may be deprived or restricted of property and the rights deriving therein, except in cases of public interest determined by law.

In case of expropriation or in case of restriction to property, rightful compensation not lower than its market value is guaranteed.

A foreign person in the Republic of Macedonia may acquire the right to property under conditions determined by law.

Pursuant to provisions in Article 148 of the Law on Property and Other Real Rights ("Official Gazette of the Republic of Macedonia", No. 18/2001), the right to property of a real estate on the basis of a legal act is acquired by registering in the Real Estate Cadastre or in another adequate way determined by law.

The establishment, registration and maintenance of the Real Estate Cadastre are regulated in a mode and procedure determined by law.

The legal effect of the registration occurs following the receipt of the request or the document by the body keeping the public book.

Pursuant to provisions in Article 1 of the Law on Land Surveying, Cadastre and Real Estate Rights Registration ("Official Gazette of the Republic of Macedonia", Nos. 27/86 and 17/91), the surveying, cadastre and the real estate rights registration are carried out in modes prescribed by this Law, and pursuant to provisions in Article 8, paragraph 1 of the same Law, the Real Estate Cadastre is a public book in which the registration of data is carried out *ex officio* or upon the parties' request.

In accordance with Article 57 of the same Law, the registration into the Real Estate Cadastre is carried out by entry and note.

The registration into the Real Estate Cadastre is performed on the basis of:

- Documents compiled in legally prescribed form;
- Final court decisions; and
- A law or decision of a state body.

The administrative procedures in the course of the procedure on acquiring the right to property (and other real rights), are generally regulated in the Law on General Administrative Procedure, Article 1 in line with Article 2 and 3 ("Official Gazette of SFRY", Nos. 47/86 - consolidated text and "Official Gazette of the Republic of Macedonia", Nos. 44/02), which has been taken over from the former Yugoslav law after Macedonia's independence, on the basis of the Constitutional Law on Implementation of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91 and 4/92).

The transfer of the right to property (and other real rights) into the Real Estate Cadastre as a public book has been conditioned by a prior implementation of the following administrative procedures:

1. Establishment of a public book - Real Estate Cadastre for the area covering the application for the transfer of the right. The establishment is carried out by implementing a procedure of first entry of real estate rights for the area of the cadastre unit that covers the application. This procedure is conveyed in a systematised way and in procedures determined by the Rulebook on the Modes and Procedure of Exposing Data on Real Estate and Modes of Real Estate Rights Registration ("Official Gazette of the Republic of Macedonia", Nos. 05/88 and 42/95) and is finalised by the announcement of a decision on establishing a Real Estate Cadastre as a public book for a respective cadastre municipality in the Official Gazette of the Republic of Macedonia.
2. Establishing documents for transfer of property rights in a form and content prescribed by law (containing data's of the public book for the registration of real estate rights, i.e. from the Property List as property evidence), or existence of a private document whose form and content has been confirmed (solemnised) by a publicly authorised person - a notary, pursuant to the Law on Notaries ("Official Gazette of the Republic of Macedonia", Nos. 59/96, 25/98 and 06/02).
3. Evidence for paid tax in the sense of Article 37 of the Law on Property Tax ("Official Gazette of the Republic of Macedonia", Nos. 61/04).
4. Paid administrative fees pursuant to the Law on Administrative Fees (Chapter 5, Tariff No. 56) – ("Official Gazette of the Republic of Macedonia", Nos. 17/93, 20/96, 07/98, 13/01, 24/03, 19/04 and 61/04).

The administrative procedures for the transfer of property rights are implemented in Accordance with the Rulebook on Maintenance of Land Surveying and Real Estate Cadastre ("Official Gazette of the Republic of Macedonia", No. 62/95) and the Rulebook on the Maintenance and Surveying of the

Land Registry ("Official Gazette of the SRM", Nos. 06/75 and 09/75) depending on whether the area to which the application refers has been encompassed by a Real Estate Cadastre (public book) or by records on the land, i.e. a Land Registry.

The time-frame for the administrative procedure after the receipt of the application for the transfer of the property right into the Real Estate Cadastre, or the application for the transfer of the land user into the land registry, has been regulated by the provision in Article 218, paragraph 1 of the Law on General Administrative Procedure and is one month if all applications have been properly completed and submitted. In other cases, the competent body that performs the procedure is obliged to adopt a decision and submit it to the requesting party not later than two months.

The realistic time-frame for a completion of the administrative procedure in the course of the property rights transfer is not longer than 7-15 days in most local offices, while on the area of the City of Skopje it is longer than two months.

The State Geodetic Institute with its 30 centralised local offices including the Skopje City Office is competent for the keeping of the so-called City Cadastre (referring to the area of any city, including the City of Skopje) as well as for the Land Registry and the Real Estate Cadastre. This issue has also been regulated by the provisions in Article 35 of the Law on Organisation and Operation of the State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02), and by the Rulebook on Internal Organisation and Operation of the State Geodetic Institute No. 01-3483/5 from 05.07.2004, as an internal act adopted by the official person administering the body pursuant to his/her authorities, as determined in Article 5, paragraph 2 of the Law, following the consent obtained from the Civil Servants Agency pursuant to its authorities determined by this Law.

The Real Estate Cadastre is a public book. It is a fundamental and legally regulated system of registering the total factual, spatial, economic, and property and legal components of the real estate status (land, buildings and special parts of buildings). As such it is a basis for the creation of the spatial information system.

The Cadastre is based upon principles of legality, constitutionality and publicity and, as such, it is vital for the provision of legal security in the real estate trade.

Basis for its creation and establishment is a prior cadastre survey of the spatial and actual status of the real estate and other collected data on the real estate (surface, modes of land use and its economic power), while as regards buildings and parts of buildings, basis are data for their size (number of stories, surface), construction material and other data as well as data on potential owners. The collecting and editing of data is carried out by plans, according to administrative areas and cadastre municipalities and is implemented according to methodologies and procedures determined by legal and technical standards. The collected and edited data on real estate are presented before citizens and other legal persons in a public procedure which also determines the facts on real estate rights. Following the completion of the procedure is the registration (first entry) of real estate rights. Data determined in the course of the procedure are recorded on magnetic tapes for further use. The procedure ends with a decision on establishment of a Real Estate Cadastre-Public Book, published in the Official Gazette of the Republic of Macedonia. The decision specifies a term when the basic public book for the concrete cadastre territorial unit shall be opened for use. The property list is the final product of this procedure. The List is evidence for further transactions in the real estate.

The procedure lasts from several months to a few years (two or three), depending on the size of the area.

The Real Estate Cadastre comprises: cadastral plans (maps); cadastral operate; and the collection of documents.

Cadastral maps are created in an analogue (graphical) form, and since 1997 they have been also produced in digital form. The analogue plans (maps) are transformed into digital.

By 2010 it is expected that all cadastre plans will be in a digital database and available in electronic form.

The cadastral Operate is a systematised attributed database on real estate, memorised on magnet tapes in e-form with an automatic on-line search engine. For the time being, they are only available for use of the local cadastral offices. The central memory base unit in the State Geodetic Institute is available on-line only to the Central Registry.

The transfer of the changes in public books from local offices to the central memory unit into the central device of the State Geodetic Institute is carried out once a week by a back-up technology.

The project "e-cadastre" which is in its initial phase envisions the establishment of Internet/Intranet accession to the database by the end of 2010.

The collection of documents is a collection of legal documents containing originals or verified copies of documents that determine a certain real estate right. The documents are in paper form. According to the development project, the transfer of data into a digital form shall be available to users by the end of 2010.

The Real Estate Cadastre as a public book of real estate covers around 45% of the state's territory.

As of October 2003 a new Project on Cadastre and Registration of Real Estate is being prepared under the leadership of the World Bank. The Project shall provide:

- Reorganisation and transformation of the geodetic and cadastral service by divesting the non-essential operations from the current organisational form into a new modern, organised, automated and efficient service to citizens and legal persons;
- Introduction of private practice in the area of geodetic operations, mapping, digitalisation, etc., for the efficient servicing of the needs of citizens and other legal persons;
- Acceleration of administrative procedures by the establishment of public books on real estate - real estate cadastres and a full (100%) coverage of the territory by 2010;
- Conversion of cadastral plans (maps) from analogue to digital form and digitalisation of the remaining technical part by the end of 2010, with an electronic availability of data;
- Establishment of a complete, automated Geodetic-Cadastral Information System (GeoCIS) for geo-spatial and other data on real estate, and establishment of an e-base into the real estate cadastre and its on-line availability to users and citizens;
- Introduction of the option for electronic transfer of real estate rights in transactions by the end of 2010;
- Creating opportunities for issuance of documents in a digital form on the facts contained in the real estate cadastre for areas where the digitalisation of the graphical and alphanumerical part will be completed, until the introduction of an e-availability of such documents;
- Institutional strengthening of the organisation competent for cadastre operations; registration of real estate rights (in a new organisational form) and securing full public confidence in the real estate rights data as well as legal security in the real estate trade;
- Securing conditions for a permanent expert training and specialisation, and strengthening the capacity of human resources that would be capable to further implement the project.

37. Denationalisation: What is the percentage of properties returned to persons dispossessed by the Communist regime? (Please provide precise statistics of nationalised property: houses, agricultural land, forests, etc., total claims received by the authorities, claims processed and completed, claims accepted and rejected, indication of competent authorities in this process, etc.) When is the denationalisation process estimated to be completed by the Government?

The denationalisation process has been regulated by the Law on Denationalisation ("Official Gazette of the Republic of Macedonia", Nos. 20/98, 31/00, 43/00-consolidated text and 42/03). On the basis of Article 70 of the Law Amending the Law on Denationalisation ("Official Gazette of the Republic of Macedonia", No. 31/00), the Legislative Committee of the Assembly of the Republic of Macedonia, in May 2000, established the consolidated text of the Law on Denationalisation ("Official Gazette of the Republic of Macedonia", No. 43/00-consolidated text).

The Law determines the conditions and procedure for restitution of property and the type, conditions and procedure for awarding compensation for property confiscated on behalf of the state since 2 August 1944 (denationalisation).

Pursuant to the Law on Denationalisation, the Government of the Republic of Macedonia adopted a Decree on the Implementation of the Denationalisation Procedure and a Decree on the Manner and Procedure of Establishing the Value of Property Subject to Denationalisation ("Official Gazette of the Republic of Macedonia", No. 43/00).

The practical application of the Law on Denationalisation started in September 2000. According to the records of the authorised committees, since then and until September 2004, a total of 19.185 denationalisation claims were received.

So far, the competent denationalisation committees passed 8.066 rulings (42%). This number includes 5.041 rulings (62,5%) endorsing the claims; 903 rulings (11%) partially endorsing the claims; 1.916 rulings (24%) rejecting the claims; and 206 claims (2,5%) for which the procedure has been suspended.

Final are 5.141 rulings (63,7%).

Out of the total number of rulings endorsing or partially endorsing the claims, property was restored by 2.714 rulings (45,65%), of an area and category as follows:

- Housing premises – 36.163 m²;
- Business premises – 120.421 m²;
- Agricultural land – 596.555.646 m²;
- Building land – 1.066.149 m²; and
- Forest land – 17.247.796 m².

The total number of rulings endorsing or partially endorsing the claims also includes 3.230 rulings (54,35%) by which compensation was determined in the form of bonds, for property that cannot be restituted.

Three series of bonds have been issued thus far for the final rulings upon claims lodged by 31 December 2003. The total value of the issued bonds is 89.100.000 EUR.

The registration of bonds on behalf of the claimants within the body competent for their registering and servicing (Central Securities Depository) is done, *ex officio*, by the competent denationalisation committees.

Pursuant to the Law, the Minister of Finance decides upon denationalisation claims. For that purpose, he/she may establish one or more committees (denationalisation bodies). In that sense, 13 first-instance denationalisation committees have been established in regions and areas.

Parties in the denationalisation procedure are the claimants (former owners of the confiscated property or their heirs) and the Public Attorney's Office of the Republic of Macedonia, as a representative of the state interests.

Against a first-instance ruling, a dissatisfied party is entitled to file a complaint before the second-instance body (Committee within the Government of the Republic of Macedonia deciding in second instance in administrative denationalisation matters).

Against a second-instance ruling, a dissatisfied party is entitled to initiate an administrative dispute before the Supreme Court of the Republic of Macedonia.

Subject of enforcement is a final ruling for denationalisation.

Pursuant to the Law on Denationalisation, denationalisation claims in administrative procedure may be filed not later than 07.05.2005. After the expiry of the deadline, an appeal for compensation in litigation procedure may be filed before a competent court; restitution of property may be requested only if no legal or factual obstacles exist.

Pursuant to the Law on Denationalisation, the deadline for filing denationalisation claims is not preclusive, i.e. no prescription arises after the deadline. Therefore, it is impossible to accurately anticipate the time period within which all procedures (administrative and court) will be completed i.e. when the denationalisation process is over.

However, by taking into account the current dynamics of the process, it may be assessed that the majority of cases (around 90%) in administrative procedure would be resolved by the end of 2008.

38. Respect of privacy: is privacy safeguarded by law? Is any case of telephone tapping or house search allowed without a judge's warrant?

In 1997, the Assembly of the Republic of Macedonia ratified the Convention for the Protection of Human Rights and Fundamental Freedoms ("Official Gazette of the Republic of Macedonia", No. 11/97), whereby the regulations of the above Convention have become part of the internal legal order.

In accordance with Article 8 of the abovementioned Convention, every person has the right to respect for his/her private and family life, home and correspondence. The public authorities shall not interfere with the exercise of this right, except such as in accordance with the law and is necessary in a democratic society in the interests of state security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 25 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No 52/91, 01/92, 31/98, 91/01 and 84/03) provides explicit guarantee on the respect and protection of the privacy or personal and family life and of dignity and reputation.

The essence of the right of privacy is a generic term that contains several rights and consists of the freedom of each individual to decide independently on all issues within the domain of his/her private and family life without any interference by other persons or by the authorities. In addition to this, the right of privacy is exercised and realised by guaranteeing the security and confidentiality of personal data, the inviolability of the home, freedom and privacy of correspondence and all other forms of communication. (for more details see [I H 16](#)).

Consequently, the Constitution of the Republic of Macedonia in Article 18, guarantees the security and privacy of personal information.

Citizens are guaranteed protection from any violation of their personal integrity deriving from the registration of personal information through data processing.

The Constitution of the Republic of Macedonia, in Article 26, guarantees the inviolability of the dwellings, establishing that this right may be restricted only on the basis of a court decision in cases of detection or prevention of criminal offences or the protection of people's health.

Article 17 of the Constitution of the Republic of Macedonia guarantees the freedom and privacy of correspondence and all other forms of communication. At the same time, there can only be an exception to the principle of inviolability of the privacy of correspondence with a court decision, where necessary for the course of a criminal proceeding or if it is required in the interests of the defence of the country.

The Constitution of the Republic of Macedonia provides guarantees for the exercise of the fundamental rights and freedoms by stating that each citizen can call upon protection of his/her rights and freedoms established by the Constitution, before courts and before the Constitutional Court of the Republic of Macedonia in a procedure based on the principles of priority and urgency. At the same time, the citizen has the right to be informed about the human rights and fundamental freedoms and to actively contribute, individually or together with other citizens, to their promotion and protection.

The right to privacy is not an absolute right and exceptions to this right may be made in cases determined by law. By establishing precisely the conditions under which the principle of privacy may be violated, as well as by prescribing the procedure for implementing such an exception, the guarantee that the right to privacy is being observed and exercised is provided.

The exception to the principle of security and privacy of personal information is stipulated in the newest Law on Personal Data Protection ("Official Gazette of the Republic of Macedonia", No.07/05). On the legal solutions in the new Law on Personal Data Protection, for more details see [I H 39](#).

The exceptions to the principle of inviolability of the home, i.e. establishing when a house search is allowed is regulated by the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04).

The Law on Criminal Procedure stipulates that a search of the home or other facilities of the accused or of other person may be conducted if there are reasonable grounds to believe that the search will result in apprehension of the accused or that traces of the criminal offence shall be found or objects of importance for the criminal proceedings (Article 198).

According to the provisions of the Law on Criminal Procedure, the search is ordered by the court in a written, elaborated order, which explicitly designates the place and the person to be searched, as well as the objects, which are searched for or confiscated from the person (Article 199, paragraph 1).

The search warrant is shown before the search to the person who personally or whose home will be searched. Before the search, the person to whom the search warrant refers will be asked voluntarily to turn in the person or give away objects which are searched for. (Article 199, paragraph 2)

However, the search may be conducted without prior presentation of a search warrant and without previous request for turning over the person or objects if an armed resistance is presumed or when suspecting that a severe crime is conducted by a group or organisation it is considered necessary to conduct the search suddenly or if the search is to be performed in public premises. (Article 199, paragraph 3)

In accordance with the Law on Criminal Procedure, the householder or the holder of other premises will be summoned to be present at the search, and if he/she is absent his/her authorised representative will be summoned or some of his/her adult members of the family or neighbours (Article 200, paragraph 3).

During the search of premises or persons, two adult citizens will be present as witnesses. The search of a female is performed only by a female officer, and the witnesses are also female. Before the start of the search, the witnesses will be warned to pay attention to the performance of the search and they will be reminded of their right, before signing the minutes for the search to write in their objections if they consider that the contents of the minutes are incorrect (Article 200, paragraph 3).

The Law on Criminal Procedure sets forth the possibility that the search is conducted without the presence of witnesses if their presence is not possible immediately to be provided and there is a danger of delay. The reasons for a search without the presence of witnesses must be written in the minutes (Article 200, paragraph 4).

The search of premises and persons is to be performed carefully without disturbing the order of the residence (Article 200, paragraph 7). During the performance of the search, only those objects and identity cards i.e. documents will be temporarily confiscated which are in connection with the aim of the search in that particular case (Article 200, paragraph 8).

If during the search of premises and persons, objects are found which have no connection with the crime for which the search is intended, but which point to another crime to be prosecuted *ex officio*, the objects will be confiscated and a receipt for the confiscation will be immediately issued. The public prosecutor will be immediately informed in order a criminal procedure be initiated. These objects will be immediately returned if the public prosecutor finds that there are no grounds for institution of a criminal procedure and there is no other lawful ground according to which those objects should be confiscated (Article 200, paragraph 9).

The Law on Criminal Procedure prescribes the obligation that for each search of residences or persons minutes be made. The minutes are signed by the official conducting the search, the person at whose home or on whom the search is conducted and the persons whose presence is compulsory (Article 201, paragraph 1). The objects and documents, which have been confiscated will be included and notified correctly in the minutes (Article 201, paragraph 2).

Authorised officials of the police may, without a search warrant, and without the presence of witnesses, perform a search of a person while enforcing a court order for apprehension or while depriving a person from freedom if it is suspected that the person possesses arms or tools for attack or if it is suspected that he/she will throw away, hide or destroy the objects which are to be confiscated from him/her as evidence in the criminal procedure (Article 202, paragraph 2).

The Draft Law on Communication Interception is in parliamentary procedure for the purpose of precisely regulating the conditions and the procedure for deviation from the constitutionally guaranteed right of inviolability of correspondence and all other forms of communication.

The mentioned Law will regulate the conditions and the procedure for communication interception, the working methods, the storage and use of obtained information and data, as well as the control of the legality of communication interception.

The Draft contains five separate chapters: general provisions; the conditions and the procedure for communication interception for the purpose of detecting and prosecuting the criminal offenders; the conditions and the procedure for communication interception for the protection of the interests of state security and defence; supervision and control; transitional and final provisions.

Expressing the democratic development of the state, the Draft Law subscribes to the principle that no one may intercept communication without an order of a competent court, unless they are intended for or there is agreement by the person or persons involved in the communication.

In accordance with the proposed legal provisions, the interception of communications of a given person may be ordered by the court when there are grounds for suspicion that this person has committed a criminal offence for which imprisonment of at least four years is prescribed, or a criminal

offence for which imprisonment of up to five years is prescribed, and for which there are grounds to believe that it is conducted or has been conducted by an organised group, gang or other criminal association, in order to provide data and evidence necessary for successfully carrying out a criminal procedure which cannot be provided in any other way.

The only relevant institution for submitting a request for communication interception, in accordance to the proposed provisions, is the public prosecutor, who submits the request on their own initiative or, upon the proposal of an authorised person, by the Minister of the Interior. The admissibility of the request is decided on by the investigative judge with an order within 24 hours from the time when the request was submitted.

At the same time, the law guarantees the right to appeal to the competent public prosecutor if the investigative judge does not agree with the request for issuing a court order. The appeal is to be submitted to the criminal Chamber of the competent court within 24 hours from the notification of the disagreement.

The investigative judge will reject the request for communication interception if it relates to the communication of a lawyer appointed to defend a person whose communication is the subject of interception; to communication that is carried out in the offices of the President of the Parliament of the Republic of Macedonia, the President of the Republic of Macedonia, the Prime Minister of the Republic of Macedonia; and to communication that is carried out in the offices of members of Parliament in the Parliament of the Republic of Macedonia.

The duration of communication interception according to the proposed provisions is established as not longer than 30 days from the day of issuing the order for communication interception. However, a possibility is provided for an extension of up to 90 days more on the basis of submitting an additional proposal with a separate explanation of the reasons for which the extension is required.

The law also regulates the procedure for serving the order and its implementation, as well as the storage, delivery and the use of the collected data.

At the same time, it provides for time limits and the way of protecting and destroying the collected data, as well as for the way and the conditions for notifying the accused and acquainting them with the collected data from the interception of their communication.

The proposed provisions foresee an obligation of the investigative judge to deliver all the data gathered on the basis of the issued order to the competent public prosecutor who is to estimate if there are legal grounds for submitting a request for initiating an investigation.

If the public prosecutor does not submit a request for initiating an investigation within 30 days from delivering the data collected with the interception of communication, the law stipulates an obligation of the court to pass a decision for their destruction. The court may also adopt a decision for the destruction of the collected data in cases when it estimates that the collected data bear no importance for the procedure, however, by previously obtaining an opinion of the competent public prosecutor.

The basic intention that the data and the information obtained with communication interception are to be used in the interest of and for the objectives of the criminal procedure is also exercised by stipulating a legal provision that the court decides on the admissibility of the data obtained by the communication interception in a criminal procedure, against which the concerned parties have the right to appeal to the criminal Chamber of the competent court within 24 hours from serving the decision.

Upon finality of the decision in the criminal procedure conducted against a person whose communication has been monitored, the court adopts a special decision to destroy the evidence within 15 days. The destruction of the data is performed by a commission, comprising a judge, a public prosecutor and a person authorised by the Minister of the Interior.

The law provides the right to compensation for damages to the person whose communication has been intercepted contrary to the provisions of this law, which is decided on by the court that has issued an order for communication interception, in a fast-track procedure that may not last more than 3 months. The damaged party that is not content with the court decision has the right to appeal to a higher court within 8 days from the day of reception.

The right to compensation for damages is also provided for a citizen who has suffered damages because the data collected from interception of his/her communication have been published before issuing the court's decision for admitting the mentioned data to be used as evidence in a criminal procedure, or if destroyed data have been published.

In accordance with the provisions of the Draft Law on Communication Interception, the court may order interception of the communication of a person suspected of preparing to commit a criminal offence against the State, against the armed forces or against humanity and international law.

Except in abovementioned cases, the court may order interception of communication in the event of preparing, encouraging, organising, or participating in an armed attack against the Republic of Macedonia, or in the cases when a person is disabling the security system, unless there is no other way to obtain data for such an activity in order to prevent the crime, the armed assault, or the damage to the security system of the country.

In the mentioned cases, the competent bodies for submitting a request for communication interception of a person are the Minister of the Interior and the Minister of Defence.

The Draft Law stipulates the Supreme Court as responsible for approving the request for communication interception and provides a possibility for submitting an appeal to the Supreme Court on the part of the applicant if the judge does not agree upon the submitted request, decided upon by a council of three Supreme Court judges. A member of the council may not be the judge that decided upon the request for issuing an order for communication interception, thus fully implementing the principle of judiciary control and protection.

With the order for communication interception the judge of the Supreme Court will allow communication interception for the necessary time, but not longer than three months. After expiration of this period, on the basis of an additionally explained proposal, the judge may order the communication interception to be extended for a period of up to one year, including the time designated with the first order.

In accordance with the principle of protection of privacy, the personal data collected with communication interception are kept in special conditions at the Ministry of the Interior, i.e. at the Ministry of Defence, for up to one year after the expiry of the time determined with the court order, after which all the data and the materials related to the execution of the court order are destroyed under the supervision of the judge who has issued the court order, minutes whereof are taken in which only the number of the court decision is recorded.

The Law on Communication Interception also regulates the supervision of the enforcement of the measures by the Ministry of the Interior and the Ministry of Defence, envisaging that the Assembly of the Republic of Macedonia establish for that purpose a Commission consisting of five members.

The Commission submits an annual report to the Assembly of the Republic of Macedonia on the undertaken control of the legality of the implementation of the measures by the Ministry of the Interior and the Ministry of Defence within two months after the end of the current year.

With the entry into force of the Law on amending the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", No. 74/04) the right to privacy may also be limited under the conditions and in the way determined with this Law by applying special investigative measures.

According to the regulations of the Law on Criminal Procedure, an order by the investigative judge, i.e. an order by the public prosecutor may authorise undertaking the following special investigative measures:

- Communication interception and entry in the home and other premises or transportation vehicles for creating conditions for communication interception, under the conditions and according to the procedure established by law,
- Inspection and search of the computer system, seizing a computer system or parts thereof or the base for storing computer data,
- Secret surveillance, monitoring and audiovisual recording of persons and objects by technical means,
- Simulated purchase of objects, as well as simulated bribing and simulated acceptance of bribe,
- Controlled delivery and transport of persons and goods,
- Using undercover agents for monitoring and collecting information or data,
- Opening a simulated bank account, where proceeds of crime can be deposited, and
- Registration of fictitious legal persons or using existing legal persons for data collection.

The application of the special investigative measures is foreseen only for providing data and evidence necessary for successfully conducting the criminal procedure that cannot be collected through other methods or whose collection would involve substantial difficulty, for criminal offences for which imprisonment of at least four years is prescribed, for criminal offences for which imprisonment of up to five years is prescribed and for which there are grounds to believe that has been committed by an organised group, a gang or another criminal association.

In the event when there is no knowledge of the identity of the perpetrator of the crime, special investigative measures may be ordered concerning the subject of the criminal offence.

In cases determined by law, in the preliminary investigative procedure, special investigative measures are determined by an order of the public prosecutor or the investigative judge, and in the course of the investigation, only by an order by an investigative judge.

In the preliminary investigative procedure, particular investigative measures are determined by an order written and argued by the investigative judge, on the basis of a proposal written and argued by the public prosecutor. At this stage of the criminal procedure, the investigative judge decides with a written order on the application of all special investigative measures, except for the special investigative measure: communication interception and entry in a home and other premises or transportation vehicles for creating conditions for communication interception. If there is disagreement between the public prosecutor and the investigative judge as regards the application of the special investigative measures, the Chamber of the basic court, consisting of three judges, shall decide.

In the preliminary investigation procedure, when there is no knowledge of the identity of the perpetrator of the criminal offence, special investigative measures may be authorised with a written and argued order by the public prosecutor, and on the basis of a written and argued proposal by the Ministry of the Interior also. The public prosecutor in the above case may decide, with a written order, to apply special investigative measures, except for applying the special investigative measures: communication interception and entry in a home and other premises or transportation vehicles for creating conditions for communication interception, and inspection and search in computer systems, seizing computer systems or parts thereof, or the base for storing computer data.

The order for the application of special investigative measures is enforced by the Ministry of the Interior, the Customs Administration of the Republic of Macedonia and the Financial Police.

The order contains data about the individual against whom investigative measures are applied when the perpetrator is known, the grounds of suspicion for the committed crime, the facts wherefrom the

application of special investigative measures emerges, as well as the manner, extent and duration of such measures.

The implementation of special investigative measures, except for the enforcement of the special investigative measure: communication interception and entry in a home and other premises or entry in transportation vehicles for creating conditions for communication interception, may last up to four months. However, upon a proposal of the public prosecutor, when the order is issued by the investigative judge, i.e. upon a proposal of the Ministry of the Interior, when the order is issued by the public prosecutor, the duration of the special investigative measures may be extended for at least three months for justifiable reasons.

If the special investigative measures are undertaken without an order of the investigative judge, i.e. without an order of the public prosecutor or are undertaken contrary to the regulations of the Law on Criminal Procedure, the evidence gathered through the use of such measures may not be used in the criminal procedure.

Nevertheless, the data, reports, documents and objects collected with the use of special investigative measures under the conditions and in the manner prescribed with the regulations of the Law on Criminal Procedure may be used as evidence in the criminal procedure.

39. Data protection: Provide information on any legislation or other rules governing this area, and the adherence of such rules to relevant international conventions. What is done in order to ensure efficient protection of data? Does any independent data protection supervisory authority exist? (Please note that these questions have also been raised under the specific point on data protection under Chapter 24.)

The right to privacy regarding the processing of personal data, as one of the fundamental freedoms and rights of the individuals and the citizens in the Republic of Macedonia is regulated in the Article 18 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos 52/91, 01/92, 31/98, 91/01, 84/03), which guarantees security and privacy of personal data and protection from possible violation of the personal integrity of the citizens deriving from registration of personal information through data processing. In the legislation of the Republic of Macedonia, the constitutional guarantee of security and privacy of the personal data until recently was governed by the Law on Personal Data Protection ("Official Gazette of the Republic of Macedonia", Nos. 12/94 and 4/02).

The new Law on Personal Data Protection was adopted on 25.01.2005 ("Official Gazette of the Republic of Macedonia", No. 07/05). This law is compatible and aligned with the standards and the criteria foreseen by the European Parliament and the European Council Directive on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of such Data 95/46/EC of 1995 and the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data No. 108 of the Council of Europe of 28.01.1981 ratified by the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 07/05).

The substance of the Law on Personal Data Protection ("Official Gazette of the Republic of Macedonia", No. 07/05) is divided into 11 separate chapters.

Chapter 1 - *General Provisions*, defines the subject and the aim of the law, which is focused on protection of fundamental rights and freedoms of the citizens, with a special emphasis on protection of rights to privacy regarding personal data processing. In drafting the provisions systematised within this chapter, the Constitutional guarantee of security and privacy of personal data and protection from violation of the personal integrity of the citizens (Article 18) was taken into consideration.

The legal definitions strictly follow the terminology used in the Directive 95/46/EC.

Consistently incorporating the contents from Article 3 from the Directive 95/46/EC, the Law explicitly identifies the exceptions from its application, focused on processing of personal data performed by natural persons purely for personal or household activities, processing of personal data in criminal procedure, as well as protection of the interests of security and defence of the Republic of Macedonia (Article 4).

Chapter 2 of the Law on Personal Data Protection- *Processing of Personal Data*, specifies the conditions which the personal data should meet. When defining the aforementioned provision, the starting point was the content of the Article 6 from the Directive 95/46/EC, where the principles concerning the quality of personal data are established. Hence, the personal data shall be processed fairly and lawfully, in conformity with the Law. This data shall be collected for specified, explicit and legitimate purposes and shall be processed in a manner according to these purposes; they shall be adequate, relevant and not excessive in respect to the purposes they are collected or processed for. The data shall be accurate, complete and updated as needed. Inaccurate or incomplete data, having in mind the aims for which they were collected or processed, will be erased or rectified. The personal data shall be kept in a form that enables identification of the subject of personal data for not longer than it is necessary to fulfil the purposes for which the data were collected or for which they are further processed. The Data Controllers are responsible to comply with the abovementioned principles concerning the quality of personal data.

The Law establishes the principles of making data processing legitimate. Previously given consent of the subject for processing of personal data is established as a mandatory and necessary prerequisite for processing of personal data.

Exceptions from the aforementioned rule are also specified. Namely, it is established that personal data can also be processed without the consent of the subject if it is necessary for performance of a contract where the subject of personal data is a contracting party, or upon a request of the subject of personal data, prior to entering into a contract; for compliance with a legal obligation of the Data Controller; for protection of the vital interests of the subject of personal data; for performance of activities of public interest or of official authority vested in the Data Controller or a third party to whom the data were disclosed.

The chapter 3 - *Processing of special categories of personal data*, implements the relevant provisions contained in the Directive 95/46/EC. The Law prohibits processing of special categories of personal data. This prohibition shall not apply: if the subject of personal data gives consent to processing of these data; for enforcement of specific rights and obligations of the Data Controller in the area of Labour Law, to a degree and with adequate safeguards established by laws in this area; for protection of the vital interests of the subject of personal data or of a third person, if that person is physically or legally incapable of giving his/her consent; if the processing is performed with appropriate guarantees by foundations, associations or any other non-profit institutions with a political, religious, trade-union or other purpose, under condition that the data processing is related solely to their members and that these data are not disclosed to a third party without the consent of the subject of personal data; if the processing relates to data which are manifestly made public by the data subject; when it is necessary to establish, exercise and defend the rights of the subject in a procedure before competent bodies; if the processing of the data is for purposes of medical prevention, diagnosis, provision of care or treatment or management of a healthcare organisation and if the processing of those data is performed by a health professional subject who is under oath of professional secrecy; and when for reasons of public interest there is a need to perform an important activity established by law, or the processing is done on the basis of a decision by the Directorate for Personal Data Protection.

The Law stipulates that processing must be specially designated and protected, while transfer through a telecommunications network may be carried out if the data are specially protected with encryption methods to render them unreadable during transmission.

This chapter also determines the conditions under which the personal identification number may be processed.

Chapter 4, *Rights of the Data subject*, is central in the draft law.

This chapter makes a distinction between the information presented to the subject of personal data in cases of collection of data from the data subject and information presented to the subject of personal data where the data have not been obtained from the data subject.

The rights of the data subject have been arranged by subject matter, as follows: the right to examine the data collection; the right to submit a request to rectify, erase or block the processing of personal data, if the data are incomplete, inaccurate or out of date, or if their processing is not in conformity with the provisions of this law and the right to request that their personal data are not used for advertising purposes.

The Law on Personal Data Protection explicitly provides that the scope of the rights and obligations of the subject of personal data established by provisions of this Law can be restricted in a way and under conditions established by law, to an extent necessary to fulfil aims due to which this restriction is introduced and if it is needed: for protection of the national security and defence; for prevention; investigation, detection or prosecution of perpetrators of criminal offences; because of breaches of the ethics for regulated professions; for protection of important economic and financial interests of the state and for protection of a subject of personal data or the rights and the freedoms of the citizens.

The content of Article 15 of Directive 95/46/EC, is incorporated in a special provision of the Law, which guarantees that no court decision which produces legal effects concerning the performance of certain person can not be based solely on automated data processing which purpose is evaluation of certain personal aspect relating to that person. While the paragraph 2 of the same provision specifies that another decision can be based only on automated data processing if it is made in the course of entering into a performance of a contract and the person was provided the opportunity to express his point of view (to safeguard his legitimate interests) or the decision was made in concordance with the request of that person or in accordance with a law which lays down measures to safeguard the data subject's legitimate interests.

The chapter 5 - *Confidentiality and protection in processing of personal data*, contains provisions which specify the duties of any person who has access to collections of personal data on the behalf of the Data Controller or the Data Processing Agent, including the Data Processing Agent, to provide for confidentiality, protection of personal data and to process the data in accordance with the authorisations and instructions received from the Data Controller, if not otherwise prescribed by law.

For providing confidentiality and protection of processing of personal data, the Data Controller must implement appropriate technical and organisational measures and these measures must correspond to the equipment and costs needed for their application. Therefore they shall ensure a level of security appropriate to the risks represented by the processing and the nature of the data to be protected. The list of technical and organisational measures which are applied by the Data Controller pursuant to the Law is extensive and complex, in order to provide comprehensive protection of personal data from all potential forms of unlawful processing.

On the basis of a signed contract, the Data Controller can transfer certain activities from within his/her competence to the Data Processing Agent, if the Data Processing Agent guarantees that they will undertake and respect adequate technical security and organisational measures for protection of data processing. The Data Processing Agent has the duty, when processing the personal data, to act in accordance with authorisations and instructions received from the Data Controller and in accordance with provisions of this Law. The Data Controller has the duty to maintain records on the undertaken technical and organisational measures, as well as on the signed contracts.

The provisions in chapter 6 - *Records of collections of personal data and central register*, establish the content and manner for keeping records on any collection of personal data, an obligation of

Data Controller to notify the Directorate for Protection of Personal Data before performing wholly or partly automatic processing operation and an obligation of the Data Controller to submit data on any newly opened collection of personal data, as well as change of data from the existing personal data collections. The records from the Central Register kept by the Directorate are publicly accessible and they are published in the Official Gazette of the Republic of Macedonia.

The chapter 7 - *Transfer of personal data to other countries*, specifies that a transfer of personal data to another countries can be performed only if the third country provides an adequate level of protection of personal data. There is a precise enumeration of the circumstances assessed by the Directorate for protection of personal data before performing a transfer of personal data to a third country.

If the country where the data from the collection of personal data should be transferred does not provide an adequate degree of protection of personal data, the Directorate will not authorise the transfer.

The Law specifies the cases where by exception a transfer of personal data to a third country is performed, if the other country to which the data should be transferred does not provide an adequate degree of protection.

The chapter 8 - *Making personal data available to users*, contains provisions which are regulating the substance related to making personal data available to users, as well as exchange of personal data between state bodies. It is established that the Data Controller can make personal data available on the basis of a written request submitted by the user, if the data are needed to perform activities within the legally established scope of competencies of the user. It provides a prohibition on providing personal data whose processing, i.e. use cannot be carried out in accordance with the provisions of this Law and if the purpose for requesting such personal data is in accordance with specific, clear and lawful purposes for which personal data is collected.

The chapter 9 of the Law, dealing with the *Establishment and responsibilities of the Directorate for Protection of Personal Data*, defines the Directorate for Protection of Personal Data, as an independent supervisory authority, performing control over the legality of of processing of personal data. For more details see answer [24 B 03](#).

The chapter 10 - *Penal Provisions* contains provisions which prescribe misdemeanour sanctions in case of violation and inconsistent enforcement of provisions of this Law. For committed misdemeanours, fines as the only sanction for the perpetrators (natural and legal persons) are prescribed. Fines are prescribed within the scope established in the Law on Misdemeanours ("Official Gazette of the Republic of Macedonia", Nos. 15/97 and 35/97).

Chapter 11, *Transitional and Final Provisions*, lay down the timeframe for appointing a Director of the Directorate for Protection of Personal Data (six months), as well as a timeframe for the Directorate to adopt the secondary legislation provided for with this Law (six months). The natural and legal persons processing personal data must align their work within two years from adopting the secondary legislation.

Besides the basic Law which governs personal data protection, this area is subject to regulation in a number of other laws.

The Law on Organisation and Operation of State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02) provides that state administrative bodies do not disclose data related to the national security, official and business secret, as well as personal data of citizens in accordance to the Law which governs protection of personal data of citizens.

The constitutional guarantee of protection of personal data is also regulated by the Criminal Code ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03 and 19/04). Given the need for protection of the data subject, in Chapter 15, Crimes Against the Rights and Freedoms of Human Beings and Citizens, the criminal act "*abuse of personal data*" has been introduced. The

legal essence of this criminal offence consists of a prescribed fine or prison sentence of up to one year for the perpetrator who, contrary to conditions established by law and without the consent of the citizen, collects, processes or uses their personal data. The same fine is provided for the person who will penetrate into the computer information system of personal data with the intention to use the data for him/herself or another person in order to gain benefit or to cause harm to another person. The criminal offence *abuse of personal data* has an aggravated form if the mentioned criminal offence is committed by officials in carrying out their duty, where a prison sentence of three months to three years is provided. Taking into account the particular danger of the abovementioned crimes for the freedoms and rights of human beings and citizens, it is prescribed that the attempt for committing such a crime is also punishable. Legal persons can also be perpetrators of the primary form of this crime, consequently being punished with a fine.

The criminal sanctions established in the Criminal Code can be pronounced to a perpetrator of the mentioned criminal offence under the conditions determined in the Criminal Code and on the basis of a legally executed criminal procedure in accordance with the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04).

The Law on Voter's List ("Official Gazette of the Republic of Macedonia", Nos. 42/02 and 35/04), determines the personal data contained in the voter's list. The list contains the following data: the personal identification number of the citizens, their surname, the name of one of the parents, their name, gender, permanent address (municipality, area of residence, street, house number, entrance number and apartment number), date of registration and deletion and date and type of data amendment. The above personal data are protected in accordance with the Law on Personal Data Protection and they must not be used for any other purpose, except for exercising citizens' voting right in accordance with the Law on Voter's List. Any citizen may, within the period determined with this law, file a request for registering, amending or deleting data in the copies of the voter's list provided for public inspection if they or any other citizen are not registered in it; if a person is registered who does not have the right to vote or does not reside in the area of the municipality, or a person who has passed away, and if the personal name and address of the person or the personal name and address of another person have been inaccurately entered. Copies of the voter's list, with data related to the ordinal number, surname, name, gender, date of birth and address, are provided to registered political parties and to independent candidates.

Basic personal data on citizens is recorded in the Registry of Births, Marriages and of Deaths. In accordance with the Law on Personal Identification Records ("Official Gazette of the Republic of Macedonia", Nos. 08/95 and 38/02), registry books are kept, protected and used in accordance with law. The original copy, the certificate from a registry, as well as a transcript or a copy for entry in a registry, are issued upon request of the person to whom the data in those documents refer. The documents are also issued to a concerned party, i.e. a legal entity or body when there is legal interest established by law. The person to whom the data relates or another interested person, where there is direct legal interest established by law, have the right to inspection of registries or the documents and decisions upon which entries are made in the registries.

The Law on Reporting Dwellings and Residence of Citizens ("Official Gazette of the Republic of Macedonia", Nos. 36/92, 12/93 and 43/00) establishes that the Ministry of the Interior provides protection from unauthorised access and use of the data contained in the records on the dwelling, change of home address and residence of the citizens.

The personal data on asylum seekers, recognised refugees and persons under humanitarian protection, the data on their residence and the rights they enjoy in the Republic of Macedonia are contained in the Central Collection of Data, established, processed and used by the Ministry of the Interior (Asylum Section). The above collection of data is established, processed and used by the person handling the collection in accordance with the provisions of the Law on Personal Data Protection. In accordance with the Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia", No. 49/03), the data from the Central Collection of Data cannot be exchanged with the country of origin of the person to whom such data relates or with the country of

origin of the members of their family. In order to execute the decision for expelling from the territory of the Republic of Macedonia a person whose asylum request has been irrevocably denied or whose right to asylum in the Republic of Macedonia has been terminated with an irrevocable decision, the Asylum Section may exchange the following data with the competent authorities of other countries:

- The name and surname, date and place of birth, gender, citizenship, last residence and home address, data on the number of family members and on the documents issued by the country of origin; and
- Fingerprints and a photograph;

The personal identification number of the citizen is a unique designation on the identification documents of the citizen. In accordance with the Law on Personal Identification Number (“Official Gazette of the Republic of Macedonia”, No. 36/92), the Ministry of the Interior designates a personal identification number to the citizen according to the place of registration of the newborn child in the Registry of Births kept on the territory of the Republic of Macedonia. The Ministry of the Interior provides the keeping, use and protection of the data from unauthorised access in accordance with law.

Law enforcement officers, in accordance with the Code of Police Ethics (“Official Gazette of the Republic of Macedonia”, No. 03/04), are obliged to adhere to the citizens’ right to privacy in accordance with the Constitution and the laws of the Republic of Macedonia. Collecting, keeping and using personal data by the police is performed in accordance with law and the ratified international agreements for protecting personal data, restrictively and in the extent necessary for carrying out legal duties. The police objectively inform the public of their activities, in accordance with the principles of confidentiality of data (observed for protecting the personal integrity of citizens, observing the principle of presumption of innocence, as well as for conducting a criminal procedure, etc.). Therefore, professional procedures for relations with the media are established.

The Law on Classified Information (“Official Gazette of the Republic of Macedonia”, No. 9/04) establishes the measures and activities for protecting classified information. The measures and activities for security of individuals i.e. issuing a security certificate, have a special place among the stated measures and activities. The satisfaction of the conditions for issuing a security certificate is established through a security audit carried out upon previous written consent of the person to whom a security certificate is to be issued. The data from the completed security questionnaire are used for the purposes of the audit.

The Law on State Statistics (“Official Gazette of the Republic of Macedonia”, No. 54/97) regulates the protection of individual data (of natural or legal persons) collected and processed for statistical purposes. The existing law establishes the meaning of the expressions used and their protection. The individual data related to a legal or natural person, collected and processed for statistical purposes are confidential data and they can be used as separate data for statistical purposes only. Access to the above data may be provided for statistical purposes only and, by exception, for scientific purposes (without the identification data about the data subject). The quoted law underlines that individual data cannot be separately used to make any decisions concerning the person they relate to. When publishing statistical data or preparing them, upon the request of users, the data are published, i.e. prepared in a form preventing the identification of the subject of the data, unless the subject of the data has agreed to such publishing, i.e. providing. Data providers are notified of the protection of data. The measures and techniques for protecting individual data collected and processed for statistical purposes are established in a Rulebook on the Measures and Techniques on the Protection of Individual Data Collected for Statistical Purposes (SSO internal document), adopted by the Director of the State Statistical Office. A Commission for Protection of Data has been established within the above state administrative body in order to supervise the protection of data. In order to align the contents of the above law with European regulations, it is planned in the course of 2005 to approach the development of amendments and supplements to the contents of the Law on State Statistics.

The Law on State Statistics is aligned with:

- Council Regulation (EC) No 322/97 of 17 February 1997: OJ L 052 22.02.1997;
- The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data No. 108 of the Council of Europe of 28.01.1981;
- Directive 95/46/EC of the European Parliament and of the Council of 24.10.1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data; and
- Recommendation of the Council of Europe No. R (97) 18.

The Law on Single Registry of the Population in the Republic of Macedonia ("Official Gazette of the SRM", No. 46/90) provides for the introduction, keeping and contents of the single automated registry of the population in the Republic of Macedonia, the competent authority for keeping the registry, the protection of the data from the registry and the processing, publishing and use of the data from the registry.

The Law on Personal Identification Records of the Insured and Beneficiaries of Pension and Disability Insurance Rights ("Official Gazette of the Republic of Macedonia", No. 16/04) provides for special competencies of the Pension and Disability Insurance Fund and for protection of the data on the insured and beneficiaries of pension and disability insurance rights. The abovementioned Fund determines, with a general act, the technical and organisational measures for securing the data from the aforementioned personal identification records. The protection of the data contained in the records on the insured and beneficiaries of pension and disability insurance rights encompasses undertaking measures and activities for protecting the data from: unauthorised access, unauthorised processing, prevention of destruction, loss, modification, abuse and unauthorised use of the data.

The Law on Keeping Labour Records ("Official Gazette of the Republic of Macedonia", No. 16/04), regulates that the data contained in the records established by this Law can be used for statistical purposes and for other official needs. Legally established data can also be used by individuals to whom the mentioned data relate in order to exercise their rights. The legal possibility has been established to exchange data among institutions and state bodies for the purpose of performing the legally established competencies of these entities. The Rulebook on Processing, Using and Protecting the Data in the Information System of the Employment Agency of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 35/03) closely regulates the method of processing, using and protecting the data in the information system of the Employment Agency of the Republic of Macedonia.

The Law on Social Care ("Official Gazette of the Republic of Macedonia", Nos. 50/97, 16/00, 17/03 and 65/04) provides an obligation for the social security institution and the employees to keep professional and official secrets. The Law protects the data and the facts found out during the conduct of the procedure and during the decision-making concerning the rights of beneficiaries of social security, of legal family protection, and on the competencies established by criminal regulations. The above obligation also relates to all the facts and data that may harm the reputation, dignity and interest of the citizen and their family.

The Law on Family ("Official Gazette of the Republic of Macedonia", Nos. 80/92, 09/96, 38/04 and 83/04 – consolidated text) establishes that the data on adoptions are an official secret.

The Law on Health Care ("Official Gazette of the Republic of Macedonia", Nos. 38/91, 46/93, 55/95, 17/97 – consolidated text and 10/04) specifies that when providing healthcare, healthcare workers are obliged to take care of the beneficiaries subject to healthcare, to respect their dignity, to adhere to medical ethics and to keep the professional secret. The obligation to keep a professional secret refers, in addition to healthcare workers, to other workers in healthcare and other organisations who use medical records or in any way (in performing their tasks) come across data contained therein.

The Law on Keeping Healthcare Records ("Official Gazette of the SRM" Nos. 37/79, 18/88 and "Official Gazette of the Republic of Macedonia", No. 15/95), adopted from a former republic regulation by Article 5 of the Constitutional Law on the Implementation of the Constitution of the Republic of Macedonia specifies that the data entered in the records established with this Law are kept as data of permanent value.

In accordance with the Law on the Protection of the Population from Contagious Diseases ("Official Gazette of the Republic of Macedonia", No. 66/04), reporting AIDS and the HIV infection, as well as microbiological findings for *Treponema pallidum*, HIV, *Neisseria gonorrhoeae*, congenital infections with the Rubella virus, *Toxoplasma gondii* and *Chlamydia gondii* is anonymous.

A Law on the Protection of Mental Health is under development in the Republic of Macedonia, and its provisions will be aligned with the provisions of the Law on the Personal Data Protection.

According to the existing Law on Telecommunications ("Official Gazette of the Republic of Macedonia", Nos. 33/96, 17/98, 22/98 – consolidated text, 28/00, 04/02, 37/04), the holders, operators of telecommunication networks and means, as well as the providers of public telecommunication services are obliged to provide inviolability of message confidentiality within their technical abilities. The protection of the confidentiality of messages does not apply for messages for which a deviation from this obligation is provided with international agreements concluded, i.e. acceded by the Republic of Macedonia, and with the regulations of the Republic of Macedonia.

The Law on Electronic Communications, which is being developed (soon it will be in parliamentary procedure), regulates the issue of ensuring data protection in the way and procedure established by Directive 2002/58/EC related to processing of personal data and protection of privacy in the field of electronic communications. The Draft Law contains a separate chapter on the protection of the secrecy and confidentiality of communications. This chapter will contain, *inter alia*, provisions regulating protective measures for providing networks and services, communication confidentiality, caller or connecting line identification, location information that are not traffic information, automatic call diverting etc.

The Law on the National Bank of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 03/02, 51/03, 85/03 and 40/04) provides for the obligation of the members of the Council of the National Bank and the employees of the National Bank to keep official and business secrets. This obligation binds these persons for five years following the end of their membership in the Council of the National Bank, i.e. the termination of their employment with the National Bank. The data that are an official and business secret may be provided only upon written request of the court. As an exception, in cases laid down by law, the National Bank delivers data to the Ministry of Finance, the Deposit Insurance Fund and the Directorate for Money Laundering Prevention, and such data present an official secret for these entities.

The Banking Law ("Official Gazette of the Republic of Macedonia", Nos. 63/00, 103/00, 70/01, 37/02, 51/03, 85/03, 83/04) establishes the persons who may not reveal data and information established as a business secret of the bank by law, statute and other bank acts. The obligation to keep a business secret that persists after the termination of employment with the bank also relates to persons with special rights and responsibilities, bank employees and other persons with access to bank operations. The data that are a business secret of the bank, and that the bank is obliged to deliver to the National Bank and to other bodies and institutions in accordance with law, are an official secret. The data on savings deposits and on bank deposits of natural and legal entities, as well as data on the operations of natural and legal persons through accounts, are a business secret of the bank. The above data may be provided only in the following cases:

- If the client provides written consent to reveal the data;
- Upon written request or order of the competent court;
- Upon written request of the national bank for the purpose of supervision, or another body authorised by law; and

- If the data are provided to the Directorate for Money Laundering Prevention, in accordance with law.

In accordance with the Law on Securities ("Official Gazette of the Republic of Macedonia", Nos. 63/00, 103/00, 34/01, 04/02, 37/02, 31/03, 85/03 and 96/04), the Central Securities Depositary is established in order to determine and settle obligations on the basis of securities transactions and to keep a Registry of securities in the Republic of Macedonia.

The Central Securities Depositary, as a central database, contains electronic data on the issued securities, registering the rights arising from securities, all holders of those rights and the rights arising from securities that can be enjoyed by third persons. The right to obtain data about ownership is enjoyed by the owner of non-financial securities, the issuer of securities and legally authorised bodies and institutions if they need such data in a procedure they conduct within their authorisations or for the needs of their regular operation in accordance with law. The management and the employees of the Central Securities Depositary, as well as certified auditors, are obliged to keep the confidentiality of the data that they have known in carrying out their everyday work, unless they are obliged to provide such information in accordance with the quoted law or another law. The Rules of Order of the Central Securities Depositary establish an obligation for keeping the confidentiality of data up to five years following termination of the employment of the management and the employees in the Central Securities Depositary. The Law on Securities contains special provisions regulating operations with long-term securities with regard to confidential data delivered to the Securities and Exchange Commission and defining the notion of internal information, and it also lists the persons subject to the obligation to keep internal information and their obligations for keeping such information.

In accordance with the Law on Supervision of Insurance ("Official Gazette of the Republic of Macedonia", Nos. 27/02 and 98/02), insurance companies are obliged to treat as confidential all the data about the insured and/or other insurance beneficiaries that they have acquired in the course of performing insurance operations. The members of the bodies of insurance companies, their shareholders, employees and other persons, who in the course of their work have access to confidential data, may not transfer them to third parties or allow third parties to use them. The obligation to keep confidential data does not apply in the following cases:

1. If the data are necessary to establish facts in criminal procedures or other court procedure and if the competent court has filed a written request to provide data;
2. In cases provided for by the law on prevention of laundering money and other proceeds from crime ("Official Gazette of The Republic of Macedonia", no. 46/04);
3. If the data are necessary to establish the legal relations between an insurance company and a policy holder and/or another insurance beneficiary in performing legal procedures;
4. If the data are necessary to perform coercive procedures on the real property of a policy holder or another insurance beneficiary and if the competent court has filed a written request to provide data;
5. If the data are collected by the Ministry of Finance or another competent supervision body for the purpose of conducting supervision within the established responsibilities;
6. If the data are requested by a tax authority with regard to conducting procedures within its competence;
7. In cases provided by a law regulating mandatory insurance;

In accordance with the above Law, the Ministry of Finance or another competent supervision authority, tax authorities and courts, use policy holders database, incurred damage database and the database for appraising insurance coverage and degree of damage, for the provided purposes only. Insurance companies and the State Insurance Bureau are obliged to collect, process, use and deliver personal data necessary for concluding insurance contracts, in accordance with the Law on Personal Data Protection and the special regulations with regard to the insurance database. Insurance companies and the State Insurance Bureau are entitled to establish and maintain the following databases:

1. Policy holders database;

2. Incurred damage database;
3. A database for appraising insurance coverage and the degree of damage;

The following personal data are collected for policy holders databases:

1. The name and surname, date and place of birth, permanent or temporary home address of the policy holder;
2. The company name of the insurance company, policy number, insurance duration, insured event and insurance coverage;

The following personal data are collected for incurred damage database:

1. The name and surname, date and place of birth, permanent or temporary home address and nationality of the persons involved in the damage incurred, as well as witness data;
2. The crimes and misdemeanours related to the damage incurred;
3. The type of harmful event;
4. The place, time and course of occurrence of the damage;
5. Description of the damage from the harmful event;

The following personal data are collected for the database for appraisal of insurance coverage and extent of damage:

1. The name and surname, date and place of birth, permanent or temporary home address of the policy holder that insurance coverage concerns, as well as the same data about the indemnity claimant;
2. The temporary injuries and health condition, type of physical injury, duration of treatment and consequences for both the policy holder and the damage compensation applicant;
3. The income generated by the policy holder and the indemnity claimant;
4. Retirement (old-age or disability), re-qualification and extent of the disability of the policy holder and the indemnity claimant;
5. The costs for medical treatment, medical preparations and orthopaedic aids for the policy holder and the indemnity claimant;

The data in the policy holders database are kept for ten years after the expiry of the insurance contract or, in the event of damage, ten years after closing the case. The data in the database for incurred damage and appraisal of insurance coverage and extent of damage will be kept for ten years after closing the case of incurred damage.

In accordance with the Law on Financial Police ("Official Gazette of the Republic of Macedonia", No. 55/02), the financial police officer is obliged to keep a state, official and business secret they have encountered in the course of performing the work within their competence. Misdemeanour sanction is provided for a person who does not keep a state, official or business secret they encountered in the course of performing their competencies.

Independent Data Protection Supervisory Authority

The Law on Personal Data Protection entails a separate chapter, Establishment and Duties of the Directorate for Protection of Personal Data. The proposed legal provisions provide for the establishment of the Directorate as an independent state authority with legal entity capacity for the purpose of supervising the legality of the undertaken activities in processing personal data and their protection. The Directorate is managed by a director appointed and dismissed by the Assembly of the Republic of Macedonia, upon proposal of the Government of the Republic of Macedonia, for a five-year term with the right to re-appointment, but no more than twice. The director and deputy director of the Directorate are accountable for their work and the work of the Directorate to the Assembly of the Republic of Macedonia.

A person satisfying the following conditions may be appointed a director: he/she must be a citizen of the Republic of Macedonia, an eminent lawyer, and must not have been subject to a security measure for prohibition of performing a profession, activity or duty. The director's term of office may be terminated by dismissal or in the event of death. The director is dismissed if they request that themselves, if they are sentenced for a crime to an unconditional prison sentence of at least six months and for non-professional, partial and unconscientious operation.

The director's function cannot be combined with other public functions or professions. The director is independent and autonomous in carrying out their function. The director files to the Assembly of the Republic of Macedonia an annual report on the work of the Directorate and, if necessary, upon request of the Assembly of the Republic of Macedonia, files additional reports. The annual report on the work of the Directorate is published in the Official Gazette of the Republic of Macedonia.

The Law also regulates the duty for the director and the employees of the Directorate to keep the data they have come across in their work as an official secret, both during their term of office, i.e. employment in the Directorate, as well as afterwards.

The Directorate has the following competencies: it evaluates the legality of the processing of personal data; it publishes the principles of processing personal data and ensures their adherence by the Data Controllers; it does research and has access to collections of personal data compiled by the data controller according to types of subjects and objectives; it controls the operations for processing of personal data applied by the Data Controllers; it collects data necessary for its proper work; it keeps a Central Registry for Collections of Personal Data; it keeps records for transfers of personal data to other countries; it receives reports from or complaints concerning the processing of personal data by a Data Controller; it issues prohibitions on further processing of personal data by the Data Controller, it issues an opinion for secondary legislation acts to Data Controllers and carries out other work provided for by law. In addition to the above competencies, upon a report filed by a Data Controller prior to approaching operations for processing of personal data, the Directorate provides an opinion whether certain operations for processing personal data present a special risk to the freedoms and rights of the data subject. In the event of suspicion of existence of a special risk to the freedoms and rights of the data subject, the Data Controller is obliged to request the opinion of the Directorate.

For the purpose of carrying out the work within the competence of the Directorate regularly and efficiently, the director and the employees of the Directorate are authorised to: enter any premises where a registered system of a collection of personal data is processed, after presenting an appropriate individual authorisation and a document for official identification, and inspect the collections of personal data; seek written or oral explanation and call and examine persons with regard to the collection of personal data investigated; to seek presentation of the paperwork and any other data with regard to the subject of control, test the equipment used for processing the personal data and the equipment where the collections of personal data are kept, and order the preparation of an expert analysis and an opinion for the work of the Data Controller.

If the control establishes injuries to the provisions of this Law in processing personal data, the Data Controller is obliged, at latest within 30 days from the day of establishment of the injury, to align their work with the provisions of this Law, and, in particular, to remedy the reasons that brought about such injuries, to complete, update, correct, reveal or keep the confidentiality of the personal data; to adopt additional measures of protection for the collections of personal data; to stop the transfer of personal data to other countries; to secure the data or their transfer to other subjects or to erase the personal data. An administrative dispute can be initiated against the decision of the director.

The grounds for the implementation of the new law is the establishment of the aforementioned independent authority within six months from its entry into force.

I. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

40. Please provide information on how, and to what extent, the right to education is guaranteed in legislative and practical terms. Please comment on the allocation of resources and institutional framework in place to facilitate the exercise of this right.

Article 44 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) establishes that everyone has the right to education, that education is accessible to all under equal conditions and that primary education is compulsory and free. Furthermore, citizens have a right to establish private schools at all levels of education, with the exception of primary education, under conditions determined by law (Article 45). The Constitution guarantees the autonomy of universities, while the conditions of establishment, operation and termination of the activities of a university are regulated by law (Article 46).

Paragraph 4 of Amendment VIII replacing Article 48 of the Constitution of the Republic of Macedonia stipulates that members of communities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried out in another language, the Macedonian language is also studied.

In accordance with Article 3 of the Law on Primary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 52/02- consolidated text, 40/03, 42/03, 63/04 and 82/04), primary education in the Republic of Macedonia lasts eight years and is compulsory for all children aged seven to fifteen. Primary education is organised and realised in primary schools, and it can also be organised and realised in healthcare institutions, educational-corrective institutions and correctional facilities, in accordance with this Law.

Special primary schools and classes are organised within primary schools for students with special needs, depending on the kind and extent of special needs. For the purpose of achieving greater social inclusion of this category of students, classes in primary schools can include two students with special needs.

Primary education for adults can be organised in primary schools, in institutions for adult education, and in other institutions. Primary musical and ballet education can be organised in a primary school or other institutions in accordance with the Law on Primary Education.

The Law amending the Law on Primary Education ("Official Gazette of the Republic of Macedonia", No. 63/04), in application from 01.09.2005, stipulates that primary education will last nine years and that it will be compulsory for all children aged six to fifteen. Compulsory primary education covers one preparation year, four years of class teaching and four years of subject teaching.

According to Article 3 of the Law on Secondary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/2002, 52/02- consolidated text, 40/03, 42/03 and 67/04) everyone has the right to secondary education, under equal conditions established in this Law. Discrimination on the basis of gender, race, skin colour, ethnic and social origin, political or religious affiliation, property and social status, is not allowed. Students who have completed primary education are enrolled in secondary education; however, for a certain kind of education (vocational training lasting up to two years and talented students in art education) students with incomplete primary education may enrol, undertaking to complete primary education at the same time. Secondary education students can opt for: general programme education, vocational education, or art education. Students with special education needs are educated according to adapted programmes for appropriate professions or for work training.

The right to higher education is regulated with the Law on Higher Education ("Official Gazette of the Republic of Macedonia", Nos. 64/00 and 49/03), providing that the citizens of the Republic of Macedonia, under equal conditions, have the right to education in higher education institutions in the Republic of Macedonia (Article 6). The Law provides for an opportunity for foreign citizens to be

educated at the universities in the Republic of Macedonia, where with the reciprocity principle they can be educated in the higher education institutions in the Republic of Macedonia under the same conditions as the citizens of the Republic of Macedonia. Persons without citizenship also have the right to higher education, under conditions established by law and ratified international acts.

The Law on Higher Education provides the normative and legal assumptions for exercising the right to education. In addition, it establishes the basic requirements for enrolling for undergraduate, postgraduate and doctoral studies, where the Law recommends that enrolment conditions and criteria be closely determined by a rulebook of universities. In order to carry out in practice these legal provisions and to exercise the right to higher education, universities announce competitions for enrolling students for undergraduate studies, master studies, i.e. doctoral studies, containing the criteria and requirements for the enrolment of candidates. At the state higher education institutions, universities, in establishing the competition requirements for the enrolment of students in their first academic year, provide an appropriate and a fair access of citizens from non-majority communities in the Republic of Macedonia by establishing an additional quota as determined by a decision of the Government of the Republic of Macedonia. At the same time, universities have adopted rulebooks dealing specifically with the requirements and criteria for enrolment at undergraduate, postgraduate, and doctoral studies – an obligation arising from the Law on Higher Education.

The Law establishes the rights of students in the course of their university studies, such as the right to choose the kind of studies undertaken; the right to study a number of academic programs at the same time; the right to continue their studies at another higher education institution if the one where they are enrolled has ceased working; the right to choose and to be chosen as a student representative in the bodies of the higher education institution; the right to transfer from one to another higher education institution, i.e. academic program and thereby use the benefits of the credit system; and other rights. The Law provides for special privileges determined by the statutes of the universities pertaining to students with no parents, physically disabled persons, mothers with children younger than six years, and persons in hospital care. Every university establishes a student attorney, whose competences are laid down by university statute, for the purpose of protecting student rights.

According to the Law on Higher Education higher education is realised in higher education institutions which can be state-owned or private. A state higher education institution is established by the Assembly of the Republic of Macedonia with a law, while a private institution can be established by a domestic or foreign legal or natural person with the approval of the Government of the Republic of Macedonia. According to the Law on Higher Education, (Article 36), a university can be established if there are five accredited faculties and higher schools, at least three of which are faculties. A faculty can be established if, in accordance with Article 35 of the Law on Higher Education, the following requirements are satisfied: established area of study; provided premises and equipment; a sustainable level of funding and provided teaching, scientific and associate staff.

In order to establish a private higher education institution, in addition to the requirements laid down by Articles 35 and 36 of the Law on Higher Education, the founder must submit financial guarantee for compensation of funds paid by the students if the private institution terminates its work. Establishment requirements are closely regulated with a Rulebook for Norms and Standards for Establishing Higher Education Institutions and Performing Higher Education Activities ("Official Gazette of the Republic of Macedonia", No. 33/03), which upon the proposal of the Inter-university Conference is adopted by the Government of the Republic of Macedonia.

The establishment procedure commences with a project for establishing a higher education institution developed by the founder and submitted to the Accreditation Board in order to obtain an accreditation decision. The Government forms a primary commission which conducts the preparatory work, after which the founder submits a request to the Ministry of Education and Science in order for it to inspect the satisfaction of the requirements and adopt a decision for starting operation. Afterwards the institution is registered in the Registry of Higher Education Institutions, followed by incorporation of its bodies and entry in the Court Register, whereby the institution becomes a legal entity.

The supervision of the legality of the work of the higher education institution is conducted by the Ministry of Education and Science, while the Agency for Evaluation conducts an external evaluation of the quality of the higher education institution and its work.

Most higher education institutions are joined in the four universities: the Ss. Cyril and Methodius University in Skopje, the St. Clement of Ohrid University in Bitola, the South East Europe University in Tetovo, and the State University in Tetovo. Recently the private Faculty of Social Sciences in Skopje was accredited, and it does not belong to any of the abovementioned universities.

About the structure of the education system, for more details see [18 I A](#).

The means for funding primary/secondary education are secured from the State Budget, and can also be provided from the unit of the local self-government, as well as from other sources (endowments, presents, legacies, etc.). The Ministry of Education and Science allocates the funds to the final beneficiaries and controls their purposeful use.

The allocation of the funds to the beneficiaries in the field of primary/secondary education for particular purposes is carried out on the basis of:

- Criteria for allocation of the funds to primary/secondary education;
- Criteria for allocation of funds for material expenses in accordance with the approved funds for primary/secondary education from the Budget of the Republic of Macedonia, and
- The Programme for investment construction and maintenance of buildings in primary/secondary education.

The amount of the funds required for primary/secondary education for each budget year is established by the Ministry of Education and Science, whereas the Ministry of Finance, i.e. the Government and the Assembly of the Republic of Macedonia determine the funds in accordance with the macroeconomic policy, i.e. the projections for revenue and expenditure in the central budget.

In order to achieve decentralisation in funding primary/secondary education, the funds for primary/secondary education will be provided in accordance with the Law on Budgets of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 79/93, 3/94, 71/96, 46/00, 11/01, 93/01, 46/02, 24/03 and 85/03), the Law on Enforcement the Budget of the Republic of Macedonia, and the Law on Financing the Local Self-Government Units ("Official Gazette of the Republic of Macedonia", No. 61/04).

The financial decentralisation will be carried out in two stages. In the first stage, in the course of 2005, the funds for building maintenance will be transferred to the local level, while in the second stage, starting from 2007, the funds for employee salaries and investments will be transferred to the local level by block grants.

The funds for exercising the right to education at the state universities are provided from the Budget of the Republic of Macedonia and from other sources determined by law. The starting point for funding state universities is their annual financial plans. Furthermore, Article 89 of the Law on Higher Education provides a possibility for state universities to introduce co-financing of academic expenses by students, unless budget funds are received for those education purposes. In practice, this legal opportunity is used at the universities, and apart from students within the state quota, they enrol students who co-finance their studies because they cannot enrol within the state-funded quota due to the limited numbers.

	Programme expenditure according to end-of-year accounts								Expenditure from other sources according to end-of-year accounts				
Year	Primary education (12)	Secondary education (13)	Higher education (14)	Student standard (15)	University student standard (16)	Total budget expenditure (end-of-year accounts)	% of realised budget of RM	% of GDP	Expenditure also financed by revenue from bodies	Donation expenditure	Expenditure for self-financed activities	Expenditure for loans	Total expenditure for other sources
1996	4.359.909.621	1.596.417.231	1.186.948.181	177.658.354	195.355.511	7.516.288.898	21,06	4,26					
1997	4.260.266.472	1.612.095.000	1.197.022.928	180.000.600	230.676.000	7.480.061.000	18,07	4,02					
1998	4.497.892.523	1.707.041.819	1.267.481.569	182.260.427	234.999.976	7.889.676.314	18,49	4,05					
1999	4.544.361.255	1.742.817.457	1.295.742.494	204.806.186	234.903.328	8.022.630.720	16,12	3,84			582.972.068	0	582.972.068
2000	4.557.296.639	1.732.968.280	1.235.538.757	198.429.637	312.099.960	8.036.333.273	13,93	3,40			1.567.075.198	0	1.567.075.198
2001	4.309.538.545	1.734.025.647	1.191.706.967	198.933.327	352.019.017	7.786.223.503	12,98	3,33		802.522	1.609.761.217	0	1.610.563.739
2002	4.882.943.962	1.906.000.328	1.131.615.496	198.487.639	534.039.985	8.653.087.410	11,92	3,55	17.548.286	17.275.141	1.986.840.246	0	2.021.663.673
2003	5.228.063.356	2.002.554.830	1.101.149.693	169.809.312	336.428.697	8.838.005.888	15,66		24.015.074	52.398.550	1.887.750.362	0	1.964.163.986

Year	GDP	Realised Budget of RM
1996	176.444.000.000	35.693.034.346
1997	186.019.000.000	41.393.297.310
1998	194.979.000.000	42.662.958.915
1999	209.010.000.000	49.761.209.035
2000	236.389.000.000	57.689.326.703
2001	233.841.000.000	59.978.000.000
2002	243.970.000.000	72.565.262.000
2003	not announced	56.429.608.501

*For 1996, 1997 and 1998 other sources of financing are not presented separately.

*For 1999 and 2000 expenditure financed by revenue from bodies (631) and donations (785) is accumulated in expenditure for self-financed activities (787).

Budget for 2004:

	Budget for 2004	Expenditure financed by revenue from bodies	Donation expenditure	Expenditure for self-financed activities	Total expenditure for 2004
primary	5.249.000.000	27.614.000	20.500.000	391.540.000	5.688.654.000
secondary	1.969.230.000	60.686.000	115.123.000	695.191.300	2.840.230.000
higher	1.110.547.000	0	135.877.000	1.167.561.000	2.413.985.000

Education funding in the Republic of Macedonia, as stated above, is largely provided from the Budget of the Republic of Macedonia, as much as 81%, whereas other sources (revenue from bodies, donations, self-financed activities) provide for 19%. On average, 3,5% of GDP and 13% of the Budget of the Republic of Macedonia are allocated for education.

The structure of expenditure by programmes is as follows: primary education accounts for 55-60%, secondary education for 21-23%, higher education for 13-15%, student standard for 2-3%, and university student standard for 4%.

The greatest part of expenditures is for salaries - 82%, for goods and services - 8%, current transfers - 9%, and purchasing capital means - 2%. In continuity, the funds intended for material expenditure and investments have not been sufficient to cover school needs (heating, utilities, materials, current and investment maintenance, etc.).

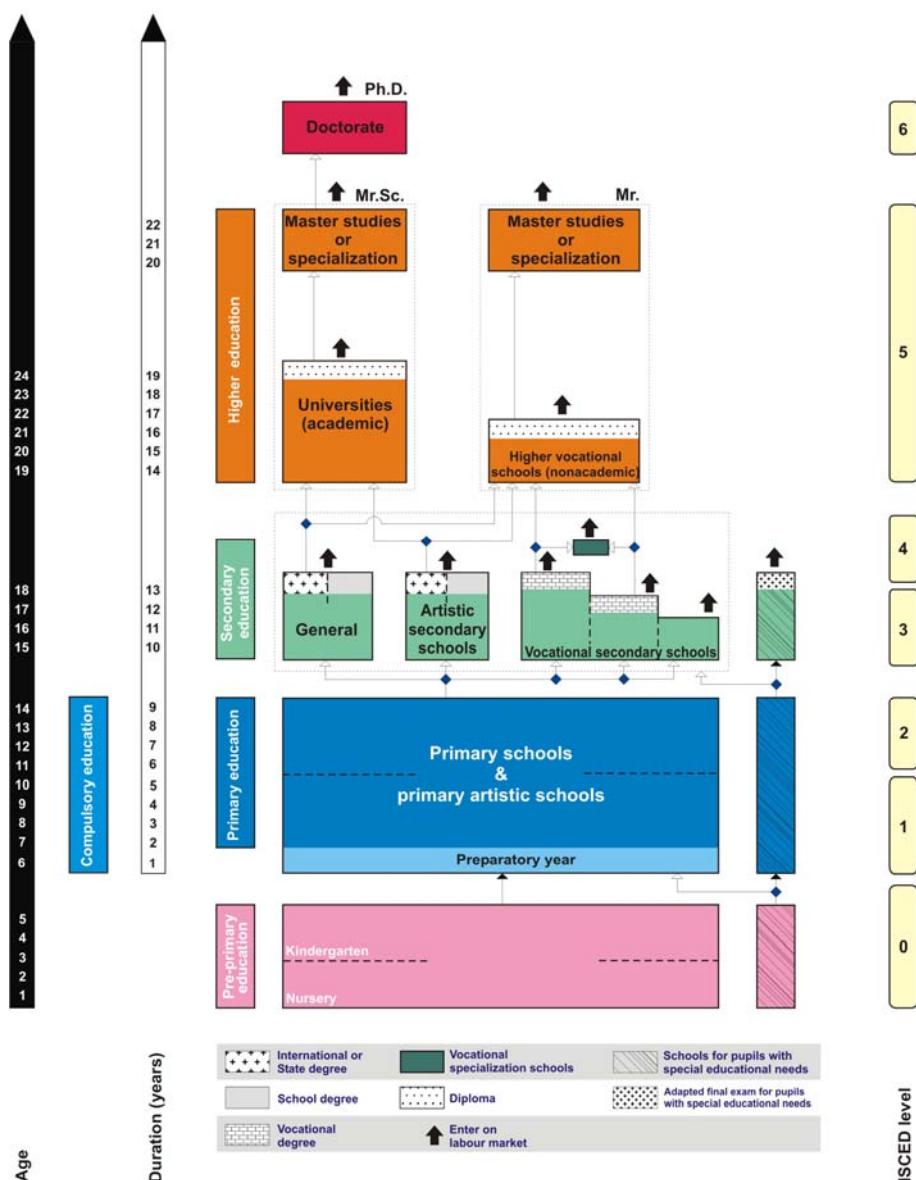
Overall education expenditure nominally has a 3% upward trend, however, in respect of programmes, in recent years expenditure for primary and secondary education has increased, whereas in higher education, student standard and university student standard have a decreasing trend with regard to expenditure.

The education budget for 2005 is restricted and it will remain on the same level as 2004. It is expected that with the decentralisation process, the municipalities (part of them) will, in addition to the funds they obtain from the budget as block grants for primary and secondary education, use their additional means, within their possibilities, to take part in covering education expenditure.

In future budget projections special attention must be dedicated to allocating more funds for education, in particular for material expenditures and capital investment, in order to overcome the current situation and provide conditions for better quality instruction.

The general institutional framework of the education system of RM (in application from September 2005) is provided in the figure below.

REPUBLIC OF MACEDONIA SYSTEM OF EDUCATION



41. Elaborate on the legislative and administrative structures in place to ensure effective protection of the rights of the child.

Article 42 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) stipulates the particular protection of motherhood, children and minors. The Article determines the prohibition for employment of minors under 15 years of age, as well as the employment of minors in work which is detrimental to their health and morality. At the same time minors have the right to particular protection at work. Article 40 of the Constitution determines particular care for parentless children and children without parental care.

Republic of Macedonia applies the following ratified international conventions:

- The UN Convention on the Rights of the Child ("Official Gazette of the SRM", No. 15/90);

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (“Official Gazette of the Republic of Macedonia”, No. 44/03);
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (“Official Gazette of the Republic of Macedonia”, No. 44/03);
- The Hague Convention on the Civil Aspects of International Child Abduction (“Official Gazette of the SFRY”, No. 07/91);
- The European Convention on the Exercise of Children’s Rights (“Official Gazette of the Republic of Macedonia”, No. 12/02);
- European Convention on the Legal Status of Children Born Out of the Wedlock (“Official Gazette of the Republic of Macedonia”, No. 12/02);
- European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (“Official Gazette of the Republic of Macedonia”, No. 12/02);
- European Convention on the Adoption of Children (“Official Gazette of the Republic of Macedonia”, No. 12/02);
- Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (“Official Gazette of the Republic of Macedonia”, No. 13/02);

The Constitution of the Republic of Macedonia establishes the institution of Ombudsman competent to protect the constitutional and legal rights of citizens when they are violated by state administrative bodies or other bodies and organisations with public authorities. The institution of Ombudsman has been operating since 1997. A special Department for Children’s Rights Protection has been operating within the legal and constitutional competences of the Ombudsman. This Department is a member of the European Network of Ombudsmen for Children (ENOC).

A National Plan for the Children's Rights (for more details see [L H 11](#)) is currently being prepared by the Government of the Republic of Macedonia (with the participation of all ministries - the Ministry of Labour and Social Policy; the Ministry of Education; the Ministry of Justice; the Ministry of Health; the Ministry of the Interior; the Ministry of Foreign Affairs; the Agency for Youth and Sports; the Information Agency; the Education Development Bureau and Associations of Citizens).

Children’s rights and interests are particularly protected in the national legislation by the following regulations:

- Law on Family (“Official Gazette of the Republic of Macedonia”, Nos. 80/92, 09/96, 38/04 and 83/04- consolidated text);
- Law on Social Care (“Official Gazette of the Republic of Macedonia”, Nos. 50/97, 16/00, 17/03 and 65/04);
- Law on the Protection of Children (“Official Gazette of the Republic of Macedonia”, Nos. 98/00, 17/03 and 65/04);
- Law on Labour Relations (“Official Gazette of the Republic of Macedonia”, Nos. 80/93, 03/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03, 40/03 and 80/03 - consolidated text);
- Criminal Code (“Official Gazette of the Republic of Macedonia”, Nos. 37/96, 80/99, 04/02, 43/03 and 19/04);
- Law on Criminal Procedure (“Official Gazette of the Republic of Macedonia”, Nos. 15/97, 44/02 and 74/04);
- Law on Misdemeanour Procedure (“Official Gazette of the Republic of Macedonia”, Nos. 15/97 and 35/97);
- The Law on Execution of Sanctions (“Official Gazette of the Republic of Macedonia”, Nos. 03/97, 23/99 and 74/04).

The Law on Family determines that parents are free to decide and plan their offspring, but are obliged to provide their child(ren) optimum conditions for healthy growth. Children in Macedonia born in or out of the wedlock are equal concerning their relations, rights and duties with the parents and closer relatives. The parental relation begins with the child's birth or his/her legal adoption.

The parental right ends by the child's legal age (18 years of age), by the child's marriage before his/her legal age and by adoption. The parental right of a child over 18 years of age may be continued by a court's decision in a non-trial procedure, if the child cannot take care of him/herself due to hindrances in his/her intellectual development.

The parental right pursuant to the Law on Family comprises the rights and duties of parents to take care of the personality, rights and interests of their juvenile children and children under extended parental care. The parental right equally belongs to the mother and the father. The parental right contains the rights and duties related to supporting juveniles, caring for their life and health, education, schooling and training, and their properties and property rights.

The children have a right to be represented in the legal system by their parents. Juvenile children have a right to live with their parents. Children may live apart from their parents when it is in their interest or in the interest of both the parents and the children. Children have a right to maintain direct contacts with the separated parent or other close relatives of the deceased parent, or the parent whose parental right has been revoked or who has been hindered to carry out his/her parental right.

The Law on Family determines the competences of the Social Work Centre to undertake measures and implement forms of protection for the personality, rights and interests of juvenile children. These are the forms of protection that have been stipulated:

- Supervision on the exercise of the parental right;
- Custody;
- Adoption and
- Protection from family violence.

Additionally, it specifies a chapter regulating the supervision on the exercise of the parental right in the part regulating rights and duties of parents and children. The Social Work Centre undertakes the following measures for the protection of personality, interests and rights of juvenile children:

- Notifies the parents on the shortcomings in education and development of the child, offers them assistance for the adequate development and education of the child, advises them to visit adequate counselling, health, social or education institution with or without the child;
- Regulates the personal relations of the child with the separated parent. The Centre may temporarily prohibit such relations if they are irregular or to the child's detriment (irregular and unjustified non-payment of child support, or non compliance with the Centre's decision that regulates personal relations); may keep or take away the child from the parent who has prevented the child's contacts with the separated parent and entrust him/her to the separated parent for a certain period of time;
- Adopts a decision on a continuous supervision over the exercise of the parental right;
- May decide to take away the child from the parent and entrust him/her to the other parent, another person or institution, if the child has been neglected concerning his/her education or in case of a serious danger to the child's correct development and upbringing;
- The Centre may place a child in an institution upon the request of the parent, the Public Prosecutor or the guardian, or on the basis of its own knowledge if the child's conduct has been disturbed;
- As regards the child's property, the Social Work Centre may oblige the parent to inform the child on how to manage his/her property or may demand a court protection of the property or a court decision giving the parent a right to custody of the child;

- In the event of the parent's neglect or abuse of his/her parental right, a procedure may be initiated before a competent court against the parent to revoke his/her parental right; a proposal to the Court may be filed by the Social Work Centre, the other parent or the Public Prosecutor. Abuse or a severe neglect of the parental right occurs when the parent physically or emotionally abuses the child; sexually harasses the child; encourages the use of alcohol; drugs or induces the child to socially unacceptable conduct; has left the child unattended for longer than three months and has not supported him/her; or if in any other way the parent severely violates the child's rights.

A juvenile without parental support (if the parents are deceased, have disappeared, are unknown or cannot be traced for longer than a year) or a juvenile whose parents have not been carrying out their rights and duties regardless of reasons is placed under custody.

The procedure on custody, protection measures, rights and property of the juvenile, appointing a guardian, and supervising the guardian in performing his/her custody duty is carried out by the Social Work Centre as an exclusively competent body for custody issues. The Social Work Centre is also authorised to continue to support a person after the expiry of custody due to legal age if he/she while under custody and as a result of justified reasons has not been able to prepare for independent life and work.

A juvenile may be entrusted to a special-case guardian in the event of a dispute between the child and his/her parents in order to sign certain legal acts or when they have conflicting interests. The parent may dispose of a juvenile's property, transfer it, encumber it, or relinquish from a gift or inheritance, only with a permit issued from the Social Work Centre.

The Law on Family regulates the adoption of juveniles (until they turn 18 years of age) only when such protection is to the best of their interest. The adoption procedure of a juvenile is strictly formal by determining the adoption conditions, modes and procedures on adopting, rights and duties of the adopter and the adopted and the termination of adoption.

Pursuant to the Law there are two types of adoption: *full adoption* which establishes a parent-child relation between the adopter and the adoptee as in relations between a natural born child and a parent; and *incomplete adoption* establishing parent-child relations between the adopter and adoptee.

The adoption is allowed only upon a statement of the child's parent, after the child reaches three months of age. The parent submits the statement to the competent social work centre. The Law prescribes that adoption is possible without a parent's statement in case he/she has been declared unfit for work or parenthood, or in case his/her residence has been unidentified for longer than one year. Adoption may also be established for a child placed in an institution or a foster family without the parent's consent if he/she has not attended the child within 6 months from the time he/she had been obliged to take the child.

By the amendments of the Law on Family - in June 2004 ("Official Gazette of the Republic of Macedonia", Nos. 38/04 and 83/04- consolidated text), the expert part of the procedure and the decision-making on adoptions have been separated. The amendments also envision a single registry on a state level.

Expert teams within social work centres implement the expert part of the adoption procedure and prepare an expert opinion on the fitness and motivation of persons who have filed for an adoption of a juvenile, their personal features and their capability of parenthood. The social work centre is in charge of parentless juveniles and children without parental care and decides upon the form of their protection. It submits a proposal to the Commission on the most eligible adopters and a proposal to place the child in the family of the potential adopters for an adaptive period.

The Commission on Establishment of Adoptions within the Ministry of Labour and Social Policy establishes the adoption and keeps the registers of adopters and adopted children. The Commission

comprises 5 members with the following educational background: graduate social worker, graduate lawyer, psychologist and pedagogue with 15 years of work experience in the field and personal and professional capabilities for performing the post. The Commission members are appointed by the Minister of Labour and Social Policy.

The Commission keeps a register on all potential adopters and a register on all adopted children on a state level; inspects documents of adoption cases; adopts a decision on a mandatory adaptive period of the child into the family of potential adopters; reviews the Centre's proposal on the child placement in adopters' families with the option to change it and propose other adopters. The Commission formally establishes the adoption. The amendments to the Law determines the ceiling of the adopter's age, hence the age difference between the adopter and the adoptee must not be greater than 45 years. The Law stipulates the following exceptions: when a sibling of an already adopted child is being adopted and when the child is adopted by a married couple if there is age limit between the child and one of the adopters.

The amendments to the Law on Family establish that juveniles are protected when they are victims of family violence through determined measures and activities undertaken by the social work centre.

The Law on Social Care determines concrete forms of protection when a child's living conditions in his/her family are unsatisfactory. The Social Work Centre makes a decision on institutional or non-institutional protection, implements expert and concrete measures depending on the child's age and needs.

Day Care Centres are considered non-institutional protection which offer work and production activities, work therapies and other activities for physically or mentally disabled children. Supporting children in foster-families is a developed form of protection in the Republic of Macedonia. This form of protection has been implemented for a long period of time and is constantly developed and promoted. The process of deinstitutionalisation is supported by fostering children in foster-families and this practice has shown good results. Children with disabilities are also placed in foster families; hence their number in specialised institutions has decreased. Foster families receive a monthly compensation for every fostered child and temporary aid in forms of donations.

Institutional protection is carried out in the Children's Home for Parentless Children and Children without Parental Care "11 October" in Skopje, where children are fostered from 3 years of age to their becoming capable of independent life, and not later than 6 months after their secondary school graduation. Newborns up to three years of age are fostered in the Newborns and Infants Home in Bitola. In Skopje there is an institution for fostering moderately mentally challenged children which offers them accommodation, care, food, and educational and work training depending on their individual capabilities. Physically disabled children are fostered in an institution in Banja BANSKO, where they are offered accommodation, food, care, cultural and social activities and elementary education. Their further education is provided in the existing educational system. Children with severe mental disabilities are fostered in the Special Institute in Demir Kapija.

Parentless children and children without parental care, pursuant to The Law on Social Care, are eligible for a continuous financial aid, health care (if not provided), and right to accommodation (which has fallen under the authority of municipalities with the new decentralisation law). The Social Work Centre pursuant to the Law on the Protection of Children decides on the right to children's benefits, special benefits and benefits for a newborn.

The Ministry of Labour and Social Policy has undertaken planned measures and activities on the protection of homeless children through the implementation of the Programme on the Protection of the Socially Excluded Persons. This programme is aimed at keeping records of all children, undertaking measures on working with parents in order to raise the level of their parental duty and responsibility. In cases of evident parental neglect a procedure on revoking the parental right is initiated and the child is placed into an institution or a foster family. There are activities under way for social strengthening of children through their incorporation into programmes of day care centres.

The Law on Labour Relations determines special protection of employees under 18 years of age that may not perform heavy and physical duties, underground or underwater work, or other work that may pose risk or be detrimental to their health and life. This Law also regulates the right to part-time work of one of the parents of a severely disabled child if both parents are employed or in case of a self-supporting parent.

Juveniles in the Republic of Macedonia may be prosecuted for crimes and misdemeanours when they reach 14 years of age. Criminal procedures for juveniles have been regulated in special chapters of the Criminal Code and the Law on Criminal Procedure. The same principle applies to the misdemeanour procedure.

The criminal procedure against a juvenile offender is carried out in accordance with the following principles:

- The criminal procedure is initiated upon the request of the Public Prosecutor;
- For every such procedure the Public Prosecutor notifies the Social Work Centre as a competent body for custody and requests opinion and a proposal for pronouncing, extending or revoking the measures ruled by the court;
- A juvenile may not be tried in his/her absence;
- The juvenile is summoned through the parent or the legal representative;
- In the course of undertaking activities in the juvenile's presence, and especially upon his/her interrogation, the competent bodies are obliged to handle the matter carefully, taking account for the child's mental development, his/her sensitivity and personal traits, in order to avoid any detrimental effects to his/her development from the criminal proceeding;
- The juvenile must be represented by a defender in the event of a criminal act punishable with imprisonment of 5 years or over, and in the event of other criminal acts as assessed by the judge for juveniles.
- No person may be released from testifying in a criminal proceeding against a juvenile offender.

The Public Prosecutor may decide not to request an initiation of criminal proceedings for a juvenile offender which is punishable with a sentence of up to 3 years of imprisonment or a fine. The Public Prosecutor requests an opinion from the competent Social Work Centre on the initiation of proceedings against a juvenile.

Aside from the facts related to the criminal offence in the course of the preparatory procedure against a juvenile, the facts on his/her age, mental development, environment and conditions in which he/she lives and other circumstances related to the juvenile's personality are especially established. The parents or the guardians are heard concerning the circumstances and a report is obtained from the competent social work centre. The social work centre co-operates with the Public Prosecutor and the court in the course of the criminal procedure against juveniles as well as in proposing measures and in monitoring their execution. The Social Work Centre monitors the effect of the execution of measures through the process of the overall re-socialisation into the family, daily activities and behaviour, inclusion into the education system and through preparation of a Working Programme for each individual child.

The criminal procedure against a juvenile offender is performed by a judge for juveniles who also conveys the preparatory procedure. In procedures before basic courts and appellate courts, verdicts are brought by a council comprising one judge and two lay judges. Lay judges are selected from professors, teachers, educators and other persons with experiences in educating juveniles. A juvenile offender may be sentenced with educational measures (rebuke or sending them to a disciplinary centre), intensified supervision by a parent, other family or a custodial institution; institutional measures (sending them to an educational institution and to a house of education and correction); security measures (compulsory psychiatric treatment and confinement in a health institution, compulsory treatment for alcoholics and drug addicts and prohibition of driving a motor vehicle); and by exception juveniles may be sentenced to juvenile imprisonment.

After pronouncing any of the education (correctional) measures of intensified supervision, the court may prescribe one or more special obligations to the juvenile if it deems them necessary for the more successful execution of the pronounced measure, such as: to apologise personally to the damaged person; to correct or compensate the damage caused by the crime; to go to school regularly; not to be absent from his/her workplace or accept training; prohibition on using alcoholic drinks, narcotics and other psychotropic substances; to visit appropriate health institution or counselling service, etc.

The court, as an alternative measure may punish juvenile offenders with community work from 5 to 100 hours.

The court decides which measure shall be pronounced. The court takes into account the juvenile's age, his/her mental and social characteristics, motives to perpetrate a crime, environment, if he/she has criminal record and other relevant information. All data are processed by the competent custodial institution – the Social Work Centre, which gives a proposal to the court. The court always pronounces the mildest measure that can influence the juvenile and prevent him/her from perpetrating crimes.

The Law on Misdemeanour determines that juveniles who have reached 14 years of age may be punished for misdemeanour and be sentenced to educational measures, while juveniles of 16 years of age may be punished with educational measure, and by exception with a fine or imprisonment. The Social Work Centre participates in the procedure on determining a misdemeanour procedure against a juvenile by submitting an opinion to the court about the juvenile's personality. The Centre also has a right to be informed on the entire procedure.

The execution of the pronounced measures and punishments to a juvenile offender has been regulated by the Law on Execution of Sanctions. The aim of executing educational measures is to provide a proper development of the juveniles by their protection, supervision, and education. The court entitles the Social Work Centre to convey the educational measure and in accordance with the type of the measure to use adequate methodology, to perform a social supervision of the execution or to send the juvenile into an adequate institution.

The State Social Work Institute carries out the expert supervision over the execution of educational (correctional) measures. The social work centre monitors the measures of intensified supervision.

The institutional measures are carried out by sending the juvenile to an educational institution or to a correction institution where primary education and other types of expert training for juveniles may be organised. Juveniles serve prison sentences in a special juvenile prison, separately from adults. Male and female children are separated.

The Criminal Code stipulates criminal acts where children and juveniles are protected. A qualified form of the act has been prescribed for crimes of murder, inducing a suicide or abetting a suicide, abduction, and in cases when the act has been carried out against a juvenile. Special criminal offences are a sexual attack upon a child, pandering and enabling sexual acts, showing pornographic materials to a child and incest.

The Criminal Code contains special chapters on crimes against marriage, family and youth. These criminal acts encompass extra-marital life with a juvenile, taking away a juvenile, change of family situation of a juvenile, deserting a helpless child, neglecting and mistreating a juvenile, not paying sustenance and serving alcoholic drinks to juveniles.

According to the annual statistical report of the State Statistical Office in the course of 2003, 287 crimes against marriage, family and youth were reported before the courts in the Republic of Macedonia, and more specifically:

- Taking away a juvenile – 50;
- Neglecting and mistreating a juvenile – 30;
- Not paying sustenance – 177;

- Other crimes - 30.

In the course of 2003, a total number of 183 perpetrators have been convicted of crimes against marriage, family and youth:

- Taking away a juvenile – 24;
- Mistreating and neglecting juveniles - 26;
- Not paying sustenance - 115;
- Other crimes – 18.

42. How is domestic violence treated in your legislation and in judicial practice?

Domestic violence was for the first time treated in the Macedonian civil legislation with the amendments to the Law on Family of June 2004 (“Official Gazette of the Republic of Macedonia”, Nos. 80/92, 09/96, 38/04 and 83/04- consolidated text). The novelty introduced with the amendments was the treatment of domestic violence in a civil law act.

Pursuant to Article 1, the Law governs the following: marriage and family; relations in marriage and family; specific forms of protection provided for family; disturbed relations and violence in marriage and family; adoption, custody, sustenance; and court procedure in marital and family disputes. Article 2 of the Law stipulates that the State shall provide protection for the marriage and the family against disturbed relations and violence therein. By Article 5 of the same Law a new Article 33-a has been added under which any form of violence in marriage and in family is prohibited.

Within the meaning of the Law, Article 94-b defines domestic violence as follows: *Violence in marriage and family means any conduct by a family member who, by using force, threat or intimidation causes body injuries, commits emotional or sexual abuse or material, sexual or working exploitation of another family member.*

Paragraph 2 of the same Article determines that such conduct shall be regarded as violence if committed: by one marital partner against the other marital partner who have lived or used to lived in marital or non-marital union or in any other form of union as family, or if they have joint child; by brothers or sisters; half-brothers or half-sisters; against a child; against elderly family members and against family members partially or fully deprived of their civil capacity.

By the Amendments to the Law on Family, Article 94-c, paragraph 2 sets forth that a victim of the domestic violence may be any family member, regardless of gender or age. Perpetrator of domestic violence may be a former or current marital or extra-marital partner; a person living or having lived in union with the victim; person having joint child with the victim; a person in blood relationship of up to the fourth degree or an in-law of up to the second degree of these persons, i.e. one that has been in a marital, non-marital or any other form of lifetime union with these persons.

Article 94-d underlines the role of the Social Work Centre, namely: the Social Work Centre, when it has learnt of disturbed family relations or domestic violence, *ex officio* or upon a request of a family member, undertakes measures for protection of family or persons who have been victims of domestic violence. The Social Work Centre, when it has learnt of any form of violence in a family and of serious threat for life or health of a family member, undertakes the following measures:

- Provides necessary accommodation of the person victim of violence that may last up to 6 months, with a possibility of its extension for another six months;
- Provides the necessary health care;
- Provides the necessary psychological and social intervention and treatment;
- Guides him/her to the adequate counselling office;
- If the family includes a child in a regular school, provides assistance for the continuation of his/her regular education;

- Notifies the law-enforcement body;
- Provides any form of legal assistance and representation;
- Initiates proceedings before a competent court;
- If necessary, files a request before the court for pronouncing temporary measure of protection;
- Undertakes other measures that it considers necessary in order to resolve the issue.

The envisaged measures are primarily aimed at protection of the victim and other family members from further domestic violence. With a view to implementing the provisions of the Law, the Ministry of Labour and Social Policy (MLSP) has already put in operation four day-care centres for victims of domestic violence as separate organisational units within the respective Social Work Centres. The programme for the development of this type of protection envisages extension of the network of such centres. Practical implementation of the Law has been at the initial stage and therefore limited number of actions has been registered.

Undertaking of protection measures is mandatory in case victim of domestic violence is a juvenile child or a person deprived of civil capacity.

The Social Work Centre shall learn of the committed domestic violence from citizens, official or legal persons who are obliged without delay to submit notification thereof.

Domestic violence has been for the first time treated separately in the Macedonian criminal legislation with the Law Amending the Law on the Criminal Code ("Official Gazette of the Republic of Macedonia", No. 19/04) by which provisions on domestic violence were introduced.

Namely, pursuant to Article 122 of the Criminal Code, domestic violence has been defined as maltreatment; rude insults; endangering safety; causing body injury; sexual or other psychological or physical violence causing feeling of insecurity, danger or fear against a marital partner, parent, child or another person living in marital or non-marital union or joint household, as well as against former marital partner or persons that have joint child or have been in close personal relations.

Provisions on domestic violence have been incorporated as qualified forms of the basic criminal offences in the following chapters of the Criminal Code: Crimes Against Life and Body (within the criminal offences murder, momentary murder, body injury and grave body injury); Crimes Against Freedoms and Rights of Persons and Citizens (within criminal offences coercion, unlawful arrest and endangering security); and Crimes Against Sexual Freedom and Sexual Morality (within criminal offences sexual attack upon a child and mediation in conducting prostitution).

The Law on Family regulates the initiation of a regular civil procedure in order to provide for court protection, regardless of whether criminal proceedings have been instituted against the perpetrator of domestic violence. The Social Work Centre is the sole institution authorised to submit before court a request for initiation of procedure for pronouncing temporary measure for protection against domestic violence, with an obligation for mandatory submission of such request in cases of violence against a juvenile child or person without civil capacity. Requests on behalf of persons of legal age and persons with civil capacity shall be filed only upon consent by the victim of the domestic violence. The Social Work Centre shall enclose with the request the minutes and the report on the undertaken actions. It may also enclose a proposal for proclaiming temporary measure, along with draft-measure.

The Law prescribes the following temporary measures that the court may pronounce to the perpetrator of domestic violence (one or more at a time):

- Prohibition of threats that he/she shall commit domestic violence;
- Prohibition of maltreatment, disturbance, telephone calls, contacts or other modes of communication with a family member, whether direct or indirect;

- Prohibition for him/her to approach the dwelling, school, working or another place regularly visited by a family member;
- Order for removal from the home regardless of the ownership, pending the final decision of the competent court;
- Prohibition for possession of fire arms or other weapons, or an order for its confiscation;
- Obliging him/her to return objects necessary for fulfilment of the everyday requirements of the family;
- Pronouncing of mandatory sustenance of the family;
- Order for the defendant to attend adequate counsel;
- Order for mandatory medical treatment, if abusing alcohol or other psychotropic substances or in case of a disease;
- Obliging him/her to reimburse the medical and other expenses incurred due to the domestic violence;
- Any other measure which the court deems necessary to ensure safety and well-being of the other family members.

Proposal for initiation of a court procedure before the Social Work Centre may be filed by a marital partner; parents or children or other persons living in marital or non-marital union or joint household; former marital partner or persons having close personal relations against whom domestic violence has been committed, regardless of whether a complaint has been lodged in criminal proceedings.

A parent, custodian or legal representative may file a proposal on behalf of a juvenile child, a person with restricted civil capacity, a person that has been deprived of civil capacity, or a person under extended parenting right. The proposal shall be submitted to the competent Social Work Centre, depending on the place of residence of the victim of domestic violence.

The Amendments to the Law on Family regulate the procedure for pronouncing temporary measures for protection against domestic violence, the composition of the court, course of the proceedings and legal remedies against court decision.

Article 279-a sets forth that a single judge shall decide on the pronouncing of temporary measure for protection against domestic violence. After a request has been received under Article 94-g of the Law, the court shall schedule hearing. Pursuant to Article 279-b, public shall be excluded from hearings in this proceedings.

Article 279-c determines the manner of action of the Social Work Centre, namely: The Court shall act immediately upon a request by the Social Work Centre for pronouncing temporary measure under Article 94-g and shall render its judgment within seven days from the day of the receipt of the request.

By derogation from paragraph 1 of this Article, the Court shall decide within three days from the day of the receipt of the request in case there is reasonable suspicion that serious danger exists for the life and health of a family member.

Article 279-d provides for the presence at the hearing of the perpetrator and the victim of domestic violence, as well as a Social Work Centre representative. The Law stipulates that other persons may also be summoned by a court judgment. Article 279-e sets forth that temporary measure for protection against domestic violence may last up to one year. In case domestic violence continues beyond the expiry of the measure, the Social Work Centre may submit a request for extending some of the measures. The court may request notification from the Social Work Centre on the implementation of the pronounced measure. Upon a proposal by the Social Work Centre, the court may extend, annul or amend its decision. The court shall forward a copy of its decision to the parties, the Social Work Centre, the Public Prosecutor's Office and the law enforcement bodies. A complaint filed against the court decision shall not prevent its enforcement.

As regards the court decision on the pronounced temporary measures for protection against domestic violence, the Social Work Centre has the following competences:

- Monitors the implementation of the pronounced measure and notifies the court on the course of its enforcement;
- May submit a proposal to the competent court for annulment of the pronounced measure prior to the expiry of the period for which it has been pronounced, if it assesses that the measure has fulfilled its aim;
- May submit a proposal for alteration of the pronounced measure or its extension, if it assesses that it has been inadequate or that it will fulfil the required objectives, however in a longer period of time.

In the enforcement of the protective measure, the Social Work Centre cooperates with citizens, legal persons and organisations. The Law includes penal provisions, as well, for subjects for whom the Law prescribes obligation for mandatory reporting on domestic violence with the competent Social Work Centre. Thus, Article 279-i determines the following fines: A fine of 5.000 to 10.000 MKD shall be imposed on a person who shall fail to act in accordance with obligations under Article 94-d, i.e. who shall fail to notify with no delays the Social Work Centre of the knowledge for domestic violence; A fine of 100.000 to 200.000 MKD shall be imposed on a legal entity that shall fail to act in line with the aforementioned obligations. A fine has been also prescribed for the person in charge of the legal entity.

In the court practice so far, one temporary measure for protection has been pronounced, which is obviously due to the short period of time since the adoption of the Amendments to the Law on Family.

Following the Law Amending the Law on the Criminal Code ("Official Gazette of the Republic of Macedonia", No. 19/04), domestic violence has been treated as a criminal offence against life and body punishable with fines and sentences of six months to life imprisonment. Initiation of criminal proceedings before court is done pursuant to the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04).

Every child in the Republic of Macedonia is entitled to health care pursuant to the Law on Health Care ("Official Gazette of the Republic of Macedonia", Nos. 38/91, 46/93, 55/95 and 10/04) and the Health Insurance Law ("Official Gazette of the Republic of Macedonia", Nos. 25/00, 34/00, 96/00, 50/01, 11/02 and 31/03), which regulate the relations and rights under health insurance, procedure for benefiting from the health care and the health care system and organisation.

In case of domestic violence, family members victims of violence exercise the health care and health insurance rights in adequate health care facilities depending on the health care needs: in primary health care; with family doctor; in health care facilities for children under six years of age; in health care institutions for pupils and youth; in general medicine facilities; in occupational medicine institutions; in institutions of women health care; in emergency medical service; in adequate specialist or consultative service or hospital at the secondary or tertiary level. The placement and provision of health care for the victims of violence has been regulated by the provisions of the Law on Family, i.e. it falls within the competence of the Social Work Centre. The registration, records and manner of provision of health care for victims of domestic violence have been conducted within the health care system in accordance with the existing legislation.

In case of violence, the child shall benefit from the health care and health insurance rights in the adequate health care facility in accordance with the health care needs, namely: in primary health care institution; with family doctor; in health care facilities for children under six years of age; in health care institutions for pupils and youth; in emergency medical service; in adequate specialist or consultative service or hospital (children's unit) at the secondary or tertiary level. In order to provide for health care of appropriate quality for children in general, and specifically in case of violence, when the need of good-quality health care is even greater due to the physical and mental trauma in children, the health care institution has to fulfil all the conditions prescribed in the Rulebook on the

Premises, Equipment and Personnel Requirements for Setting up and Operation of Health Care Organisations.

Every health care worker is obliged in line of duty to identify, register and report to the police any case of violence against a child, after providing the child with the necessary medical assistance. Every case of violence has been encoded with the appropriate category of the International Statistical Classification of Diseases and Related Health Problems – 10th Revision (ICD-10) and has been registered in the medical documentation of out-patient polyclinics or hospitals, i.e. in physician's report on the causes of death in case of a death, in accordance with the following legal regulations: Law on Health Care; Law on Keeping Healthcare Records in the Health Care; Programme for Statistical Healthcare Research; and the Law on State Statistics.

In the healthcare statistics, individual cases of violence need to be recorded in general. In cases of involvement of children, the following categories have been encoded and registered under ICD-10: X60-X84 – Intentional self-harm; X85-Y09 – Assault; Y10-Y34 – Event of undetermined intent; Y35-Y36 – Legal interventions and operations of war; T74 – Maltreatment syndrome; Y06 – Neglect and abandonment; Y07 – Other maltreatment syndromes. On the basis of these, collective reports with aggregate data have been prepared. These reports have been of particular importance for identification of risk factors and reasons for violence against children, as well as for undertaking intervention programmes for prevention of violence against children.

Since the adoption of the Law Amending the Criminal Code of the Republic of Macedonia, there have been 16 criminal cases subject to court decision registered before the basic courts in the country.

43. Is there specific legislative protection for the rights of the elderly?

Article 35 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) guarantees the right of assistance to citizens who are infirm or unfit for work. Article 40 of the Constitution determines that children are responsible for the care of their old and infirm parents.

The rights of the elderly in the Republic of Macedonia have not been regulated by a separate law, but provisions on the protection of the rights of the elderly are contained in a number of distinctive laws and regulations.

The elderly are provided social protection in order to overcome social risks they face due to their age and health. Social protection is also provided if they are financially insecure and without family care, as stipulated in The Law on Social Care ("Official Gazette of the Republic of Macedonia" Nos. 50/97, 16/00, 17/03 and 65/04).

The elderly are entitled to rights of institutional and non-institutional protection in the context of the services and measures of social protection and social work.

Institutional protection encompasses the accommodation in nursing institutions, such as:

- Elderly homes;
- Nursing homes for disabled adult persons;
- Nursing homes for persons with moderate and severe mental disabilities.

The elderly usually utilise the service of accommodation in an elderly home. There are four institutions for accommodation of the elderly in Kumanovo, Skopje, Prilep and Bitola, with 505 beneficiaries. These institutions provide alimentation, healthcare and cultural and entertainment activities for the elderly.

The Law on Social Care passed in 1997 enables the operation of the private sector in this domain. There are three private elderly homes in Macedonia with 120 beneficiaries and the procedure for their inclusion into the network of public institutions for social protection has not yet started. With the

Law Amending the Law on Social Care ("Official Gazette of the Republic of Macedonia", No. 65/04) the procedure for establishment of elderly homes and including the private sector as an investor and provider of this type of services has been regulated.

Non-institutional protection encompasses:

- The right to social service through detecting the problem, offering possible solutions and determining measures of protection;
- The right to home nursing and assistance, which is provided to old and infirm persons that cannot take care of themselves;
- The right to day care is provided to old and infirm persons through services concerning the alimentation, day care, culture and entertainment and hygiene maintenance;
- The right to accommodation in a care-giving family.

The practice hitherto has proved that non-institutional protection of the elderly has not been developed enough. In order to bring these services closer to the elderly and to assist them in overcoming problems regarding their every day needs, the Law on Social Care has been amended and has allowed the option to natural persons to carry out home care and assistance services, as well as the option for the participation of citizens' associations in the establishment of day care centres for the elderly. With the realisation of such projects, the Ministry of Labour and Social Policy has been encouraging the process of deinstitutionalisation of this beneficiary category as well as the pluralism of service providers in the area.

The social protection system provides permanent financial assistance to elderly without financial security by way of financial benefits to a third person for assistance and care; healthcare if the persons have not been ensured; as well as one-time financial benefit if the persons are in social crisis.

Pursuant to the Law on Family, elderly who have been revoked or restricted their civil capacity are protected by being placed under guardianship with a guardian who can take care of their health, interests and property.

The Law on Family regulates the obligation for the support of close relatives. The children are responsible for the care of their parents if they are unfit for work and do not have personal property and funds to support themselves. If legal-age children do not carry out their responsibility for the support of their parent(s), the parent's right is exercised by filing a lawsuit to the competent basic court. The court, by derogation may refuse the parent's request for support if he/she had been revoked his parental right.

44. Does specific legislative protection for the rights of persons with disabilities exist? Are there measures designed to ensure their independence and social and occupational integration?

Article 35 of the Constitution of the Republic of Macedonia ("Official Gazette of the Republic Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) determines that the state provides particular protection for disabled persons, as well as conditions for their inclusion in the social life.

Rights of disabled persons are protected in the national legislation by the following regulations:

- Law on the Protection of Children ("Official Gazette of the Republic of Macedonia", Nos. 98/00, 17/03 and 65/04);
- Law on Primary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 40/03 and 42/03).
- Law on Secondary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/2002, 52/02- consolidated text, 40/03, 42/03 and 67/04).
- Law on Higher Education ("Official Gazette of the Republic of Macedonia", No. 64/00 and 49/03).

- Law on Employment of Disabled Persons (“Official Gazette of the Republic of Macedonia”, Nos. 44/00 and 16/04).
- Law on Health Insurance (“Official Gazette of the Republic of Macedonia”, Nos. 25/00, 34/00, 96/00, 50/01, 11/02 and 31/03).
- Law on Social Care (“Official Gazette of the Republic of Macedonia”, Nos. 50/97, 16/00, 17/03 and 65/04).
- Law on Civil War Invalids (“Official Gazette of the Republic of Macedonia”, Nos. 33/76, 25/79, 11/81, 04/85, 12/89, 37/89, 17/91, 38/91 and 81/99).
- Law on Spatial and Urban Planning (“Official Gazette of the Republic of Macedonia”, Nos. 04/96, 08/96, 28/97, 18/99 and 53/01).

Rights of disabled persons are also regulated in by-laws:

- Rulebook on Determining Modes of Exercise of the Right to Remuneration for Part Time Work Due to Nourishment of a Severely Disabled Child (“Official Gazette of the Republic of Macedonia”, No.53/98).
- Rulebook on Assessing and Determining Specific Needs of Persons with Physical and Mental Disabilities (“Official Gazette of the Republic of Macedonia”, No. 30/00).
- Rulebook on Standards and Norms for Spatial Planning and Designing Facilities (“Official Gazette of the Republic of Macedonia”, No. 02/02).

A National Strategy for the Equalisation of Rights of Persons with Disabilities has been adopted in the Republic of Macedonia (“Official Gazette of the Republic of Macedonia”, No. 101/01). This strategy has been largely based on the UN Resolution - Standard Rules on the Equalisation of Opportunities for Persons with Disabilities 48/93.

The national strategy encompasses the overall development and specific needs of persons with disabilities in the area of health and social care, education, rehabilitation and all other segments of social life, with an emphasis on family and the development of personality, prevention, raising awareness, rehabilitation, availability of services and accessories, culture, recreation and sports, religion, information and research, assessment of programmes for persons with disabilities, expert staff to work with persons with disabilities and international co-operation.

A Coordinative Body for Equalisation of Rights and Opportunities of Persons with Disabilities has been established to implement the National Strategy. This body comprises representatives of all ministries that deal with the issue of persons with disabilities, as well as academic institutions and representatives of national associations of persons with disabilities. The activities of the Coordinative Body are aimed at: initiating changes in the legislation and by-laws on the rights of persons with disabilities; proposing initiatives with regard to creating a policy on the protection of rights of disabled persons, particularly in the area of social and health care; education; employment; coordination of operations and organisations of persons with disabilities through organising fora, submitting initiatives, etc.

In accordance with the Law on the Protection of Children, the Republic of Macedonia provides particular protection for children with physical and mental disabilities (a special financial benefit) from the state budget. The Law also stipulates that the municipality may provide additional protection.

The Law provides conditions and opportunities for placing such children in kindergartens depending on the type and level of their disability, with an emphasis on the special attention in admitting children, adjustment of programmes, additional expert assistance and special programmes, as well as staff's expertise.

The Law on Amending the Law on the Protection of Children (“Official Gazette of the Republic of Macedonia”, No. 65/04) prescribes that children with physical and mental disabilities may be placed

in kindergartens by a finding and opinion of an adequate expert institution. The legislator has envisioned the option of including children with special needs into focus groups.

Primary education of children with special needs is carried out pursuant to the Law on Primary Education. The Law stipulates that children with disabilities may acquire primary education in primary schools, special primary schools, special classes in primary schools and in specialised institutions of the primary education. Children with long-term illnesses may be educated in special classes that are opened in hospitals.

Students with special educational needs may also exercise other rights. Such is the right to free transportation from the home to the school for both the student and his/her parent/guardian. Students that cannot be offered transportation are offered free accommodation in dormitories and alimentation or accommodation in foster families. Special schools also offer special education programmes. The Law envisions individual and group forms and methods of education of students with special needs in primary education.

A special opportunity is the respective Ministry's participation in the publication of books in limited number of printed copies for students in special schools.

Pursuant to the Law Amending the Law on Primary Education ("Official Gazette of the Republic of Macedonia", No. 63/04) children with physical and mental disabilities are referred to as children with special educational needs. Article 27 of the Law introduces the descriptive grading which creates possibilities for the inclusion of children with special educational needs into the primary schools.

The secondary education is performed pursuant to the Law on Secondary Education. The Law prescribes that the education process may be carried out in a polymorphic mode in a class, groups or individually. Thus persons with disabilities may exercise their rights. Article 43 of the Law introduces plans and programmes for secondary education of students with special educational needs. These students shall be educated in accordance with adjusted programmes for respective occupations or for job training. Article 51 stipulates that students with special educational needs may be included, registered and placed in accordance with the type and level of their disability. Secondary education may be available to a person not older than 25 years of age.

Pursuant to the Law Amending the Law on Secondary Education ("Official Gazette of the Republic of Macedonia", No. 67/04) children with physical and mental disabilities are referred to as children with special educational needs (Article 24). The Law also envisages the secondary school graduation exam in accordance with curricula on respective occupations or educational profiles (Article 30). With the current changes and decentralisation and pursuant to Article 53, four special secondary schools shall continue to operate as state secondary schools.

The Law on Higher Education provides a provision regulating the right to education of persons with disabilities. The Law stipulates: Students, Ph.D. students and specialisation students without parents, first or second degree visually and hearing impaired persons, mothers with children of up to 6 years of age and hospitalised persons have a right to special benefits determined by the statute of the higher education institution.

The state prohibits discrimination against or exclusion of persons with special needs within regulations covering social security, social assistance and social protection.

Social security and particularly disability insurance has been intended for establishment or recovery of working abilities of persons with special needs thus they would be able to make their living on the basis of what they earn. Working abilities are often established or recovered through the system of vocational training. Certain remunerations may be acquired out of the work on the basis of social security, in case of illness, disability, etc.

Pursuant to the Law on Employment of Persons with Disabilities the Minister of Labour and Social Policy has adopted a Rulebook on the Criteria and Modes of Allocation of Funds from the Special

Fund on Providing Conditions for Employment of Persons with Disabilities, which determines a one-time grant for:

- Full-time employment of a disabled person;
- Job adaptation for the disabled person;
- Procurement of equipment necessary for the employment of the disabled person; and
- Adaptation of premises for the disabled person.

The Law also prescribes funding for vocational training of both unemployed person with disabilities and employees with disabilities for the purpose of either employing them or placing them to other posts.

The Law on Employment of Persons with Disabilities also stipulates that pension and disability insurance funds, health insurance and fees for employment of persons with disabilities shall be provided from the budget of the Republic of Macedonia. Furthermore, the Law prescribes that employees at sheltered workshops who are not disabled are exempted from paying personal income tax and pension, and disability insurances shall be covered by the budget of the Republic of Macedonia. Sheltered workshops are exempted from paying profit tax and all other fees related to profit.

The Law also introduces the method of affirmative action in order to equalise the employment opportunities of persons with disabilities at the open labour market, which essentially enables their involvement into the open society and the world of labour. Consequently, the current legislation provides that:

- Legal entity not having a status of a sheltered workshop may receive grants from the Special Fund to provide full time employment to a person with disabilities as well as adaptation of workplaces and premises for persons with special needs.
- Sheltered workshops may be granted funds from the Special Fund to provide full-time employment of a person with disabilities, adaptation of workplaces and premises, and procurement of necessary equipment for the employment and operation of the disabled person.
- A person with disabilities who is an independent entrepreneur may be granted funds from the Special Fund to provide his/her full-time employment, adaptation of workplaces and premises, and procurement of necessary equipment for the employment and operation of the disabled person.

A one-time grant of 20 average salaries (as paid in the month prior to the employment) may be granted for the purpose of employing a disabled person with the following disabilities: visual, hearing, vocal and language impairment, physical disabilities, mild mental disabilities, combined disabilities, and psychoses. As regards employment of visually impaired person with over 97% visibility damage and a physically disabled person with over 90% of disability, an amount of 30 average salaries (as paid in the month prior to the employment) shall be granted.

Pursuant to the Law on Employment of Persons with Disabilities the employer is entitled to a one-time grant from the Special Fund in order to provide adaptation of premises for persons with disabilities. Such grants may amount to 30 average salaries in the Republic (as paid in the Republic prior to the submission of the request). The employer may also be entitled to a grant amounting to 50 average salaries in the Republic for procurement of special equipment intended for persons with disabilities (in accordance with the number of new employees); and a grant amounting to 50 average salaries for adaptation of workplaces and premises in order to suit the technological process to the needs of the disabled person (in accordance with the number of newly employed persons with disabilities).

The Law on Employment of Persons with Disabilities prescribes that 15% of the total funds realised from the current employment fee shall be used for employment of persons with disabilities, financing special employment needs, adaptation of workplaces and premises and procurement of equipment

and other adaptations. These funds are allocated in a sub-account of the Employment Agency (the Special Fund). Concurrently, the funds required for vocational training of unemployed and employed persons with disabilities shall be secured from the Special Fund.

Laws and regulations concerning health insurance provide particular provisions that facilitate the use of health care by persons with disabilities. Such persons are exempted from health fees on all levels of healthcare (primary, secondary and tertiary). They are also exempted from paying fees while acquiring medical accessories, with an exception of particular accessories for which they are required to pay 10% of their total value.

The state has also undertaken activities for the socialisation and professional integration of persons with disabilities. The Republic of Macedonia has been implementing a project with the World Health Organisation on the early intervention and assistance to children born with disabilities or with risks to their health. This project has been implemented by several ministries. The Ministry of Health, Ministry of Education and Ministry of Labour and Social Policy have established a network for a prompt intervention in children with risks as well as for providing assistance to families with disabled children.

Serious efforts have been made to include these children in regular schools as well as to deinstitutionalise and replace specialised institutions for such children with day care centres and foster families.

Citizens with physical or mental disabilities are entitled to institutional and non-institutional protection services, as has been envisaged with the social protection system. Citizens who are unfit for work and financially insecure are entitled to permanent financial assistance. Persons who are incapable of taking care of themselves and satisfy their basic necessities of life are entitled to a financial benefit for a third person assistance and care. These beneficiaries are also entitled to healthcare.

An employed parent is entitled to part-time employment remuneration for nourishment of a disabled child. This right may be exercised by one of the parents if they are both employed, or by a single parent of a child not accommodated in an institution. These benefits are paid through the Social Work Centre.

Another institutional protection is the right to training for working and manufacturing activity and placement in a social protection institution. The development of the non-institutional care has contributed to the process of deinstitutionalisation in this area. Pursuant to the Programme of Social Inclusion of the Ministry of Labour and Social Policy a network of day care centres for disabled children is being developed. Concurrently, the state has been developing the placement of these children in foster families and is working on finding ways to support biological parents so that they would be able to keep their children.

In addition, the state has been establishing a system of rehabilitation institutions. Programmes developed and implemented in these institutions provide for an optimum level of independence of children with special needs. Hence, these programmes take into account the type and level of disability, and based on individual needs they enable their social inclusion and provide for equal development opportunities.

Rehabilitation programmes provide for acquiring basic skills up to higher education. Rehabilitation programmes are realised in the beneficiaries' places of residence. In exceptional cases and within certain time limits the rehabilitation may take place out of the beneficiary's place of residence by accommodating him/her in a dormitory.

The social protection system also provides funding and donations for procuring necessary accessories to enable the social inclusion of children with special needs particularly in the education process and professional life as well as for independent and full participation in every day life and informal groups.

The accessories should either be free or affordable to families of children with special needs. In addition, while selecting such accessories, special attention should be paid to the child's gender,

his/her age and particularities of his/her needs. Hence accessories are adequate to the type and level of disability.

The state has been securing the inclusion of children with special needs into processes of creative work and has facilitated their participation in cultural events. All creative artistic and intellectual capabilities of children with special needs have been realised both for personal purposes and for creating cultural goods of the community's interest. These persons are entitled to unhindered attendance of cultural events at theatres, museums, cinemas and libraries.

The invalids from civil war are entitled to a benefit for a third person assistance and care, healthcare, professional rehabilitation and orthopaedic instrument.

The Law on Physical and Urban Planning stipulates mandatory standards and norms on physical planning and design of facilities in the course of the preparation of urban plans. These standards have been laid down in a Rulebook on Standards and Norms on Physical Planning and Design of Facilities.

The Rulebook prescribes the implementation of special parameters in the course of designing objects in order to enable unhindered access to persons with disabilities. The Rulebook also regulates the use of wheelchairs, stairs, ramps, public transportation stations and stops, universal elevator, public telephone booths, universal electronic installation and signalisation, sports and public facilities, etc., in order to provide conditions for accessibility of these persons to public facilities.

45. Please indicate what steps have been taken to implement the European Social Charter since its ratification by the Republic of Macedonia.

The Republic of Macedonia ratified the European Social Charter and the Protocol amending the European Social Charter in December 2004 ("Official Gazette of the Republic of Macedonia", No. 89/04).

By the ratification of the Charter, Republic of Macedonia expressed its commitment to bring itself into line and to implement in practice the established standards in the area of social insurance and social protection. In that sense, Macedonia will endeavour to fully align with the standards established in the Charter, by developing and promoting the standards and rights and by implementing them in practice.

In accordance with the existing standards set forth in the regulations in the area of social insurance and social protection, Republic of Macedonia has decided to accept, besides the Part I, the following Articles of Part II of the Charter:

- Article 1: The right to work
- Article 2: The right to just conditions of work
- Article 5: The right to organise
- Article 6: The right to bargain collectively
- Article 7: The right of children and young persons to protection, with the exception of Item 5
- Article 8: The right of employed women to protection
- Article 11: The right to protection of health
- Article 12: The right to social security
- Article 13: The right to social and medical assistance
- Article 15: The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement
- Article 17: The right of mothers and children to social and economic protection

Domestic regulations are considered to be to a large extent in line with the Charter in the areas covered by the aforementioned Articles.

Bearing in mind the ongoing continuous process of reforms in social insurance and social protection – such as the regulations in labour legislation, health insurance legislation; pension and disability insurance, social protection, protection at work and other regulation - it has been envisaged that if non-compliance with the Charter is determined, appropriate amendments will be made to the existing regulations or new ones will be adopted to ensure their harmonisation with the Charter's standards. A number of laws have already been harmonized with the EU legislation. In the course of adoption, special emphasis was given to fundamental values determined in the Charter and to the compliance of the new regulation therewith.

J. MINORITY RIGHTS AND THE PROTECTION OF MINORITIES

1. Please provide statistics concerning the number of people belonging to ethnic, religious and linguistic minority groups in your country. Please indicate the source of these figures (census or other).

Total population by ethnic affiliation and gender, 2002 Census

	Total	male	female
Republic of Macedonia	2022547	1015377	1007170
Macedonians	1297981	648178	649803
Albanians	509083	258195	250888
Turks	77959	39550	38409
Roma	53879	27137	26742
Vlachs	9695	5146	4549
Serbs	35939	18580	17359
Bosniaks	17018	8634	8384
Others	20993	9957	11036
Source: State Statistical Office			

Total population by religion and gender, 2002 Census

	Total	Orthodox Christians	Moslems	Catholics	Protestants	Other
Republic of Macedonia	2022547	1310184	674015	7008	520	30820
male	1015377	654630	341441	3156	241	15909
female	1007170	655554	332574	3852	279	14911
Source: State Statistical Office						

Total population by mother tongue and gender, 2002 Census

	total	male	female
Republic of Macedonia	2022547	1015377	1007170
Macedonian language	1344815	673618	671197
Albanian language	507989	257829	250160
Turkish language	71757	36433	35324
Roma language	38528	19269	19259
Vlach language	6884	3608	3276
Serb language	24773	11529	13244
Bosniak language	8560	4283	4277
Other	19241	8808	10433
Source: State Statistical Office			

2. What is the legal status of religious and ethnic minorities living in the Republic of Macedonia?

The Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia" Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) regulates the rights of the members of communities and religious groups on two levels: the first one is through the principle of equality of all citizens before the Constitution and the laws, and the other one is through the prohibition of all forms of discrimination. The first principle has been clearly defined in Article 9 of the Constitution. This level as a primary value and a basis of the democratic and liberal society secures the protection of individual rights of every citizen of the Republic of Macedonia. The second level represents a system of special rights of the members belonging to the ethnic communities and religious groups. It provides for protection of and guarantees to the right to cultural identity of all citizens of the Republic of Macedonia as well as the equality of distinctive cultural communities as groups.

The second level of constitutional guarantees, further on developed through the relevant legal norms, secures the rights of every citizen to self-identification and to self-definition in a cultural sense as well as the right to fair opportunities for promotion of the cultural diversity and distinctiveness of the various ethnic communities. This second group of norms has been defined in Article 48 of the Constitution.

Legal status of religious groups

According to the Constitution of the Republic of Macedonia:

The freedom of religious confession is guaranteed.

The right to express one's faith freely and publicly, individually or with others, is guaranteed.

The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelical Methodist Church, the Jewish Community and other Religious communities and groups are separate from the state and are equal before the law.

The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelical Methodist Church, the Jewish Community and other Religious communities and groups are free to establish schools and other social and charitable institutions, under a procedure regulated by law.

The position of the religious groups, their establishment, practices, religious instruction and their religious schools as a mode of exercise of the rights to religion and to religious confession have been further regulated with the Law on Religious Communities and Groups ("Official Gazette of the Republic of Macedonia", No. 35/97).

The religious communities or groups are free to exercise their religious ceremonies and customs (Article 2). They perform their activities in accordance with the Constitution, laws and other regulations (Article 3, paragraph 2).

A foreign citizen may perform religious practices and customs upon a request of a religious community or group, upon prior consent by the competent body for religious issues (Article 5).

Religious communities and groups may establish religious schools in a procedure and under conditions determined by the aforementioned law. In addition, they may establish social and humanitarian institutions in a procedure and under conditions specified by law (Article 7).

Religious communities and groups as well as their organisational forms register at the Commission for Relations with Religious Communities and Groups (Article 11, paragraph 1).

The seat of religious communities and groups, which perform religious practices and customs within the territory of the Republic of Macedonia has to be in the Republic of Macedonia (Article 12, paragraph 4).

Within their operations pursuant to the aforementioned Law the religious communities and groups may use media and publish printed matters (Article 15, paragraph 1).

They also may collect donations for religious and humanitarian aims. Such donations may be collected in the facilities where religious practices and customs take place (Article 16).

Religious ceremonies and other religious practices may take place in churches, mosques and other temples, as well as in backyards belonging to these facilities. They may also take place in cemeteries and other facilities of the religious community or group (Article 18, paragraph 1).

Religious ceremonies and practices carried out in private homes (family celebrations, marriage, baptism, circumcision, confession, blessings of properties, etc.) do not require special approvals (Article 20, paragraph 1).

Persons in hospitals, elderly homes and other such institutions may express their faith and may be visited by priests in order to perform religious ceremonies and practices. This must be done in accordance with the household order of the institution that accommodates them (Article 20, paragraph 3).

Religious communities and groups, pursuant to the aforementioned Law, may possess and acquire real estate and other matters necessary for their activities (Article 22, paragraph 1).

Religious instruction may be given only in public facilities where religious ceremonies and practices take place (Article 21, paragraph 1).

For the purpose of educating clerics, religious communities and groups have a right to establish religious schools at all education levels, except in the primary education. They may also establish student dormitories for the persons attending these institutions (Article 25, paragraph 1).

Legal status of the members of non-majority ethnic communities

The legal framework of the ethnic communities' position has been regulated by the Constitution of the Republic of Macedonia pursuant to which respective laws regulating and elaborating the rights of communities' members have been adopted.

Article 7 of the Constitution regulates the use of languages of the members of non-majority communities:

“The official language on the whole territory of the Republic of Macedonia and in its international relations is the Macedonian language, written using its Cyrillic alphabet.

Any other language spoken by at least 20 percent of the citizens is also an official language, written using its alphabet, as specified in this article.

Official personal documents of citizens speaking an official language other than Macedonian shall be issued in the Macedonian language, as well as in that language in accordance with the law.

Any citizen living in a unit of local self-government in which at least 20 percent of the citizens speak an official language other than Macedonian may use any of the official languages and their alphabets in communication with the local office of the central government. The local offices with competencies in these units of local self-government shall reply in the Macedonian language and its Cyrillic alphabet, as well as in the official language and alphabet used by the citizen. Any citizen may use any official language and its alphabet to communicate with Ministries, which shall reply in the

Macedonian language and its Cyrillic alphabet, as well as in the official language and alphabet used by the citizen.

In the bodies of the Republic of Macedonia, any official language other than Macedonian may be used in accordance with the law.”

Furthermore, in the units of local self-government, the language and the alphabet used by at least 20 percent of the citizens of the municipality is also an official language in that municipality, in addition to the Macedonian language and the Cyrillic alphabet. The bodies of the units of local self-government decide on the use of the languages and alphabets spoken by less than 20% of the citizens in that unit of local self-government.

Pursuant to this Law, provisions regarding the use of an official language other than Macedonian and its Cyrillic alphabet have been incorporated in laws regulating the issues of personal documents (such as identification card, passports, certificates), civil, criminal and administrative procedures, the publication of the laws in the Official Gazette of the Republic of Macedonia, as well as the laws regulating the employment in public institutions, enterprises and other legal entities rendering public services, state and municipal bodies and the City of Skopje.

Rights of the members of communities are also guaranteed with Article 8, paragraph 1, subparagraph 2 of the Constitution, which refers to the principle of equitable representation of members of all communities regarding the employment in state administrative bodies and other public institutions on all levels. This principle has already been implemented in the Law on Civil Servants (“Official Gazette of the Republic of Macedonia”, Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04), the Law on Labour Relations (“Official Gazette of the Republic of Macedonia”, Nos. 80/93, 3/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03 40/03 and 80/03 consolidated text) and the Law on Public Enterprises (“Official Gazette of the Republic of Macedonia”, Nos. 38/96, 9/97, 6/02 and 40/03).

The Framework Agreement determines the timetable and the forms for accelerated training and recruitment of members of the ethnic communities in the state administration. This process has been especially highlighted in the police and military. Some recruitment has already been completed while some are still under way. For more details see [I J 4](#) and [I J 7](#). In comparison with the situation of the previous years, the results are quite positive. In particular cases, there are dramatic improvements. However, the process is still under way. Additional improvements in distinct areas are necessary in the representation of the members of the Albanian and Roma ethnic communities.

Article 9 of the Constitution determines that citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of gender, race, colour of skin, ethnic or social origin, political and religious beliefs, property and social status. It means that all citizens are equal before the Constitution and law.

The Members of communities are also entitled to the free expression, fostering and development of their identity and community attributes. They may also use the symbols of their communities. The state guarantees protection of the ethnic, cultural, linguistic and religious identity of all communities (Article 48 of the Constitution).

The members of communities have a right to found cultural, artistic and educational institutions, as well as scientific and other associations for the expression, fostering and development of their identity. As regards education, the members of the communities have the right to instruction in their language in primary and secondary education in a mode determined by law. In schools where education is carried out in another language, the Macedonian language is also studied (Article 48 of the Constitution).

Pursuant to this Article, separate laws on primary, secondary and higher education have been adopted. Primary and secondary education instruction in the Republic of Macedonia is carried out in the Macedonian, Albanian, Turkish and in the Serbian languages and there are optional classes for studying the Vlach and the Roma languages. State-funded higher education is available also in

Albanian and certain curriculums in Turkish. For more details see the answer to question [I J 9](#) and [I J 16](#).

The Constitution guarantees the protection, promotion and enhancement of the historical and artistic heritage of Macedonia and all communities in Macedonia and the treasures of which it is composed, regardless of their legal status (Article 56, paragraph 2).

Pursuant to provisions in Articles 9, 48 and 56 of the Constitution, laws regulating the rights of members of communities in the area of culture and the protection of cultural heritage contain provisions that directly relate to the protection and promotion of culture and cultural heritage of the members of the communities in the Republic of Macedonia.

When adopting laws that directly affect culture, use of language, education, personal documentation, and use of symbols, the Assembly makes decisions by a majority vote of the Representatives attending, within which there must be a majority of the votes of the Representatives attending who belong to non-majority communities (Article 69). Article 69 also applies during the adoption of local self-government laws, as well as laws on local finances, local elections, municipal boundaries and the City of Skopje (Article 114, paragraph 5). This Constitutional provision (frequently referred to as *Badinter rule*) has also been implemented through the Assembly's Rules of Procedure. Any dispute regarding the application of this provision within the Assembly, shall be resolved by the Committee on Inter-Community Relations.

According to Article 77 of the Constitution, the Assembly elects the Ombudsman by a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives belonging to the communities not in the majority in the Republic of Macedonia. The Ombudsman protects the constitutional and legal rights of the citizens when bodies of state administration and other bodies and organisations with public mandates violate them. This provision emphasises that the Ombudsman shall give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public bodies at all levels and in other areas of public life (this principle has also been incorporated into the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03).

The Committee on Inter-Community Relations has been established with Article 78 of the Constitution. This Article also determines its composition and competence. The Committee consists of 19 members of whom 7 members each are from the ranks of the Macedonians and Albanians within the Assembly, and a member each from among the Turks, Vlachs, Roma, Serbs and Bosniaks. If any of the communities does not have representatives, the Ombudsman, after consultation with relevant representatives of those communities, shall propose the remaining members of the Committee. The Assembly appoints the members of the Committee. The Committee considers issues of inter-community relations in the Republic and makes appraisals and proposals for their solution. The Assembly is obliged to take into consideration the appraisals and proposals of the Committee and to make decisions regarding them. In the event of a dispute among members of the Assembly regarding the application of the voting procedure specified in Article 69(2), the Committee shall decide by a majority vote whether the procedure applies.

Article 86, paragraph 2 determines that in appointing the three members, the President shall ensure that the Security Council as a whole equitably reflects the composition of the citizenship body of the Republic of Macedonia.

The legal and constitutional guarantees of the rights of members of communities in the Republic of Macedonia have also been expressed in Article 104, paragraph 2 of the Constitution pursuant to which three of the members of the Judicial Council of the Republic shall be appointed by a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives who belong to the communities not in the majority in the Republic of Macedonia.

Same voting principle (Article 69 of the Constitution) applies during the appointment of three judges of the Constitutional Court of the Republic of Macedonia (Article 109, paragraph 2).

Article 131, paragraph 4 determines that a decision to amend the Preamble, the articles on local self-government, and any provision relating to the rights of members of communities, including in particular issues on the language use of members of communities; equitable representation of members of communities; equality of all citizens before the Constitution and laws in freedoms and rights; freedom of religious confession and conviction; fostering and enhancement of the identity of community members; protection, promotion and enhancement of the historical and artistic heritage of Macedonia and all communities; voting in the Assembly on legal acts addressing issues of community members not in the majority in the Republic of Macedonia (language, education, personal documents, use of symbols); voting on the Ombudsman and his/her competences regarding the principle of non-discrimination and equitable representation of members of communities at all levels; the composition of the Committee on Inter-Community Relations and its competence; the appointment of three members of the Judicial Council of the Republic and the appointment of three judges of the Constitutional Court of Macedonia, as well as a decision to add any new provision relating to the subject-matter of such provisions and articles, shall require a two-thirds majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives who belong to the communities not in the majority in the Republic of Macedonia.

In addition to the foregoing Constitutional provisions on the legal status of members of ethnic communities and religious groups, Articles 8 and 118 of the Constitution secure the full implementation of international instruments in this area, which are directly applicable in the national law. Given that Macedonia has signed and ratified all significant international universal and regional human and minority rights instruments (except the European Charter for Regional or Minority Languages, which is in procedure of ratification), it is safe to conclude that Macedonia belongs to the small group of states in Europe that provides the highest legal protection of the rights of the members of the ethnic communities and religious groups.

3. How is the principle of non-discrimination and equal treatment of minorities ensured? Please provide details of both constitutional and legislative provisions.

1. The strategic determination of the Government of the Republic of Macedonia is the full exercise of the constitutionally guaranteed rights of the members of communities. At the same time, the Republic of Macedonia is undoubtedly determined to consistently adhere to all principles, values and standards contained in the relevant documents in this field, and, in particular in: the Framework Convention on the Protection of National Minorities; the Convention for the Protection of Human Rights and Fundamental Freedoms (Protocol 12); the International Pact on Civil and Political Rights; the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities; the Helsinki Final Act of CSCE, the Copenhagen Final Act and the Charter of Paris; the International Convention on the Elimination of all Forms of Racial Discrimination; the European Charter for Regional or Minority Languages. The principle of non-discrimination is incorporated in the legal order of the Republic of Macedonia. The equality of the members of the communities arises from Article 9 of the Constitution of the Republic of Macedonia, which establishes the principle of non-discrimination stipulating that: citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, ethnic and social origin, political and religious beliefs, property and social status. All citizens are equal before the Constitution and law.

In Article 50 paragraph 1, the Constitution provides for equal protection of all citizens stipulating that every citizen may invoke the protection of freedoms and rights determined by the Constitution before the regular courts and the Constitutional Court of Macedonia, through a procedure based upon the principles of priority and urgency. Furthermore, in accordance with Article 54 paragraph 4 of the Constitution, the restriction of freedoms and rights cannot discriminate on grounds of gender, race, colour of skin, language, religion, national or social origin, property or social status. In accordance with Article 110 of the Constitution of the Republic of Macedonia, the Constitutional Court protects the freedoms and rights of the individual and citizen against discrimination on these grounds.

The constitutional provisions for equality of all before law and for the equal right to protection of citizens' rights are implemented in the Law on Courts ("Official Gazette of the Republic of

Macedonia", Nos. 36/95, 45/95 and 64/03). In accordance with Article 7 of this Law, every citizen is entitled to equal access to the courts for the protection of their rights and legal interests.

The anti-discriminatory principle upon appointment of judges is contained in the Law on Courts, as well as in the amendments of this Law adopted in 2003, implementing the provisions of the Ohrid Framework Agreement. Article 40 of this Law stipulates that when selecting judges and lay judges there must not be discrimination on the grounds of sex, race, colour of skin, ethnic or social origin, political and religious beliefs, property or social status. The selection of judges and lay judges without violating the legally prescribed criteria will ensure equitable representation of the citizens who belong to all communities. A similar provision is also contained in the Law on the Public Prosecutor's Office ("Official Gazette of the Republic of Macedonia", No. 38/04), which specifies that when appointing public prosecutors and deputy public prosecutors, without violating the criteria established with this Law, the principle of equitable representation of citizens belonging to all communities in the Republic of Macedonia will be applied.

Pursuant to Article 4 of the Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 3/97, 23/99 and 74/04) the rules for executing sanctions are applied impartially. Namely, discrimination on the grounds of race, colour of skin, sex, language, religion, political and other beliefs, ethnic or social origin, family relations, property or social or another status of the person subject to the sanction, is forbidden.

In addition, in accordance with Article 8 of the Law on Organisation and Operation of the Public Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02), public administrative bodies are obliged to provide citizens with an efficient and legal exercise of their constitutional freedoms and rights.

2. In addition to these constitutional and legal provisions that guarantee the right to non-discrimination, the legislation of the Republic of Macedonia contains a legal framework for effective equality of the members of communities, based on the protection of their ethnic, cultural and religious identity.

According to Article 48 of the Constitution of the Republic of Macedonia:

Members of communities have the right freely to express, foster and develop their identity and community attributes, and to use their community symbols.

The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of all communities.

Members of communities have the right to establish institutions for culture, art, education, as well as science and other associations for the expression, fostering and development of their identity.

Members of communities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried out in another language, the Macedonian language is also studied.

The constitutional provision of Article 48 is made operational through the provisions of the following laws:

- a) The Law on Culture ("Official Gazette of the Republic of Macedonia", Nos. 31/98, 49/03 and 66/03) regulates the establishment and operation of cultural institutions of members of communities as one of the forms of expressing and fostering the identity of community attributes. In the Republic of Macedonia there is a long tradition of various cultural institutions of the communities.
- b) Article 45 paragraph 2 of the Law on Broadcasting ("Official Gazette of the Republic of Macedonia", Nos. 20/97 and 70/03) provides for an obligation for the public broadcasting company that broadcasts programmes within the territory of the Republic of Macedonia

(Macedonian Radio-Television) to broadcast programmes in the languages of the communities in addition to broadcasting programmes in Macedonian.

Furthermore, Article 45 paragraph 3 of the Law on Broadcasting, regulates that public broadcasting companies operating locally in areas where the members of communities are a majority, i.e. live in significant numbers, must also broadcast programmes in the language of the respective community. Article 45 paragraph 4 of the Broadcasting Law also stipulates the right of commercial broadcasting organisations (trade broadcasting companies) to broadcast programmes in languages of the members of the communities in addition to the programmes broadcasted in Macedonian.

- c) Article 4 paragraph 3 of the Law on Religious Communities and Religious Groups ("Official Gazette of the Republic of Macedonia", No. 35/97) indicates that a citizen cannot be deprived of their constitutional and legal rights due to religious beliefs, belonging to a religious community or religious group, carrying out or taking part in religious practices and other forms of expressing faith.
- d) Article 8 of the Law on Primary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 52/02- consolidated text, 40/03, 42/03, 63/04 and 82/04) states that for the members of communities who have instruction in a language other than Macedonian and its Cyrillic alphabet, the pedagogic and education work is performed in the language and script of the respective community in the way determined with this law. The members of the communities that are taught in the language of a community must also study the Macedonian language. According to Article 82 of the same Law, for the students who are members of the communities that follow instructions in a language other than Macedonian, the pedagogy records are kept and issued in the Macedonian language and its Cyrillic alphabet and in the language and alphabet of instruction;

The Law on Secondary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/2002, 52/02- consolidated text, 40/03, 42/03, 67/04) stipulates in Article 3 that every citizen has a right to secondary education under equal conditions established with this Law;

According to Article 6 of the Law on Higher Education ("Official Gazette of the Republic of Macedonia", Nos. 64/00 and 49/03), citizens of the Republic of Macedonia have the right to education in the higher education institutions of the Republic of Macedonia under equal conditions.

- e) The Ministry of the Interior, *inter alia*, is obliged to protect human and citizen's freedoms and rights guaranteed by the Constitution and to prevent the spread of ethnic, racial or religious intolerance;
- f) The Law on Associations of Citizens and Foundations ("Official Gazette of the Republic of Macedonia", No. 31/98) in Article 23 stipulates that the activities of a citizen association will be prohibited if they infringe upon the human rights and freedoms guaranteed by the Constitution or if they encourage ethnic, racial or religious hatred and intolerance;
- g) The Law on Telecommunications ("Official Gazette of the Republic of Macedonia", Nos. 33/96, 17/98, 22/98 – consolidated text, 28/00, 04/02 and 37/04) explicitly prohibits the transmission and delivery of messages encouraging ethnic, racial or religious hatred and intolerance.
- h) In Accordance with Article 3 of the Law on Inheritance ("Official Gazette of the Republic of Macedonia", No. 47/96), the citizens, under equal conditions are equal in inheritance.

3. The right to use the languages of the communities is exercised in the following ways:

- In private life, in free use of one's own language in everyday communication, in the family, etc.;
- In official records - when issuing personal documents; the personal documents of the citizens who speak an official language other than Macedonian are issued in the Macedonian language and alphabet, as well as in the official language and the alphabet used by these

citizens; Additionally, upon request of citizens who belong other non-majority communities (below 20%), the personal data in the passport is written in the Macedonian language and alphabet, as well as in the language and the alphabet used by these citizens;

- The right to instruction in their mother tongue in the primary and the secondary education;
- The right to use the languages of the communities in the local self-government units; in local self-government units a language and alphabet used by at least 20% of the citizens is also an official language in addition to the Macedonian language and its Cyrillic alphabet; the use of languages and alphabets used by less than 20% of the citizens in a local self-government unit is decided upon the bodies of the local self-government units; this constitutional regulations is identically provided in the Law on Local Self-Government ("Official Gazette of the Republic of Macedonia", No. 5/02);
- The right to use the languages of the communities in the communication with the Ministries and the local units of the Ministries and in the state administrative bodies;
- The right to use the languages of the communities in court proceedings;
- The right to use the languages of the communities in plenary sessions of the Assembly of the Republic of Macedonia;
- The right to use the languages of the communities when publishing laws and other regulations. In accordance with the Amendment V to the Constitution, the Assembly of the Republic of Macedonia has adopted a Law Amending the Law on Publishing Laws and Other Regulations in the Official Gazette of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 43/02). Article 8 paragraph 2 of the Law stipulates that the laws are also published in another official language and alphabet used by at least 20% of the citizens belonging to the communities in the Republic of Macedonia.

More on the exercise of the right to use the languages of the communities in [I J 9](#), [I J 12](#), [I J 13](#), [I J 14](#), [I J 15](#), [I J 16](#).

4. The acts of violating the prohibition of discrimination are incriminated as criminal offences contained in the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/02, 43/03 and 19/04): Article 137 – *Violation of citizen equality*, Article 319 – *Causing ethnic, racial and religious hatred, division and intolerance* and Article 417 – *Racial and other discrimination*.

In addition to criminal legal protection, the Constitution in Article 110 provides for protection before the Constitutional Court of the Republic of Macedonia, that decides upon citizen requests for protection of the freedoms and rights related to prohibition of discrimination on the grounds of gender, race, religious, ethnic, social or political affiliation.

5. According to Article 20 paragraph 3 of the Constitution, the programmes and operation of associations of citizens and political parties cannot be used, *inter alia*, for encouraging ethnic, racial or religious hatred or intolerance. This constitutional provision is furthermore contained in the Law on Political Parties ("Official Gazette of the Republic of Macedonia", No. 76/04) and the Law on Associations of Citizens and Foundations ("Official Gazette of the Republic of Macedonia", No. 31/98) according to which the competent body will not register a political party or an association of citizens if their activity is contrary to the constitutional prohibition. The violation of the constitutional prohibition is a reason to prohibit the operation of an already established political party or citizen association.

6. Item 4 of the Framework Agreement, devoted to non-discrimination and equitable representation, expresses the determination for full respect of the principle of non-discrimination and equal treatment of all persons before law. This principle is especially applied with regard to the employment in the public administration and in public enterprises, as well as with regard to the access to public information about the development of business activities. On the implementation of constitutional provisions and the provisions of the Framework Agreement on equitable representation of the members of communities in the state administrative bodies and other public institutions, for more details see [I J 4](#).

With the amendments to the Constitution from 2001 the jurisdiction of the Ombudsman in the field of antidiscrimination became significant. According to Amendment XI of the Constitution: *The Ombudsman shall give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in state administrative bodies, local self-government units and in public services.* On the implementation of these constitutional provisions, for more details see [I G 6](#) and [I J 18](#).

4. In the context of the implementation of the Framework Agreement, what measures have been taken to assure equitable representation of communities at central and local level and at all levels within administrative bodies? Please provide statistics if available.

With regard to specific articles e.g. principles of the Framework Agreement and aiming at more efficient and accelerated implementation of the Framework Agreement, the Government of the Republic of Macedonia established special bodies for coordination and monitoring of the activities and the achieved specific objectives.

In relation to the point *Non-Discrimination and Equitable Representation of Members of Non-Majority Communities* the Government of the Republic of Macedonia, established bodies entrusted with coordination and monitoring of the improvement of equitable representation of members of under-represented non-majority communities in the public administration and public enterprises. These are the following:

- *Committee of Ministers* in charge of monitoring and coordination of the activities aimed at the improvement of equitable representation of members of non-majority communities in the public administration and public enterprises ("Official Gazette of the Republic of Macedonia", No. 09/03). The Committee is chaired by the Deputy Prime Minister responsible for the implementation of the Framework Agreement and it comprises of the Minister of Justice, Minister of the Interior, Minister of Finance and the Minister of Labour and Social Policy.
- *Coordination Body* for the Preparation of an Operational Programme for Improvement of Equitable Representation of Members of Non-majority Communities in Public Administration and Public Enterprises (Official Gazette of the Republic of Macedonia, Nos. 9/03, 11/03 and 15/03). The Director of the Civil Servants Agency chairs the Coordination Body, while its members are the Deputy Director of the Civil Servants Agency, the Deputy Secretary General of the Government of the Republic of Macedonia and state counsellors from the following 11 ministries: Ministry of Economy, Ministry of Finance, Ministry of Justice, Ministry of Local Self-government, Ministry of Transport and Communications, Ministry of the Interior, Ministry of Defence, Ministry of Education and Science, Ministry of Culture, Ministry of Labour and Social Policy and Ministry of Health.

More about the coordination of the implementation of the Framework Agreement in the answer to the question [I C 15](#).

In the first period of the implementation of the Framework Agreement, the main focus was placed on improving the equitable representation in the police and the Army of the Republic of Macedonia. Those provisions of the Framework Agreement were fully implemented. For more detailed information on the representation of the ethnic communities in the security forces, see the answers to the questions [I F 3](#) and [I J 7](#).

Following the improvement of the equitable representation in the security forces, the focus was placed on equitable representation in the administration and public enterprises. In February 2003 the Government of the Republic of Macedonia adopted a Basis for Preparation of a Programme for Improvement of Equitable Representation of Communities in the Public Administration and in Public Enterprises. In April 2003 additional measures were adopted for the improvement of equitable representation of communities in the public administration and public enterprises concerning the strengthening of translation capacities, the opening of bilingual jobs, the analysis of the vacant jobs within the administration and the preparatory training programmes for work in the public administration, as well as public communication activities.

As a part of the additional measures, a training programme for 600 candidates belonging to the communities for jobs in the state administrative bodies (PACE programme) was set up. The first group of candidates were employed in December 2004 and January 2005, and the second group will be fully employed by February 2005.

The training of 100 translators/interpreters belonging to the non-majority communities in the Republic of Macedonia will begin on 1 March 2005. Upon completion of the training programme, carried out within the framework of a 2004 CARDS project, the chosen candidates will be employed in the state administrative bodies and courts and will be obliged to work in those bodies for at least two years following the completion of the training programme.

Article 2 of the Law Amending the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", No. 40/03) establishes an obligation for adoption of Annual Plans for Equitable Representation of Communities. The annual plans elaborate the current situation in the bodies (number and percentage of the members of communities in the total number of employees, presented for both the employees with status of civil servants and other employees in the said bodies), the employment plans, professional development and training programmes, as well as an assessment of the fiscal implications concerning the aforementioned activities. This means that, in addition to the constitutional principle of equal access to jobs and the merit principle, the principle of equitable representation of citizens belonging to all communities, at all positions defined by the Law on Civil Servants, is applied in the recruitment of civil servants, without prejudice to the criteria of expertise and competence ("Official Gazette of the Republic of Macedonia", No. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04). The public announcements for employment of civil servants are published by the Civil Servant Agency (CSA) in at least two daily newspapers, one of which published in the language spoken by at least 20% of the citizens who speak an official language other than the Macedonian. For more details see [I C 6](#).

For the successful implementation of the principle of equitable representation, several laws have been amended, including the Law on Labour Relations ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 03/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03, 40/03 and 80/03 - consolidated text), the Law on Public Enterprises ("Official Gazette of the Republic of Macedonia", No. 40/03), the Law on Primary Education ("Official Gazette of the Republic of Macedonia", No. 63/04), the Law on Secondary Education ("Official Gazette of the Republic of Macedonia", No. 67/04), the Law on Pupils' and Students' Standards ("Official Gazette of the Republic of Macedonia", No. 40/03), the Law on the Public Attorney ("Official Gazette of the Republic of Macedonia", No. 60/03), the Law on Courts ("Official Gazette of the Republic of Macedonia", No. 64/03), and the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", No. 69/04).

The Table 1 gives data on the ethnic breakdown of employees paid from the State Budget in the Republic of Macedonia.

Table 1:

	December 2002		June 2003		December 2003		June 2004		December 2004	
Ethnic affiliation	Number of employed	%	Number of employed	%	Number of employed	%	Number of employed	%	Number of employed	%
Macedonians	58348	83,27%	58927	82,70%	58769	82,05%	57208	81,43%	56.871	80,31 %
Albanians	8164	11,65%	8644	12,13%	9174	12,81%	9448	13,45%	10.294	14,54 %
Turks	826	1,18%	847	1,19%	905	1,26%	890	1,27%	928	1,31 %
Roma	358	0,51%	365	0,51%	369	0,52%	357	0,51%	376	0,53 %
Vlachs	321	0,46%	329	0,46%	336	0,47%	332	0,47%	330	0,47%
Serbs	1215	1,73%	1220	1,71%	1204	1,68%	1172	1,67%	1172	1,66 %
Bosniaks	160	0,23%	165	0,23%	182	0,25%	180	0,26%	181	0,25 %
Others	682	0,97%	753	1,06%	685	0,96%	667	0,95%	660	0,93 %
TOTAL	70074	100%	71250	100%	71624	100%	70254	100%	70812	100 %

Source: Ministry of Finance - F1 data-base

The following is a list of institutions and bodies funded by the State Budget: the President of the Republic of Macedonia, Intelligence Agency, Assembly of the Republic of Macedonia, State Audit Office, State Commission for Prevention of Corruption, State Electoral Commission, Constitutional Court of the Republic of Macedonia, Government of the Republic of Macedonia, General Functions Service, Legislation Secretariat, Public Attorney's Office of the Republic of Macedonia, Development and Investment Agency, Civil Servants Agency, Directorate for Protection of Classified Information, Protection and Rescue Directorate, Customs Administration of the Republic of Macedonia, Commodity Reserves Bureau, Public Revenue Office, Industrial Property Protection Bureau, Civil Aviation Authority, Telecommunications Directorate, Agency for Promoting the Development of the Agriculture-Bitola, Hydro-meteorological Directorate, Bureau for Development of Education, Youth and Sports Agency, Emigration Agency, Information Agency, Commission for Relations with Religious Communities and Groups, State Authority for Geodetic Works, State Statistical Office, State Archives of the Republic of Macedonia, Bureau for Forensic Expertise, Macedonian Academy of Sciences and Arts, Bureau for Economically Underdeveloped Regions, the Judiciary, Public Prosecutor's Office of the Republic of Macedonia, Ombudsman, Penitentiary Centres, Tetovo Educational and Correctional Centre, Ministry of Defence, Ministry of the Interior, Ministry of Justice, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Economy, Ministry of Environment and Physical Planning, Ministry of Transport and Communications, Ministry of Agriculture, Forestry and Water Economy, Ministry of Labour and Social Policy, Ministry of Education and Science, Ministry of Culture, Ministry of Health, and Ministry of Local Self-Government.

Note: Table 1 Includes the elected and appointed individuals in these institutions, unlike the table from the answer to question in [I.C.6](#), where the structure is given only for public servants.

Considering the fact that health organisations are not covered by the State Budget of the Republic of Macedonia, the following table gives the ethnic breakdown of employees in these public organisations.

Table 2:

	ETHNIC AFFILIATION					
	2002		2003		As at 31 Oct. 2004	
	Total	%	Total	%	Total	%
Macedonians	20693	88,62%	19924	88,55%	19966	87,11%
Albanians	1335	5,72%	1315	5,84%	1683	7,34%
Turks	233	1,00%	233	1,04%	236	1,03%
Vlachs	113	0,48%	113	0,50%	117	0,51%
Serbs	445	1,91%	394	1,75%	394	1,72%
Roma	181	0,78%	181	0,80%	183	0,80%
Bosniaks	53	0,23%	47	0,21%	48	0,21%
Others	297	1,27%	294	1,31%	294	1,28%
Total	23350	100%	22501	100%	22921	100%
Source: Ministry of Health						

The analysis of the data shows that the representation of members of communities in the public administration has increased considerably, which is in line with the planned priorities.

Data for the current year is also available for municipal administration and given in Table 3.

Table 3:

Ethnic affiliation	Municipal Administration			
	With civil servant status	Without civil servant status	Municipal administration total	
			Number	%
Macedonians	329	788	1117	79,79%
Albanians	78	134	212	15,14%
Turks	10	15	25	1,79%
Roma	1	10	11	0,79%
Vlachs	2	4	6	0,43%
Serbs	1	20	21	1,50%
Bosniaks	0	2	2	0,14%
Others	5	1	6	0,43%
TOTAL	426	974	1400	100%
Source: Civil Servants Agency Status: 31.12.2004				

5. What measures have been taken to ensure proper budgetary allocations to meet equitable representation objectives? Please specify the budgets allocated for this purpose since 2001.

The budgetary allocations to meet equitable representation objectives is provided entirely from the State Budget of the Republic of Macedonia in two ways, through:

- The funding allocated for the implementation of the Strategic Priorities of the Government and
- Within items for budget beneficiaries covering salaries and allowances of the employees.

Appropriate allocations were made in 2002 and 2003 in the budgets of the Ministry of Defence and the Ministry of the Interior, covering the costs resulting from obligations laid down by the Framework Agreement concerning equitable representation of communities in the security forces. For more details see [I J 7](#).

In the 2004 Budget, funds were allocated for the Strategic Priorities of the Government of the Republic of Macedonia, covering the costs of the following:

- Employment of 600 civil servants trained within the framework of the PACE programme, a part of CARDS for 2002;
- Employment of civil servants in various state administrative bodies at different levels (including managerial staff).

The 2005 Budget envisages that state administrative bodies (except the Ministry of the Interior and the Ministry of Defence, for more details see [I J 7](#)), are to cover the costs of the employment from their own budgets for the following:

- Translators/interpreters for state bodies and courts;
- Civil servants at different levels; and
- Salaries of those previously employed in order to meet the requirement of equitable representation (which are already included in their own budgets).

All vacant positions created by retirement, resignation or dismissal will be adequately filled so that the principle of equitable representation is met.

Gross salaries are paid from the State Budget of the Republic of Macedonia to employees having a status of civil servants as well as to employees in the public administration. The amounts paid for gross salaries by ethnic affiliation of employees are given in Table 1 (the data includes the employees in the Army of the Republic of Macedonia and Ministry of the Interior)

In 2001 and 2002 the data on the number of employees and payment of salaries in the public administration have not been processed in the Ministry of Finance and hence data for these years is not available.

Table 1

NUMBER OF EMPLOYEES BY ETHNIC AFFILIATION										
	December 2002		June 2003		December 2003		June 2004		December 2004	
Ethnic affiliation	number of employees	gross salaries paid	number of employees	gross salaries paid	number of employees	gross salaries paid	number of employees	gross salaries paid	number of employees	gross salaries paid
Macedonians	58.348	1.273.742.725	58.927	1.300.292.488	58.769	1.304.309.786	57.208	1.335.076.762	56.871	1.347.993.894
Albanians	8.164	154.524.771	8.644	168.637.704	9.174	178.226.505	9.448	192.548.958	10.294	210.953.626
Turks	826	15.138.084	847	15.869.548	905	16.811.323	890	17.245.762	928	18.108.017
Vlachs	321	6.843.314	329	7.232.305	336	7.413.387	332	7.505.610	330	7.787.220
Serbs	1.215	26.128.941	1.220	26.979.524	1.204	26.464.411	1.172	27.219.305	1172	27.604.043
Roma	358	4.990.239	365	5.693.743	369	5.922.087	357	6.121.442	376	6.455.223
Bosniaks	160	2.810.220	165	3.051.791	182	3.251.438	180	3.214.748	181	3.479.817
Others	682	16.408.620	753	18.701.405	685	17.028.009	667	17.515.448	660	17.512.151
Total	70.074	1.500.586.914	71.250	1.546.458.508	71.624	1.559.426.946	70.254	1.606.448.035	70.812	1.639.893.991
Amounts in MKD										
Source: Ministry of Finance, F1 data-base										
Note: The payments of salaries correspond for the month given as shown in the Table 1										

In 2003 and 2004 the number of employees from the non-majority ethnic communities in the public administration has increased and the salaries for the new employees are being paid, as shown in the Table 2.

Table 2

Ethnic affiliation	Number of new employees in 2002	Gross salaries paid in 2002	Number of new employees in 2003	Gross salaries paid in 2003	Number of new employees in 2004	Gross salaries paid in 2004
Albanians			1010	272,181,100	1120	506.275.432
Turks			76	20.079.948	23	12.608.040
Vlachs			15	6.840.876	-6	3.472.620
Srbs			-11	4.025.640	-32	8.724.516
Roma			11	11.182.176	-7	5.263.500
Bosniaks			22	5.294.616	-1	2.151.996
Others			3	7.432.668	-25	2.186.436
TOTAL		83.830.200		327.027.924		537.557.182

Note: Table 2 does not contain data on “number of new employees in 2002” and “payed gross salaries for 2002” structured by ethic affiliation, due to lack of such analytical data. The total figure is

only the reported cost for the new recruitments in the Ministry of the Interior and the Army. The reduction of number of employees is presented with negative figure. However, these employees have been remunerated for a certain period of the fiscal year until the termination of their employment, which has been shown as a budgetary expense in the table.

In order to achieve equitable representation of community members in the Ministry of Defence, salaries and allowances and the costs of training of the newly-employed persons have been planned and allocated in the State Budget.

The costs for training by year are given in Table 3:

Table 3 (additional costs in the Ministry of Defence, apart from salaries which are given within the data in Table 1)

	2002	2003	2004
Costs for training	17.647.000	20.820.000	35.372.000
Note: Amount in MKD			

To achieve equitable representation of community members in the Ministry of the Interior funds for salaries, training, equipment and other funds indented to secure the bilingualism of the newly-employed persons have been planned and allocated in the State Budget, as shown in Table 4.

Table 4 (additional costs in the Ministry of the Interior, apart from salaries which are given within the data in Table 1)

	2002	2003	2004
Funds allocated for allowances of new employees	12.857.600	28.674.600	40.460.800
Funds allocated for training, accommodation, arms, uniforms and aids for the bilingualism of new employees	82.676.600	84.041.800	62.679.700
Note: Amount in MKD			

The data presented above for the period 2002-2004, indicates that a total of 1.333.645.406 MKD was allocated for the improvement of equitable representation within the employees paid from the State Budget of the Republic of Macedonia.

The data provided by the Ministry of Health indicates that at the end of 2004, a monthly total of approximately 7.950.000 MKD (annually 95.400.000 MKD) is allocated for the improvement of equitable representation within the health organisations in the Republic of Macedonia.

6. Please provide statistical information, if available, on access to public and private employment, housing, education, health services, etc., including data concerning the situation of minorities as compared with the majority population in respect of:

- **employment and unemployment rates;**
- **participation in primary, secondary and tertiary education;**
- **infant mortality and life expectancy.**

Employment rates of population over 15 years of age

Ethnic Affiliation	2001	2002	2003
Total	38,8	35,8	34,9
Macedonians	44,6	42,3	41,5
Albanians	18,3	16,0	15,0
Turks	33,1	27,8	27,2
Roma	15,3	13,6	8,8
Vlachs	26,8	46,8	43,7
Serbis	41,2	30,9	29,6
Other	36,4	26,7	28,6
Source: State Statistical Office			

Unemployment rates of population over 15 years of age

Ethnic Affiliation	2001	2002	2003
Total	30,5	31,9	36,6
Macedonians	25,6	25,5	29,8
Albanians	54,3	59,0	63,5
Turks	37,6	41,6	45,7
Roma	71,6	72,4	83,4
Vlachs	37,4	18,7	29,0
Serbs	20,4	30,8	30,8
Other	32,2	40,0	45,0
Source: State Statistical Office			

With regard to housing, information on the manner of securing and the type of available information for more details see [12 1 E 8 1](#) (Module 38100).

Students in primary and lower secondary schools by ethnic affiliation and gender:

		Total	Macedonians	Albanians	Turks	Roma	Vlachs	Serbs	Other	Not specified	Unknown
1999/2000	total	252212	146558	77442	10760	7757	456	2902	6293	28	16
	females	121768	71164	37244	5113	3588	231	1395	3015	13	5
2000/2001	total	246490	142116	76225	10453	7970	435	2757	6511	15	8
	females	119273	69096	36827	4925	3836	181	1338	3057	8	5
2001/2002	total	242707	139267	76891	10220	7868	395	2506	5555	5	-
	females	117676	67770	37419	4812	3738	191	1186	2558	2	-
2002/2003	total	235516	133185	76290	9991	7993	439	2454	5156	3	5
	females	114023	65200	36706	4717	3761	188	1139	2308	2	2

Source: State Statistical Office

Students in regular upper secondary schools by ethnic affiliation and gender:

		Total	Macedonians	Albanians	Turks	Roma	Vlachs	Serbs	Other	Not specified	Unknown
1999/2000	Total	89775	69844	14823	1545	447	194	1298	1608	9	7
	females	43653	35588	6092	568	178	90	538	596	1	2
2000/2001	Total	90990	69991	15718	1665	499	238	1217	1653	9	-
	females	44274	35539	6619	633	216	127	548	590	2	-
2001/2002	Total	92068	69783	16691	1785	569	208	1296	1731	2	3
	females	45008	35371	7308	755	213	120	571	666	1	3
2002/2003	Total	93526	69728	18080	1973	637	252	1050	1782	24	-
	females	45449	35223	7893	840	236	128	458	665	6	-
Source: State Statistical Office											

Enrolled students in undergraduate and graduate studies, citizens of the Republic of Macedonia, by ethnic affiliation and gender:

Year	Total	Macedonians		Albanians		Turks		Roma		Vlachs		Serbs		Other	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
1992/93*	26299	23770	90,4	586	2,23	172	0,65	13	0,05	76	0,29	840	3,19	842	3,20
1993/94*	26834	24998	93,1	764	2,85	167	0,62	9	0,03	97	0,36	453	1,69	346	1,29
1994/95*	28569	26183	91,6	974	3,41	175	0,61	17	0,06	159	0,56	521	1,82	540	1,89
1995/96*	29153	26481	90,8	1202	4,12	219	0,75	18	0,06	212	0,73	528	1,81	493	1,69
1996/97*	30441	27302	89,7	1408	4,62	277	0,91	23	0,07	234	0,77	574	1,88	623	2,05
1997/98*	31768	28986	91,2	1308	4,12	245	0,77	35	0,11	287	0,90	518	1,63	389	1,22
1998/99*	34850	31095	89,2	1916	5,50	371	1,06	48	0,14	329	0,94	666	1,91	425	1,22
1999/00*	36679	32629	88,9	2028	5,53	409	1,11	71	0,19	374	1,02	717	1,95	451	1,23
2000/01*	40075	35396	88,3	2285	5,70	444	1,1	108	0,26	408	1,01	746	1,86	709	1,56
2001/02**	45493	39777	87,44	3040	6,68	601	1,32	127	0,28	417	0,92	822	1,81	709	1,58
2002/03**	47798	40778	85,31	4292	8,98	683	1,43	140	0,29	440	0,92	807	1,69	658	1,38
2003/04***	51311	43645	85,06	5335	10,4	608	1,18	100	0,19	359	0,70	701	1,37	563	1,1
2004/05****	61556	48900	79,44	9540	15,50	825	1,34	188	0,31	478	0,78	936	1,52	689	1,12

Source: Ministry of Education and Science

* Data for the years from 1992/93 to 2001/02 refer to the only two existent universities at that time: "Ss. Cyril and Methodius" University - Skopje and "St. Kliment Ohridski" University - Bitola.

** Data for the years from 2001/02 до 2003/04 refer to "Ss. Cyril and Methodius" University - Skopje and "St. Kliment Ohridski" University - Bitola added with the South-East European University - Tetovo that was established in 2001.

*** Data for the year 2003/04 refer to the three already existent universities ("Ss. Cyril and Methodius" University - Skopje, "St. Kliment Ohridski" University - Bitola and the South-East European University - Tetovo) joined by the Faculty of social sciences - Skopje.

**** Data for the year 2003/04 refer to: "Ss. Cyril and Methodius" University - Skopje, "St. Kliment Ohridski" University - Bitola, South-East European University - Tetovo, Faculty of social sciences - Skopje joined with data from the newly opened State University of Tetovo that started working on 01.10.2004.

Infant mortality rate (by ethnic affiliation of the mother):

	Total	Macedonians	Albanians	Turks	Roma	Vlachs	Serbs
2000	11.8	9.9	10.8	9.5	16.8	58.8	16.2
2001	11.9	8.3	10.6	10.1	18.3	-	-
2002	10.2	8.6	9.8	8.3	10.7	-	6.0
2003	11.3	11.2	9.3	8.4	13.9	100.0	8.2
Source: State Statistical Office							

Data on life expectancy by ethnic affiliation have not been prepared and have not been envisaged with the Statistical Research Programme

7. What programmes have been established in order to achieve equitable representation of all communities at all levels of the security forces, what is their stage of implementation and what are the plans for the future in this respect? Please specify the budgets allocated for this purpose since 2001.

In the **Ministry of the Interior**, the basis for the improvement of equitable representation of members belonging to communities are the Constitutional Amendments, the existing legislation in the area of internal affairs: the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", Nos. 19/95, 55/97, 38/02, 33/03 and 19/04), the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04) and the adequate provisions of the Framework Agreement.

To achieve the full implementation of the provisions of the Ohrid Framework Agreement and to comply with the constitutional amendments and the constitutional principle of equitable representation of non-majority communities in state administrative bodies, the Ministry of the Interior has accelerated the process of employment of members belonging to non-majority communities in the Republic of Macedonia, principally through the use of public announcements for the admission of trainee police officers and for the admission of persons with the status of civil servants belonging to communities, as well as through the employment of persons for operational positions within the departments of the Ministry of the Interior.

The admission process for trainee police officers has been supported and implemented with the assistance of the international community, particularly through the testing, selection and training of candidates at the Skopje Police Academy. The Ministry of the Interior has made modifications to its Rulebook on Systematisation of Posts, introducing bilingual positions.

The ethnic breakdown of those employed in the Ministry of the Interior by position and rank, from 2001 to 2004, are given in the Table 1:

Table 1

Ministry of the Interior			Total of employees	Uniformed police total	Total of criminal police	Total of other employees
2001	Macedonians	No.	8805	5120	2075	1610
		%	92,1	91,6	92,8	92,9
	Albanians	No.	350	208	87	55
		%	3,6	3,7	3,9	3,17
	Turks	No.	38	23	12	3
		%	0,36	0,41	0,5	0,17
	Serbs	No.	185	121	35	29
		%	1,9	2,16	1,56	1,67
	Roma	No.	38	27	-	11
		%	0,36	0,48	-	0,63
	Others	No.	142	91	26	25
		%	1,48	1,6	1,16	1,44
	Total	No.	9558	5590	2235	1733
2002	Macedonians	No.	9470	5510	2236	1724
		%	87,9	85,4	90,1	93,8
	Albanians	No.	809	596	165	48
		%	7,5	9,23	6,6	2,6
	Turks	No.	56	41	12	3
		%	0,5	0,6	0,4	0,16

	Serbs	No.	199	130	41	28
		%	1,8	2,01	1,6	1,52
	Roma	No.	79	67	2	10
		%	0,7	1,03	0,08	0,54
	Others	No.	156	107	25	24
		%	1,4	0,26	1	1,3
	Total	No.	10769	6451	2481	1837
2003	Macedonians	No.	9542	5628	2341	1573
		%	84	79,7	90	92,8
	Albanians	No.	1272	1034	171	67
		%	11,2	14,6	6,57	4
	Turks	No.	69	52	14	3
		%	0,6	0,73	0,53	0,17
	Serbs	No.	218	152	42	24
		%	1,9	2,15	1,6	1,41
	Roma	No.	81	72	3	6
		%	0,7	1	0,11	0,35
	Others	No.	172	122	29	21
		%	1,5	1,72	1,11	1,23
	Total	No.	11354	7060	2600	1694
2004	Macedonians	No.	10254	6422	1031	2801
		%	82,28	78,16	85,56	92,11
	Albanians	No.	1659	1389	125	145
		%	13,31	16,91	10,37	4,77
	Turks	No.	73	56	6	11
		%	0,59	0,68	0,5	0,36
	Serbs	No.	217	152	22	43
		%	1,74	1,85	1,83	1,41
	Roma	No.	81	71	2	8
		%	0,65	0,86	0,17	0,26
	Others	No.	178	126	19	33
		%	1,43	1,53	1,58	1,08
	Total	No.	12462	8216	1205	3041
Source: Ministry of the Interior						

Note: Increase of total number of employees in the Ministry of the Interior is due to the transfer of employees from the Ministry of Defence into Border Police

A total of 84 persons with the status of civil servants belonging to the Albanian community will be employed in the Ministry of the Interior in 2005, in accordance with the government project for equitable representation (PACE) financed by CARDS 2002. A total of 574 persons will be transferred from the Ministry of Defence, of which 165 are members of the Albanian community. Given that at the moment there is no information what positions these persons will occupy at the Ministry of the Interior, it is impossible to show them in a table by rank and position. Together with the aforementioned new employment and transfers, in 2005 the Ministry of the Interior will have 13.120

employees, of which 1.908 will be members of the Albanian community, i.e. the Albanian community will be represented with 14,5%.

A total of MKD 796.227.132 from the State Budget has been spent on the salaries, allowances, personal equipment and education of the newly employed in the police forces since 2001 to the present day for the employment of members of communities in accordance with the provisions of the Framework Agreement.

Table 2 (police force within the Ministry of the Interior)

	2002	2003	2004
Salaries for the police forces	50.150.200	165.085.100	276.160.832
Allowances for the police forces	12.857.600	28.674.600	37.628.800
Personal equipment and accomodation	82.676.600	84.041.800	58.951.600
TOTAL	145.684.400	277.801.500	372.741.232
Note: Amount in MKD			

The expenditures from the State Budget in 2004 for other categories of new employees in the Ministry of the Interior are shown in the Table 3

Table 3 (other categories within the Ministry of the Interior)

	Salaries for other employees from ethnic communities	Allowances for other employees from ethnic communities	Equipment for other employees from ethnic communities	Total expenditures for other employees from ethnic communities
2004	15.379.600	2.832.000	3.728.068	21.939.668
Note: Amounts in MKD				

The above budget items refer to the employment of all persons employed in accordance with the Framework Agreement for the period 2001-2004 and the total is 818.166.800 MKD.

With regard to the **Ministry of Defence**, the basis for the development of plans and programmes to achieve equitable representation of members belonging to communities is the existing legislation in the area of defence (the Law on Defence ("Official Gazette of the Republic of Macedonia", Nos. 42/01 and 5/03), the Law on Military Service in the Army of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 2/02, 98/02, 25/03 and 71/03), the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00,112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04)), as well as the National Security and Defence Concept, the Strategic Defence Review of the Republic of Macedonia (First, Second and Third Stages), and the provisions of the Framework Agreement.

The programme for the implementation of the Strategic Defence Review of the Republic of Macedonia was endorsed by the Government of the Republic of Macedonia (No. 23-3084/1 of 23 June 2003), while the Assembly of the Republic of Macedonia adopted it through a Resolution for Development and Transformation on 26.05.2004 ("Official Gazette of the Republic of Macedonia", No. 34/04). The Strategic Defence Review represents the starting point in the development of the policy of equitable representation of members of non-majority communities in the Ministry of Defence and in the Army of the Republic of Macedonia. The Strategic Defence Review contains provisions concerning the equitable representation of members of these communities in the Ministry of Defence and in the Army of the Republic of Macedonia (ARM). The Second Stage of the Strategic Defence

Review contains proposed plans for staffing and a plan for increasing the percentage of members of communities in the total staff levels of the Ministry and of the Army of the Republic of Macedonia in the period 2004-2013. The Third Stage of the Strategic Defence Review — the Programme for the Transformation of Defence and the ARM — contains similar provisions in the chapter entitled Staff, Situation and Projections. On 25.08.2004, in accordance with the Strategic Defence Review, the Minister of Defence adopted a Strategy on Human Resource Management in the Ministry of Defence as well as an Operational Plan and Methodology for the preparation of programmes concerning the implementation of the Strategy on Human Resource Management. The policy of equitable representation of non-majority communities is one of the twenty policies established by this Strategy.

The objectives set forth by the policy of equitable representation of members belonging to communities are planned to be achieved in the period 2004-2007 for the staff having secondary education, and by the year 2013 for the staff having higher education. Within the framework of these activities and in accordance with the Law on Civil Servants, the following plans were developed: the Annual Plan on Equitable Representation of Communities in the Ministry of Defence for 2004 (passed on 31.03.2004), and the Annual Plan on Equitable Representation of Communities in the Ministry of Defence for 2005 (passed on 31.08.2004).

Table 4: Ethnic Structure of the Employees in the Army of the Republic of Macedonia

Army of the Republic of Macedonia (ARM)			Officers	Non-commissioned officers	Professional soldiers	Civilians in the ARM	Total
2001	Macedonians	number	1368	1229	1071	1547	5215
		%	90,72	90,77	95,37	89,01	91,12
	Albanians	number	35	52	14	28	129
		%	2,32	3,84	1,25	1,61	2,25
	Turks	number	6	8	5	9	28
		%	0,40	0,59	0,45	0,52	0,49
	Serbs	number	35	21	15	112	183
		%	2,32	1,55	1,34	6,44	3,20
	Roma	number	1	2	3	12	18
		%	0,07	0,15	0,27	0,69	0,31
	Bosniaks	number	2	3	0	0	5
		%	0,13	0,22	0,00	0,00	0,09
	Vlachs	number	6	0	4	0	10
		%	0,40	0,00	0,36	0,00	0,17
	Others	number	55	39	11	30	135
		%	3,65	2,88	0,98	1,73	2,36
2002	Macedonians	number	1533	1507	2886	1504	7430
		%	90,93	88,96	94,93	88,31	91,47
	Albanians	number	45	104	69	23	241
		%	2,67	6,14	2,27	1,35	2,97
	Turks	number	8	7	12	6	33
		%	0,47	0,41	0,39	0,35	0,41
	Serbs	number	34	28	43	133	238
		%	2,02	1,65	1,41	7,81	2,93
	Roma	number	2	3	11	11	27
		%	0,12	0,18	0,36	0,65	0,33
	Bosniaks	number	2	3	7		12
		%	0,12	0,18	0,23	0,00	0,15
	Vlachs	number	6	1	4	5	16
		%	0,36	0,06	0,13	0,29	0,20
	Others	number	56	41	8	21	126
		%	3,32	2,42	0,26	1,23	1,55
2003	Macedonians	number	1499	1853	2755	1381	7488
		%	90,79	86,83	89,97	89,21	89,20
	Albanians	number	51	191	216	25	483

		%	3,09	8,95	7,05	1,61	5,75
		number	10	8	18	5	41
	Turks	%	0,61	0,37	0,59	0,32	0,49
		number	30	31	39	78	178
	Serbs	%	1,82	1,45	1,27	5,04	2,12
		number	2	4	14	9	29
	Roma	%	0,12	0,19	0,46	0,58	0,35
		number	2	4	8	8	22
	Bosniaks	%	0,12	0,19	0,26	0,52	0,26
		number	6	2	4	11	23
	Vlachs	%	0,36	0,09	0,13	0,71	0,27
		number	51	41	8	31	131
	Others	%	3,09	1,92	0,26	2,00	1,56
		number	1651	2134	3062	1548	8395
	TOTAL	%	100,00	100,00	100,00	100,00	100,00
		number	1388	1615	2396	1174	6573
	Macedonians	%	88,58	76,04	86,81	85,88	84,08
		number	68	390	275	63	796
	Albanians	%	4,34	18,36	9,96	4,61	10,18
		number	14	24	11	7	56
2004	Turks	%	0,89	1,13	0,40	0,51	0,72
		number	33	37	50	70	190
	Serbs	%	2,11	1,74	1,81	5,12	2,43
		number	3	4	10	10	27
	Roma	%	0,19	0,19	0,36	0,73	0,35
		number	2	10	5	7	24
	Bosniaks	%	0,13	0,47	0,18	0,51	0,31
		number	11	3	3	9	26
	Vlachs	%	0,70	0,14	0,11	0,66	0,33
		number	48	41	10	27	126
	Others	%	3,06	1,93	0,36	1,98	1,61
		number	1567	2124	2760	1367	7818
	TOTAL	%	100,00	100,00	100,00	100,00	100,00
		number	1361	1261	2503	1059	6184
	Macedonians	%	87,58	72,76	80,79	84,65	80,98
		number	90	355	360	70	875
	Albanians	%	5,79	20,48	11,62	5,60	11,46
		number	14	28	68	9	119
	Turks	%	0,90	1,62	2,19	0,72	1,56
		number	26	29	65	67	187
Projected situation 2005	Serbs	%	1,67	1,67	2,10	5,36	2,45
		number	3	10	47	12	72
	Roma	%	0,19	0,58	1,52	0,96	0,94
		number	1	8	8	5	22
	Bosniaks	%	0,06	0,46	0,26	0,40	0,29
		number	12	7	9	6	34
	Vlachs	%	0,77	0,40	0,29	0,48	0,45
		number	47	35	38	23	143
	Others	%	3,02	2,02	1,23	1,84	1,87
		number	1554	1733	3098	1251	7636
	TOTAL	%	100,00	100,00	100,00	100,00	100,00
		number					

Source: Ministry of Defence (MD)

The Budget expenditure for new employments for achieving equitable representation in the Ministry of Defence, shown in Table 5

Table 5

	2002	2003	2004
Salaries expenses	33.680.000	107.096.000	214.635.000
Training expenses	17.647.000	20.820.000	35.372.000
TOTAL	51.327.000	127.917.000	250.007.000
Note: Amount in MKD			

The figure on salary expenses encloses gross salaries and allowances of new employees in the Ministry of Defence. The total amount of budget expenditures for new employment of representatives of communities (achievement of equitable representation) for the period of 2002–2004 is 288.475.000 MKD.

8. What measures have been taken in relation to the use of flags and community symbols?

One of the accepted frameworks in the Ohrid Framework Agreement is the “*expression of identity*”, which envisions the use of symbols that mark the community’s identity.

Pursuant to this principle and the Amendments to the Constitution of the Republic of Macedonia in 2001, Amendment VIII pertaining to Article 48 (“Official Gazette of the Republic of Macedonia”, No. 91/01): *Members of communities have the right freely to express, foster and develop their identity and community attributes, and to use their community symbols; The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of all communities.*

In order to implement this constitutional provision on symbols marking the community’s identity, a Law on Use of Symbols of Members of Communities shall be prepared and is to be adopted in the first half of 2005.

9. What proportion of university students belongs to national minorities? Do enrolment procedures at State universities include rules or programmes that encourage the enrolment of candidates belonging to non-majority communities, and how is this implemented?

The ethnic breakdown of students in the Republic of Macedonia does not fully correspond with the ethnic structure of the population.

Consequently, the Government of the Republic of Macedonia has been implementing policies in order to increase the percentage of students who are members of ethnic communities not in the majority population of Macedonia. As of 1994 the Government sets a separate (additional) quota for government funding of higher education of students belonging to non-majority communities depending on their proportion in the total population (for example if 1000 are to be enrolled under state funding, in addition to this 1000 student quota, 230 Albanians could additionally be enrolled under state funding, since at that time the percentage of Albanians was 22.6%). This instrument of affirmative action has to a certain extent improved the representation of students members of ethnic communities after 1994 (for instance the representation of members of the Albanian ethnic community has increased from 2,23% in 1992/93 to 5.7% in 2000/01).

As this increase has not been sufficient the Government introduced additional measures. Thus in 1998 the Government defined a new category of students at state universities who individually pay the costs, which in turn provided for an additional increase of the total number of students, including those who do not belong to the majority population in the Republic of Macedonia. This intervention may, however, be noted only through an analysis of the absolute number of students and not through the analysis of a percentage breakdown of students by ethnic affiliation.

In order to yet increase the representation of students of ethnic communities the first private university in Macedonia in 2001 was opened (the University of Southeast Europe in Tetovo) with a

significant support by the international community. The languages used at the University are Albanian, Macedonian and English, and thus the total number of Albanians enrolled in higher education institutions in 2003/2004 has increased to 10,4% of the total number of students.

The Law Amending the Law on Higher Education ("Official Gazette of the Republic of Macedonia", No. 49/03) has raised the principle of affirmative action on the level of legal obligation in the process of enrolment at state universities.

The Law on the Establishment of State University in Tetovo was adopted ("Official Gazette of the Republic of Macedonia" No. 08/04), fulfils the obligation for state funding of higher education in the language spoken by at least 20% of the population in the Republic of Macedonia. The instruction at the Tetovo University (in Albanian) started in the 2004/05 academic year, following the accreditation of this higher education institution.

The members of ethnic communities may also exercise their right to education in mother tongue at the state universities in Skopje and Bitola. These universities have Departments for Albanian language and literature and Turkish language and literature. The Pedagogical Faculty in Skopje and Štip that train teachers for primary and secondary education also offer studies in Albanian and Turkish language.

The Ministry of Education and Science adopted a decision on including the Vlach language and literature in the curricula of the Pedagogical Faculty in Štip in order to encourage the participation of members of communities who are less than 20% of the total population in Macedonia. Additionally, there is a project under way to include the Roma language in the curricula of one of the Faculties of Philology in Macedonia. The Academy of Theatrical Arts also comprises Departments for the Albanian and Turkish drama.

After the establishment of the State University of Tetovo a total of 2350 students have been enrolled in the two accredited academic years. In the academic 2004/05 the total number of Albanian students has increased to 15,5% of the total number of students at all universities, with a possibility of growth (taking into account the enrolment period in February 2005). The participation of the Albanian ethnic community in the total population is 25,17%.

Below is the table containing particular data on the foregoing.

Year	Total number of students	Macedonians		Albanians		Turks		Roma		Vlachs		Serbs		others	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
1992/93*	26299	23770	90,4	586	2,23	172	0,65	13	0,05	76	0,29	840	3,19	842	3,20
1993/94*	26834	24998	93,1	764	2,85	167	0,62	9	0,03	97	0,36	453	1,69	346	1,29
1994/95*	28569	26183	91,6	974	3,41	175	0,61	17	0,06	159	0,56	521	1,82	540	1,89
1995/96*	29153	26481	90,8	1202	4,12	219	0,75	18	0,06	212	0,73	528	1,81	493	1,69
1996/97*	30441	27302	89,7	1408	4,62	277	0,91	23	0,07	234	0,77	574	1,88	623	2,05
1997/98*	31768	28986	91,2	1308	4,12	245	0,77	35	0,11	287	0,90	518	1,63	389	1,22
1998/99*	34850	31095	89,2	1916	5,50	371	1,06	48	0,14	329	0,94	666	1,91	425	1,22
1999/00*	36679	32629	88,9	2028	5,53	409	1,11	71	0,19	374	1,02	717	1,95	451	1,23
2000/01*	40075	35396	88,3	2285	5,70	444	1,1	108	0,26	408	1,01	746	1,86	709	1,56
2001/02**	45493	39777	87,44	3040	6,68	601	1,32	127	0,28	417	0,92	822	1,81	709	1,58
2002/03**	47798	40778	85,31	4292	8,98	683	1,43	140	0,29	440	0,92	807	1,69	658	1,38
2003/04***	51311	43645	85,06	5335	10,4	608	1,18	100	0,19	359	0,70	701	1,37	563	1,1
2004/05****	61556	48900	79,44	9540	15,50	825	1,34	188	0,31	478	0,78	936	1,52	689	1,12

Source: Ministry of Education

*The data for 1992/1993 to 2001/2002 pertain to the then existing two universities – the University of Ss. Cyril and Methodius in Skopje and the University of St. Clement of Ohrid in Bitola.

** The data for 2001/2002 to 2003/2004 pertain to the University of Ss. Cyril and Methodius in Skopje and the University of St. Clement of Ohrid in Bitola supplemented by data for 2001 on the newly established University of Southeast Europe in Tetovo.

*** The data for 2003/2004 pertain to the existing three universities (the University of Ss. Cyril and Methodius in Skopje, the University of St. Clement of Ohrid in Bitola and the University of Southeast Europe, including the Faculty of Social Sciences in Skopje).

**** The data for 2004/2005 pertain to the University of Ss. Cyril and Methodius in Skopje, the University of St. Clement of Ohrid in Bitola, the University of Southeast Europe in Tetovo, the Faculty of Social Sciences in Skopje, supplemented by data on the State University of Tetovo which started operating on 1 October 2004 (with a total of 2350 students for the two accredited academic years).

Consequently, positive trends have been detected in all non-majority communities (excluding the Serb community). This positive trend especially pertains to the Albanian ethnic community.

10. Has the Framework Convention for the Protection of National Minorities been ratified and how is it implemented?

The Republic of Macedonia ratified the Framework Convention for the Protection of National Minorities (FCPNM) on 10.04.1997. It entered into force on 01.02.1998. The Initial Report on the Implementation of the Framework Convention was submitted in September 2003, which was followed by a visit of a Delegation of the FCPNM Advisory Committee in December 2003. The Committee drafted and adopted its Opinion in May 2004 and submitted it to the Government in June 2004. In the beginning of January 2005, the Government's Commentary was submitted to the Advisory Committee. A debate and adoption of a resolution is expected in the Committee of Ministers of the Council of Europe.

As regards the implementation of the FCPNM, one should take into consideration the fact that besides the obligations under the Convention, the basic framework for the minority policy in the Republic of Macedonia has been the implementation of the Ohrid Framework Agreement, which generally goes beyond the standards determined by the Framework Convention for the Protection of the National Minorities.

Taking into account the Constitutional Amendments of 2001 ("Official Gazette of the Republic of Macedonia", No. 91/01), in 2003, the Government of the Republic of Macedonia submitted a revised Declaration³, under which: *The term national minorities used in the Framework Convention and the provisions thereof, shall apply to the citizens of the Republic of Macedonia living within its borders who are part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Roma people and the Bosniak people.*

The legislation of the Republic of Macedonia is compatible with the provisions of the Convention.

The right to free expression of national identity, encompassed with Article 3 of the Convention, corresponds with Article 8 of the Constitution of the Republic of Macedonia ("Official Gazette of Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03), according to which a fundamental value of the constitutional order of the Republic of Macedonia is the free expression of national identity. In 2002, this constitutional provision was implemented in the Law Amending the Law on the Census of the Population, Households and Dwellings in the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 43/02). Pursuant to Article 9 of the Law, for persons covered by the Census, data shall also be collected on their ethnic characteristics, i.e. their ethnic affiliation and religious confession.

The right to equality before the law and equal treatment, guaranteed with Article 4 of the Convention has been included in Article 9 of the Constitution of the Republic of Macedonia: *Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of gender, race, colour of skin, ethnic or social origin, political or religious conviction, property and social status. Citizens are equal before the Constitution and law.*

Every citizen may invoke the protection of freedoms and rights established by the Constitution before the regular courts and before the Constitutional Court of the Republic of Macedonia, through a procedure based upon the principles of priority and urgency. Judicial protection of the legality of individual acts of the state administration and of other institutions performing public mandates is guaranteed. A citizen has the right to be informed on human rights and fundamental freedoms as well as to actively contribute, individually or jointly with others, towards their promotion and protection (Article 50 of the Constitution). The constitutional provisions pertaining to the equality of all before the

³ The initial Declaration included in the ratification instrument deposited by the Republic of Macedonia on 10.04.1997 reads as follows: *The term "national minorities" used in the Framework Convention and the provisions of the same Convention shall be applied to the citizens of the Republic of Macedonia who live within its borders and who are part of the Albanian people, Turkish people, Vlach people, Serbian people, Roma people and Bosniak people.*

law and to the equal right to protection have been implemented in the Law on Courts ("Official Gazette of the Republic of Macedonia", Nos. 36/95, 45/95 and 64/03).

The right of members of communities to maintain and develop their culture and to preserve the essential elements of their identity – their religion, language, traditions and cultural heritage - guaranteed in Article 5 of the Convention, has been incorporated in the legislation of the Republic of Macedonia. Namely, in accordance with Article 48 of the Constitution of the Republic of Macedonia, members of communities have a right freely to express, foster and develop their identity and community attributes, and to use their community symbols; The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of all communities. Members of communities have the right to establish institutions for culture, art, education as well as science and other associations for the expression, fostering and development of their identity. This constitutional provision has been implemented in the Law on Culture ("Official Gazette of the Republic of Macedonia", Nos. 31/98, 49/03 and 66/03), Law on Local Self-Government ("Official Gazette of the Republic of Macedonia", No. 5/02), Law on Copyright and Related Rights ("Official Gazette of the Republic of Macedonia", Nos. 47/96, 03/98, 98/02 and 04/05) and in all other relevant laws.

The right to peaceful assembly, freedom of association, freedom of expression and freedom of thought, conscience and religion encompassed with Article 7 of the Convention has been implemented in the Constitution and the laws in the Republic of Macedonia. Namely, Article 21 of the Constitution guarantees the right of citizens to assemble peacefully and to express public protest without prior announcement or a special license. The exercise of this right may only be restricted during a state of emergency or war. The constitutional provision on the right to peaceful assembly has been regulated with the Law on Public Gatherings ("Official Gazette of the Republic of Macedonia", No. 55/95).

The freedom of association has been guaranteed in Article 20 of the Constitution of the Republic of Macedonia. Citizens are guaranteed freedom of association to exercise and protect their political, economic, social, cultural and other rights and convictions. Citizens may freely establish associations of citizens and political parties, join them or resign from them. The programmes and activities of associations of citizens and political parties may not be directed at the violent destruction of the constitutional order of the Republic, or at encouragement or incitement to military aggression or ethnic, racial or religious hatred or intolerance. Military or paramilitary associations, which do not belong to the Armed Forces of the Republic of Macedonia, are prohibited. The constitutional provisions on the freedom of association have been applied in the Law on Political Parties ("Official Gazette of the Republic of Macedonia", No. 76/04) and in the Law on Associations of Citizens and Foundations ("Official Gazette of the Republic of Macedonia", No. 31/98).

The right of every member of a community to manifest his or her religion or belief and to establish religious institutions, organisations and associations guaranteed in Article 8 of the Convention has been incorporated in the legislation. Namely, Article 19 of the Constitution of the Republic of Macedonia guarantees the freedom of religious confession. The right to express one's faith freely and publicly, individually or with others is guaranteed. The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelical Methodist Church, the Jewish Community and other Religious communities and groups are separate from the state and equal before the law. The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelical Methodist Church, the Jewish Community and other Religious communities and groups are free to establish schools and other social and charitable institutions, by way of a procedure regulated by law.

Constitutional provisions guaranteeing the freedom of religious confession and the status of religious communities and groups have been applied in the Law on Religious Communities and Groups ("Official Gazette of the Republic of Macedonia", No 35/97) – for more details see [I J 2](#).

The right to freedom of expression of every member of a community included in Article 9 of the Convention has been implemented in the national legislation. According to Article 16, the Constitution of the Republic of Macedonia guarantees the freedom of speech, public address, public information

and the establishment of institutions for public information. Furthermore, free access to information and the freedom of reception and transmission of information have been guaranteed. The Framework Agreement, in Annex C - *Implementation and Confidence-Building Measures*, item 6 - *Culture, Education and Use of Languages*, emphasises the need to increase the assistance for projects in the area of media in order to further strengthen radio, TV and print media, including Albanian language and multiethnic media, as well as to increase professional media training programmes for members of communities not in the majority in Macedonia. In that sense, provisions of the Broadcasting Law ("Official Gazette of the Republic of Macedonia", Nos. 20/97 and 70/03) set forth an obligation of the public broadcasting enterprise that broadcasts on the entire territory of the Republic of Macedonia – Macedonian Radio and Television, to broadcast, apart from Macedonian language programmes, programmes in the languages of all communities. Hence, the Macedonian Radio and Television has fully allocated its Third Channel for the community languages programmes. Public enterprises broadcasting at the local level are obliged to broadcast programmes in the language of a community that constitutes a majority or a substantial number of the population in the respective area.

In addition, Article 45, paragraph 4 of the Law on Broadcasting provides for the right of the commercial broadcasters (commercial broadcasting companies) to broadcast, apart from the Macedonian language programmes, programmes in the language of communities.

The right of the members of communities to use their language, in private and in public, orally and in writing, in relations between these persons and the administrative authorities, as well as the right to be informed promptly, in a language which he/she understands, of the reasons for his/her arrests, guaranteed with Article 10 of the Convention, have been respectively implemented in Article 7 of the Constitution of the Republic of Macedonia which governs the right to use of languages, the Law Amending the Law on General Administrative Procedure ("Official Gazette of the Republic of Macedonia", No. 44/02), the Law Amending the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", No. 44/02).

The right of member of a community to use his/her surname and name in his/her language and the right to display signs, inscriptions and other information of a private nature visible to the public, encompassed in Article 11 of the Convention, have been implemented in the legislation of the Republic of Macedonia. Namely, pursuant to Article 1 of the Law on Personal Name ("Official Gazette of the Republic of Macedonia", No. 08/95), the personal name is a citizen's personal right. A citizen uses his/her personal name as written in the Birth Register. Members of communities have the right to use their community's language and alphabet when writing their personal name in the registers and IDs.

Pursuant to the Law Amending the Law on Travel Documents of the Citizens of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 20/03 and 46/04), for citizens who speak an official language other than Macedonian, upon their personal request, the form for the passport and emergency passport shall, as well, be printed in the official language and the alphabet that they use. In addition, for citizens who speak an official language other than Macedonian, upon their personal request, the data that are filled in the passport and the emergency passport may be written in the Macedonian language and its Cyrillic alphabet and in the official language and alphabet used by the respective citizen.

For citizens who speak a language other than the official, upon their personal request, the personal name data that are filled in the passport, may be written in the Macedonian language and its Cyrillic alphabet and in the language and alphabet used by the respective citizen.

The Law Amending the Law on Personal Identity Card ("Official Gazette of the Republic of Macedonia", Nos. 38/02 and 16/04) prescribes that for the citizens who speak an official language other than Macedonian, the form of the identity card shall be printed and the data therein shall be written in the official language and alphabet used by the respective citizen.

Pursuant to the Law Amending the Law on the Road Traffic Safety ("Official Gazette of the Republic of Macedonia", Nos. 38/02 and 38/04), citizens who speak an official language other than the

Macedonian, the form of the driving licence, licence for tractor driver and the driving certificate, shall be printed and the data therein shall be written, besides in Macedonian and its Cyrillic alphabet, in the official language and alphabet used by the respective citizen. Identical solution exists with regard to the printing of the form for traffic licence and the vehicle registration certificate, and the data filled therein.

The Law Amending the Law on Personal Registers ("Official Gazette of the Republic of Macedonia", No. 38/02) prescribes that in the local self-government units in which at least 20% of the citizens speak an official language other than Macedonian, the form of the registers shall be printed and the data therein shall also be written in the official language and alphabet used by the respective citizen. The certificates being issued on the basis of the registers shall be written in Macedonian and in the official language and the alphabet used by the respective citizen.

The obligation of the state to promote equal opportunities for access to education for members of communities included in Article 12 of the Convention, has been implemented pursuant to the Law on Protection of Children ("Official Gazette of the Republic of Macedonia", Nos. 98/00, 17/03 and 65/04), Law on Primary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 52/02- consolidated text, 40/03, 42/03, 63/04 and 82/04), Law on Secondary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/2002, 52/02- consolidated text, 40/03, 42/03 and 67/04) and Law on Higher Education ("Official Gazette of the Republic of Macedonia", Nos. 64/00 and 49/03).

The right of members of communities to set up private educational establishments guaranteed in Article 13 of the Convention has been implemented in the legislation of the Republic of Macedonia, with the exception of the primary education. Namely, pursuant to the Constitution of the Republic of Macedonia (Article 45), citizens are entitled to establish private schools at all levels, with the exception of the primary education. Article 34 of the Law on Higher Education guarantees the right to establishment of higher education institutions.

The right to learn one's language, as well as the obligation of the state, within the framework of the education system and in areas inhabited by members of communities traditionally or in substantial numbers, to ensure teaching of or instruction in their languages, encompassed in Article 14 of the Convention, have been incorporated in the legislation of the Republic of Macedonia. The Government of the Republic of Macedonia provides full pre-school, primary and secondary education in community languages, in accordance with the conditions prescribed by law. Article 95 of the Law on Higher Education guarantees the right to conduct the teaching at the state institutions of higher education, under respective curricula, in the language of a community other than the Macedonian. In doing so, state funding is provided for the higher education and for the language used by at least 20% of the population of the Republic of Macedonia.

As regards the teaching at private institutions of higher education, the same Article stipulates that it may be conducted in the languages of communities that are not in the majority in the Republic of Macedonia or in some internationally spoken languages.

The right to effective participation of members of communities in cultural, social and economic life and in public affairs, in particular those affecting them, guaranteed in Article 15 of the Convention, has been implemented in the Constitution and the laws in the Republic of Macedonia. Namely, pursuant to Article 22 of the Constitution of the Republic of Macedonia, every citizen who has attained the age of 18 years acquires the right to vote. The right to vote is equal, universal and is exercised at free elections by secret ballot. Persons deprived of the civil capacity do not have the right to vote.

The right to vote and its exercise have been applied in a number of laws, such as the Law on Election of Representatives in the Assembly of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 42/02, 50/02 and 46/04), Law on Election of the President of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 20/94, 48/99 and

11/04), Law on Local Elections ("Official Gazette of the Republic of Macedonia", Nos. 45/04, 52/04 and 60/04), Law on Voters' List ("Official Gazette of the Republic of Macedonia", Nos. 42/02 and 35/04) and Law on Polling Stations ("Official Gazette of the Republic of Macedonia", No. 50/97).

Article 14 of the Convention has also been implemented in a number of other laws, which include provisions on non-discrimination, like the Law on Courts, Law on Culture, Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04, 69/04) etc.

The right to freedom of movement and to free choice of place of residence, guaranteed in Article 17 of the Convention, has been implemented in the Constitution and the corresponding laws of the Republic of Macedonia. Namely, pursuant to Article 27 of the Constitution, every citizen of the Republic of Macedonia has the right to free movement within the territory of the Republic and freely to choose his/her place of residence; every citizen has the right to leave the territory of the Republic and to return to the Republic; the exercise of these rights may be restricted by law only in cases where it is necessary for the protection of the security of the Republic, criminal investigation or protection of public health. The constitutionally guaranteed right to free movement and the right to free choice of place of residence have been applied in the Law on Reporting Dwellings and Residence of Citizens ("Official Gazette of the Republic of Macedonia", Nos. 36/92, 12/93 and 43/00).

11. Provide an overview (including statistics) of the situation of Roma, and the Government's plans for their integration (adoption and implementation, including details on funding, with examples of concrete results).

a) Current situation:

The 1991 Constitution of the Republic of Macedonia equally treats the Roma with other communities. Namely, in accordance with Amendment IV to the Constitution, *"The citizens of the Republic of Macedonia, the Macedonian people, as well as citizens living within its borders, who are part of the Albanian people, the Turkish people, the Vlach people, the Serb people, the **Roma people**, the Bosniak people... taking responsibility for the present and future of their fatherland... equal in rights and obligations towards the common good - the Republic of Macedonia... have decided to establish the Republic of Macedonia as an independent, sovereign state, with the intention of establishing and consolidating the rule of law, guaranteeing human rights and civil liberties, providing peaceful coexistence, social justice, economic well-being and prosperity in the life of the individual and the community..."*

The Republic of Macedonia is the first state in the world to mention the Roma in its Constitution and recognise them as a constituent people.

The Roma have freely expressed their ethnic affiliation in all censuses conducted in the Republic of Macedonia after 1948 (the forms have contained sections on ethnic affiliation, including a section for the Roma). As of 1994, census forms have also been printed in the Roma language in addition to Macedonian.

According to data from the last Census in 2002, there were 53.879 Roma living in the Republic of Macedonia, representing 2,66% of the total population. This was an increase in their number as compared to the 1994 Census, when the number of the Roma was 43.707, or 2,2% of the total population.

A breakdown of the Roman population according to age and gender is given in the following table:

Total population of Roma in the Republic of Macedonia by age (5-yearly increments) and by gender, 2002 Census						
Total population				Breakdown (%)		
Roma				Roma		
Total	Male	Female		Total	Male	Female

Total	53879	27137	26742	100.00	100.00	100.00
0-4	5514	2776	2738	10.23	10.23	10.24
5-9	5565	2815	2750	10.33	10.37	10.28
10-14	5890	2978	2912	10.93	10.97	10.89
15-19	5364	2752	2612	9.96	10.14	9.77
20-24	5196	2727	2469	9.64	10.05	9.23
25-29	4519	2322	2197	8.39	8.56	8.22
30-34	3881	1932	1949	7.20	7.12	7.29
35-39	3875	1969	1906	7.19	7.26	7.13
40-44	3679	1837	1842	6.83	6.77	6.89
45-49	3225	1656	1569	5.99	6.10	5.87
50-54	2346	1151	1195	4.35	4.24	4.47
55-59	1533	733	800	2.85	2.70	2.99
60-64	1241	564	677	2.30	2.08	2.53
65-69	983	468	515	1.82	1.72	1.93
70-74	607	274	333	1.13	1.01	1.25
75 and more	397	165	232	0.74	0.61	0.87
Unknown	64	18	46	0.12	0.07	0.17

Since the introduction of political pluralism in the Republic of Macedonia, the Roma have been taking an active part in political life through the establishment of their own political parties.

Several political parties of ethnic Roma have been founded during this period, including the Party for the Full Emancipation of the Roma (PFER), the United Party of the Roma (UPR), the Alliance of the Roma in Macedonia, the United Party of the Roma, and the Democratic Party of the Roma. The PFER and UPR later joined forces to form the United Party for Emancipation. Experience has shown that Roma parties often form coalitions with the major political parties.

Since the first multiparty elections in the Republic of Macedonia, the Roma have been represented in the Assembly (two Representatives in 1990, one Representative in 1994, 1998 and 2002 respectively).

One of the members of the Committee on Inter-Ethnic Relations, which consists of 19 members, should be elected from the ranks of the Roma Representatives in the Assembly (If a community has no Representatives in the Assembly, following consultations with representatives of that community, the Ombudsman proposes the rest of the members of the Committee).

One municipality In the Republic of Macedonia (Šuto Orizari, near Skopje) has a predominantly Roma population. The mayor is an ethnic Roma, as well as the majority of the councillors.

There are between 30 and 40 Roma non-governmental organisations which are active in the fields of human rights, culture, education, environmental issues and infrastructure projects.

The right to free expression of cultural identity is fully guaranteed and is also supported by public funds supporting publishing, public events etc. There are a number of Roma folk and drama groups, some of them having a long tradition.

Even though the question of standardisation of the Roma language in Europe and the world is a complex one because of the existence of many dialects, the first grammar book of the Roma language was published in the Republic of Macedonia in 1980. This is considered the first attempt on an international level for the standardisation of the Roma language. A number of publications in the Roma language have been printed ever since, including a textbook for supplementary courses in Roma.

Currently there is optional instruction in Roma language in a school in the municipality of Šuto Orizari.

There are a number of periodicals printed in Roma, as well several television and radio stations. Within the programmes of the public broadcaster Macedonian Radio and Television, Macedonian Television broadcasts two thirty-minute programmes a week in Roma, and Macedonian Radio broadcasts a daily thirty-minute programme in the Roma language through Network 3. Radio Kumanovo has a Roma department, and there are also programmes in Roma broadcast by Radio Tetovo (thirty minutes a day).

In 2002, 4.032 hours of television programmes were broadcast in Roma (out of the total of 158.289 hours), as well as 1.385 hours of radio programmes (out of the total of 133.917 hours).

Two private television stations broadcast programmes in both Roma and Macedonian — BTR and TV Šutel.

The current social and economic situation of Roma, who are especially burdened by transition problems, places them in the category of the poorest citizens of the Republic of Macedonia. According to the data of the Employment Agency of the Republic of Macedonia, the total number of unemployed Roma on 31 August 2004 was 17.014 (4.3% of the total number of the unemployed), of which 7.114 were women. Below is the breakdown of their educational levels and gender.

Unskilled		Half-skilled		Skilled and highly skilled		Secondary education		Further education		Higher education	
Total	Women	Total	Women	Total	Women	Total	Women	Total	Women	Total	Women
15.014	6.725	401	71	793	171	376	139	8	1	19	7

According to the figures for 1996, 11,7% of the total number of families receiving public welfare benefits were Roma, the majority of whom were non-skilled workers. Data from 2003 shows that about 12% of the total number of households in the Republic of Macedonia receiving public welfare benefits (64.500) belong to the Roma community (about 7.700 households).

The following table gives a detailed breakdown of the educational levels of the Roma population.

Total Roma population in the Republic of Macedonia according to gender, age and educational levels, 2002 census										
Age	Total population	Still in process of primary education ¹	Educational Level							
			No education	Incomplete primary education	Primary school	Secondary school	Higher vocational school	Higher education, (university, academy etc.)	Master's degree	Doctorate
Total Roma	36910	292	8552	10556	13789	3570	65	82	2	2
Male	18568	156	2636	5006	7971	2694	48	53	2	2
Female	18342	136	5916	5550	5818	876	17	29	0	0
15-19	5364	291	1120	1354	2401	198	0	0	0	0
Male	2752	155	439	674	1360	124	0	0	0	0
Female	2612	136	681	680	1041	74	0	0	0	0
20-24	5196	0	1089	1584	1981	532	1	9	0	0
Male	2727	0	438	749	1183	352	1	4	0	0
Female	2469	0	651	835	798	180	0	5	0	0
25-29	4519	0	802	1365	1948	389	3	11	1	0
Male	2322	0	278	669	1093	272	2	7	1	0
Female	2197	0	524	696	855	117	1	4	0	0
30-34	3881	0	661	1054	1726	426	3	11	0	0
Male	1932	0	208	440	962	315	1	6	0	0
Female	1949	0	453	614	764	111	2	5	0	0
35-39	3875	0	732	859	1650	611	10	13	0	0
Male	1969	0	208	371	916	459	8	7	0	0
Female	1906	0	524	488	734	152	2	6	0	0

40-44	3679	0	848	872	1372	572	6	8	1	0
Male	1837	0	233	375	772	449	3	4	1	0
Female	1842	0	615	497	600	123	3	4	0	0
45-49	3225	0	810	904	1128	363	9	11	0	0
Male	1656	0	231	430	674	305	7	9	0	0
Female	1569	0	579	474	454	58	2	2	0	0
50-54	2346	0	548	815	746	212	13	11	0	1
Male	1151	0	125	372	459	175	10	9	0	1
Female	1195	0	423	443	287	37	3	2	0	0
55-59	1533	0	392	626	385	124	6	0	0	0
Male	733	0	92	285	240	111	5	0	0	0
Female	800	0	300	341	145	13	1	0	0	0
60-64	1241	0	387	544	223	74	9	3	0	1
Male	564	0	61	273	153	66	7	3	0	1
Female	677	0	326	271	70	8	2	0	0	0
65-69	983	0	423	361	141	51	4	3	0	0
Male	468	0	103	211	98	50	3	3	0	0
Female	515	0	320	150	43	1	1	0	0	0
70-74	607	0	412	148	37	10	0	0	0	0
Male	274	0	123	114	28	9	0	0	0	0
Female	333	0	289	34	9	1	0	0	0	0
75-79	258	0	189	36	26	5	1	1	0	0
Male	108	0	53	26	22	5	1	1	0	0
Female	150	0	136	10	4	0	0	0	0	0
80-84	97	0	75	17	4	1	0	0	0	0
Male	42	0	27	11	3	1	0	0	0	0
Female	55	0	48	6	1	0	0	0	0	0
85 and over	42	0	37	5	0	0	0	0	0	0
Male	15	0	12	3	0	0	0	0	0	0
Female	27	0	25	2	0	0	0	0	0	0
Unknown	64	1	27	12	21	2	0	1	0	0
Male	18	1	5	3	8	1	0	0	0	0
Female	46	0	22	9	13	1	0	1	0	0

The Government of the Republic of Macedonia encourages the enrolment of the Roma population in universities with a system of affirmative action through state quotas (for more details see [I J 9](#)).

The following represents data on the literacy of the Roma population.

Total population of Roma in the Republic of Macedonia 10 years of age and over (in 5-yearly increments) according to gender and literacy, 2002 Census						
Age	Total		Male		Female	
	Literate	Illiterate	Literate	Illiterate	Literate	Illiterate
Roma – Total	33969	8831	18782	2764	15187	6067
10-14	5040	850	2583	395	2457	455
15-19	4300	1064	2342	410	1958	654
20-24	4183	1013	2318	409	1865	604
25-29	3760	759	2070	252	1690	507
30-34	3253	628	1741	191	1512	437
35-39	3189	686	1787	182	1402	504
40-44	2899	780	1640	197	1259	583
45-49	2486	739	1464	192	1022	547
50-54	1825	521	1037	114	788	407
55-59	1156	377	648	85	508	292
60-64	881	360	512	52	369	308
65-69	594	389	375	93	219	296
70-74	243	364	172	102	71	262
75-79	84	174	58	50	26	124

80-84	28	69	16	26	12	43
85 and more	10	32	7	8	3	24
Unknown	38	26	12	6	26	20

Government plans for integration:

In early 2004, in order to develop a consistent approach towards the improvement of the situation of the Roma community and their swifter integration into society, the Government of the Republic of Macedonia began preparing a National Strategy for Roma, whose draft was officially presented in mid-September 2004. The organisation of a round table discussion in mid-October 2004 marked the beginning of the public debate on the Draft Strategy for Roma. The basic aim of the public debate was to allow for greater participation, particularly on the part of the Roma community in the preparation of this document.

The National Strategy for Roma in the Republic of Macedonia was adopted by the Government of the Republic of Macedonia on 31.01.2005 and its implementation can begin.

The most important objective of the Strategy is to promote the strengthening of the position and integration of Roma within the main social and economic structures in the Republic of Macedonia by determining the best way to realise a meaningful multidimensional state policy, which is to serve as a pivotal cornerstone on which concrete projects dealing with more specific areas will be built. The Strategy should also respond to the genuine needs, problems and priorities of the Roma and to introduce a balanced and sustainable approach by combining the set objectives in harmony with the legally guaranteed human rights and state policy. The Strategy is a complex document, which couldn't be prepared with the participation of a single Ministry or by the Government alone. It was imperative that representatives of the Roma community should take part in both its preparation and implementation so that a consensus and broad support can be achieved during its implementation on the ground. Only a multidimensional approach in the Strategy's development and application can guarantee a successful implementation.

The general aims of the National Strategy for Roma are as follows:

- A greater integration of Roma in the mainstream of Macedonian society;
- The reduction of poverty among Roma as the most marginalised group;
- The long-term development of every aspect of the Roma community;
- The full engagement of the Macedonian state in the preparation and implementation of the priorities set forth in the Strategy; and
- The establishment of the normative and institutional prerequisites for the reaching European Union standards.

The preparation of this important document for Roma was supported by the Project on Ethnic Relations (PER) organisation.

In addition to this, the Government of the Republic of Macedonia took an active part in the initiative known as the Decade of Roma Inclusion. At the initiative of the World Bank and the Open Society Institute, eight Prime Ministers from the governments in South-Eastern Europe were invited to Budapest in 2003 (30.06 -01.07) — those of Macedonia, Bulgaria, Serbia and Montenegro, Croatia, the Czech Republic, Slovakia, Hungary and Romania. They expressed their commitment to participate in the initiative and to make an active contribution to a more rapid integration of Roma in their countries. The first conference of the Steering Committee was held in December 2003 in Budapest, where several important decisions were made:

- A Steering Committee of the *Decade* was established where each state is represented by one member;
- A Secretariat of the *Decade* was formed with its seat in Budapest;
- Each state was obliged to establish a National Working Group, which would include Roma representatives for the preparation of National Action Plans of the *Decade*;

- Four priority areas of the *Decade* were identified - education, employment, healthcare and housing - for which the National Working Groups would develop action plans, as well as three main themes which should permeate the priority areas: the reduction of poverty, women's issues and non-discrimination.

The Macedonian Prime Minister appointed a National Coordinator of the Decade of Roma Inclusion. A National Working Group was formed whose members include representatives of several ministries, state institutions, political representatives of the Roma and representatives of Roma NGOs, which developed four Draft Action Plans for the four priority areas of the *Decade*. These were distributed to several ministries, to political parties of the Roma and to virtually all Roma NGOs for comments and suggestions.

A conference was organised in October 2004 which attracted a large number of representatives from political parties and NGOs of the Roma. The National Action Plans were finalised and adopted on 31.01.2005 by the Government.

12. Provide a description of existing language legislation and language training programmes for minority languages. Is language legislation in line with the Council of Europe's recommendations?

The Republic of Macedonia ratified the Framework Convention for the Protection of National Minorities (FCPNM) of the Council of Europe on 10.04.1997. The Convention came into force on 01.02.1998, after which the provisions of the Convention became a constituent part of national legislation. The Republic of Macedonia also signed the European Charter for Regional or Minority Languages (25.07.1996), which has still not been ratified.

Article 12 of the FCPNM concerning the *right to education in the languages of the minorities, adequate opportunities for teacher training and access to textbooks, the promotion of equal opportunities regarding access to education at all levels for persons belonging to national minorities*, has been incorporated into the provisions of the laws on primary, secondary and higher education in the Republic of Macedonia.

Article 3 and Article 8 of the Law on Primary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 52/02(consolidated text), 40/03, 42/03 and 63/04) guarantees equal rights in primary education to all children, Macedonians and those who are a part of the Albanian, Turkish, Roma, Vlach, Serb and Bosniak people, as well as to all others. For pupils who are part of the Albanian and Turkish communities, the education process in kindergarten groups (see Table 1) and primary schools (See Table 2) is performed in the pupil's mother tongue using the corresponding alphabets.

The pupils of Serbian, Turkish, Roma and Vlach ethnic affiliations, who receive instruction in Macedonian, can also learn their mother tongue.

In secondary education, in accordance with Article 3 and 4 of the Law on Secondary Education ("Official Gazette of the Republic of Macedonia", Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/02, 52/02 (consolidated text), 40/03, 42/03 and 67/04) the education process is performed in Macedonian, Albanian and Turkish.

Pupils of ethnic Albanian affiliation in Macedonia can receive instruction in Albanian in six municipalities as well as in the city of Skopje: out of a total of 90 secondary schools, instruction takes place in Albanian in 26 and in Turkish in 7. In the school year 2002/2003, there were 94.868 pupils enrolled in secondary education, of which 76.459 (80,59%) received instruction in Macedonian, 17.624 (18,57%) in Albanian, and 785 (0,82%) in Turkish. This year (2004/05) the percentage of ethnic Albanians in the total number of students in secondary education reached 22,52%.

In the enrolment competitions for higher education, in accordance with Article 23 of the Law Amending the Law on Higher Education ("Official Gazette of the Republic of Macedonia", No. 49/03),

an additional quota, set by the Government of the Republic of Macedonia, is provided for communities benefiting from positive discrimination (for more details see [I J 9](#)).

Article 14 of the FCPNM (*recognising that every person belonging to a national minority has the right to learn in his or her minority language*) has been incorporated into the legislation mentioned above. The Republic of Macedonia provides for pre-school, primary and secondary education, as well as higher education in linguistics, pedagogy and dramatic arts in the languages of several minorities, or more specifically, primary education in Albanian, Turkish and Serbian and secondary and higher education in Albanian and Turkish.

The academic year 2004/2005 saw the introduction of the optional study of the Vlach language in the Faculty of Pedagogy in Štip in order to train up teachers for optional instruction in Vlach. Additionally, there is a project under way to include the Roma language in the curricula of one of the Faculties of Philology in Macedonia.

Table 1

Kindergarten groups by language in specific municipalities of the Republic of Macedonia, as at the beginning of school year 2002/2003										
Municipality	Total		Macedonian		Albanian		Turkish		Serbian	
	Groups	Children	Groups	Children	Groups	Children	Groups	Children	Groups	Children
Berovo	5	38	5	38						
Bitola	44	715	43	690	1	25				
Brod, Makedonski	2	37	2	37						
Valandovo	4	58	4	58						
Vinica	10	155	10	155						
Gevgelija	3	22	3	22						
Gostivar	41	892	14	228	23	603	4	61		
Debar	11	176	7	122	2	26	2	28		
Delčevo	11	139	11	139						
Demir Hisar	3	24	3	24						
Kavadarci	29	504	29	504						
Kičevo	32	575	12	236	20	339				
Kočani	14	255	14	255						
Kratovo	0	0								
Kriva Palanka	0	0								
Kruševo	4	56	3	41	1	15				
Kumanovo	69	1,531	36	668	32	856			1	7
Negotino	11	201	11	201						
Ohrid	23	538	20	474	2	46	1	18		
Prilep	39	802	37	772	1	20	1	10		
Probištip	4	74	4	74						
Radoviš	8	133	8	133						
Resen	5	70	4	51			1	19		
Sveti Nikole	6	69	6	69						
Gazi Baba	40	908	28	596	12	312				
Karpoš	46	1,019	24	510	22	509				
Kisela Voda	42	933	35	698	7	235				
Centar	14	324	7	166	4	106	3	52		
Čair	25	619	14	332	10	279			1	8
Struga	29	594	15	282	14	312				
Strumica	40	629	40	629						
Tetovo	68	2,240	11	194	55	2,018	2	28		
Veles	33	598	31	552					2	46
Štip	20	298	20	298						
Total:	735	15,226	511	9,248	206	5,701	14	216	4	61

Table 2

Number of primary schools by language in the school year 2002/2003										
Municipality	Mac.	Mac. Alb.	Mac. Alb. Tur.	Mac. Tur.	Mac. Serb.	Mac. Alb. Serb.	Alb.	Alb. Tur.	Tur.	TOTAL
Berovo	3									3
Bitola	13	2	1	1						17
Brod, Makedonski	4									4
Valandovo				2						2
Vinica	4									4
Gevgelija	6			1						7
Gostivar	2	4	4				6			16
Debar	1	1	1				1		1	5
Delčevo	3									3
Demir Hisar	2	1								3
Kavadarci	7									7
Kičevo	4	3					3			10
Kočani	10									10
Kratovo	1									1
Kriva Palanka	3									3
Kruševo		3								3
Kumanovo	12	3			2	3	7			27
Negotino	3			1						4
Ohrid	8	1	1							10
Prilep	17	1		1						19
Probištip	2									2
Radoviš	3			3						6
Resen	1	2		2						5
Sveti Nikole	6									6
Gazi Baba	11	6					1			18
Karpoš	14	4				1	4			23
Kisela Voda	14	5			1					20
Centar	7		1			1	2	1		12
Čair	4	7	1		1		2			15
Struga	7	2	1				3			13
Strumica	8			6						14
Tetovo	2	14	3				15			34
Veles	8	3			1					12
Štip	4			2						6
TOTAL:	194	62	13	19	5	5	44	1	1	344

The use of the languages of communities living in the Republic of Macedonia covers every sphere of the society (state bodies, the administration, local self-government, judicial procedures, personal documents, the media, education, culture, etc.). Hence, specific aspects of the existing language legislation is to be found in the answers throughout the whole Chapter I, Political Criteria.

13. In practical terms, can a person communicate with a regional office of the central government, or a main office of the central government, in any official language? What arrangements have been taken to ensure translation and interpretation?

Amendment V (Article 7) to the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) specifies the official languages in the Republic of Macedonia and their use.

On the whole territory of the Republic of Macedonia and in its international relations the official language is the Macedonian language, written using its Cyrillic alphabet (Article 7, paragraph 1).

Any other language, spoken by at least 20% of the citizens, is also an official language, written using its alphabet, as specified in Amendment V (Article 7, paragraph 2).

Paragraph 4 of the aforementioned Amendment sets forth that any citizen living in a unit of local self-government in which at least 20% of the citizens speak an official language other than Macedonian, may use any of the official languages and their alphabets in communication with the local offices of the central government. The local offices with competence in these units of local-self government shall reply in Macedonian language and its Cyrillic alphabet, as well as in the official language and alphabet used by the citizen.

Any citizen may use any official language and its alphabet to communicate with the local offices of the central government, which shall reply in Macedonian language and its Cyrillic alphabet, as well as in the official language and alphabet used by the citizen.

Paragraph 5 of the Amendment stipulates that in the state administrative bodies in the Republic of Macedonia, any official language other than Macedonian may be used in accordance with the law.

Paragraph 6 of the Amendment prescribes that in the units of the local self-government, the language and the alphabet used by at least 20% of the citizens is an official language in addition to the Macedonian language and its Cyrillic alphabet. The bodies of the local self-government units decide on the use of the languages and alphabets used by less than 20 percent of the citizens in the respective unit of local self-government.

Changes to the Law on General Administrative Procedure ("Official Gazette of the SFRY", No. 47/86 - consolidated text) introduced by the Law Amending the Law on General Administrative Procedure ("Official Gazette of the Republic of Macedonia", No. 44/02), were made with the purpose of bringing a number of its provisions in line with the Amendment V to the Constitution.

Namely, Article 15 of this Law stipulates that official language in the administrative procedure is Macedonian and its Cyrillic alphabet (paragraph 1). In the administrative procedure conducted in the state administrative bodies, other state bodies, bodies of local-self government units, legal and other persons awarded public mandates under law another language spoken by at least 20% of the citizens and its alphabet shall be used in accordance with the Law (paragraph 2). Parties and other participants in the procedure who are not citizens of the Republic of Macedonia and who do not understand Macedonian language and its Cyrillic alphabet are entitled to an interpreter (paragraph 3).

Article 64 the aforementioned Law sets forth that submissions include requests, forms used for automatic data processing, proposals, declarations, applications, appeals, complaints and other statements by way of which individuals or legal persons, i.e. organisations communicate with state bodies. Paragraph 3 of the aforementioned Article sets forth that the right under Article 15, paragraph 2 may be enjoyed by any citizen living in a unit of local self-government in which at least 20% of the citizens speak an official language other than Macedonian, i.e. in communication with the local offices of Ministries, he/she may use any of the official languages and their alphabets. The local offices with competence in these units of local-self government shall reply in Macedonian language and its Cyrillic alphabet, as well as in the official language and alphabet used by the citizen. Any

citizen may use one of the official languages and its alphabet to communicate with Ministries, which shall reply in Macedonian language and its Cyrillic alphabet, as well as in the official language and alphabet used by the citizen in question.

Parties in the procedure who speak a language other than Macedonian which is also an official one, may file submissions in that language and its alphabet. The bodies conducting the procedure shall translate such submissions and act upon them. Bodies conducting the procedure, when deciding on administrative matters, reply in Macedonian language and its Cyrillic alphabet as well as in the official language and the alphabet used by the respective party in the procedure.

Taking this into consideration, Ministries, other state administration bodies and administrative organisations which decide for the rights and interests of citizens, as well as other participants in the administrative procedure, are obliged to implement the provisions of the Constitution of the Republic of Macedonia, the Law on General Administrative Procedure and the Law on the Local Self-Government pertaining to the use of languages and alphabets in the communication of these bodies with persons belonging to the communities. In that respect, Ministries and other state administrative bodies and administrative organisations are obliged to undertake actions in their local offices, i.e. units for printing bi-lingual forms (summonses, receipt notifications, proposals, declarations, rulings and other writs) for citizens living in local self-government units (municipalities) in which at least 20% of the citizens speak an official language other than Macedonian.

Public enterprises, legal and other persons that have been delegated public mandates under law, shall also undertake measures and activities in their local offices, services etc., for printing bi-lingual forms (summonses, receipts and other writs) for citizens living in local self-government units (municipalities) in which at least 20% of the citizens speak an official language other than Macedonian.

Hence, a procedure is underway on the announcement of tenders for printing bi-lingual forms of the local offices of Ministries and other state administrative bodies and administrative organisations for citizens living in local self-government units (municipalities) in which at least 20% of the citizens speak an official language other than Macedonian.

Following the changes in the procedural laws governing the right to use community languages in court and administrative procedures, in the course of February 2004, the Government of the Republic of Macedonia, on proposal of the Ministry of Justice, adopted the Information and the Implementation Project on Employment of Translators and Typists in Courts and State Administrative Bodies. The documents envisage employment and appropriate training of translators and typists in the use of community languages. On the Session held on 06.01.2005, the Government adopted the Decision for training of translators/interpreters in languages of communities that are not in majority in the Republic of Macedonia. Translators/interpreters will be employed in the state administrative bodies and in the courts. Their training will be performed in accordance with a programme determined by the Civil Servants Agency, supported by the CARDS 2004 Programme. Selection of candidates for translators/interpreters will be performed by the Civil Servants Agency in accordance with the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04). Following the training, candidates will sign contracts with the Civil Servants Agency, committing themselves to work in the state administrative bodies and courts for a period of two years from the day of the completion of the training.

14. Is the right of translation of all proceedings and documents in criminal and civil judicial proceedings ensured in accordance with the relevant Council of Europe documents? If so, how is this done?

The right to translation of all documents in penal and civil court procedures in the Republic of Macedonia are in compliance with relevant documents of the Council of Europe, but also with obligations arising from the Framework Agreement on the use of languages of ethnic communities in courts. This right is also in compliance with the principle of equitable representation of all communities into the judicial institutions, which has been continuously implemented.

Namely, pursuant to the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos.15/97, 44/02 and 74/04), the person summoned, apprehended or deprived of freedom must immediately be informed in a language he/she understands on the reasons of summoning, apprehending or depriving him/her of freedom and on any indictments against him/her as well as on his/her rights. He/she may not be extorted a statement.

In the course of a criminal procedure, Macedonian and its Cyrillic alphabet are official as well as a language and alphabet used by at least 20% of the citizens (Article 6).

The persons participating in the procedure, such as the defendant, the injured party, the plaintiff, witnesses and other persons, who speak an official language other than Macedonian, have a right to use their language and alphabet in the course of preliminary investigation proceedings and in the course of the main hearing, as well as in procedures concerning appeals. The Court shall provide oral interpretation as well as translations of documents and other written material. In addition the court shall provide translated written material of importance to the procedure or the defence.

Other parties and witnesses in the court procedure have a right to free interpretation if they do not understand or speak the language in which the procedure is conducted. The person shall be given legal advice on his/her right to interpreting. The legal advice shall be noted in the minutes. The translation or interpretation is performed by a court-authorised interpreter (Article 7).

Indictments, appeals and other submissions are submitted to the court in the language in which the procedure is conducted. Citizens who speak an official language other than Macedonian may submit their submissions in the language they speak and in its alphabet, or in the language in which the procedure is conducted. The court shall translate the submissions and present them to other parties in the procedure. The defendant that does not understand the language in which the procedure is conducted is given translations into the language he/she has used in the course of the procedure. Foreign citizens deprived of freedom or in detention may submit their submission in their language, and in other cases - under conditions of reciprocity (Article 8).

The court sends summons, rulings and other written correspondence in the language in which the procedure is conducted. Citizens who speak an official language other than Macedonian shall receive summons, rulings and other written correspondence into their language. A defendant in detention, in prison or confined in a health institution under compulsory psychiatric treatment shall receive translations of submissions into the language he/she has used in the procedure. The defendant that does not understand the language in which the procedure is conducted is given translation of the verdict in the language he/she has used in the course of the procedure (Article 9).

With regard to grounds for disputing the verdict, an essential violation of the criminal procedure provisions, among others, is when the court has violated the provisions on the use of language in the course of the procedure as prescribed by this Law (Article 355, paragraph 1, subparagraph 12).

In accordance with the Law on Litigation Procedure ("Official Gazette of the Republic of Macedonia", Nos. 33/98 and 44/02), the litigation procedure is conducted in Macedonian and its Cyrillic alphabet. In the course of litigation procedure an official language and its alphabet used by at least 20% of the citizens is also official in the procedure, as prescribed by the Law. A member of a community who as a party or a participant in the procedure does not understand or speak the Macedonian language and its Cyrillic alphabet has a right to an interpreter. The interpreting costs are covered by the court. The court shall give legal advice to the party or a participant in the procedure who uses another official language and its alphabet spoken by at least 20% of the citizens (and who as a party or participant in the procedure does not understand the Macedonian language and its Cyrillic alphabet) that he/she has a right to use his/her language and the right to an interpreter. The Chamber President or a judge is obliged to note the court's legal advice and the party's statement or a statement of another participant in the procedure into the minutes (Article 6).

The parties and other participants in the procedure that speak an official language other than Macedonian have a right to use their language in the course of court hearings or in his/her oral correspondence with the court. The parties and other participants in the procedure shall be provided oral interpreting into their language in the course of hearings, as well as oral and written translations of documents used as evidence in hearings. The translation or interpreting is performed by a court-authorised interpreter (Article 94-a).

Summons, rulings and other written correspondence are sent to parties and other participants in the procedure in Macedonian language and its Cyrillic alphabet. Citizens who speak an official language other than Macedonian shall receive summons, rulings and other written correspondence into their language (Article 94-b).

Parties and other participants in the procedure shall submit bills of indictment, appeals and other submissions to the court in Macedonian language and its Cyrillic alphabet. Parties and other participants in the procedure who are citizens of the Republic of Macedonia and whose mother tongue is an official language other than Macedonian and its Cyrillic alphabet may submit bills of indictment, appeals and other submissions to the court in their mother tongue. The court translates these submissions into Macedonian and its Cyrillic alphabet and presents them to other parties in the procedure (Article 94-c).

Parties and other participants in the procedure who are citizens of the Republic of Macedonia and speak a language other than Macedonian and its Cyrillic alphabet which is not an official language, enjoy a right to use their language in the course of hearings and in their oral communication with the court. The parties and other participants in the procedure shall be provided oral interpreting into their language in the course of hearings, as well as oral and written translations of documents used as evidence in hearings. Parties and other participants in the procedure who speak a language other than Macedonian and its Cyrillic alphabet, which is not an official language, shall be legally advised on their rights. They are entitled to an interpreter in order to follow the oral proceedings before the court in their mother tongue. They may relinquish the right to interpretation if they declare they speak the language in which the procedure is conducted. Such legal advice and statements of parties and participants shall be noted in the minutes (Article 94-d).

The court shall cover the costs for providing interpreting to parties and participants in the procedure who are citizens of the Republic of Macedonia (Article 94-e).

As regards the essential violation of the provisions on litigation procedure, it should be noted that such violation occurs when the court has violated the provisions concerning the use of language in the course of the procedure (Articles 6, 94-a, 94-b, 94-c, 94-d and 94-e).

In addition, in April 2004, Rules of Procedure Amending the Court Rules of Procedure were adopted ("Official Gazette of the Republic of Macedonia", No. 27/04). In order to implement the provisions of the Amendment V to the Constitution ("Official Gazette of the Republic of Macedonia, Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) and the aforementioned legal changes in court procedures, they determine the pattern of the forms for correspondence with parties in the court proceedings. Moreover, the forms were translated and distributed among all judicial bodies in the Republic of Macedonia, in line with the amendments to the Procedural Laws and the Rules of Procedure Amending the Court Rules of Procedure. With a view to more transparent operation and awareness rising among citizens for the implementation of the Framework Agreement and Amendment V to the Constitution, forms for correspondence with parties in the court procedure were published in the Albanian language daily newspaper Flaka and the Macedonian language daily newspaper Utrinski vesnik.

15. Can citizens who speak an official language other than the majority language receive official personal documents in that language? What arrangements have been made in this respect?

The citizens of the Republic of Macedonia who speak an official language other than the language spoken by the majority population get official personal documents in the language and alphabet that they use. The legal basis for issuing personal documents to the citizens who speak an official language other than Macedonian is contained in the Constitution of the Republic of Macedonia

("Official Gazette of the Republic of Macedonia", Nos. 52/91, 01/92, 31/98, 91/01 and 84/03) as the highest legal act of the state.

According to paragraph 3 of Amendment V replacing Article 7 of the Constitution of the Republic of Macedonia, *Official personal documents of citizens speaking an official language other than Macedonian shall be issued in the Macedonian language, as well as in that language in accordance with the law.*

Article 1 paragraph 5 of the Law Amending the Law on Personal Identity Card ("Official Gazette of the Republic of Macedonia", No. 38/02), amending Article 5 of the Law on Personal Identification Card ("Official Gazette of the Republic of Macedonia", No. 8/95) provides that *for the citizens speaking an official language other than Macedonian the form of the personal identification card will be printed and the data therein will be entered, besides in Macedonian and its Cyrillic alphabet, in the official language and alphabet that the citizen is using.*

Article 1 of the Law Amending the Law on Travel Documents of the Citizens of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 20/03) amending Article 28 of the Law on Travel Documents of the Citizens of RM ("Official Gazette of the Republic of Macedonia", No. 67/92) provides that *citizens speaking an official language other than Macedonian will, upon their personal request, have the form of their passport and emergency passport also printed in the official language and alphabet that the citizen uses.* In addition, Article 13 of the Law Amending the Law on Travel Documents of Citizens of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 46/04) amending the Article 28 of the Law on Travel Documents of Citizens of the Republic of Macedonia clarifies that *citizens speaking an official language other than Macedonian will, upon their personal request, have the data entered in the passport and emergency passport besides in Macedonian and its Cyrillic alphabet also in the official language and alphabet that the citizen uses.*

The obligation to issue official documents in the field of traffic and transport in the language of citizens speaking an official language other than Macedonian, such as: driving license, vehicle certificate, tractor driving license, driving certificate and certificate of registration, emerges from the Law Amending the Law on Road Traffic Safety ("Official Gazette of the Republic of Macedonia", No. 38/02).

In 2004 further amendments were enacted by the Law Amending the Law on Road Traffic Safety ("Official Gazette of the Republic of Macedonia", No. 38/04), whereby in the field of categories and subcategories, the Macedonian driving license is entirely harmonised with the driving licenses issued in EU countries.

The Rulebook on Amending the Rulebook on Forms for Travel Documents and Visas for Citizens of the Republic of Macedonia, on the Method of Photographing for Travel Documents and on Keeping Records, published on 21.10.2004 ("Official Gazette of the Republic of Macedonia", No. 73/04), provides for bilingual forms for travel documents and the emergency passports issued to citizens of the Republic of Macedonia.

The adoption of a Rulebook on the Forms for a Vehicle Certificate, Driving License, Tractor Vehicle Certificate, Tractor Driving License, Certificate of Registration, Driving Certificate and Certificate of Temporary Vehicle Registration, is in procedure, whereby bilingual forms of the above documents will be prescribed.

The Ministry of the Interior have started issuing personal identification cards in the Republic of Macedonia, in the language and alphabet of citizens speaking an official language other than Macedonian since 15.05.2003 and until 31.12.2004 a total of 174.352 personal identification cards have been issued, 138.758 of which in the Macedonian language and alphabet, and 35.594 also in an official language and script other than Macedonian i.e. in Albanian.

In addition, Ministry of the Interior have also started issuing travel documents in an official language and alphabet other than Macedonian since 06.12.2004 and until 31.12.2004 a total of 6.196 bilingual travel documents have been issued, upon personal request from citizens.

With the adoption of the secondary legislation act in the field of traffic, the legal framework will be completed and the citizens speaking an official language other than Macedonian will be issued a driving license, vehicle certificate, tractor driving license, driving certificate, tractor vehicle certificate and certificate of registration in their language.

16. Have specific agreements been negotiated to ensure State funding for university level education in languages spoken by at least 20% of the population?

In July 2003, the Assembly of the Republic of Macedonia adopted the Law Amending the Law on Higher Education ("Official Gazette of the Republic of Macedonia", No. 49/03), introducing, *inter alia*, changes to Article 95 of the Law on Higher Education ("Official Gazette of the Republic of Macedonia", No. 64/00).

Paragraph 2 of this Article determines that *persons belonging to communities, in order to express, foster and develop their identity and other attributes, are entitled to instruction at the state institutions of higher education, under specific curricula, in the language of community other than the Macedonian, in accordance with the provisions of this Law and the Statute of the respective institution of higher education.* The same paragraph further prescribes that *state funding shall be provided for higher education in the language spoken by at least 20% of the citizens of the Republic of Macedonia.*

In addition, paragraph 3 of Article 95 of the Law on Higher Education stipulates that *the instruction in the state pedagogical institutions of higher education providing training for educators in pre-school institutions, teachers in primary education and teachers of didactic subjects and subjects in methods of instruction in secondary education, may be conducted in languages of other communities that are not in the majority in the Republic of Macedonia, which entails an obligation for the state to fund these curricula.*

In order to ensure state funding for the higher education in the language spoken by at least 20% of the citizens of the Republic of Macedonia, the Law on Establishing the State University in Tetovo ("Official Gazette of the Republic of Macedonia", No. 08/04) was adopted by the Assembly of the Republic of Macedonia in January 2004. The Law, as a founding act, establishes the State University in Tetovo, with the following four faculties and a polytechnic centre included in its structure: Faculty of Natural Sciences and Mathematics; Faculty of Humanities and Arts; Faculty of Economy; Faculty of Law; and a Polytechnic Centre. Hence, only the University has a capacity of a legal entity, while the faculties and the polytechnic centre have a status of internal organisational units within the University.

For the purpose of preparing the commencement of the operations of the State University in Tetovo, the Government of the Republic of Macedonia established a Committee which, in a period of seven months, completed the necessary preparations, in particular in terms of providing the necessary teaching and associate personnel. The Committee announced competitions and conducted a procedure of selection of teachers and associates in accordance with the Law on Higher Education. Once the Ministry of Education and Science conducted a direct inspection in order to check whether the conditions have been fulfilled for the beginning of the operation of the University, the Minister adopted an (interim) Decision for the start of the operation of the University. Subsequently, the University was enlisted in the Registry of the Institutions of Higher Education in the Republic of Macedonia; the bodies of the University were set up; and it was enlisted in the Court Registry. Thus, the State University in Tetovo acquired the capacity of a legal entity and started its operation as a legal institution of higher education as of 01.10.2004.

Necessary funding for this institution of higher education, pursuant to the aforementioned Article 95, paragraph 2 of the Law on Higher Education, are provided from the State Budget and from other

sources determined by law. The 2004 Budget of the Republic of Macedonia allocated 44.503.000 MKD for the operation of the State University in Tetovo, which started its operation in the academic 2004/2005. The 2005 Budget, for the same purpose allocates funds of 83.000.000 MKD.

Furthermore, state funding of the higher education in the language spoken by at least 20% of the citizens is also provided for the Department of Albanian Language and Literature at the Faculty of Philology; for the Faculty of Pedagogy "St. Kliment Ohridski" in Skopje, where, in accordance with the already established right of persons belonging to communities in Article 95, paragraph 2 of the Law, studies are conducted for teachers in pre-school and primary education for the persons belonging to the Albanian and Turkish communities; as well as for specific study programmes for ethnic Albanian students at the Faculty of Drama Arts and Faculty of Physical Culture.

17. Are there any professional restrictions for minorities (de iure or de facto)?

a) *De iure* professional restrictions

In the Republic of Macedonia *de jure* professional restrictions for members of non-majority communities do not exist. This would be contrary to the Law on Labour Relations ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 03/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03, 40/03 and 80/03 - consolidated text), which contains provisions prohibiting discrimination on grounds of various reasons, including the prohibition of discrimination on grounds of ethnic origin. Moreover, Article 9 of the Constitution ("Official Gazette of the Republic of Macedonia", No. 52/91, 01/92, 31/98, 91/01 and 84/03) prohibits discrimination on any ground and guarantees that *citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of gender, race, colour of skin, national and social origin, political and religious conviction, property and social status.*

b) *De facto* professional restrictions

De facto, there is evident lesser representation of some ethnic communities in the public administration, army, police and the judiciary, as a consequence of which the principle of equitable representation has been incorporated as one of the key provisions in the Ohrid Framework Agreement. The reference "equitable representation" is not a synonym of proportional representation, i.e. it does not indicate that all communities must be represented in the public administration according to their proportion in the total population. The concept of equitable representation, which assumes the respect of the principle of competence and integrity, aims at the establishment of a professional, specialised and competent public administration. This concept will be different on the level of different bodies; however, it should adhere to the tendency of realisation of proportional representation. The principle of non-discrimination and equitable representation has been explicated in item 4 of the Framework Agreement, which requires that non-discrimination and equal treatment of all persons before the law must be fully respected. This principle is especially accentuated during the recruitments in the public administration and public enterprises, as well as regarding the access to public funding in the process of business development.

Laws regulating employments in public administration contain measures that secure the equitable representation of communities in all central and local bodies at all levels as well as employment therein. At the same time, principles of competence and integrity must be respected. The authorities are undertaking activities to correct the current imbalance in the composition of the public administration, especially through the employment of members of the communities who have not been sufficiently represented. Special attention has been paid to accomplish this representation in the police so that it would reflect the breakdown of the population of Macedonia. The equal representation of persons belonging to all communities into public bodies at all levels and in other fields of public life has become one of the fundamental values of the Constitution with its VI Amendment ("Official Gazette of the Republic of Macedonia", No. 91/01). Hence, changes have been made in the following laws: the Law on Civil Servants ("Official Gazette of the Republic of Macedonia", Nos. 59/00, 112/00, 34/01, 103/01, 43/02, 98/02, 17/03, 40/03, 85/03, 17/04 and 69/04), the Law on Labour Relations ("Official Gazette of the Republic of Macedonia", Nos. 80/93, 03/94, 14/95, 53/97, 59/97, 21/98, 25/00, 34/00, 50/01, 25/03, 40/03 and 80/03 – consolidated text), the

Law on Public Enterprises ("Official Gazette of the Republic of Macedonia", Nos. 38/96, 9/97, 06/02 and 40/03), and the Law Amending the Law on Internal Affairs ("Official Gazette of the Republic of Macedonia", No. 38/02), as well as in the Rulebook on Criteria, Standards and Procedures for Employment and Selection of Civil Servants ("Official Gazette of the Republic of Macedonia", No. 59/01). The Ombudsman has an adequate role in the implementation of this principle in practice. He/she undertakes concrete activities for the protection from discrimination and for securing equitable representation of members of communities.

This policy has resulted in a visible increase of the members of communities in the public administration, army, police and judiciary. On this, for more details see [I J 4](#) and [I J 7](#).

18. Is there a minority rights ombudsman or any other official body that protects the rights of minorities in your country? Please also indicate which Government department(s) is/are responsible for minority issues.

The Republic of Macedonia has introduced the institution of an Ombudsman on 03.07.1997 when the first Ombudsman was appointed by the Assembly.

The competencies of the Ombudsman are set out in the Constitution of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 52/91, 01/92, 31/98, 91/01 and 84/03) and the Law on the Ombudsman ("Official Gazette of the Republic of Macedonia", No. 60/03).

According to Article 77 (Amendment XI) of the Constitution, the Ombudsman protects the constitutional and legal rights of citizens when these are violated by bodies of the state administration and by other bodies and organisations with public mandates. The Ombudsman shall give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public bodies, bodies of the units of local self-government and public institutions and services.

Therefore, in accordance with the Law on the Ombudsman, the Ombudsman protects the constitutional and legal rights of citizens and also implements actions and measures for the protection of the principles of non-discrimination and equitable representation of members belonging to communities in state administrative bodies and in the bodies of the units of local self-government as well as in public institutions and agencies.

This general position concerning the protection of minority rights is elaborated in further provisions of the Law, which stipulate the following:

- A request to the Ombudsman can be submitted by any person who believes that his or her constitutional or legal rights have been violated, or believes that a violation of the principles of non-discrimination and equitable representation of members belonging to communities in state administrative bodies and other bodies and organisations with public competencies has occurred (Article 13);
- The Ombudsman can give his/her opinion with regard to the protection of constitutional and legal rights and also to the protection of the principles of non-discrimination and equitable representation of members belonging to communities concerning a case which is in process, regardless of the type and stage of the process instituted before state administrative bodies and other bodies and organisations with public competences (Article 28);
- It is within the competency of the Ombudsman to monitor situations with regard to the safeguarding of the respect for and the protection of constitutional and legal rights of citizens as well as the principles of non-discrimination and equitable representation of members belonging to communities. The Ombudsman may visit and carry out inspections on state administrative bodies and other bodies and organisations with public competencies (Article 29). The Law on the Ombudsman allows for the possibility of the establishment and organisation of departments that are to provide for a higher level of efficiency and success regarding the protection of the constitutional and legal rights of citizens in particular fields.

In addition, Article 78 of the Constitution (Amendment XII) states that the Assembly establishes a Committee on Inter-Community Relations. The Committee consists of nineteen members, of whom seven members each appointed from the ranks of the Macedonian and Albanian Representatives in the Assembly and one member each from among the Turks, Vlachs, Roma, Serbs and Bosniaks in the Assembly. If a community has no Representatives in the Assembly, following consultations with relevant representatives from that particular community, the Ombudsman proposes the remaining members of the Committee. The Assembly appoints the members of the Committee.

Government departments responsible for minority issues

The following special bodies have been established within the Government of the Republic of Macedonia and also within state administrative bodies for the promotion of the culture and education of members of communities in the Republic of Macedonia:

1. Ministry of Culture, *Office for Affirmation and Promotion of the Culture of Members of Communities in the Republic of Macedonia*

In accordance with Article 26, Paragraph 2, of the Law on the Organisation and Operation of State Administrative Bodies ("Official Gazette of the Republic of Macedonia", Nos. 58/00 and 44/02), in 2003 an Office for Affirmation and Promotion of the Culture of Members of Communities in the Republic of Macedonia, within the Ministry of Culture was established, without the status of a legal entity, which is headed by a director, and appointed and dismissed by the Government of the Republic of Macedonia.

In accordance with the Regulations of the Ministry of Culture, the Office for Affirmation and Promotion of the Culture of Members of Communities in the Republic of Macedonia performs activities regarding the affirmation, promotion and publication of the cultural creative work and the care, nurturing and presentation of the cultural heritage of the members of communities in the Republic of Macedonia, as well as analytical, administrative and technical activities with regard to the encouragement and promotion of the culture of these communities.

This Office consists of two Sectors:

- Sector for Affirmation, Promotion and Publication of Cultural Creative Work and for the Care, Nurturing and Presentation of the Cultural Heritage of the Members of Communities in the Republic of Macedonia; and
- Sector for Encouragement and Promotion of Cooperation with Neighbouring and European Countries and for International Technical Assistance with the aim of fostering and promoting the cultural identity of the members of communities in the Republic of Macedonia.

2. Ministry of Education and Science, *Office for the Development and Promotion of Education in the Languages of Members of Communities*

In accordance with the Law on Organisation and Operation of State Administrative Bodies, an Office for Development and Promotion of Education in the Languages of Members of Communities was established within the Ministry of Education and Science.

The Office is responsible for the implementation of tasks concerning the education of members of communities in accordance with the constitutional provisions and international conventions signed by the Republic of Macedonia, with the participation of all the bodies of the Government of the Republic of Macedonia and other state bodies and institutions responsible for the education of members of communities.

The Office aims to overcome language barriers and to promote inter-ethnic confidence, through building a democratic model and relations encouraging a more effective socialisation and inclusion of members of the various linguistic communities within the social fabric of the Republic of Macedonia.

The Office places special emphasis on the prevention of discrimination in the field of education and in the entire educational process.

In addition to these bodies, the Office of Human Rights, Legal Analysis and Comparative Law, which is active within the Ministry of Justice, and the Office for the Council of Europe and Human Rights, within the Ministry of Foreign Affairs are contributing, at a more general level, to the provision, promotion and protection of human rights, which include minority rights.

19. Are any "stateless" people living in the Republic of Macedonia as a result of the dissolution of the SFRY?

Taking into account the former and the existing regulations defining the issue of citizenship, it could be concluded that there are no stateless persons in the Republic of Macedonia or *de jure* persons without citizenship as a result of the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY). Some citizens who have not regulated their Macedonian citizenship and whose status has not been regulated in the process of succession (i.e. *de facto* they do not have a citizenship) are in the process of formalising their status given that all citizens who had lived in the territory of the former SFRY had had *de iure* and *de facto* both a federal and a republic citizenship.

Namely, pursuant to the legal regulations on the citizenship in the former SFRY and in the Republic of Macedonia as its constituent part, which had been valid during the existence of the former SFRY - Law on Citizenship of the FPRY ("Official Gazette of the FPRY", No. 54/46); Law on Citizenship of the PRM ("Official Gazette of the PRM", No. 16/50); Law on Yugoslav Citizenship ("Official Gazette of the SFRY", No. 38/64); Law on Citizenship of the SRM ("Official Gazette of the SRM", No. 09/65); Law on Citizenship of the SFRY ("Official Gazette of the SFRY", No. 58/76) and the Law on Citizenship of the SRM ("Official Gazette of the SRM", No. 19/77), a dual citizenship existed. In accordance with the aforementioned regulations, in addition to the federal citizenship, every citizen of the former SFRY had also had a Republic citizenship and vice versa.

The Law had also prescribed that a citizen could only be entitled to one Republic citizenship. Acquisition of a citizenship of another Republic used to mark a loss of the right to citizenship of the previous Republic. The possession of a Republic citizenship had not been connected to the citizen's residence, which meant that a citizen of any of the Republics of the former SFRY had been entitled to the option to live in one Republic and possess an identification card of another. However, a citizen of SFRY had been entitled to one Republic citizenship and one identification card.

After the dissolution of the former SFRY, the Republic of Macedonia adopted the Law on Citizenship of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 67/92, 08/04 and 45/04-consolidated text) which entered into force on 11.11.1992.

This Law eliminated the duality of federal and republic citizenships and established a single citizenship for the citizens of the Republic of Macedonia.

The principle of legal continuity of the citizenship status of the citizens of Macedonia has been fully incorporated into this Law. All citizens that have had the citizenship of the Republic of Macedonia pursuant to the previous regulations were not required to prove their citizenship status. The Citizenship Registry that had been updated by hand from 1947 until 1992 was used as a basis for the transfer of citizenship data into the Citizenship Registry of the Republic of Macedonia.

The fact that registration of residence in one of the former Yugoslav republics had not been conditioned by the Republic's citizenship and as a result of the intensive inter-republic migrations during the time of the SFRY, there were persons in the Republic of Macedonia who after its independence continued to reside without having a citizenship of the Republic of Macedonia (they have been and they still are citizens of one of the former Yugoslav republics).

In order to enable these persons to acquire a citizenship of the Republic of Macedonia as easily as possible, so that they would be able to exercise their civil, social and other rights, the Law on

Citizenship of the Republic of Macedonia of 1992 contained a transitional provision, pursuant to which the citizens of the former Yugoslav republics and the citizens of the former SFRY who had registered their residence in the territory of the Republic of Macedonia, were allowed to acquire Macedonian citizenship, if within a year from the entry into force of the Law on Citizenship they applied for citizenship, they had permanent incomes, if they were adults and if prior to filing the request they had lived on the territory of Macedonia for at least 15 years.

In order to fully adhere to the European Convention on Citizenship signed by the Republic of Macedonia on 06.11.1997 and ratified on 18.02.2002 and taking into account the experiences from the practical implementation of the Law on Citizenship, on 22.01.2004, the Government passed the Law Amending the Law on Citizenship of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", No. 08/04) which entered into force on 02.03.2004.

By passing the amendments to the Law, the Government has corrected the reservation to the European Convention on Citizenship (Chapter 3, Article 6, Paragraph 3), which referred to the length of stay as a valid condition to apply for citizenship on the basis of naturalisation. Pursuant to the Draft-Recommendations by the European Commission against Racism and Intolerance (ECRI), as of 25.06.2004, the length of stay has been reduced to less than 10 years, i.e. in accordance with Article 3 of the latest amended Law, Article 7, paragraph 2 prescribes at least 8 years of duration of stay before applying for citizenship.

In addition, this Law also contains a new transitional provision relating to persons originating from the former SFRY who have continued to live in Macedonia after the date of state succession and had registered their residence in the Republic of Macedonia by 08.11.1991 and by the time of application had permanently lived therein. Namely, they may acquire Macedonian citizenship if within two years after the entry into force of this Law they apply for citizenship, unless they are subject to criminal procedures for crimes endangering the security and the defence of Macedonia. In addition, they must be 18 years of age and must speak Macedonian to the degree that they may easily communicate with their surrounding.

Hence, persons who are citizens of the former SFRY who live in the Republic of Macedonia and who, due to various reasons, have not regulated their citizenship, may acquire the citizenship of the Republic of Macedonia.

In addition (and in accordance with the ECRI recommendations), the Republic of Macedonia in coordination with UNHCR, beginning from December 2004 started an information campaign throughout the state with an objective to fully and thoroughly inform all relevant persons, including the Roma and Albanian population, on the opportunities given by the extended deadline for the regulation of their citizenship status in accordance with the law.

The whole network of Macedonian non-governmental organisations supported by UNHCR has joined the campaign. The campaign also envisages free legal aid and assistance to applicants provided by NGO legal teams. In addition, the campaign envisages information advertisements in several radio stations that cover the whole territory of Macedonia. TV advertisements are also planned in various languages.

It is of exceptional importance to note that all procedures before the Ministry of the Interior initiated pursuant to Articles 7 and 9 shall be subject to procedure in accordance with the provisions of the new Law (Article 14), which gives the citizenship applicants a privileged status and treatment.

The processed data on positively resolved applications for citizenship after the adoption of the new amendments (22.01.2004) indicate that the Ministry of the Interior has been acting efficiently and has granted 580 citizenships on the basis of the application of Article 14. There are another 800 applications that are currently being reviewed. During the same period, 41 persons have been declined their application due to the length and continuity of their residence in Macedonia, while only 8 persons have been declined due to the insufficient knowledge of Macedonian language.

In accordance with the existing legal regulations, those whose applications have been declined may appeal before the Second-Instance Government Commission and then to the Supreme Court of the Republic of Macedonia. At the same time, there have also been applications for discharge of Macedonian citizenship pursuant to the obligation of dismissal and reception that these citizens have, after acquiring citizenship in one of the EU countries according to their laws.

K. RETURN OF REFUGEES AND DISPLACED PERSONS:

1. Statistics: Please provide statistics for the following categories of persons:

(a) Refugees from the Republic of Macedonia who went to other countries during (1) the Kosovo crisis of 1999; (2) the crisis of 2001. What proportion of these refugees has returned?

(b) Refugees from other countries who came to the Republic of Macedonia. When did they arrive and what proportion has returned?

(c) Displaced persons within the Republic of Macedonia. How many were there in 2001 and how many have returned?

(a)

Official data on the number of persons who have sought asylum in other countries is not available in the Republic of Macedonia. The only available data is the number of Macedonian citizens who have requested assistance with their repatriation in the Republic of Macedonia. The number of such persons is 842 refugees who have been on the territory of Kosovo.

(b)

As a result of the Kosovo crisis in 1999, in the first half of that year, international protection in the Republic of Macedonia has been requested by approximately 360.000 refugees - ethnic Albanians mainly, originating from Kosovo. The Government of the Republic of Macedonia, on 02.03.1999, adopted a Conclusion for Granting Temporary Protection. The majority of these persons – around 234.000 (64,9%) were hosted in families in the Republic of Macedonia. The remaining 126.000 (35,1%) were accommodated within the eight collective centres that have been build for this purpose country wide. The Collective Centre Stenkovec which is in the vicinity of Skopje, accommodated the largest portion of persons – 91.476, or about 72,6%.

In accordance with the international principle of shared responsibility in cases of mass-influx of refugees, and aiming to alleviate the pressure on the Republic of Macedonia, 28 European states, USA, Canada and Australia took over from the Republic of Macedonia⁴ a total of 94.408 Kosovo refugees. As soon as the security situation in Kosovo improved, 50.572 persons that have been transferred to third countries, were repatriated through the territory of the Republic of Macedonia. A certain number returned directly to Kosovo and a certain number is still present in these countries.

As the security situation in Kosovo was improving, the ethnic Albanian Kosovo refugees sheltered in the Republic of Macedonia have voluntarily returned to their homes. By the end of 1999, on the territory of the Republic of Macedonia there were 8.103 refugees under the Temporary Protection Status. The majority of them were non-Albanian citizens of Kosovo, i.e. Roma, who have fled the Yugoslav province after the return of the ethnic Albanian refugees. On the basis of voluntary repatriation or upon individual voluntary departure in third countries, the total number of refugees under temporary protection status in Macedonia was decreasing. At the end of the 2000, the total number of persons under temporary protection in the Republic of Macedonia was 5.416 refugees, and further decreased to 3.410 at the end of 2001; and 2.750 at the end of 2002.

On 22.09.2003, the Government of the Republic of Macedonia adopted a Conclusion abolishing the temporary protection for the refugees from Kosovo. In doing so, all those refugees who deemed that

⁴ 14.104 in Germany; 8.045 in Turkey; 7.648 in the USA; 6.501 in Italy; 5.801 in Norway; 5.461 in France; 5.006 in Canada; 4.795 in Austria; 3.828 in the Netherlands; 3.597 in the UK, etc.

conditions for a safe return and stay in Kosovo had not yet been met, were allowed to file individual applications for recognition of the right to asylum in the Republic of Macedonia, pursuant to the new Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia", No. 49/03), that entered into force in August 2003. A total number of 2.326 persons have invoked this right. Acting upon submitted applications, the Asylum Unit within the Ministry of Interior has granted refugee status to 12 asylum-seekers; granting also the right to asylum on the humanitarian grounds for 809 persons. A number of 209 applications for seeking asylum were rejected; and in 199 cases the determination procedures for the right to asylum were suspended due to various reasons (non-availability/ failure to appear at the interview; regulated residence on the basis of the Law on Movement and Residence of Aliens ("Official Gazette of the Republic of Macedonia", Nos. 36/92, 66/92, 26/93, 45/02, 49/03). Procedures are still underway for the remaining 1.097 asylum seekers applicants.

(c)

During the crisis in the Republic of Macedonia, a number of citizens from the crisis regions, in fear for their safety, moved to other regions of the country and acquired a status of internally displaced persons (IDPs). The number of the internally displaced persons during the 2001 crisis at one point reached its maximum of 76.046 (on 11.09.2001).

Out of this number, 72.134 were accommodated within the host families, while the remaining 3.912 persons were accommodated within 21 collective centres throughout the country. Once the conditions were created for their return (reconstruction of homes), many of these persons returned to their homes.

Currently there are still 1424 internally displaced persons in the Republic of Macedonia, which means that a total of 74.622 persons have returned to their homes. From the current total figures of 1424 internally displaced persons, 794 are Macedonians, 397 are Serbs, 110 Roma, 106 Albanians and 17 Bosniaks.

2. Legal and regulatory framework: Please enumerate and describe the legal and regulatory framework governing the return of refugees and displaced persons.

The legal and regulatory framework of the Republic of Macedonia governing the return of refugees and internally displaced persons in the country comprises international instruments and national legislation. This process took place in a time when Macedonia was affected by the refugee crisis in 1999 and the internal armed conflict in 2001. In such circumstances, along with the development of legislation and implementation mechanisms, authorities in Macedonia were faced with large scale crises that posed serious risks.

Hence, the first mass influx of refugees from the Kosovo crisis in 1999 was handled on the basis of the Macedonian Government's conclusion on acceptance of persons massively fleeing from Kosovo into Macedonia and on granting them a status of persons under humanitarian protection. This decision was in accordance with the *EXCOM* conclusions No. 15-1979, 22-1981, 74-1994 and especially the 9541/01 Directive on minimum standards for giving temporary protection in the event of mass influx of displaced persons.

After the initial consolidation of mass influx and creation of conditions for the application of the status determination procedure, and after the individual review of applications for a refugee status (as opposed to the collective mode of determining their status in the course of fleeing, the *prima face* criteria), the regulatory framework in this period was the application of the Convention Relating to the Status of Refugees from 1951 and the Protocol on the Refugee Status from 1967 ratified by the Republic of Macedonia.

On 25.07.2003, the Assembly of the Republic of Macedonia adopted the Law on Asylum and Temporary Protection ("Official Gazette of the Republic of Macedonia", No. 49/03) which is a primary law regulating the issues of refugees and asylum seekers. It also regulates the conditions under

which the Republic of Macedonia may issue temporary protection and the rights arising from such status (Article 1).

The adoption of this Law was in fact the implementation of the National Action Plan on Asylum and Migration adopted in October 2002, within the Stability Pact initiative.

The Law on Asylum and Temporary Protection was adopted in accordance with provisions of the Convention (1957) and Protocol (1967) and is a concrete implementation of these international instruments in the national context, regardless of the fact that Macedonia had previously ratified them without any reservations.

It is also important to mention Article 61 of the Law on Asylum relating to voluntary repatriation and organisation of this repatriation by the Ministry of Interior in co-operation with UNHCR, which may occur after the expiry of the right to asylum in the Republic of Macedonia.

The crisis in 2001 caused a number of internal migrations in Macedonia. Key regulatory framework is the Ohrid Framework Agreement, which in Annex C, item 3 – Refugee Return, Rehabilitation and Reconstruction (for the text and details see the answer to the question [I C 14](#)) regulates the mode of return of refugees and internally displaced persons in the Republic of Macedonia. Hence, the Framework Agreement is still the most important regulatory framework for the return of refugees and internally displaced persons.

Additionally, a wider regulatory framework comprise the more significant conclusions and ad hoc guidelines adopted by Government crisis bodies regarding particular issues related to refugees and internally displaced persons. For instance: as a result of lack of facilities to accommodate the internally displaced persons, the Government adopted a decision to disburse accommodation and alimentation costs in collective centres. After the normalisation of conditions and completion of reconstruction of destroyed or damaged houses in crisis areas in the course of 2003, the Government passed a decision to revoke the status of an internally displaced person to a certain number of persons given that prerequisites for their return had been created.

The Ministry of Labour and Social Policy disposes of data on internally displaced persons in January 2005, according to which the total number of these persons is 1424, while the number of persons temporarily residing in Kosovo is 837.

All readmission agreements ratified by Macedonia are part of the wider regulatory framework. This particularly includes the readmission provisions regulating the return of Macedonian citizens who have illegally left Macedonia and have been declined a status of a recognised refugee or whose refugee status has expired in the countries in which they have applied, and with which Macedonia has signed such readmission agreements⁵.

It is important to note that all readmission agreements have been prepared pursuant to the Council Recommendations of 30 November 1994 with regard to the specimen of bilateral readmission agreement between EU member countries and third countries, and pursuant to Recommendations of

⁵ Ratified Agreements by the Republic of Macedonia:

- Agreement on Readmission with Italy signed on 26.06.1997 ("Official Gazette of the RM", No. 34/97);
- Agreement on Readmission with Switzerland on 16.04.1988 ("Official Gazette of the RM", No. 27/98);
- Agreement on Readmission with Slovenia on 27.01.1998 ("Official Gazette of the RM", No. 21/98);
- Agreement on Readmission with France on 08.10.1999 ("Official Gazette of the RM", No. 13/99);
- Agreement on Readmission with Slovakia on 23.01.2002 ("Official Gazette of the RM", No. 13/02);
- Agreement on Readmission with Bulgaria on 30.01.2002 ("Official Gazette of the RM", No. 12/02);
- Agreement on Readmission with Croatia on 20.06.2002 ("Official Gazette of the RM", No. 47/02);
- Agreement on Readmission with Germany on 26.06.2002 ("Official Gazette of the RM", No. 09/04);
- Agreement on Readmission with Hungary has been signed and is in the process of ratification;
- There are ongoing negotiations with the countries of Benelux, Denmark, Ukraine, Romania, the Czech Republic and Albania.

24.07.1995 regarding the principles on preparation of protocols on implementation of readmission agreements.

Another relevant act regulating the return of refugees and internally displaced persons is the Amnesty Law ("Official Gazette of the Republic of Macedonia", No. 18/02), which grants amnesty to perpetrators of crimes related to the conflict in 2001 and hence their return in Macedonia has been facilitated.

Precisely, Article 1 of this Law reads: "This Law releases from prosecution, terminates criminal procedures and fully acquits (hereinafter: amnesty) citizens of the Republic of Macedonia, persons with legal residence as well as persons having property or family in the Republic of Macedonia (hereinafter: persons), for which there is reasonable doubt that they have organised or perpetrated crimes related to the conflict in 2001, 26 September 2001 inclusive. The amnesty also covers persons who have organised or perpetrated crimes before 1 January 2001 related to the conflict in 2001.

Provisions in this law do not refer to persons who have committed crimes related to the conflict in 2001 and who are under the competence of the International Criminal Tribunal for the Former Yugoslavia."

The return of refugees from the Republic of Macedonia who have sought asylum in other countries is assisted by the UNHCR. These persons during the return process enjoy all rights pursuant to existing legal regulations as other Macedonian citizens.

3. Please provide statistics for reconstruction: number of houses reconstructed to date; break-down by year, ethnicity, cost; number of requests still pending (including details of the ethnicity of those whose requests are still pending); envisaged deadline for the processing of such requests; envisaged deadline for completion of reconstruction.

The number of houses that have been reconstructed to date is in total 6051 houses, including 4873 of first and second category and 1178 of third and fourth category.

Break-down by year:

By the end of 2002, a total of 5337 houses were reconstructed, including 4873 houses of first and second category (from these 200 houses were audited and again fixed in 2004) and 464 houses of third and fourth category.

By the end of 2003 a total of 677 houses of third and fourth category were reconstructed; whereas in 2004 a total of 37 houses of third and fourth category were reconstructed, and over 200 of first and second category were audited.

Number of reconstructed houses according to the ethnic affiliation of owners:

- 5253 houses of Albanians
- 798 houses of Macedonians/Serbs/Others

Reconstruction costs:

The international community and donors have hitherto secured approximately 33, 9 million EUR covering the costs of reconstruction of the aforementioned houses as well as the reconstruction of the following ones which are still under way:

- 29 houses in M. Maala and Brest,
- 19 houses (12 houses of first and second category and 7 houses of third and fourth category) in Tanuševci, and
- 102 houses of first and second category in Tetovo and its vicinity, including 6 houses in the village of Slupčane.

Number of requests still pending (Houses that have not been included in the hitherto reconstruction programmes)

Due to various reasons there are another 112 houses that have not entered the process of reconstruction. One of the reasons is the fact that a large portion of these houses are seasonal, i.e. are used in a certain time of the year; hence the reconstruction programme has envisaged their reconstruction at a later phase. The rest are houses with problems of determining their legality, i.e. they have been erected on an undefined land in the property of the Republic of Macedonia (in the villages of Raduša and Dumanovce).

Also, some houses have been vandalised and ruined after the reconstruction, thus they cannot be used (in the villages of Opae and Otunje). Approximately 570.000 EUR are necessary for the renovation of these houses. (See table)

In addition, there are still unreconstructed houses in the village of Aračinovo (76) and Matejče (119) as owners (users) of the houses have either refused reconstruction aid or have refused to sign the reconstruction contract.

According to claims of the Association of Citizens "Associated Organisation of Displaced Persons from Aračinovo – "Zora", out of 176 houses owned by ethnic Macedonians, during the conflict 40 houses have been completely destroyed, and after the conflict 13 have been burnt down. Around 80 houses have been hitherto reconstructed; over 30 have been sold; while around 60 families have begun construction or have bought lands in nearby villages and settlements as a result of lack of confidence for a continued life in the village. Approximately 1.942.600 EUR are necessary for the reconstruction of these houses (see table).

Other houses that have not been reconstructed are those that do not meet the criteria for reconstruction (such as summer kitchens, garages, insured houses, houses without property rights, deserted houses, second houses, houses not used for living, etc.). During the first assessment they were registered as damaged; however, during a detailed technical assessment their status was determined. The number of these houses is 164.

Envisaged deadline for completion of reconstruction

The aforementioned houses currently under reconstruction are: 29 in M. Maala and Brest; 19 (12 of first and second category and 7 of third and fourth category) in Tanuševci; and 102 of first and second category in Tetovo and its vicinity, including 6 houses in the village of Slupčane that should be completed by the end of 2004. The remaining 112 houses will be reconstructed after securing reconstruction funds in 2005 (see table).

Houses that have not been completed due to refusal to sign tripartite contracts (Aračinovo 76 and Matejče 119) will be reconstructed after conditions for their reconstruction are met, i.e. after the signing of reconstruction agreements and securing funds.

Houses not included 1, 2, 3 and 4 categories										
Table according to regions										
			Skopje							
No.	Region	Municipality	City/Village	Category				Use		Note
				1	2	3	4	A year-round house	Seasonal house	
1	Skopje	Čair	Ljuboten			1	9		101,932	
2	Skopje	Čučer Sandevo	Tanuševci				3	45000		
3	Skopje	Ġorċe Petrov	Graċani				1		14400	
4	Skopje	Kondovo	Raduša	22	11	2	14	222720		Land problems
5	Skopje	Saraj	Bojane		1				10000	
6	Skopje	Araċinovo	Araċinovo	22	29	9	16	543830		Unsigned tripartite contracts
				22	13	3	27	267720	126,332	* The sums do not include Araċinovo
Total								394,052		

			Kumanovo							
No.	Region	Municipality	City/Village	Category				Use		Note
				1	2	3	4	A year-round house	Seasonal house	
1	Kumanovo	Lipkovo	Dumanovce			1	12		77000	Land problems
2	Kumanovo	Lipkovo	Opae	20				40000		Damaged again
3	Kumanovo	Lipkovo	Straža	2	1	1	1		12,992	
4	Kumanovo	Lipkovo	Zlokukjane		1				4800	
5	Kumanovo	Lipkovo	Matejče		4	22	93	1.398,77		Unsigned tripartite contracts
				22	2	2	13	40000	94792	* The sums do not include Matejče
Total								134.792		
			Tetovo							
No.	Region	Municipality	City/Village	Category				Use		Note
				1	2	3	4	A year-round house	Seasonal house	
3	Tetovo	Tearce	Jelošnik				5		15000	Funds for labour
7	Tetovo	Džepčishte	Otunje				1		20000	Burnt down after the conflict in 2001
8	Tetovo	Tearce	Varvara				1		3000	Funds for labour
9	Tetovo	Tetovo	Tetovo				1		3000	Funds for labour
							8		41000	
Total								41,001		
Total								in €	569,845	
Total number of houses by categories			I	44						
			II	15						
			III	5						
			IV	48						
			Total	112						
*The tables do not include houses from Aračinovo and Matejče										
Source: Ministry of Transport and Communications										

4. Explain your overall policy on the return of refugees and displaced persons. Explain which efforts have been made to overcome the tensions and difficulties that resulted from the 2001 crisis, and in particular:

- to promote inter-ethnic confidence and security of persons and goods;
- to revitalise the economy of the former crisis areas.

By the end of December 2004, as result of the 2001 crises In Republic of Macedonia, there were 1424 internally displaced persons, out of which 468 persons are hosted by the host families and the rest of 956 persons are sheltered within the collective centres in city of Kumanovo and Skopje.

The accommodation cost and of food for the internally displaced persons sheltered within the collective centres is provided and covered in total by the budget of Republic of Macedonia. For the internally displaced persons hosted by families, a family packages are provided on monthly basis, and for the families that are hosting internally displaced persons a monthly amount of 75 EUR is provided as grant.

In addition, for the persons who have returned to their reconstructed homes and have no basic home furnishings, a one-off install grant is being provided, by the Ministry of labour and Social Policy, and so far more than 350 families have received this kind of assistance.

The Government official attitude towards internally displaced persons is to support the return to their homes in spite of difficulties and constraints that may be met and regardless of the time this may take. In doing so, the Government of the Republic of Macedonia will continue to take all the measures within its capacity to ensure return for the remaining 1424 persons to their homes.

In regards of the return of the refugees, all information are provided in the answer of the question in the [I K 2](#) and [24 F 10](#).

In this context, the Government of the Republic of Macedonia is paying special attention to several questions, all related to the reconstruction of damaged homes during the 2001 conflict, security conditions, and the revitalisation of the former crisis areas.

During the 2001 crisis in the Republic of Macedonia, a total of 6,678 houses were damaged in the crisis areas. At the moment there are only 112 remaining houses qualified for reconstruction.

The Government of the Republic of Macedonia consider this process as being successfully brought to an end with the financial assistance of the international community. A total of 32 million EUR have been awarded at the Donors' Conference in Brussels for the reconstruction of the damaged homes and additional 1.9 million EUR was reallocated from the CARDS programme for this purpose.

With the end of the 2001 crisis, and by the signature of the Ohrid Framework Agreement, the major paths were defined for overcoming of the tensions and difficulties as result of the crises. Namely in the Annex C of the Ohrid Framework Agreement a number of measures have been envisaged aimed at restoring interethnic confidence as well as the confidence between the local population in the former crisis areas and the police.

In order to implement the provisions of the Ohrid Framework Agreement as an assigned strategic priority, the Government of the Republic of Macedonia adopted a special Plan on the Implementation of the Framework Agreement, which envisages the following measures in connection with the promotion of interethnic confidence and the security of persons and property:

- Strengthening of security and safety in the areas involved in the 2001 crisis, including the reconstruction and rebuilding of demolished or damaged police stations (Matejče, Tearce, Žerovjane and Raduša), and the creation of the necessary conditions for their normal functioning, as well as the construction of a new police stations in areas assessed as needing strengthened security (Aračinovo).
- Strengthening of the presence of an adequate number of police officers from different ethnic origin and re-gaining the competences by the police in the former crisis areas, and
- Continuation of activities aimed at mutual confidence building between the police, the local population and local self-government in these populated areas.

In this context, the police stations in Aračinovo and Matejče were built (through a donation from the governments of the Kingdom of the Netherlands, the Swiss Confederation and the Republic of Hungary), and the police station in Žerovjane has been reconstructed (through a USAID donation from the United States). The project for the construction of a police station in Tearce is currently under way (following a donation from the Norwegian Government), i.e. the construction works will commence in March. The equipment for all of them has been provided by the Government of the Republic of Macedonia, i.e. from the Ministry of the Interior.

At the same time, the Principal Plan for the Return of the Police Force to the former crisis areas was fully implemented. A result of its implementation is that a mixed police force is now successfully performing its functions in the field.

Through various projects initiated by international implementing agencies and the non-governmental sector, in cooperation and coordination with the Ministry of the Interior and the OSCE, the mutual confidence was strengthened and promoted, including the security of persons and property, the

development of cooperation between the police and the population at local level through the establishment of special citizens' counselling groups, as well as the reform of the police with the aim of ensuring better quality services to citizens.

As far as the revitalisation of the former crisis areas is concerned, the Government of the Republic of Macedonia adopted a special Programme of Activities for the Economic Revitalisation of the Former Crisis Areas.

The main objective of the Programme is to initiate a new stage of activities following the implementation of the process of reconstruction of damaged homes, i.e. a stage in which efforts will be intensified to achieve economic growth in the former crisis areas.

The areas in which the future activities of the programme should be concentrated are the following: agriculture, the communal sector and business.

In this context, a special Action Plan of Activities for Revitalisation is being foreseen, and which is currently in the final phase of preparation. During the preceding one-year period, a number of projects have been completed in the aforementioned areas as defined in the programme, primarily through appropriate annual programmes developed by the Government of the Republic of Macedonia, but also through the close cooperation with the donor community.

With regard to the revitalisation of the roads, the water supply and sewage systems, and the telecommunications infrastructure, it has to be noted that this has been almost fully completed through the intervention funds from the international community and the participation of several public companies from the Republic of Macedonia, in accordance with the programme for urgent measures adopted by the Government of the Republic of Macedonia and presented at the Donors' Conference in Brussels in March 2002.

In order to support the implementation of the Framework Agreement (Annex C — Confidence-Building Measures) and rehabilitation of the 2001 crises consequences, the Government of the Republic of Italy and the Government of Republic of Macedonia, provided an amount of 1.3 million EUR for the purpose of the economic revitalisation of the former crisis areas. These funds were reallocated from the programme for the reconstruction of a number of damaged houses in the village of Matejče, whose owners had not signed the tripartite reconstruction contracts.

In this context, at the request of the Government of the Republic of Italy, the implementing agency International Management Group (IMG) developed a project entitled "Economic Revitalisation of the Former Crisis Areas".

The aim of the project is to complete the reconstruction of some of the damaged commercial buildings through a grant, and also to offer individuals "soft" loans for purchase of machines and equipment to restart their businesses.

The project will be implemented in the way that will provide the amount of approximately 750.000 EUR (or nearly 60%) of the donation to be used as a grant for completion of the reconstruction of the damaged commercial buildings and for restart of the production providing for services or agricultural activities (this refers to only 81 beneficiaries who have qualified). The remaining funds, of up to 1.3 million EUR, will be utilised through grants of restricted loans upon favourable conditions for the purchase of machines and equipment, and the provision of services, out of which the minimum of 12%, will also be given in the form of grants.

In this context, it is important to emphasise that a total of 3.4 million EUR will be required to complete the revitalisation process for the qualified 81 legal entities. The remaining amount (above the 1.3 million EUR) is to be offered in the form of loans upon the same conditions provided by the interested commercial banks and other credit institutions.

According to a preliminary analysis, the aforesaid 81 beneficiaries will create 283 new jobs.

In the same context, another donation of 400.000 EUR by the Government of the Kingdom of Denmark should be mentioned, implemented through the project by the Danish Council for Refugees.

The project, which was completed in 2004, was aimed at supporting, among other things, the economic independence of returnees (former internally displaced persons and refugees) and socially vulnerable members of communities in the intervention areas, as well as making an overall contribution to the process of the return and reintegration of internally displaced persons and refugees in Macedonia.

Based on specific criteria, 181 beneficiaries were selected from the municipalities of Tetovo, Tearce and Izvor. These beneficiaries were given agricultural machines, livestock or professional equipment, mostly in the form of grants.

Aware of the importance of the process of economic revitalisation of the former crisis areas, the Government of the Republic of Macedonia defined it as a strategic priority and therefore envisaged the initial sum of 10 million MKD budgetary assets for this purpose in accordance with the economic situation in the country and with the intention of increasing it in the second half of the year.

Other projects by the Government of Republic of Macedonia are being analysed. One part of the donation provided by the Government of the Republic of China will be utilised for this purpose, in accordance with the signed bilateral Agreement on Economic and Technical Cooperation.

At the same time, the Government of the Republic of Macedonia will intensify its activities regarding the establishment of an adequate institutional structure within the General Secretariat, to ensure better coordination and management of the process of economic revitalisation of the former crisis areas.

L. BILATERAL RELATIONS

1. Please provide an overview of your relations with neighbouring countries, and countries of the Western Balkan Region, including outstanding bilateral issues and prospects for solutions.

The Republic of Macedonia fosters good relations with all countries in the region of Southeast Europe (SEE), which are characterised by a progressive development. The Republic of Macedonia has achieved a high level of co-operation and understanding in the bilateral relations with its neighbours, which is confirmed by frequent visits, meetings and contacts at all levels. The contractual framework governing the cooperation and relations is continually developed. In its relations with the neighbours, the Republic of Macedonia is committed to openly responding to all questions, applying the highest standards as those applied by member-states of the European Union. Overall, the relations of the Republic of Macedonia with its neighbours have been adequately balanced and by such a quality they are continuously developed with a clear European perspective.

The commitment of Republic of Macedonia and its readiness to play an active role in the region has been reconfirmed by its contribution as an initiator, founder or an active participant in all regional initiatives. As of the beginning the Republic of Macedonia has been participating in the South-East European Cooperation Process, being also its productive chair. Furthermore, the Republic of Macedonia has chaired the Central European Initiative, and has been participating in the Stability Pact for SEE and SECI since their establishment. The Republic of Macedonia participates in activities under the Adriatic-Ionian Initiative, and has also been participating in the Danube and the Szeged Processes. At the same time, the Republic of Macedonia is in a procedure of acquiring fully-

fledged membership in the Organisation of the Black Sea Economic Co-operation .For more details, please see answer [27 B 03](#).

The peaceful departure from the former federation and the peaceful approach while acquiring its independence was the initial and positive input for the constructive development of the relations of Republic of Macedonia with the SEE countries. The steps of the Republic of Macedonia in this context have been acknowledged in Europe and worldwide.

By implementing substantial and rapid reforms rooted in its own needs, and accordingly responding to regional challenges, the Republic of Macedonia has been confirming itself as a factor of stability in SEE.

In overcoming the crises and conflicts in the Region, the Republic of Macedonia has proven itself to be open and co-operative towards initiatives by the European Union and the international community. The Republic of Macedonia has been pursuing a transparent foreign policy based on mutual recognition of differences and respect for the sovereignty and identity of the peoples in Southeast Europe.

Some relations have been burdened with difficulties, the consequences of which are partially present even today. The source of the so-called open issues among the countries in the Region has been and still is the slow accommodation of some of the countries to the realities that emerged as a result of the changes in Central and Southeast Europe.

The commitment to European integration strengthens the stability of this part of Europe. The accession of the Republic of Macedonia into the Union (the prospects for accession of other countries in the Region, as well) will reduce the influence of patterns of conflict from the past and will open prospects for all nations and states. At the same time, the Union will be free to deal with other challenges. In essence, all known issues in the relations between the Republic of Macedonia and its neighbours can be resolved by the full adherence to the United Nations Charter, OSCE Final Document, and the Charter of Paris, as well as by respect of high standards enshrined in all relevant conventions for human and minority rights, and with the respect and implementation of values, principles and basic acts of the European Union.

REVIEW OF BILATERAL RELATIONS WITH THE NEIGHBOURS AND THE COUNTRIES OF THE WESTERN BALKANS

The relations with the **Republic of Albania** are good and dynamic and their progress is particularly evident at the bilateral political level. The relations are characterised by an open dialogue on all issues of mutual interest, accompanied with intensive co-operation in all fields. There are frequent visits at all levels and in all fields. The Republic of Macedonia and the Republic of Albania share the same foreign policy goals – the European Union and the Euro-Atlantic integration.

The Adriatic Charter and the activities undertaken in its framework aimed at the advancement of the co-operation in relation to the Euro-Atlantic integration have given particular impetus to the development of bilateral relations in the last two years. Similar activities are undertaken on the basis of the signed Memorandum for Co-operation for Exchange of Experiences in the Process of Euro-integration. The Republic of Macedonia continuously supports Albania's endeavours to join the European integration processes, as well as its membership of NATO. In the course of development of bilateral relations, a number of bilateral agreements, protocols and other documents have been signed creating a solid legal framework for the development of the co-operation. However, their full and consistent implementation is necessary. The Agreement on Good-Neighbourly Relations and Friendship is expected to be signed (please see [27 Annex 01](#)). Bilateral relations have reached a level that enables the successful prevention of negative scenarios for the security in the Region, particularly following the Kosovo crisis.

The economic co-operation is carried out on the basis of the Free Trade Agreement signed in March 2002, which in a short period of time provided for increased and more balanced bilateral trade. However, higher forms of co-operation are still lacking. In 2003 the bilateral trade was 18,81 million

EUR, of which 15,34 million EUR exports and 3,47 million EUR imports; and in the course of January-August 2004 the total trade was 13,32 million EUR, of which 9,85 million EUR exports and 3,47 million EUR imports.

The two countries have been coordinating their activities in regional initiatives in order to secure funds for regional infrastructure projects of mutual interest, such as the Corridor 8, the Euro-region Ohrid-Prespa projects, environmental protection, etc.

The border co-operation has been carried out on the basis of the signed 7 agreements regulating the maintenance and demarcation of the border line; measures for prevention and resolution of border incidents; the visa regime and the facilitation of communication of the border area inhabitants; legal assistance in civil and criminal law matters; mutual execution of court decisions and extradition. Visas for citizens of both countries are issued in Diplomatic and Consular Missions and at the border-crossings. As of June 2000, the Agreement Facilitating Communication of Inhabitants in the Border Areas has officially been implemented. Its aim is to alleviate the problems regarding illegal crossings of state borders, thefts, etc. The activities for opening new border-crossings for cross-border communication, as well as the co-operation based on the implementation of recommendations of the Border Security and Management Ohrid Conference in the Region are expected to be intensified.

As a result of intensive bilateral meetings at the political level, there are on-going preparations of treaties that would regulate issues of cultural co-operation and protection of **national minority rights** in the two countries in accordance with European standards. The Macedonian national minority in Albania is organised in several associations registered in accordance with the applicable legislation in the country; however, representatives of the minority claim that little has been done for the practical exercise of their human and minority rights. During the population census in the Republic of Albania, in April 2001, all instruments for methodology testing and validity of data have not been applied as it was done during the census in the Republic of Macedonia in 2002. Thus significant differences in data as regards the number of this population have been registered between governmental and non-governmental expert sources.

There is continuous cooperation co-operation with the **Republic of Bulgaria** in many fields. The two countries are building partner relations by assuming contractual obligations on the basis of the declared mutual interests. The contractual framework of the relations between the two countries has been completed to a great extent (please see [27 Annex 01](#)). Several other agreements are in procedure of negotiation or ratification. The accession of the Republic of Bulgaria to the EU and the accession of the Republic of Macedonia to EU and NATO have been identified as mutual interests and are the basis for intensive co-operation, in which respect a Memorandum of Co-operation was signed in August of 2004.

The **political bilateral relations** are developed through frequent visits at all levels, including the highest. In addition to the economic co-operation, the two countries also successfully cooperate in the fields of cross-border cooperation, defence, justice and home affairs, transport and communication, agriculture, forestry and water management, local self-government, culture, environment protection and in other fields.

The **economic co-operation** between the two countries has been carried out pursuant to the Free Trade Agreement signed in 1999, which has been fully harmonised with the WTO rules. The Agreement envisages the establishment of a free trade zone as of 01.01.2005. The payment operations are to be contractually regulated. The trade between the two countries in 2003 was 154,65 million EUR (exports 22,8 million EUR, imports 131,85 million EUR); and in the course of January-August 2004 the trade was 133,45 million EUR (exports 24,66 million EUR, imports 108,79 million EUR). The Republic of Bulgaria is ranked sixth in terms of overall foreign trade of the Republic of Macedonia. Bulgarian investments in Macedonia from 1991 until 2004 were approximately 13,30 million EUR.

The two countries have been successfully co-operating in **multilateral bodies**, primarily in international organisations, through mechanisms of the Euro-Atlantic Partnership Co-operation

(EAPS) and Partnership for Peace (PfP), and they are members of almost all regional initiatives. The co-operation under the Stability Pact, mostly in the Second Working Table, is of great importance. In this respect, Bulgaria and the Republic of Macedonia have submitted projects of mutual interests (interconnection of railways between the two countries, the 400 kV transmission line from Štip to Blagoevgrad, new border-crossings, etc). They also actively co-operate in the South East European Cooperation Process, where, as in the CEI, the priority mutual interest is the construction of Corridor 8, and especially the finalisation of construction of the railroad connection between the two countries.

Issues related to the **border** between the two countries have been regulated by many bilateral agreements in several fields. The co-operation in this area will be intensified through the already reached agreement on convening expert consultations regarding the border, phyto-sanitary and customs regime, in accordance with the EU standards. Pursuant to the recommendations of the Ohrid Conference on Border Security and Management, as of 01.09.2004 the border police have taken over the competence for securing the eastern border towards the Republic of Bulgaria.

The Macedonian **national minority** in this neighbouring country, as well as the Republic of Macedonia, expect that by Bulgaria's advancement towards European Union membership, conditions for the free expression of ethnic identity of all citizens in Bulgaria will improve. The Republic of Macedonia is committed to resolving all known open issues through the realisation of human and minority rights standards in this neighbouring country.

The relations and co-operation with the Hellenic Republic have significantly improved in the last nine years, after the signing of the Interim Agreement. At the present, there is intensive economic and other co-operation; however, meetings at the highest political level are still lacking. In October 2004, an Office for Consular and Trade Relations of the Republic of Macedonia was opened in Thessalonica and a similar office of the Hellenic Republic is expected to be opened in Bitola. The Republic of Macedonia expects further support from the Hellenic Republic, as the only neighbour, which is both an EU and NATO member, for its European and Euro-Atlantic integration, as well as continuation of the activities within the Greek plan for economic revitalisation of the Balkans. In order to promote the current co-operation, the Republic of Macedonia has proposed several draft-agreements, several agreements of which have been harmonized and are expected to be signed in the near future (see [27 Annex 03](#)).

Economic co-operation: The Hellenic Republic is the first ranked investment partner of the Republic of Macedonia, with the investment priorities in the fields of energy, telecommunications and finance. The Greek investments account for 57% of the total foreign investments in the Republic of Macedonia. The trade between the two countries is increasing - in 2001 it was 319,47 million EUR (112,95 million EUR of exports and 206,52 million EUR of imports); in 2002 it was 374,01 million EUR (123,28 million EUR of exports and 250,73 million EUR of imports); in 2003 it was 426,66 million EUR (158,74 million EUR of exports and 267,92 million EUR of imports) and in the course of January-August 2004 the trade was 263,59 million EUR (115,40 million EUR of exports and 148,19 million EUR of imports). The increase of trade, higher forms of co-operation and organised regional interconnections are the main tasks in terms of future activities.

At the same time, the **regional and multilateral co-operation** has been successfully carried out under regional initiatives and international organisations, with a focus on the trilateral co-operation, as well, which includes the Republic of Albania.

In the context of the border between the two countries (which in accordance with undertaken reforms has been secured by the border police at the side of the Republic of Macedonia) there have been no problems for a longer period. This co-operation was particularly successful and intense during the complex operation of securing the Olympic Games, and is expected to continue in the future. Taking into account its commitment to accession to the European Union, the Republic of Macedonia expects new measures to be undertaken at the bilateral level in accordance with the EU criteria, that would adjusted the current border-crossing regime to the new conditions and trends.

On the other hand, full diplomatic relations between the two countries have not yet been established as it is stipulated in the Interim Accord signed in 1995.

In addition, the two countries have not yet considered the issue of former citizens of the Hellenic Republic who have been deprived of their citizenship and whose entry and stay in the Hellenic Republic has been denied under decrees adopted by former Greek governments. In this context, still unresolved is the exercise of property rights in the Hellenic Republic by current Macedonian citizens and their descendants. This and other questions with regard to national minority rights have been raised by the Republic of Macedonia, but there are still no effective and open talks at the bilateral level, in this respect.

An open question in the relations between the Republic of Macedonia and the Hellenic Republic is the objection of the Hellenic Republic to the use of the constitutional name of the Republic of Macedonia. The Republic of Macedonia has been adhering to its responsibilities assumed under the UN Security Council Resolution 817 (1993) and has been supporting the continuation of the dialogue process within the UN, which is to be carried out in a constructive and friendly atmosphere and mutual respect, in the spirit of good-neighbourly co-operation. The Republic of Macedonia firmly maintains its position to preserve its constitutional name in the entire internal and international communication. The Republic of Macedonia expresses readiness to finding a mutually acceptable solution in the bilateral communication between the two countries.

After the normalisation of the relations of the Republic of Macedonia with **Serbia and Montenegro** in 1996, the two countries entered a period of co-operation and contractual regulation of their relations in various fields, which was intensified after the democratic changes in this neighbouring country in 2000. The only open question between the two countries – the delineation and description of the Macedonian-Yugoslav border – was resolved in this period as well (in 2001). This agreement has been implemented successfully and the demarcation of the border is expected to be completed in 2005. A new border crossing has been opened to facilitate communication of border area inhabitants, and currently there are procedures under way for opening additional three such border crossings.

The high level of **political bilateral relations** and co-operation has been confirmed by the frequent and numerous highest-level meetings. These relations and co-operation have been characterised by a positive development trend, with a high level of mutual trust, understanding and good-neighbourliness, which all contribute to the maintenance of the peace and stability in SEE. The Republic of Macedonia has been supporting Serbia and Montenegros' endeavours for a speedy integration into European and Euro-Atlantic processes.

The Republic of Macedonia and Serbia and Montenegro have signed 23 **bilateral agreements and acts**. There are initiatives for signing co-operation agreements in the field of information and protection of cultural and historical monuments, as well as the Agreement on Good Neighbourly Relations and Friendship. (see [27 Annex 01](#)).

The economic co-operation has been carried out in accordance with the Free Trade Agreement, signed in 1996. By concluding agreements for the promotion and mutual protection of investments and avoidance of double taxation, the two countries have created prerequisites and a solid legal framework for a more successful co-operation. For the purpose of expanding and promoting the economic co-operation, in March 2000 the two countries founded a Joint Macedonian-Yugoslav Chamber. The total trade in 2003 was 429,04 million EUR (241,10 million EUR of exports and 187,94 million EUR of imports) and in the course of January-August 2004 the trade was 292,40 million EUR (167,37 million EUR of exports and 125,03 million EUR of imports). There are negotiations under way for the adaptation of the Free Trade Agreement due to changes in the status of the state community following the Belgrade Agreement.

As a result of the endeavours for the protection of **national minorities**, on 06.07.2004 the Republic of Macedonia and Serbia and Montenegro signed an Agreement on the Protection of the Macedonian National Minority in Serbia and Montenegro, and the Serbian and Montenegrin national minority in the Republic of Macedonia, as a first such agreement in the region. The two countries expect that its

implementation will provide further guarantees for the rights of national minorities in accordance with international standards.

The Republic of Macedonia is still hosting about 1800 persons, citizens of Serbia and Montenegro, originating from Kosovo, who have remained in the Republic of Macedonia following the Kosovo crisis in 1999. In order to resolve their problems the Government has initiated several activities for their safe return to their places of living.(for more details see answers, [I K 01](#) and [I K 02](#))

The Republic of Macedonia continues to closely follow the developments **in Kosovo, in accordance with the UN Security Council Resolution 1244**. The Republic of Macedonia is giving its full support to the UN and international community policies the ultimate goal of which is the establishment of a true multiethnic community, to promote security, strengthen the democratisation and to establish rule of law. At the same time, the Republic of Macedonia offers continuous support to the endeavours of the UN and other relevant factors in the fulfilment of their responsible mission. The Republic of Macedonia has been developing co-operation with UNMIK and the interim administration of Kosovo, pursuant to the Resolution 1244 of the UN Security Council, on issues of mutual interest, and especially concerning practical issues of importance to citizens. The movement of people and goods to and from Kosovo has been facilitated; there are ongoing preparations for the establishment of a trade office; and an interim free trade protocol is being drafted.

The Republic of Macedonia has been reiterating that any future status of Kosovo must not result in the destabilisation of the SEE. The Republic of Macedonia supports the resolution of this issue through dialogue between Belgrade and Pristina, with enhanced participation by the international community. With regard to the endeavours for relaxation of the situation in the region, it is especially important for the Republic of Macedonia that the technical operations for demarcation of the border in the Kosovo section are complete prior to the ultimate outcome of the Kosovo problem. Hence, the Republic of Macedonia has been asking for a firm commitment on the part of the international community to adhere to international principles in order to prevent any unfavourable development.

The relations and co-operation with **Bosnia and Herzegovina** are good and are developing in all areas. They are characterised by a **continuous political dialogue** at all levels, bilaterally and multilaterally, as well as by readiness for their improvement. Due to the specific and complex constitutional and legal system of Bosnia and Herzegovina, especially in respect of international relations, the two countries have signed **a few bilateral agreements** (see [27 Annex 01](#)). There are negotiations under way for the harmonisation of several agreements that can be signed. Five agreements are in their final phase.

The economic co-operation between the two countries does not match the possibilities of the two countries, which is partly a result of the situation in the Region, and especially in Bosnia and Herzegovina. The trade between the two countries has amounted in 2003 to 31,26 million EUR, of which Macedonian exports amounted to 20,91 million EUR and imports of 10,35 million EUR. The trade between the two countries for the period of January-August 2004 was 21,78 million EUR, of which Macedonian exports was 14,68 million EUR and imports of 7,10 million EUR. An additionally negative factor for a greater economic co-operation has been the absence of a contractual framework in this area.

The two countries have been **successfully co-operating at the multilateral level and under regional initiatives**. The Republic of Macedonia has expressed readiness to share its experiences in the European Union and Euro-Atlantic integration processes with Bosnia and Herzegovina.

Minorities: Since 1991 a population census has not been organised in Bosnia and Herzegovina. In 1998 a so-called consideration of the number of population and its ethnicity was organised in Bosnia and Herzegovina, where the citizens of the Republic of Macedonia have been categorised under the "others" section.

The relations and co-operation with the **Republic of Croatia** have continuously been developing in all areas of mutual interest, with readiness expressed by both parties to their further improvement. The relations have been characterised by friendship; absence of open issues and a political dialogue

at all levels. The co-operation has especially been dynamic under European and Euro-Atlantic integration processes. The two countries have signed an Agreement on Co-operation in the context of EU accession, as one of the obligations arising from the Stabilisation and Association Agreement with EU (for more details see answer [I L 02](#)), as well as the Memorandum of Co-operation. The two countries also closely co-operate within the Adriatic Charter.

Bilateral agreements: The two countries have achieved a high level of contractual regulation of co-operation in various areas (22 agreements and 1 protocol – please see [27 Annex 01](#)). They have also expressed an interest in signing a Payment Operations Agreement, Media Co-operation Agreement, and Health and Medicine Co-operation Agreement.

As regards **economic co-operation**, apart from traditional forms, the two countries have announced more significant mutual investments, as well as investments of Croatian companies in the Macedonian economy. The trade between the two countries for the period of January-June 2004 was 73,23 million EUR, of which Macedonian exports were 40,46 million EUR and imports of 32,77 million EUR. The total trade volume between the two countries in 2003 amounted to 104,29 million EUR, of which Macedonian exports amounted to 58,32 million EUR and imports of 55,97 million EUR.

The two countries have been **successfully co-operating at the multilateral level**, especially as regards the candidacy of the Republic of Macedonia for the ECOSOC (for 2005-2007) and Croatia's candidacy for a non-permanent UN Security Council member, as well as under **regional initiatives**.

Minorities: The Republic of Croatia has established a positive position regarding the activities of Croatian citizens of Macedonian origin. The two countries have established mechanisms for state support in protection of their ethnic identity and social and political activity.

For more details on the relations between the Republic of Macedonia and other countries in the neighbourhood and co-operation in regional initiatives, see answer [27 B 03](#).

2. Please describe the steps you have taken to negotiate a convention on regional cooperation with Croatia, in accordance with Article 12 of the Stabilisation and Association Agreement.

Pursuant to its foreign policy commitment to developing neighbourly co-operation, and taking into account European Union's criteria defining the successful regional co-operation as one of the conditions for the integration of the countries of the region into the EU, the Republic of Macedonia has initiated negotiations with the Republic of Croatia to sign a Convention on Regional Co-operation, to which end it has prepared a draft-text.

The European Commission has been informed on the proposal, and it has welcomed the initiative. After reviewing the draft-text, the European Commission has given remarks and suggestions, and parts of them have been incorporated into the text in the course of negotiations.

Meanwhile several joint consultations have been realised as regards the draft-text. Following the entry into force of the Stabilisation and Association Agreement (SAA) between the Republic of Macedonia and the European Union, negotiations between the Republic of Macedonia and the Republic of Croatia have intensified.

Pursuant to Article 12 of the SAA, and taking into account the fact that strengthening of the regional co-operation between the two countries within the Stabilisation and Association Process is a significant step forward to accession, the Republic of Macedonia and the Republic of Croatia have agreed to sign an Agreement on Co-operation between the Republic of Macedonia and the Republic of Croatia in the Context of Approximation and Accession to the EU.

In the spirit of co-operation as an incentive to other countries in the region, but also as a contribution to united and stronger Europe, the Ministers of Foreign Affairs of the two countries have signed the Agreement in Skopje on 06.09.2004.

The Agreement shall come into effect after the completion of internal legal procedures of ratification within the two contracting parties.

The Republic of Macedonia, pursuant to its legal procedure, has ratified the Agreement in the Assembly of the Republic of Macedonia on 01.02.2005.

3. How has the SFRY Succession Agreement been implemented? Are there any remaining difficulties?

The Agreement on issues concerning succession of the former SFRY was signed in June 2001, and after its last ratification by the Assembly of the Republic of Croatia in 2004, conditions for its entry into force have been met.

In the course of the final phase of negotiations (April 2001), some of the provisions concerning the division of state foreign exchange reserves have been implemented. Following the signing of the Agreement, the implementation of the provision on the division of the diplomatic property of former SFRY was initiated. After the successful conclusion of negotiations for regulating the debt of the former USSR to former SFRY, this segment was implemented according to the modalities determined in the Memorandum and with the agreed between particular countries-successors of the former SFRY and the Russian Federation, during the additional talks. In 2003, part of the assets that had been frozen in certain financial institutions in the U.S. were distributed. The committees on financial issues and diplomatic property responsible for the preparation of the decisions on further implementation of the Agreement with regard to remaining issues are having regular meetings.

The Republic of Macedonia is firmly determined to continue with its constructive attitude and active contribution in the realization of this international agreement. Pursuant to provisions of this Agreement, the Republic of Macedonia is to convene the first assembly of the Permanent Joint Committee for the Implementation of the Agreement, which is going to enable the institutional basis for its realisation.

Taking into account the different views and issues that have not yet been tackled, a realistic assessment on the efficient implementation of the Agreement can be given after the first session of the Permanent Joint Committee.

M. INTERNATIONAL OBLIGATIONS

1. General

- a) How is co-operation with The Hague tribunal organised both at political and operational levels? Is there a specific legal framework? What is the procedure followed when the government receives requests for assistance (RFAs) from the ICTY? Which is the ministry/body in charge?**
- b) Was there a change in the procedure in May 2004? Is it correct that from onwards the Ministry of Justice was in charge of serving summonses to witnesses and suspects?**
- c) How many and what types of RFAs have you received in 2004 and how many replies have been given? How many summonses for witnesses? How many since May 2004?**
- d) How much time is needed as an average to respond positively to a RFA? How many RFAs were answered positively in 2004? How many since May? Of these RFAs, how many summonses for witnesses?**
- e) How many RFAs are still to be answered? What are the reasons for the delay in answering them? What issues are they related to?**
- f) Is your country ready to respond positively to possible future requests for information from**

the ICTY and how do you envisage ensuring the appropriate follow-up?

g) How many cases have been opened by the ICTY and what is the state of the proceedings?

h) Do you have legislation and mechanisms to protect witnesses?

i) What judicial cooperation and extradition mechanisms exist with the other countries which belonged to the former Yugoslavia?

a)

The Government of the Republic of Macedonia has expressed its firm political commitment and support regarding the operation and actions of the Hague Tribunal, highly appreciating its role in undertaking efficient measures to bring to justice the perpetrators of serious war crimes and other crimes against humanity.

The cooperation has been unimpeded, with full respect of the ICTY documents: the UN Security Council Resolution 827 (1993); the Statute of the Tribunal adopted by the Resolution and the Rules of Procedure and Evidence. The Republic of Macedonia, being a UN Member, has obligations under the Resolution 827, i.e. it has undertaken and fulfilled all legally binding international obligations deriving from the Resolution and other international documents. The cooperation with the ICTY has been regulated by the provisions of the Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia", Nos. 15/97, 44/02 and 74/04).

May 2004 inclusive, requests for assistance (RFAs) from the ICTY were submitted to the Government of the Republic of Macedonia, i.e. Ministry of Foreign Affairs, which forwarded them to the Ministry of Justice. Subsequently, the Ministry of Justice, if there was a need, communicated the Ministry of the Interior, Ministry of Defence and the competent court. Replies to RFAs were submitted to the Ministry of Foreign Affairs as the competent ministry for coordination.

b)

In order to abbreviate the regular procedure and respond to RFAs within the shortest possible period, as of May 2004 the Ministry of Justice has been in charge of responding to RFAs. The Ministry approaches the competent court with special request for serving summonses to witnesses and suspects. The following documents are enclosed therewith: notification of the receipt of summons, list of addresses and other data previously obtained from the Ministry of the Interior, a copy of Article 29 of the ICTY Statute and Rule 39 of the Rules of Procedure and Evidence. For suspects, the following is also enclosed: a copy of Rules 42 and 43 of the Rules of Procedure and Evidence, regulating the right to be assisted by a defence attorney and the Instruction on Assignment of Defence Attorney to the competent court.

If necessary, the Ministry of Justice communicates the Ministry of the Interior and the Ministry of Defence requesting consent for relieving persons employed in these Ministries from the obligation to preserve a state secret, which is to be disclosed to the Tribunal.

c)

In the course of 2004, 22 RFAs were received and all of them were replied. Since May 2004, replies to 13 of these RFAs were submitted. Out of the total number of the received RFAs, 6 referred to submission of specific data, information and documents requested by the Tribunal, while 16 RFAs referred to serving summonses for interviewing persons in the capacity of witnesses and suspects. So far, 163 summonses have been submitted, including 111 to persons in the capacity of witnesses and 52 to persons in the capacity of suspects. Since May 2004, 96 summonses have been served for interviewing persons in the capacity of witnesses and 52 summonses for interviewing persons in the capacity of suspects. In January 2005, another 3 RFAs on hearing persons in the capacity of witnesses were delivered to the Ministry of Justice.

d)

Preparation of RFAs replies is conducted in the shortest possible timeframe, respecting obligations incorporated in the Statute of the Tribunal for acceptance without delays of the ICTY requests and orders concerning identification and location of persons, taking testimonies, provision of evidence, and service of summonses (13 days on average).

All RFAs submitted thus far have received positive replies; out of them 113 RFAs are referring to interviewing persons in the capacity of witnesses.

e)

All RFAs received so far have been replied. Reasons for delays in submission of replies have been of objective nature, depending on the particular RFA (number of persons to be served summonses for interviews; specific nature of the requested data or information). Delays have been due to the difficulties faced by the delivery service when serving summonses and the need of assistance by the Ministry of the Interior (more than one person with the same first name and surname; persons who have moved out; need for police assistance when persons were apprehended by means of force, by a special order of the investigative judge).

f)

The Republic of Macedonia will continue to cooperate with the ICTY in future. The procedure will be conducted in accordance with the ICTY Statute and the national legislation. In doing so, the established cooperation will be further enhanced.

g)

The Government of the Republic of Macedonia and the Ministry of Justice in particular have confirmed their readiness to cooperate by handing over five cases to the ICTY competence. Proceeding upon the Decision of the ICTY Trial Chamber of 04.10.2002 on handing over the competence for investigations and court proceedings regarding five cases – NLA Leadership, Mavrovo construction workers, Lipkovo Lake, Ljuboten and Neprosteni, the Ministry of Justice forwarded the aforementioned cases on 29.11.2002.

The RFAs from the Tribunal so far referred to the Ljuboten case.

h)

Protection of witnesses in the Republic of Macedonia has been regulated by Chapter XIX-a of the Law on Criminal Procedure. Provisions of the Law stipulate that, in the course of proceedings, the public prosecutor i.e. investigative judge or president of the chamber may undertake actions for protection of witnesses, collaborators of justice or victims appearing as witnesses in the proceedings, in case they may be exposed to intimidations, threats of revenge and risks for their life, health and physical integrity or when their protection is required. The Law on Protection of Witnesses that is currently in parliamentary procedure (passed first reading) is in line with the efforts to provide increased protection of witnesses.

i)

Court and extradition cooperation with the countries that belonged to the former Yugoslavia has been carried out by applying the Council of Europe Conventions – the European Convention on Extradition, European Convention on Mutual Assistance in Criminal Matters, Convention on Transfer of Sentenced Persons with its Protocol, ratified by the Republic of Macedonia in 1999, as well as on the basis of bilateral agreements.

The Republic of Macedonia has signed bilateral agreements with the Republic of Croatia and the Republic of Slovenia, namely:

- Agreement between the Republic of Macedonia and the Republic of Croatia on Mutual Execution of Court Rulings in Criminal Matters ("Official Gazette of the Republic of Macedonia", No.17/95), which entered into force on 26.05.1997;
- Agreement between the Republic of Macedonia and the Republic of Croatia on Mutual Legal Assistance in Civil and Criminal Matters ("Official Gazette of the Republic of Macedonia", No.19/95), which entered into force on 26.05.1995;
- Agreement between the Republic of Macedonia and the Republic of Slovenia on Mutual Execution of Court Rulings in Criminal Matters ("Official Gazette of the Republic of Macedonia", No.24/96), which entered into force on 05.09.1997;

- Agreement between the Republic of Macedonia and the Republic of Slovenia on Legal Assistance in Civil and Criminal Matters (“Official Gazette of the Republic of Macedonia”, No.24/96), which entered into force on 05.09.1997;
- Agreement between the Republic of Macedonia and the Republic of Slovenia on Extradition (“Official Gazette of the Republic of Macedonia”, No.24/96), which entered into force on 05.09.1997.

The judicial cooperation has been carried out through the respective Ministries of Justice. The requesting state submits judicial requests to the requested state, which forwards them to the court of the respective jurisdiction.

The Republic of Macedonia has signed bilateral agreement with Serbia and Montenegro that has still not entered into force. The judicial cooperation has been carried out through the Ministries of Justice of the two states.

With Bosnia and Herzegovina, the court cooperation has been carried out through diplomatic channel, through the Ministry of Foreign Affairs of the Republic of Macedonia.

2. Domestic trials for war crimes

a) Please explain how the Amnesty Law is implemented.

b) Does the Republic of Macedonia accept the notion of command responsibility, as defined by the ICTY Statute (Art. 7.3) and the Rome Statute of ICC (Art. 28)? Is evidence coming from the ICTY acceptable, in theory and in practice, in national court proceedings?

c) Does your country have the necessary trained judicial personnel (prosecutors, lawyers, judges) to process domestic war crimes trials?

a)

The Amnesty Law (“Official Gazette of the Republic of Macedonia”, No. 18/02) releases from prosecution, terminates criminal procedures and fully acquits of serving the remaining sentence (in the text to follow: amnesty) citizens of the Republic of Macedonia, persons with legal residence as well as persons having property or family in the Republic of Macedonia (in the text to follow: persons), for whom there is reasonable doubt that they have organised or perpetrated crimes related to the conflict in 2001, 26.09.2001 inclusive. The amnesty also covers persons who have organised or perpetrated crimes before 01.01.2001 related to the conflict in 2001.

The amnesty releases from prosecution persons for whom, pursuant to the Criminal Code or other law in the Republic of Macedonia, there is reasonable doubt that they have organised or committed crimes related to the conflict, 26.09.2001 inclusive.

Criminal procedures are terminated for persons for whom, pursuant to the Criminal Code and other law in the Republic of Macedonia, there is reasonable doubt that they have organised or perpetrated crimes related to the conflict, 26.09.2001 inclusive.

In addition, persons who have organised or perpetrated crimes pursuant to the Criminal Code or other law, related to the conflict, 26.09.2001 inclusive, are fully acquitted of serving the remaining sentence.

The sentence and all legal consequences arising thereafter are annulled for crimes perpetrated 26.09.2001 inclusive.

The foregoing provisions do not apply to persons who have committed crimes related to the conflict in 2001 under the competence of the International Criminal Tribunal for the Former Yugoslavia.

Part of this Law's provisions apply to the persons who in the course of the conflict have not responded to summonses for serving the army or who have evaded military services and drills, as well as persons who have deserted the military forces.

In addition, the Law acquits of serving the remaining sentence persons who have been convicted of crimes pursuant to the Criminal Code or other law of the Republic of Macedonia, and who have started serving their sentence by the day of the Law's entry into force. This acquittal refers to 25% of the remaining sentence.

Acquittal does not refer to persons convicted of crimes against humanity and international law; persons convicted of illegal production and trafficking in narcotic drugs, psychotropic substances and precursors or those enabling the use of narcotic drugs, psychotropic substances and precursors, as well as to persons sentenced to life.

Procedure

The procedure on the implementation of the Amnesty Law for persons currently under criminal proceedings is initiated ex officio by the competent public prosecutor and/or by the competent basic court or the person subject to amnesty, or by a third person who on behalf of the defendant may file an appeal.

Procedure for persons already convicted and serving a sentence is initiated by the penitentiary institution in which they serve their sentence. Procedure for persons who have not started serving their sentence is initiated ex officio by the court that has brought the first instance verdict or upon the request of the public prosecutor or the convicted person.

The amnesty decision is adopted by the competent body in accordance with the Law on Criminal Procedure and the Law on Execution of Sanctions ("Official Gazette of the Republic of Macedonia", Nos. 3/97, 23/99 and 74/04).

Implementation of the law

Decisions already adopted:

1. Pursuant to Article 1 of the Amnesty Law, 164 persons were amnestied (for all crimes stipulated by the Criminal Code except for crimes covered by the international humanitarian law for which The Hague Tribunal is competent).
2. Pursuant to Article 2 of the Amnesty Law, 734 persons are amnestied for the crimes: Not responding to a summon (Article 341 of the Criminal Code), Evading military service (Article 342 of the Criminal Code), and Deserting military forces (Article 344 of the Criminal Code).
3. Pursuant to Article 3 of the Amnesty Law, 962 persons, who at the moment of the adoption of the Law had already been convicted and imprisoned, have been acquitted of serving 25% of the remaining of their sentence.

Apart from the decisions on the implementation of the Amnesty Law, public prosecutor's offices of first instance have also decided to:

- Drop charges for 32 persons,
- Release from prosecution 65 persons, and
- Terminate proceedings for 3 persons.

Apart from the application of amnesty regarding crimes related to the military conflict of 2001, the President of the Republic of Macedonia has pardoned 64 persons.

b)

Macedonian legislation has been harmonised with the provisions of the International Criminal Tribunal for the Former Yugoslavia (ICTY) Statute (Article 7, item 3) and the Rome Statute of the International Criminal Court (ICC) (Article 28).

Command responsibility has been regulated in Chapter XXXIV of the Criminal Code of the Republic of Macedonia ("Official Gazette of the Republic of Macedonia", Nos. 37/96, 80/99, 4/00, 43/00, and 19/04). Article 416-b stipulates the command and other responsibilities for crimes against humanity and international law (403-416a) committed in a time of war or any other military conflict.

As regards the acceptance of evidence coming from the ICTY, pursuant to Article 150, paragraph 2 of the Law on Criminal Procedure all evidence and data necessary to decide wherever an indictment will be submitted are collected in the course of investigation.

In the hitherto practice criminal proceedings for crimes against humanity and international law have not been conducted in the Republic of Macedonia. The five cases mentioned in the answer to the previous question have been deferred to the competence of the Tribunal.

c)

There is continuous training of judges, prosecutors and lawyers to process trials of various crimes. Special training has been carried out by the Continuous Education Centre within the Judges' Association of the Republic of Macedonia in co-operation with the US Embassy to Macedonia through the Assistance Programme of the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) and the Association of Public Prosecutors of Macedonia. In addition, a Conference on the Position and Procedures before the International Criminal Tribunal for the Former Yugoslavia has been held.