



REPORT ON ENVIRONMENTAL CORRUPTION IN THE REPUBLIC OF NORTH MACEDONIA

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Republic of North Macedonia

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I. INTRODUCTION

One of the areas that is of vital importance for a quality and healthy life of the citizens of the Republic of North Macedonia is a clean and healthy environment. This fact is incorporated in the fundamental rights of its citizens in Article 43 of the Constitution of the state:

Everyone has the right to a healthy environment. Everyone has the responsibility to promote and protect the environment and the nature. The Republic ensures conditions for exercising the right of citizens to a healthy environment.

However, there are numerous indicators that the environment in the Republic of North Macedonia is endangered, and with it the health and lives of its citizens.

The process of harmonization of the national legislation on environment with the EU legislation has been going on for two decades, and the adopted laws governing environmental protection have been in force for more than a decade. In practice, there is an evident discrepancy between what is prescribed in the laws and the publicly declared commitments of state representatives for greater care and improvement of the quality of the environment on the one hand, and the reality on the other – which has been stated in numerous national and international reports.

For years, environmental protection has been part of the programmes of political parties and the executive government at the central and local level. There are also institutions in place whose main task is precisely the protection and improvement of the environment. So, the question is: what prevents the realization of the plans and promises for preservation of clean nature, healthy air, unpolluted soil and water, protection and improvement of the condition of natural rarities and beauties, some of which have been recognized as part of the world natural heritage?

This research is based on the findings and comments from the European Commission's Country report on the progress towards EU membership in the Chapter on the environment, the international documents and declarations for prevention of corruption and environmental protection, the national legislation related to corruption and the National Strategy for Prevention of Corruption and Conflict of Interests 2021-2025 together with the Action Plan for the same period. The report reviews the current legislation governing environmental protection, including the laws governing different areas in the field of nature protection, media pollution and inspection supervision, which have not yet been adopted.

Methodologically, for the needs of this research, desk research and interviews were conducted with relevant contacts - representatives from civic initiatives and the concerned public. For the needs of the desk research, available information on the official websites of the ministries and municipalities was used, including information from participation in forums on subjects related to environmental corruption, reports from organizations dealing with the quality and protection of the environment, as well as journalistic research and stories on environmental issues pointing out possible related cases of corruption. The aim of the research was to identify the areas within the environmental protection which are highly indicative of the risk of corruption, and to recommend future steps for mitigating those risks in order to improve the situation.

II. LEGAL FRAMEWORK FOR ENVIRONMENTAL PROTECTION

II.1. National Legal Framework for Environmental Protection

Article 43 of the Constitution defines the right to quality and healthy environment as one of the basic rights of the citizens, where everyone is obligated to protect and promote the natural environment.

Every aspect of the environment is elaborated in separate laws that establish media-specific protection systems. The main laws regulating the environment in the Republic of North Macedonia are the following:

- Law on Environment (Official Gazette no. 53/05,81/05,24/07,159/08, 83/2009, 124/2010, 51/2011, 123/12, 93/13, 187/13 42/14, 44/15 129/15, 192/15, 39/16, 99/18)
- Law on Nature Protection (Official Gazette no. 67/04, 14/06, 84/07, 35/10, 47/11, 148/11, 59/12, 13/13, 163/13, 41/14 and 146/15)
- Law on Ambient Air Quality, (Official Gazette no. 67/04 92/07, 35/10, 47/11, 59/12, 163/13, 10/15, 146/15)
- Law on Waste Management (Official Gazette no. 68/04, 71/04, 107/07, 102/08, 134/08, 124/10, 51/11, 123/12, 147/13, 163/13, 51/15, 146/15, 192/15)
- Law on Waters (Official Gazette no. 87/08, 6 / 09, 161/09, 83/10, 51/11, 44/12, 23/13, 163/13, 180/14, 146/15)
- Law on Electrical and Electronic Equipment and Waste Electrical and Electronic Equipment Management (Official Gazette no. 6/2012 of 13.01.2012)
- Law on Forests (Official Gazette no. 47/97 of 19.09.1997)
- Law on Urban Planning (Official Gazette no. 32/20 of 10.02.2020).
- Law on Protection against Environmental Noise (Official Gazette no. 79/2007; 124/2010 and 47/2011)

However, some of the laws that regulate important aspects of the environmental protection have not been adopted yet despite the fact that they have been finalized and are waiting to enter into parliamentary procedure. One such example is the Law on Environmental Inspection, which was prepared in 2015. This is also pointed out as an issue in the EC State Progress reports for 2019¹ and 2020². Other laws that have been adopted include the Law on Industrial Emissions which was drafted based on the European Directive on Industrial Emissions of 2010, and the Law on Soils.

1 <https://www.sep.gov.mk/data/file/Dokumenti/lzveshtaj%202019-F.pdf> p.100

2 https://www.sep.gov.mk/page/?id=1117#.YC_tpOhKg2w, p.108

One of the most important laws that regulate the environmental protection is the Law on Environment, adopted in 2005. This law regulates the rights and obligations of the state, the local self-government, and the citizens in ensuring conditions for protection and promotion of the environment. Its main objectives are preservation, protection, restoration and promotion of the environmental protection, protection of human life and health, protection of biodiversity, rational and sustainable use of natural resources, and implementing measures for resolving global environmental issues. One of the most important principles incorporated in this law is the procedure for Environmental Impact Assessment (EIA) and the procedure for Strategic Environmental Impact Assessment (SEIA) of certain strategies, plans and programmes which include measures and activities for protection and sustainable use of nature (Article 76). Thus, the EU Directive on Environmental Impact Assessment (EIA) Directive 85/337/EEC, as amended with the Directives 97/11/EEC and 2003/35/EC is transposed into the Law on Environment. It sets out the requirements for conducting assessments of potential environmental impacts for public and private projects which are likely to have a significant impact on the environment. In line with those requirements, before granting approval for certain types of projects in the Republic of North Macedonia, an EIA must be conducted. The aim of the EIA process is to anticipate potential adverse environmental impacts and to avoid or reduce such adverse impacts upon balancing the environmental, economic, and social objectives.

The Law on Nature Protection of 2004 sets out the basic principles of nature protection on the basis of which the appropriate procedures for its management are regulated. Its main objectives are:

1. Determining and monitoring the state of nature.
2. Preservation and restoration of the existing biological and landscape diversity in a state of natural balance.
3. Establishment of a network of protected areas to ensure permanent protection of the properties on the basis of which they acquired the status of natural heritage.
4. Ensuring sustainable use of natural resources in the interest of current and future development, without significant damage to parts of nature and with the least possible disturbances of the natural balance.
5. Prevention of harmful activities of individuals and legal entities and disturbances in nature as a consequence of technological development and performance of activities.
6. Providing the most favourable conditions for protection and development of nature.
7. Ensuring the right of citizens to a healthy environment.

The Law on Nature Protection is the most important law that regulates the protection of wild species of plants, fungi and animals, natural habitats and ecosystems, and protection of landscape, minerals, and fossils. A separate part of the law refers to the system of protected areas established for protection of the biodiversity within natural habitats, the processes occurring in nature and the abiotic characteristics and landscape diversity.

The Law contains provisions regarding the categories of protected areas, the manner of their proclamation, zoning, and management. The Law transposes provisions of the EU Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (94/43/EEC), the EU Directive on the Conservation of Wild Birds (2009/147/EC) and the Regulation on the Protection of Species of Wild Fauna and Flora by Regulating Trade Therein (338/97/EEC).

II.2. Institutional Set-Up of Environmental Protection

The following institutions are included in the national system for environmental protection:

- **Government of the Republic of North Macedonia** – creates, determines and implements policies, adopts regulations and proposes laws and strategic documents in the field of environment to the Assembly which adopts them.
- **Ministry of Environment and Physical Planning** – the central body of the executive government responsible for matters in the field of environmental protection and physical planning in the country.
- **Administration for Environment** – a body within the Ministry of Environment and Physical Planning responsible for performing expert field activities of protection and promotion of the natural environment. It is comprised of: Department of Nature, Department of Environment, Department of Waters, Department of Waste and Department of Industrial Pollution and Risk Management.
- **Inspection Council** – the key institution in the inspection supervision system, independent in its operation since 2014, regulates the work of the inspection services, including the Environmental Inspectorate. It is composed of a president and six members, including one responsible for the environment and protection of human health and one for agriculture, forestry, veterinary science, and food safety.
- **State Environmental Inspectorate** – a central body responsible for conducting regular and extraordinary inspection supervision over the application of the technical-technological measures for protection of the air, waters, soil, flora and fauna from degradation and pollution, protection of the geo and biodiversity and the special natural wealth.
- **Ministry of Agriculture, Forestry and Water Economy (MAFWE)** – has a significant role in conservation and sustainable use of biodiversity by providing and implementing measures for protection of forests, soil, and water.
- **Ministry of Economy** – has a significant role in the conservation and sustainable use of natural resources through activities of the Sector of Mineral Resources. Also, through the Sector of Energy, this Ministry may play an important role in the provision of measures for nature protection.
- **Ministry of Transport and Communications** – has important responsibilities in the construction of infrastructure, road corridors, tourist infrastructure, etc. where care should be taken of the impact on nature and its protection.

- **State Inspectorate for Forestry and Hunting** – a body responsible for inspecting the process of forest exploitation.
- **Forest Police** – a body within the MAFWE in charge of the protection of forests from wood theft.
- **Public Enterprise “National Forests”** – a state enterprise that takes care of the forest fund in the country.
- **National Association of Owners of Private Forests** – an association of owners of private forests outside the competencies of the PE “National Forests”.

Although the care for the environment is largely focused at the central level, according to the Law on Local Self-Government of 2002, municipalities also have their competencies. Article 22 states that municipalities take care of

“Protection of the natural environment – measures for protection and prevention of water, air and soil pollution, protection of nature and protection from noise and non-ionizing radiation.”

According to the Law on Environment, the municipality, the City of Skopje, and the municipalities of the City of Skopje may impose a measure to prohibit performance of certain activities and to return the environment to a satisfactory state. The municipal councils and the City of Skopje are obligated to inform the public on the cases of emissions exceeding the permissible limits and in any other cases of environmental pollution and to adopt a special act for undertaking mandatory measures (Article 26).

According to the Law on Environment, the local self-government units are obligated to secure financial means from the budget for protection and improvement of the environment. Due to the difficult financial situation of many municipalities, the care for the environment is conditioned by the funds at their disposal, i.e. the poor financial situation is often reflected on the measures taken by the local self-government for clean and healthy environment.³

Apart from these laws, the competencies of the local self-government in the field of environment are also regulated with provisions of the Law on Ambient Air, the Law on Waters, and the Law on Noise Protection. The practice shows centralization of procedures, because the only role of the municipalities, besides adopting local environmental action plans which should provide short-term and long-term activities for environmental protection, and which are difficult to implement due to the financial difficulties, is to issue B-integrated environmental permits to industrial facilities – polluters which, according to the state body – the Ministry, should not be issued with an A-integrated permit, is to provide an opinion on those industrial facilities which have been granted an A-integrated permit.

3 <http://nvoinfocentar.mk/wp-content/uploads/2020/04/lzvestaj-za-opstinskite-inspekckiski-sluzbi.pdf>

The municipalities also provide opinions on projects that need to be implemented on the territory of the municipality based on a prepared study on the environmental impact assessment and physical planning and take part in the public debate. The Ministry of Environment and Physical Planning is responsible for preparing the studies. Although, nominally, the original competencies of the municipalities include adoption and implementation of waste management plans, adoption of programmes for reducing air pollution and ambient air quality, as well as participation in the adoption and implementation of the National Programme for Waters and Water Management and adoption of plans on river basin management, the implementation of these competencies of the municipalities largely depends on the strategies and plans devised and developed at the central level i.e. on their non-adoption at the central level.

Municipalities have the obligation to control potential small-capacity polluters located on the territory of that municipality. The scope of the oversight performed by municipal inspectors is limited to the size and type of the pollutants and the pollution. However, according to the data obtained from the Inspection Council⁴, only 36 of 81 municipalities have an authorized environmental inspector.

II.3. International Legal Framework for Environmental Protection

Some of the most important international conventions in the field of environment that have been ratified by the Republic of North Macedonia include:⁵

- Convention on Environmental Impact Assessment in a Transboundary Context) (Espoo, February 1991)
The Law on Ratification (“Official Gazette” no. 44/99) <http://www.unece.org/env/eia>
- The Protocol on Strategic Environmental Assessment
Law on Ratification (“Official Gazette” no. 120/2013) http://www.unece.org/env/eia/sea_protocol.html
- Multilateral Agreement among the countries of South-East Europe for implementation of the Convention on environmental Impact Assessment in a Transboundary Context
The Law on Ratification (“Official Gazette” no. 157/10) http://www.unece.org/env/eia/subregions/se_europe.html
- Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental issues
The Law on Ratification (“Official Gazette” no. 40/99) <http://www.unece.org/environmental-policy/treaties/public-participation/aarhus-convention.html>

4 In a written letter sent on 19.04.2021. It was stated in the same letter that “for the reasons why other local self-government units do not have municipal environmental inspectors and for how long, you should contact the municipalities themselves.”

5 https://www.moep.gov.mk/?page_id=4200

- Protocol on Pollutant Release and Transfer Registers
The Law on Ratification (“Official Gazette” no. 135/2010) <http://www.unece.org/env/pp/prtr.html>

In the field of nature protection:

- Convention on Biological Diversity
The Law on Ratification (“Official Gazette” no. 54/97) www.cbd.int
- Convention on Wetlands of International Importance especially as Waterflow Habitat (The Ramsar Convention)
Decree on Ratification (“Official Gazette of SFRJ” no. 9/77) <http://www.ramsar.org>
- Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention)
The Law on Ratification (“Official Gazette” no. 38/99) <http://www.cms.int>

In the field of protection of the atmosphere:

- The Vienna Convention for the Protection of the Ozone Layer (Vienna, March 1985)
The Law on Ratification (“Official Gazette of SFRY” no. 1/1990).
Ratified by RM on 10 March 1994.
http://ozone.unep.org/new_site/en/vienna_convention.php
- The Montreal Protocol on Substances that Deplete the Ozone Layer
 (“Official Gazette of SFRY no. 16/90). The Protocol was ratified on 10.03.1994.
http://ozone.unep.org/new_site/en/montreal_protocol.php
- Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer
 - London
The Law on Ratification (“Official Gazette” no. 25/98)
http://ozone.unep.org/new_site/en/Treaties/treaties_decisions-hb.php?dec_id_anx_auto=780

Climate change

- The Law on Ratification of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, “Official Gazette” no. 34/2020
- The Law on Ratification of the Doha Amendment to the Kyoto Protocol to the United Nations Framework Convention on Climate Change, “Official Gazette” no.152/2019 of 25.07.2019
- The Law on Ratification of the Paris Agreement, “Official Gazette” no.161/2017
- United Nations Framework Convention on Climate Change (New York, May)
The Law on Ratification (Official Gazette” no. 61/97) <http://unfccc.int/2860.php>
Kyoto Protocol to the United Nations Framework Convention on Climate Change
The Law on Ratification (Official Gazette” no. 49/2004)
http://unfccc.int/kyoto_protocol/items/2830.php

What do European reports say about the government's attitude towards the environment?

The European Commission reports on the progress of the Republic of North Macedonia are an important indicator of the country's success in the adaptation of the environmental and nature protection standards within the EU. For the purposes of this research, analysis was made of the last four reports as the comments contained therein are clear indicators of the weaknesses of the system and the way of functioning of the state institutions responsible for environmental protection, in order to point out that through the years there has been little progress in terms of the weaknesses and problems identified. Thus, the 2020 report states that "There is a continuous dialogue with civil society, but further efforts are needed to improve access to information, public participation and consultations in decision-making processes".

The establishment of the first Aarhus Centre in the country is welcomed and it is expected that it will support public participation on environmental matters. The EC report states that environmental impact assessment and strategic environmental assessment procedures need to be further improved, as well as the quality of studies and public consultation processes, especially for projects related to hydropower, mining, and infrastructure. The need for public participation in decision-making processes, and especially in environmental impact assessment procedures is also underlined in the 2016, 2018 and 2019 reports, which leads to the conclusion that the principle of public participation, which is an important segment of the decision-making processes on project that may have an impact on the environment has persistently not been implemented through the years despite the indications from the European Union and continues to pose a problem. Furthermore, the lack of transparency of these procedures that envisage public participation, raise doubts that some projects of public importance are deliberately kept out of the public eye.

The second important remark in the 2020 report which is presented in the previous EC reports is that the Law on Environmental Inspection, which is part of the package of environmental laws that have not been adopted yet, should yet to be adopted as well. The need for this law stems from the need for coordinated long-term planning of the inspection supervision at the central and local level aimed at monitoring the long-term strategic goals and priorities provided for in the strategic documents in the field of environment, as well as for inspection supervision planning in line with established risk assessment criteria and in accordance with the impact that entities have on the environment.⁶

6 <https://akademik.mk/se-podgotvuva-nov-zakon-za-inspeksijsija-vo-zhivotnata-sredina/>

The 2020 EC report also addresses the protection of Ohrid and welcomes the steps taken for the implementation of the UNESCO conclusions on the natural and cultural heritage of the Ohrid region, but concludes that considerable efforts are still needed, notably to prevent it from being included on the danger list of world heritage.

At the beginning of 2021, the content of the draft-report of the second UNESCO Monitoring Mission was revealed to the public (although it was not made available to the public, but parts of it were unofficially disclosed by some media. Only the report of the Ministry of Culture, as the seat of the UNESCO National Commission, which responds to the UNESCO observations, is publicly available⁷). It contains serious remarks to the central and local government that their failure to fulfil most of their obligations regarding the implementation of the guidelines provided in the previous UNESCO report might put Ohrid on the list of world heritage in danger.

II.4. Strategic Documents Related to the Field of Environment in the Republic of North Macedonia

Several important strategic documents regulate the area of creating policies for protection of the natural environment, the implementation of which is a responsibility of the Ministry of Environment and Physical Planning:

- **National Strategy for Nature Protection (2017-2027)** arising from the need for improved protection of the geodiversity and geoheritage in the Republic of North Macedonia, the biological and landscape diversity, as well as the soil, water, and air. Its goal is more efficient implementation of the national legislation and the obligations arising from the EU legislation, i.e. implementation of the EU Directives on habitats and birds, the three UN Framework Conventions (Convention on Biological Diversity, Convention on Climate Change and Convention to Combat Desertification), and the international ratified documents in the field of environmental protection.
- **National Strategy for Biodiversity (2019 - 2023)** The preparation of an Action Plan Strategy is a process through which the countries plan the action needed to overcome the barriers to biodiversity conservation and to make the necessary changes. The UN Convention on Biological Diversity obligates on all states to develop national strategies and to submit regular national reports with information on the measures taken in the implementation of the Convention.
- **National Strategy for Environment and Climate Change (2014-2020)** arising from the need to define the goals and priorities of policies in the area of the environment

7 http://kultura.gov.mk/wp-content/uploads/2021/02/Izvestaj-za-sostojbata-so-zastitata-Ohridski-Region_spoen.pdf

and climate change for the period 2014-2020, which would lead to improved quality of the environment and the lives of citizens. This strategy has expired and a new one needs to be developed..

- **Strategy for Sustainable Development (2009-2030)** is based on the globally accepted principles of sustainable development defined at the UN Conference on Environment and Development (Rio de Janeiro, 1992) in order to put Agenda 21 into function, the 2002 Johannesburg Declaration and Implementation Plan adopted at the World Summit on Sustainable Development, the principles of the UN Millennium Declaration contained in the Millennium Development Goals and the principles developed in the renewed EU Sustainable Development Strategy adopted by the European Council in 2006. Sustainable development is the ultimate goal for European co-operation in the European Union.

III. ANTI-CORRUPTION LEGAL FRAMEWORK

Corruption is one of the biggest threats to the security and stability of a country because it incites all forms of crime. Corruption slows down economic development, creates uncertainty in the country's business environment and hinders the processes of implementation of positive legislation and compliance with the rule of law principles immanent in the EU. Uncontrolled corruption in a society ultimately results in citizens' distrust in the government, public institutions, and the democracy itself as a form of social order⁸.

The real cost of corruption cannot be measured only by the amount of paid bribes or misuse of public money. It also creates loss of productivity due to resource depletion. In most severe cases, it contributes to the delegitimization of the state which leads to economic and political instability.

Corruption is one of the main challenges of the Western Balkan countries. Tackling corruption, however, is a precondition for their further progress, democratization, and full EU membership⁹.

According to the Transparency International's Corruption Perception Index for 2020, the Republic of North Macedonia has the lowest ranking since 2001.¹⁰

III.1. National Anti-Corruption Legal Framework

The national anti-corruption legal framework consists of the following key laws:

- **The Law on Prevention of Corruption and Conflicts of Interests** ("Official Gazette" no.128/09 of 22.10.2009). This Law regulates the measures and activities for prevention of corruption in the exercise of power, public authorizations, official duty, and politics; the measures and activities for prevention of conflict of interests and for prevention of corruption in the performance of activities of public interest of legal entities related to the exercise of public authorizations.
- **The Law on Whistle-Blower Protection** (Official Gazette no. 196/2015, 35/18). This Law regulates the protected reporting in the public and private sector to ensure protection of the public interest, the rights of whistle-blowers and the action and duties of the institutions i.e. legal entities related to protected reporting and ensuring whistle-blower protection.

8 https://ec.europa.eu/info/sites/info/files/file_import/european-semester_thematic-factsheet_fight-against-corruption_en_0.pdf <http://www.aalep.eu/fighting-corruption-eu-long-way-go>

9 <http://antikorupcija.mk/uploads/records/file/Po.licy%20brief%20MCMS,%20October%202019.pdf>

10 http://www.transparency.mk/images/stories/2021/prezentacija_cpi2020.pdf

- **Law on Lobbying** (“Official Gazette” no. 106 of 27.08.2008) refers to lobbying with the legislative and executive power at the central level, including in the local self-government, and regulates the principles of lobbying, the conditions for acquiring the status of a lobbyist, registration of lobbyists, maintaining the Register of Lobbyists, lobbyists’ rights and obligations, the activities that are not considered lobbying, supervision over lobbying and the measured that may be imposed on a lobbyist for non-compliance with the provisions of this law.
- **Law on Financing Political Parties** (Official Gazette no.76/2004, 86/2008, 161/2008, 96/2009, 148/11, 142/12 and 23/2013). This Law regulated the manner and procedure for providing funds, disposal of the funds for the ongoing operation and activities of the political party, as well as the manner of controlling the financing and financial and material operations of the political parties.
- **Law on Free Access to Public Information** (“Official Gazette” no.101/2019) provides the basis for exercising the right to free access to public information that the bodies of the state administration and other bodies and organizations determined by law, the bodies of the municipalities, the City of Skopje and the municipalities in the city of Skopje, the institutions and the public services, public enterprises, legal entities and natural persons performing public authorizations determined by law, including political parties as regarding revenues and expenditures, have at their disposal.

The Law on Prevention of Corruption and Conflict of Interests defines corruption as abuse of office, public authorization, official duty, or position to gain benefit, directly or through an intermediary, for oneself or another.

The term corruption, in the sense of this Law, covers:

- **Passive corruption** - defined as the deliberate action of an official who, directly or through an intermediary, requests or receives advantages of any kind whatsoever, for himself or for a third party, and
- **Active corruption** - defined as the deliberate action of whosoever promises or gives, directly or through an intermediary, an advantage of any kind whatsoever to an official for himself or for a third party for him to act or to refrain from acting in accordance with his duty or in the exercise of his functions in breach of his official duties.

A conflict of interest is defined in this law as a situation where the public official has a private interest which has an impact or could have an impact on the performance of his or her official duties or authorizations.

The State Commission for Prevention of Corruption is a specialized independent body founded in 2002. Its current competencies are regulated with the Law on Prevention of Corruption and Conflict of Interests adopted in January 2019. They are related to the process of policy making, monitoring and supervision, and co-operation with other state bodies in order to prevent corruption. SCPC is responsible for implementing measures and activities for prevention of corruption in the exercise of power, public authorizations, official duty, and politics; the measures and activities for prevention of conflict of interests

and for prevention of corruption in the performance of activities of public interest of legal entities in exercising public authorizations. The Law on Prevention of Corruption increased the competencies of SCPC and ensured more effective mechanisms for action, which have increased the public expectations for more effective action in terms of preventing corruption in the Macedonian society.

The Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption is responsible for the most complex forms of organized crime and grand corruption and is in charge of dealing with cases related with organized crime and corruption on the entire territory of the Republic of North Macedonia. The seat of the Public Prosecutor's Office for Prosecution of Organized Crime and Corruption is in Skopje. It is held accountable for its work to the Public Prosecutor of the Republic of North Macedonia who oversees the work of this prosecutor's office, as well as to the Council of Public Prosecutors. The key guarantee for its functioning in accordance with the laws is the financial independence which is the basic pillar and precondition for the independence of each institution, including the Public Prosecutor's Office.

III.2. Strategic documents in the fight against corruption

In accordance with its legal competencies, the State Commission for Prevention of Corruption in 2019 prepared, through a broad participatory process and consultations with all stakeholders, the National Strategy for Prevention of Corruption and Conflict of Interests for the period 2021-2025. The strategy has set the following as its main goals:

- Increasing the level of political responsibility and demonstrated willingness to fight corruption;
- Conscientious management of political influence in the public sector and prevention of political influence in the work of independent bodies and in the procedures regulated by law;
- Strengthening the integrity and accountability in the public sector;
- Implementation of competencies in the public sector in a lawful, transparent, ethical, economical, accountable, and effective manner;
- Ensuring integrity and transparency in employment and human resources policies in the public sector, based on a system of values and quality criteria;
- Strengthening the supervisory and control mechanisms;
- Digitalization in public services;
- Reduction of corruption in public procurement and in the process of awarding grants, subsidies, and other state aid;
- Strengthening the capacities and commitment of law enforcement agencies, the prosecution, and the judiciary in detecting and sanctioning corruption, as well as strengthening the resistance to corruption in their ranks;
- Supporting transparency and integrity in the private sector;
- Raising public awareness and conducting anti-corruption education; and

- Involvement of the civil society and the media in the fight against corruption in the society and building personal and professional integrity;

The Strategy identifies and selects the priority problems that generate high risk of corruption and identifies measures to overcome them.

In continuation, the analysis will review the issues in the field of environmental protection detected in the National Strategy and other documents of the State Commission for Prevention of Corruption and the measures to overcome them.

III.3. International Anti-Corruption Legal Framework

United Nations Convention against Corruption (UNCAC)

In 2003, the Republic of North Macedonia ratified the United Nations Convention against Corruption. UNCAC is the first legally binding universal anti-corruption instrument. The convention has a far-reaching approach and mandatory character of many of its provisions, which makes it a unique tool for developing a comprehensive response to corruption as a global problem. This important international document, the aim of which is to promote and strengthen measures to prevent and combat corruption more efficiently and effectively, to promote, facilitate and support international co-operation and technical assistance in the prevention of and fight against corruption, including in asset recovery and to promote integrity, accountability and proper management of public affairs and public property, stipulates that “each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.”¹¹

The Organization for Security and Co-operation in Europe (OSCE) in a number of its documents affirms its position in the fight against corruption, primarily based on the UNCAC Convention. In the 2014 Basel Decision on the Prevention of corruption No.5/14¹² participating States are encouraged to develop and implement anti-corruption legislation and policies and to establish and promote practical measures and tools to address all forms of corruption, as well as to take measures to enhance transparency, accountability and the rule of law in public administration, in accordance with the fundamental principles of their legal systems, including through the introduction of effective measures facilitating public access to information and the promotion of effective public service delivery. In the Decision of the OSCE Ministerial Council from Tirana no. 6/20 of 2020,¹³ they call upon participating States to prevent and combat corruption by

11 <https://customs.gov.mk/images/documents/borbaKorupcija/oonProtivKorupcija.pdf>

12 <https://www.osce.org/files/f/documents/b/b/130411.pdf>

13 <https://www.osce.org/files/f/documents/3/7/479759.pdf>

enhancing good governance, including the principles of transparency and accountability, and by employing digital tools within the public administration to help prevent and combat corruption and its early detection. This important OSCE decision stipulates, among the other things, establishing easily accessible and safe reporting channels for whistle-blowers, implementing legal mechanisms for the effective protection of whistle-blowers against retaliation, and encouraging relevant organizations to establish and implement necessary protections, in accordance with domestic law.¹⁴

Anti-corruption reforms are among the main requirements for the accession of the Republic of North Macedonia to the EU. The main driver of reforms and efforts in the fight against corruption is the conditionality policy implemented by the EU towards candidate countries.

This policy starts from the logic that the countries of the Western Balkans that want to become full EU members must meet certain criteria and conditions. EU conditionality includes transposing EU legislation into domestic law, restructuring domestic institutions in line with the EU rules. The rule of law is one of the fundamental values of the EU and the countries that want to join the Union must establish and promote, from an early stage, proper functioning of key institutions, and achieving visible results in that regard is an important element to move to the next stage in the EU accession process. The rule of law, including the fight against corruption, is the most difficult area to comply with, given that EU conditions have become stricter and more complex over time.¹⁵

The Criminal Law Convention on Corruption¹⁶ is an instrument aiming at co-ordinated criminalization of a large number of corrupt practices. It also provides for complementary criminal law measures and for improved international co-operation in the prosecution of corruption offence among participating States. Its implementation is monitored by the “Group of States against Corruption – GRECO”, which started functioning on 1 May 1999. This Convention is intended as a tool for improving the capacities of the participating States in the fight against corruption by monitoring to ensure implementation of the Council of Europe anti-corruption standards through an evaluation process the findings of which are published in reports. 48 European countries are members of GRECO, among which the Republic of North Macedonia, the United States of America and Kazakhstan.

In the last GRECO report published in September 2020, it was concluded that North Macedonia had implemented or dealt with in a satisfactory manner six of the 19 recommendations contained in the Fourth Round Evaluation Report. Of the remaining recommendations, eight were partially implemented, and two were not implemented at all¹⁷.

14 <https://www.osce.org/files/f/documents/2/b/472833.pdf>

15 <http://www.antikorupcija.mk/uploads/records/file/Policy%20brief%20MCMS,%20October%202019.pdf>

16 <https://rm.coe.int/168007f3f5>

17 <https://rm.coe.int/-85-21-25/16809fc810>

The State Capture Phenomenon

The term state capture refers to processes when state institutions and mediation actors like political parties or parliaments are kidnapped or infiltrated by clientelist networks which give formal cover to their informal decision-making practices, including corruptive practices.

Numerous recent studies point to the seriousness of the situation when it comes to corruption in the country. The 2020 Freedom House report on North Macedonia states that corruption remains a serious problem and there is a wide-spread impunity for corrupt state officials, including members of parliament and the judiciary.¹⁸

The state capture phenomenon was analysed in the Transparency International regional research, the report on which was published in 2020. The findings of this research reveal the two key elements that enable state capture in the countries of the Western Balkans: **impunity of grand corruption and tailor-made laws**. The analysis of specific examples from the countries of this region, including North Macedonia, provides insight into the inefficient treatment by the judiciary of grand corruption of high-level state officials, and shows how this problem, coupled with undue influence on adoption of laws for personal benefit helps build and maintain a state of capture in the Western Balkans: the key laws and the institutions that need to implement them are weak or even supportive of corruption and the state of capture. Weaknesses in prosecuting corruption help strengthen, and the undue influence on law adoption may legalize corruption and the state of capture. **Laws grant privileged contracts, reduce penalties, and privatize public goods for the benefit of the few.**

The recipe seems to be the same everywhere – first the judiciary is weakened, which prevents effective prosecution of corruption. Then, it is ensured that the parliament passes laws that legalize the state of capture. It is becoming more and more difficult for the corrupt to be held accountable for their actions and easier to monopolize industries and public resources. This allows an official accused of corruption to avoid criminal liability, to take a high position in the government and to profit from such set-up of the system. The same is repeated in various sectors. Corruption has a negative effect on the environment, urban areas, the business sector and other aspects of everyday life, is concluded in the Transparency International research¹⁹.

18 <https://freedomhouse.org/country/north-macedonia/freedom-world/2020>

19 https://images.transparencycdn.org/images/2020_Report_ExaminingStateCapture_English.pdf

III.4. Transparency as a Key Principle in the Fight against Environmental Corruption

Environmental protection is not only a basic human right and obligation of the state; it is an area that affects all people equally and which most directly reflects all human needs – the need for clean air, clean water, unpolluted soil, clean and preserved natural environment. One of the most important international documents that sets the basic principles in the field of environmental protection is the **Aarhus Convention** part of the national legislation and ratified by the Republic of North Macedonia back in 1999.

Its preamble states that adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself.²⁰ It is also emphasized that to be able to assert this right and observe this duty, citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters, and that improved access to information and public participation in decision-making enhances the quality and the implementation of decisions, contributes to public awareness about environmental issues, gives the public the opportunity to express its concerns and enables public authorities to take due account of such concerns. The Aarhus Convention established the three pillars of importance to citizens when it comes to environment:

- Access to information
- Public participation in decision-making
- Access to justice on environment issues – differentiating between general and affected public.

The Aarhus Convention represents a significant benefit because it imposes an obligation of transparency and accountability on the central and local government, and for the first time links basic human rights with environmental rights.

The Republic of North Macedonia has also ratified the Kiev Protocol on Pollutant Release and Transfer Registers (PRTRs)²¹, resulting from the horrific experience with the environmental tragedy in the Indian city of Bhopal where an explosion of a chemical factory killed several thousand people and injured half a million. It is based on the simple principle: **“You have the right to know”**. It also adopts the main principles as recommendation to the signatories’ authorities: the right to access to information, the right to public participation in decision-making on environmental matters and the right to access to justice on environmental issues.

These steps for public participation in decision-making on important measures related to a healthy environment show that in their transition from the 20th to the 21st century, the developed countries paid great attention to the establishment of new, different rules of

20 <https://unece.org/DAM/env/pp/documents/cep43mac.pdf>

21 <https://ripz.moepp.gov.mk/Content/About>

conduct when it comes to the right to a clean, healthy and safe environment. The new approach inevitably means that the public should be aware of all activities that might have a potentially negative impact on the environment, have a say in what should or should not be done and seek justice for what is considered to be a threat to them or the environment. Therefore, the insistence on the public participation is not a coincidence, especially when it comes to a system of such vital importance to people as environmental protection. This principle is embedded in the foundations of the “ecological constitution” of the Republic of North Macedonia as the Law on Environment is referred to. It lays down the following principles for access to environmental information:

- Everyone has the right to access to environmental information without having to prove their interest;
- The right to access information is exercised in a manner determined by law;
- All bodies designated by law have the obligation to provide environmental information;
- Refusing access to information is acceptable only in certain cases;
- The bodies designated by this law have the obligation to collect and publish environmental information from their scope of operation;
- The level of compensation for the expenses related to the delivery of information will be reasonable and will not exceed the real costs; and
- The dissatisfied party has the right to access to justice.

Article 17 of the same Law lays down the obligation of the central and local government bodies to take all necessary measures and prescribe procedures to ensure the right of public access to information and participation in the adoption of decisions related to the state of the environment, as well as to ensure that the public expresses their opinion in decision-making processes through such decision-making procedures. The principle of public participation and access to information is one of the 14 basic principles of environmental protection given below:

- high level of protection,
- integration
- sustainable development
- precaution
- cleaner production
- the polluter pays principle
- the user pays principle
- subsidiarity
- proportionality
- international co-operation
- raising public awareness
- safeguard clause.

In order to ensure more precise regulation of public participation in environmental decision-making, a Decree for Public Participation was adopted in 2008²² It lays down

22 Official Gazette no. 147/08

the procedures, conditions, and ways of public participation in the development of regulations and other acts, including plans and programmes in the field of environment, the types of plans and programmes, the manner and procedures of public participation in the preparation, adoption, amendment or revision of plans and programmes, as well as the manner and criteria based on which the public, including NGOs, will be determined.

The state administration and municipal bodies should enable effective public participation in the preparation of regulations and other acts and in the preparation, amendment, and revision of planning documents in the earliest stages of their adoption, i.e. in the decision-making process. The bodies should inform the public and civil society organizations, i.e. the interested public by way of public announcements published in at least one daily newspaper available in the entire country and on the website of the body, or by way of public announcements delivered through electronic media, on the decisions adopted and the plans and programmes developed and provide options for the public to establish contact or send their proposals and opinions within a set deadline. It is especially important that the competent body ensures participation of the interested public in at least one public debate and puts the draft regulation or the draft planning document up on its website for a public review. The public review should last at least 30 days and a public debate should take place within 15 days from the day the document was put up for public review. The body keeps minutes on the public debate held and a list of all participants at the debate. The body is obligated, within 30 days, to submit an individual or collective response to all received comments, prepare a report on the public debate held and publish it on its website.

This puts clear emphasis on the fact that environmental issues must not take place and be resolved away from the public eye. The public must be timely and properly informed and asked about its opinions on projects, plans and decisions carried out on its behalf by state and local institutions.

Transparency and Accountability in Anti-corruption Documents

The role and significance of the principle of transparency in the work of the public administration, and consequently of accountability in the fight against corruption is one of the main principles underlined in the UN Convention against Corruption. Article 10 of the UNCAC states: "Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes". At the same time, State Parties should design and adopt procedures to ensure public access to the organization information and to decision-making process of public administration, simplify administrative procedures in order to facilitate public access to the competent decision-making authorities and ensure publishing of information, which may include periodic reports on the risks of corruption in its public administration.

The same Convention further states that, in the prevention of corruption and in the fight against this phenomenon (Article 13), every State Party has an obligation to enable and facilitate public insight into the work of the public sector by increasing the transparency of decision-making procedures and promoting public participation in these processes and by providing effective public access to information.

The Law on Prevention of Corruption and Conflict of Interest also stipulates the principle of transparency as one of the basic principles set by society when it comes to the fight against corruption. According to Article 6, performing governmental duties, public authorizations, official duty and position, as well as the matters of public interest are public and subject to public control. No one may invoke application of a law or other regulation that would restrict or exclude the public in order to conceal corruption or conflict of interest. In that regard, this law provides for the protection of the media that publish corruption cases. Article 68 prohibits any coercion, restraint, or influence of other kind over the public media to publish or not publish information on cases of corruption. The journalist is recognized the right to unrestricted access to all sources of information in accordance with the law. No one can exempt the public from the debate on corruption before a competent body or legal entity, except in the cases of preliminary procedure declared as confidential and no one can require from the journalist that has published information on an act of corruption to disclose the source of information.

It may be concluded that the principle of transparency is in the very essence of the right to a healthy environment and the obligation for its protection, but also a necessary condition for the fight against corruption. Respecting the right of the public and taking into account the public interest is essentially linked to corruption because the respect for the principle of transparency and public interest is the diametrically opposed to corrupt or potentially corrupt phenomena in the field of environmental protection.

Environment in the SCPC Anti-corruption Documents

One of the priority environmental problems identified in the National Strategy for Prevention of Corruption and Conflict of Interests 2021-2025 is the inconsistent implementation of the Law on Waste Disposal regarding integrated and regional waste management. The adoption of this document followed the preparation of the draft-version of the text of the National Strategy for Prevention of Corruption and Conflict of Interests 2020-2024 which, apart from the problem with the absence of an integrated system for regional waste management, identified the problem with implementation of the local self-government competencies for environmental protection as a priority that needs to be addressed during the five-year period.

During the preparation of the National Strategy, a SCPC Corruption Risk Assessment was prepared for the needs of the strategic planning of the fight against corruption and

conflict of interest in the Republic of North Macedonia²³, which analysed the corruption risks in eight key areas, including the environment, for five horizontal processes:

- public procurement,
- employment in the public sector,
- inspection supervision,
- issuing various approvals, decisions, licences and permits and
- awarding grants, subsidies.

The analysis made in this document leads to the conclusion that the risk of corruption in the environmental sector is assessed as extraordinarily strong. The challenges arising from the legal and institutional framework of the procedures for issuing environmental permits and other documents are as follows:

- Extensive and diverse legal framework covering many sub-sectors in the field of environmental protection, which are characterized by different levels of compliance with European legislation, which creates an opportunity to “delay” the application of certain environmental standards;
- Delays in the implementation of legislation in the field of environmental protection;
- Practice of impunity for corrupt behaviour related to (non) application of legislation.

The following are listed as challenges arising from the human factor and operational procedures for issuing permits and other documents:

- Application of a subjective approach and different interpretations of the conditions and the necessary documents for issuing a certain decision, etc. by various competent persons in the respective institutions;
- “Delayed” implementation of certain environmental measures for “selected” legal entities.

Challenges arising from other external influences on the procedures for issuing decisions, permits, concession agreements and other documents are listed as follows:

- Problems with the rule of law resulting in a low rate of sanctioning corrupt behaviour at the societal level;
- Political influence and pressure from the private sector to delay the implementation of the legal obligation to possess environmental permits and other documents in the field of environmental protection;

The risk analysis in the environmental sector is summarized in the following finding: “When issuing environmental permits and other documents in the environmental protection sector/department, there is a risk of corruption due to inaccuracies in the legislation and delays in the implementation of laws. Hence, the integrity of human resources in public institutions for the implementation of legislation, together with the practice of (impunity) in society plays a key role in whether corruption will occur or not.”

23 https://dksk.mk/fileadmin/user_upload/2019/Procenka_na_rizicite_od_korupci_a_02.10.2019_mk.pdf

About the impunity of environmental crime

According to the information from the Public Prosecutor's Office²⁴, in 2019, for crimes against the environment and nature from Chapter 22 of the Criminal Code, the Public Prosecutor's Office acted on criminal charges against a total of 421 persons, of which 271 persons were new offenders and 150 from the previous period.

In 2019, the public prosecutor's offices filed charges against a total of 141 persons, and the courts ruled on 112 persons. For comparison, in the previous 2018, action was taken on reports against a total of 360 persons, charges were filed against 77 persons and verdicts were passed against 85 persons for the same criminal offences. This shows that in 2019 there is an increase in the number of reported persons, the charges filed, and the verdicts passed for these crimes.²⁵

However, the situation is different with regard to environmental corruption. The last case of a charge against a corruptive activity was recorded in 2015, and it refers to events from 2009 for obtaining licences for storage, treatment and/or processing of waste and a licence for a landfill operator, although he did not meet the necessary conditions. This case, according to the information available, does not yet have an epilogue in court.²⁶

The practice of impunity for corrupt behaviour in the environment, related to the (non) application of legislation, is also indicated by the already mentioned document of the SCPC, the Corruption Risk Assessment.

Inefficient judiciary is a major factor in the prevalence of corruption. For 80% of the citizens, which is an increase by four percentage points compared to 2018, the inefficiency of the judicial system in the fight against corruption and the desire for quick personal gain (increased by six percentage points compared to 2018) as well as the lack of strict administrative control of corruption (also increased by six percentage points) are the three leading factors for the widespread corruption. Furthermore, for about 75% of the citizens, the overlap of official duties and personal interests and the moral crisis that exists in the society are also factors that affect the prevalence of corruption.

The same report concludes that corruption remains unpunished in the Republic of North Macedonia. If we take into account that 29.4% of the respondents confirmed that

24 <https://jorm.gov.mk/wp-content/uploads/2020/09/izveshtaj-na-javnite-obvinitelstva-na-rsm-za-2019-godina.pdf>

25 <https://jorm.gov.mk/wp-content/uploads/2020/09/izveshtaj-na-javnite-obvinitelstva-na-rsm-za-2019-godina.pdf>

26 <https://jorm.gov.mk/osnovnoto-javno-obvinitelstvo-skopj-16/>

they had been involved in corruption, and if that percentage is projected on the adult population, it can be concluded that about four hundred thousand crimes in the field of corruption have been committed. On the other hand, in 2018, only 95 people (119 in 2017) were convicted of abuse of office or bribery, which means that the efficiency rate of the institutions in identifying and completing cases with a verdict is 0.024%.

IV. ANALYSIS OF THE AREAS OF THE ENVIRONMENT SUSCEPTIBLE TO CORRUPTION

The conducted interviews and field inspections, analysis of media reports, citizens' reactions on social networks, suggestions of representatives of civil society organizations for environmental protection, civil society organizations engaged in the research of various thematic areas related to environment, energy and sustainable economy, lead to the conclusion that the discrepancy between the legal basis and the practice of functioning of the environmental protection system is negatively reflected in many areas of the environment. The result of a practice in which the legal provisions are implemented selectively, non-transparently, are bypassed or inconsistently implemented are the cases documented by media or civil society organizations which contain evidence of endangerment of the natural resources, the biodiversity or the human rights to clean water, healthy soil, and food.

At the end of 2020, as a result of the changes in the management position of the State Environmental Inspectorate, one of the key institutions responsible for the implementation of laws in the field of environment and nature protection, and the intensification of regular and extraordinary inspections conducted by the Inspectorate, many procedures and permits issued to polluters or entities engaged in environmental activities, which were up to then "untouchable" for inspectors, were subjected to reassessment. Thus, it was shown that a dedicated and professional approach to the protection of the public interests yields results.

Our analysis highlighted four areas of the environment that are particularly exposed to the influence of the decisions and actions of the competent institutions and where the ways in which the applicable legal and strategic documents are implemented have provoked reactions or were considered controversial by the public (and especially the affected public) and civic society organizations. Those are:

1. Air quality and air pollution,
2. Utilization of water resources and water law,
3. Forest management,
4. Protected areas and landscapes that need to be protected.

Also, the analysis pointed to three processes that affect all four areas of the environment, which are sensitive to corruption:

1. Issuance of licences for use or exploitation,
2. Inspection control, and
3. Public participation.

IV.1. Air Quality

At the end of 2019, the Government adopted a Clean Air Plan, which is listed as a strategic programme of the Government and one of its priorities, but it is only partially implemented. Of the short-term measures, only 30% have been implemented or included in the new air pollution programme and of the medium-term and long-term measures only slightly less than 31%. In other words, of the total planned measures, only 30.81% are planned to be implemented or are already being implemented.²⁷ The cities with the highest rates of average air pollution are Skopje, Tetovo, Kichevo and Bitola.²⁸

Areas that are highly susceptible to corruption are the following:

- **Issuance of environmental permits** without considering whether the competent authority observes the principle of application of the best available anti-pollution technologies and procedures by entities when issuing A or B-integrated permits.²⁹
- **Inspection supervision** performed irregularly, incompletely, without determining the real causes of pollution, or not performed at all. The environmental inspection does not fully comply with the EU laws. The environmental inspection is performed at the local and central level without coordination. The lack of a single environmental inspection system, the inadequate structure for inspection coordination and supervision at the local and central level, the lack of a central plan and annual programmes, do not provide effective inspection control. A new law on environmental inspection has been drafted but is still in the process of being adopted.³⁰
- **Non-accredited state laboratory** at the Ministry of Environment and Physical Planning for air pollutant methods. There is no regular maintenance, purchase of spare parts for measuring stations, dislocation of the two existing measuring stations for air quality, purchase of laboratory equipment and chemical reagents, accreditation of the calibration laboratory and training for the employees. Incomplete funding for this programme brings into question the operation of this system³¹. The latest announcements from the Ministry³² indicate that, apart from the ISO accreditation for the entire laboratory, there are no financial means for accreditation of the individual methods for measuring pollutant particles in the air.
- **Tolerance of grey areas of illegal waste treatment**, so called illegal landfills and activities that take place on them, such as illegal dumping and treatment of waste, incineration for extraction of raw materials, construction of illegal settlements where

27 Eco Awareness: Analysis of the measures recommended for addressing ambient air pollution in North Macedonia, 2019, *Analiza_Aero.pdf* (ekosvest.com.mk)

28 *programa_namaluvanje_aerzagaduvanje_mkd.pdf* (vlada.mk)

29 <https://florozon.org.mk/downloads/investigative-stories/02/Integrirano-sprecuvanje-i-kontro-la-na-gragjanskoto-ucestvo.pdf>

30 (*Joint_report_on_air_quality_2019-MQ_updated2.pdf* (eurosaiwgea.org) (p. 78)

31 (*Joint_report_on_air_quality_2019-MQ_updated2.pdf* (eurosaiwgea.org) p. 79

32 <https://www.slobodenpecat.mk/drzhavnite-inspektori-se-potpiraat-na-merena-na-privatni-laboratorii/>

waste is burned for heating, etc. as a result of the non-established integrated system for regional waste management and the lack of political will to deal with the social and political dimensions of the problem.³³

IV.2. Water Resources and the Right to Water

According to the data, about 2% of the territory of the Republic of North Macedonia is under water. There are about 35 rivers and 53 natural and artificial lakes. However, water is one of the most endangered natural resources in the Republic of North Macedonia for the following reasons:³⁴

- in the past period, only 3-5% of all wastewater that ends up in rivers and lakes has been treated,
- catastrophic drought caused by bad climate conditions, but also by the human factor (discharge of reservoirs for electricity production)³⁵,
- non-compliance with the biological minimum of the small hydropower plants³⁶

The problem with the depletion and pollution of water resources in our country can further lead to a decrease in the number of clean mountain rivers, extinction of endemic plant and animal species, destruction of coastal habitats, endangering the health of the population that is deprived of the right to clean water supply.

The current Law on Water prescribes as its main goals the availability of sufficient quantity of quality water, in accordance with the principles of sustainable management of drinking water and food production, for the needs of agriculture, industry, hydropower needs, for the needs of parks and others public areas, tourism, navigation and other needs, protection, conservation and continuous improvement of available water resources, improvement of the state of coastal land, aquatic ecosystems and water-dependent ecosystems, protection and improvement of the aquatic environment through rational and sustainable use of water, as well as progressive reduction of harmful discharges and gradual elimination of emissions of hazardous substances in water, mitigation of the consequences of the harmful effects to water and of water scarcity and protection and improvement of the environment and nature, aquatic ecosystems, biodiversity and protection of human health.

The occurrences and cases considered for the purposes of this research show that these legal priorities are not adequately protected and often not available, which gives rise to suspicion of a corrupt background. They include:

33 http://dzt.mk/Uploads/1_Joint_report_on_air_quality_2019-LQ_updated2_REDUCE_FINALE.pdf p. 42

34 <https://www.slvnesnik.com.mk/Issues/B4D3EB5A8F678A4B92A9A4938BB2A3AE.pdf#page=2>

35 <https://www.slobodenpecat.mk/hidrocenralite-se-iskluchuvaat-za-da-se-spasat-ezerata-i-rekite/>

36 <https://bankwatch.org/wp-content/uploads/2017/12/broken-rivers-MK.pdf>

- **Procedures for granting concessions and permits for small hydropower plants as part of the state energy strategy for renewable energy sources.**

An area with high corruption risk in the field of environment, caused by the lack of proper control over the implementation of laws and obligations of entities when it comes to the environmental impact of certain projects involving construction of small hydropower plants. The risk is detected in the domain of issuing permits for construction of small hydropower plants on the basis of inconsistently implemented legal procedures³⁷ for public participation and in the implementation of the obligation to conduct an environmental impact assessment. Corruptive connections³⁸ have also been reported by international organizations.³⁹

- **Procedures for granting concessions for river sand and gravel exploitation.**

There is a noticeable non-transparent issuance of permits.⁴⁰ There is also a violation of the principle of public participation and tolerance of encroachments on riverbeds, disturbance of riverbanks, groundwater and wildlife habitats on the coastal belt with the issuance of concessions for the exploitation of sand and gravel.⁴¹ As an explanation, the authorities state that the riverbed is being regulated due to the danger of floods;⁴²

- **Pollution of aboveground and underground water streams.**

With the uncontrolled release of pollutants into the water by active economic entities (factories, mines), as well as by burning environmental issues or historical waste (such as the landfill of Jugohrom, lindane and mercury in groundwater).⁴³

IV.3. Forest Management

Of the total area of 2.5 million hectares that covers the Republic of North Macedonia, 949,329 hectares or about 37 percent of the country are forests. State-owned forests cover almost 89 percent of the total area under forests, and the rest are small privately owned plots.⁴⁴

The Law on Forests was adopted in 2016 and it prohibits devastation and digging up of forests and permanent conversion of forest land. The law prohibits illegal logging, i.e. logging that is not approved as a regular measure for forest restoration in planning

37 https://d2ouvy59p0dg6k.cloudfront.net/downloads/hidro_v6_webr.pdf

38 <https://www.radiomof.mk/nema-gragjanin-vo-makedonija-koj-ne-go-povrzuva-zagaduvanje-to-so-korupcija-konferencija-na-zelen-institut/>

39 https://bankwatch.org/press_release/north-macedonia-complaint-challenges-unfair-subsidy-advantages-for-hydropower

40 <https://florozon.org.mk/downloads/investigative-stories/04/Privatizacija-na-prirodna.pdf>

41 <https://prizma.mk/pesochna-treska-gi-razjaduva-rekite/?fbclid=IwAR1Z0pw6rHSrO95sgFGwz-RKrwvu-1DUvcBALR5IHRIXOGXlizsporuAMDYs>

42 http://dzt.mk/Uploads/65_RU_Dodeluvanje_vodno_pravo_2019_KOMPLET_REDUCED.pdf

43 <https://www.slobodenpecat.mk/otrovite-kaj-jegunovcze-slobodno-se-vlevaat-vo-vardar/>

44 <http://www.mkdsumi.com.mk/zasumite.php?s=1>

IV.4. Protected Areas

There are three national parks in the Republic of North Macedonia or a total of 86 areas with different degrees of protection that cover 230,083 hectares or about 8.9% of the territory of the country, of which national parks account for about 4.4% of the territory.⁵² There are two areas in the country declared as protected areas in accordance with the obligations of the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat⁵³ - Lake Prespa (1995) and Lake Dojran (2007). Lake Ohrid has been on the UNESCO World Heritage List since 1979⁵⁴.

The following areas in the field of protected areas are at the highest risk of corruption⁵⁵:

- **A large number of illegal buildings in the protected area of the Ohrid region** which includes the municipalities of Ohrid, Struga and Debrca, despite the indications of UNESCO and numerous declarative efforts of government officials⁵⁶
- **Urbanization of protected areas** - the case of Studenichishko blato⁵⁷ near Lake Ohrid. Indicative of the Mavrovo National Park is the case with the buildings of Pelagonija Gostivar in the village of Mavrovo⁵⁸
- **Failure to adopt laws for proclamation and re-proclamation of national parks** (Mavrovo⁵⁹, Shar Mountain) or obstruction of the implementation of protection strategies based on the requirements of UNESCO⁶⁰ (Lake Ohrid)
- **Issuance of concessions in strictly protected areas** and areas that should be protected in accordance with EU regulations and extension of expired concession agreements for small hydropower plants (HPPs) in national parks (Mavrovo, Pelister) as well as dozens that are being prepared in areas that are to be declared as protected

52 <https://www.moepp.gov.mk/wp-content/uploads/2014/12/%d0%9d%d0%b0%d1%86%d0%b8%d0%be%d0%bd%d0%b0%d0%bb%d0%bd%d0%b0-%d1%81%d1%82%d1%80%d0%b0%d1%82%d0%b5%d0%b3%d0%b8%d1%98%d0%b0-%d0%b7%d0%b0-%d0%b7%d0%b0%d1%88%d1%82%d0%b8%d1%82%d0%b0-%d0%bd%d0%b0-%d0%bf%d1%80%d0%b8%d1%80%d0%be%d0%b4%d0%b0%d1%82%d0%b0-2017-2027.pdf>

53 <https://www.iucn.org/theme/water/our-work/thematic-work/wetlands>

54 UNESCO Convention concerning the Protection of World Cultural and Natural Heritage, 1972 <https://whc.unesco.org/en/list/99/>

55 <https://www.dw.com/mk/%D0%BF%D0%BE%D0%BB%D0%B8%D1%82%D0%B8%D1%87%D0%BA%D0%BE-%D0%B1%D0%B8%D0%B7%D0%BD%D0%B8%D1%81-%D0%BC%D0%B0%D1%84%D0%B8%D1%98%D0%B0-%D0%B3%D0%BE-%D1%81%D0%B8%D0%BB%D1%83%D0%B2%D0%B0-%D0%BE%D1%85%D1%80%D0%B8%D0%B4/a-49603302>

56 <https://prizma.mk/ohrid-go-brani-unesko-statusot-so-rekordi-vo-divogradbi/>

57 https://ohridsos.files.wordpress.com/2018/05/d0b4d0b5d0bad0bbd0b0d180d0b0d186d0b8-d198d0b0_d0b7d0b0-d0b7d0b0d188d182d0b8d182d0b0-d0bdd0b0-d0b5d0bad0bed181d0b8d181d182d0b5d0bcd0be.pdf

58 <https://irl.mk/betonizatsia-na-mavrovo/>

59 <https://meta.mk/eko-svest-bara-zakon-za-upravuvanje-so-nacionalniot-park-mavrovo-i-stopiran-je-na-site-infrastrukturni-aktivnosti/>

60 <https://vlada.mk/node/23890?ln=mk>

due to their specific natural, biological and landscape characteristics, which is contrary to Article 75 of the Law on Nature Protection.⁶¹

IV.5. Issuing Licences for Use or Exploitation

Integrated Environmental Permits

MoEPP is responsible for issuing A-integrated environmental permits (IEPs) for larger industrial facilities, while B-Integrated environmental permits are issued by the municipalities, which also give an opinion on facilities that require A-IEP, which are located on their territory. The content of the permits is regulated by the Law on Environment and bylaws and they should contain obligations for the emission control installation, as well as to ensure the application of the best available techniques in order to have a less negative impact on the environment.

Industrial facilities have a legal obligation to monitor the emissions they emit and to submit the results of the measurements to the competent state body (MoEPP), while SEI is responsible for performing regular and extraordinary inspections on the implementation of that obligation. This system has revealed numerous weaknesses in practice: from “adjusted” emission measurements⁶² when the production process is reduced, and thus the concentrations of pollutants in the outlets, engagement of private laboratories by polluters and environmental inspections due to non-accreditation of the State Laboratory and potential conflict of interest (engaging a private laboratory to control the measurements of its client, etc.), to the issuance of integrated environmental permits that allow higher pollution limit values in the emissions (the case of the Kochani Paper Mill factory)⁶³ or approval of EIA reports for storage of illicit potentially hazardous substances (Remondis case)⁶⁴.

The assessment of corruption risks for the needs of strategic planning of the fight against corruption, in the section Challenges arising from other external influences on the procedures for issuing decisions, permits, concession agreements and other documents in the environmental sector, among the other things, states “political influence and pressures from the private sector to delay the implementation of the legal obligation

61 <https://www.moepp.gov.mk/wp-content/uploads/2014/10/%d0%97%d0%90%d0%9a%d0%9e%d0%9d-%d0%97%d0%90-%d0%97%d0%90%d0%a8%d0%a2%d0%98%d0%a2%d0%90-%d0%9d%d0%90-%d0%9f%d0%a0%d0%98%d0%a0%d0%9e%d0%94%d0%90%d0%a2%d0%90.pdf>

62 <https://www.radiomof.mk/drzhavata-ne-izdvojuva-pari-za-laboratorija-shto-kje-kontrolira-zagaduvachij/>

63 <https://www.slobodenpecat.mk/pejper-mil-truel-i-so-polabava-dozvola/>

64 <https://www.vecer.press/%D1%80%D0%B5%D0%BC%D0%BE%D0%BD%D0%B4%D0%B8%D1%81-%D0%BC%D0%B5%D0%B4%D0%B8%D1%81%D0%BE%D0%BD-%D0%BF%D0%BE%D1%81%D1%82%D0%B0%D0%BF%D1%83%D0%B2%D0%B0%D1%9A%D0%B5%D1%82%D0%BE-%D0%B-D%D0%B0-%D0%B8%D0%BD/>

to possess environmental permits and other documents in the field of environmental protection”.

Permits for exploitation of water, sand, and gravel from riverbeds

The Water Regulation is incomplete, i.e. although the Law on Waters and the National Water Strategy (2011-2041) have been adopted, a number of bylaws have not been adopted yet, such as the water economy base and river basin management plans as obligations arising from this Law that should enable implementation of the Law and the Strategy.

The implementation of the Law on Waters is, in most part, within the competence of the MoEPP, while the local self-government is responsible for provision of communal services, flood protection and provision of quality bathing water, but there are no mechanisms for mutual co-operation in practice. There is a grey area in which legal obligations overlap or are not met. Water rights, i.e. water use permits should be issued on the basis of the plan for the respective area but, given that such a plan does not exist, it is unclear on what basis the permits are issued and how the MoEPP, without the existence of specific tools, takes care for maintaining and improving the water regime. This situation, apart from being a basis for arbitrariness in issuing permits, does not guarantee that the objectives of the Law on Protection, Preservation and Improvement of Available Water Resources through Rational and Sustainable Use will be met.⁶⁵

In practice, in addition to the bylaws on water management which have not been adopted, insufficient compliance with the Law on Waters creates conditions for arbitrariness in the issuance of permits.⁶⁶ This means that the availability of a sufficient amount of quality water, primarily drinking water, is questionable, including water needed for other purposes - agriculture, industry, hydropower needs, tourism, navigation, recreation, and other needs.⁶⁷

One such example is the issuance of permits for the construction of small hydropower plants for which concessions have already been granted. The concessions are issued by the Government on the proposal of the Minister of Environment. Environmental legislation provides for energy development strategies and renewable energy sources to be subject to the procedure for strategic assessment of their impact on the environment, but due to the absence of a reference strategic/planning document in the field of water, it is not clear how the environmental impact assessment is being made.

65 <https://iks.edu.mk/wp-content/uploads/2020/12/%D0%9A%D0%B0%D0%BA%D0%BE-%D0%B4%D0%B0-%D1%98%D0%B0-%D0%BA%D0%BE%D1%80%D0%B8%D1%81%D1%82%D0%B8%D0%BC%D0%B5-%D0%B8-%D0%B7%D0%B0%D1%88%D1%82%D0%B8%D1%82%D0%BC%D0%B5-%D0%B2%D0%BE%D0%B4%D0%B0%D1%82%D0%B0.pdf>

66 Ibid.

67 Ibid.

co-operates and co-operation the cooperation between the competent bodies of the state administration to which the provisions of the Law on Waters and the Law on Concessions refer and other types of public-private partnership. It is responsible for the preparation of bylaws related to the procedure for issuing water rights and granting concessions for water use. It coordinates the procedure for issuing permits related to the concession procedure.

As the scope of competencies shows, one and the same body, i.e. the same employees in these two departments first prepare rulebooks and other bylaws adopted by the Ministry itself, which regulate the procedures and conditions under which water concessions are issued, and then participate in the procedure for issuing water rights, concessions and finally issue permits for sand extraction, i.e. have the authority to issue permits to commercial users of water rights, which are business entities registered for the production of electricity from small hydropower plants and companies that receive concessions for sand extraction. Set up like this, in this organizational unit of the Ministry there is a concentration of competencies in one point and there is an extremely high potential for corruption.

The Law on Waters (Article 131) prescribes a general prohibition for removal of gravel, sand and stone from the troughs and shores of surface water bodies (watercourses and lakes and reservoirs), which worsens the current water regime, causes erosion processes and limits or prevents use of waters. However, as an exception, extraction is possible as a regulatory measure (Law on Waters, Article 142, in relation to Article 26 - Acquisition of Water Rights), on the basis of an issued concession, on the basis of a permit or in accordance with the conditions in that permit, which is also issued by the same Water Sector of the MoEPP. Most of the extracted material is used for sale, while a minimal part is used for arranging the riverbeds, while measures for protection from illegal excavation are not established (village of Gorno, Sredno Konjari). This leads to destruction of riverbeds, supports erosive processes and leads to floods, thereby endangering the health and property of the population.

The assessment of corruption risks of the SCPC, in the part Challenges Arising from the Legal and Institutional Framework of the Procedures for Issuing Environmental Permits and Other Documents, included the practice of impunity for corrupt behaviour related to the (non) application of legislation.

Forest exploitation permits

The protection of forests is regulated by the Law on Forests. The state forests and forest land are managed by the state through the following institutions: Ministry of Agriculture, Forestry and Water Economy (MAFWE); State Inspectorate for Forestry and Hunting, as a body within the MAFWE, Forest Police, as a sector within the MAFWE, the Public Enterprise "National Forests", Ministry of Environment and Physical Planning (MoEPP) and National Association of Private Forest Owners (NAPFO). There are two types of

forest ownership - public and private. Publicly owned forests are managed by the Public Enterprise National Forests (PENF), forests in protected areas are managed by national park administrations, while private forests are managed by the Public Enterprise, because private forest owners must obtain a permit for any activity carried out in their forests. Of the total area under forests, the share of forests in state ownership is 89.1%, and in private ownership - 10.9%.

It is the responsibility of the Public Enterprise "National Forests" to plan the use of forests, for the purpose of which annual plans are prepared, but the obligation of "National Forests" is only to mark logs, while the logging, supply and transport are performed by private companies based on a tender. **There are reports from the field on cases of abuse of permits by concessionaires who exploit forests in a certain area in terms of exceeding the agreed quantities of cut wood and according to which there is weak and inefficient control over the manner and volume of forest exploitation by concessionaires, including illegal logging**⁷². Expert observations also point to the problem of illegal logging, where the link between the bodies responsible for combating this type of crime and loggers, i.e. organized criminal groups dealing with illegal logging is one of the most pronounced and visible forms of corruption when it comes to destroying natural resources. According to Eurothink research published at the end of 2020, there are several factors that indicate the existence of corrupt phenomena in this sector: a high demand for firewood that supersedes the capacities of PE "National Forests", the low standard of a large part of the population that uses firewood that makes the black firewood market very powerful and challenging for crime, weak institutional control over corruption involvement. Three institutions are responsible for controlling the situation with illegal logging: the Ministry of Interior, the Forest Police at the Ministry of Agriculture, Forestry and Water Economy and the State Inspectorate for Forestry and Hunting, but they sometimes have same or similar competencies, leaving room for mismanagement and potential abuse. The slow restructuring of the state towards the use of green energy sources creates conditions for illegal logging to become widespread and gain a social component, so the inefficiency in the fight against this phenomenon may indicate that it is consciously tolerated by the competent institutions.

72 <http://eurothink.mk/wp-content/uploads/2021/02/CIP-FINAL-Izvestaj-Drvokradci-%D0%9C%D0-%9A.pdf> „According to the Law on Public Procurement, tenders are won based on the lowest price, even lower than the market price - for example, the applied price for logging in 250 denars per cubic meter, although according to the documentation of PENW the price is 360 denars per cubic meter, then the difference is supplemented with additional quantities of firewood. Certainly, there is no public data on this and therefore stronger control is needed, especially in the field.”

Concessions in Protected Areas

The issuance of concessions and water permits for small hydropower plants is described in the subsection: Permits for exploitation of water, sand and gravel from riverbeds. The practice in the Republic of North Macedonia shows that a significant part of the issued concessions is located in areas protected by law or in areas that should be protected, i.e. declared as national parks. One such example is Shar Mountain, which is in the final stage of being declared as the fourth national park in the country, and on the territory of which, according to the proposed zoning, 25 small hydropower plants are planned (some have already been built), while in National Park Mavrovo⁷³ there is a plan to build 19 small hydropower plants (HPPs).

Despite advocating the construction of small hydropower plants in the country, the already mentioned Strategy for Energy Development of North Macedonia until 2040⁷⁴ recommends not to consider hydropower projects in protected areas. “In the Programme for implementation of the Energy Development Strategy of the Republic of North Macedonia until 2040, it is recommended to omit the national protected areas, as well as the areas proposed for protection when selecting specific projects (National Network of Protected Areas, Emerald, Natura 2000)” (p. 136).

The Government’s work programme 2020-2024 states that a ban is introduced for the construction of new small hydropower plants in protected areas and national parks⁷⁵. However, at the end of 2020, the Government extended the concession agreements for at least two small hydropower plants located in the strictly protected area of the Mavrovo National Park near the village of Zhirovnica⁷⁶, known as Zhirovnica 5 and 6, which, in addition to being expired, were also subject to protests of the local population, and their building permit was revoked by the Municipality of Mavrovo Rostusha. The SCPC, acting on a submission by a political party and an environmental association of citizens regarding these two small hydropower plants, whose concessionaire is a company in which the former Vice Prime Minister Kocho Angjushev has a stake, closed the cases⁷⁷ after finding no conflict of interest for obtaining concessions for construction of the Zhirovnica hydropower plants 5 and 6.

However, the SCPC requested the Government of the Republic of North Macedonia to “reconsider the impact of the construction of small hydropower plants on the territory of Mavrovo National Park in accordance with the recommendations of the Council of Europe, with special emphasis on the cumulative effects” of such projects on the park. In 2015, the Standing Committee of the Bern Convention demanded suspension of all

73 <https://www.slobodnaevropa.mk/a/28337393.html>

74 https://www.vicepremier-ekonomija.gov.mk/sites/default/files/dokumenti/EnergyDevelopment-Strategy_FINAL_Submitted_toGovMK_08.01.2020_clean_zs_sluzben_vesnik_zs_na_web.pdf

75 <https://vlada.mk/node/22525>

76 <https://www.slobodenpecat.mk/mali-hidroccentrali-ke-niknat-i-vo-nacionalniot-park-mavrovo/>

77 https://dksk.mk/fileadmin/user_upload/odluki_2/2019-2611-16_-_Odluka_d.pdf

government infrastructure projects in the Mavrovo National Park, especially the planned hydropower projects Boshkov Most and Lukovo Pole.⁷⁸

Despite the SCPC's findings in the case of the two small hydropower plants known as Zhirovnica 5 and 6, environmental activists continue to suspect corrupt links in the procedures for awarding and extending concessions for small hydropower plants.

IV.6. Inspection Supervision and Control

Environmental inspection supervision

The legislation that covers the competencies and the manner of action of the State Environmental Inspection is incomplete because the European legislation is not fully transposed. The Law on Inspection was adopted in 2015⁷⁹ when the draft law on environmental inspection was prepared, but it has not been adopted yet, although the EC progress reports constantly remind us of this obligation in the chapter on the European Commission reports on our country. Currently, the State Environmental Inspectorate (SEI) has 16 inspectors working throughout the country. SEI has only two water inspectors⁸⁰. SEI submits monthly and annual work plans and six-monthly work reports to the Inspection Council, which is responsible for hiring new inspectors and issuing work licences to both state and local environmental inspectors. The Inspection Council has also adopted a Code of Ethics for inspectors⁸¹.

The municipal inspectors are appointed by the Mayor and report directly to him. The Infocenter⁸² research estimates that such an arrangement increases the risk of corruption. The same research found that municipal inspections, due to narrowly defined competencies, poor staffing, and in some municipalities the absence of a certified municipal inspector (for example due to retirement or resignation) have limited impact, little effect or no effect at all.

The audit report on air quality, for the period 2017-2019, among the other things, concludes⁸³ that the environmental departments in the municipalities that have the authority to issue B-integrated permits, and at the same time due to poor staffing also

78 <http://www.mkd.mk/makedonija/postojan-komitet-na-bernska-konvencija-zabrana-za-izgrad-ba-na-hidrocentralite-boshkov>

79 <https://duinspektorat.mioa.gov.mk/sites/default/files/documents/%D0%97%D0%B0%D0%BA%-D0%BE%D0%BD%20%D0%B7%D0%B0%20%D0%B8%D0%BD%D1%81%D0%F%D0%B5%D0%-BA%D1%86%D0%B8%D1%81%D0%BA%D0%B8%20%D0%BD%D0%B0%D0%B4%D0%B7%D0%-BE%D1%80%20%202019.pdf>

80 <https://www.slobodenpecat.mk/intervju-so-ana-petrovska-namesto-rutinski-kontroli-ke-se-fokusir-ame-na-golemite-zagaduvachi/>

81 <http://dki.gov.mk/wp-content/uploads/2015/03/eticki-kodeks.pdf>

82 <http://nvoinfocentar.mk/wp-content/uploads/2020/04/Izvestaj-za-opstinskite-inspekciski-sluzbi.pdf>

83 https://dzt.mk/Uploads/56_RU_Kvalitet_na_vozduhot_2017_REDUCED.pdf

perform inspections, due to the volume of obligations, ignorance about the technical-technological processes of the installations and technical equipment, face conflict of interest, work overload and inefficiency in their operation.

The average annual funds allocated for inspection from the budgets of the municipalities is around 1%.⁸⁴

The State Inspectorate inspects entities with A-integrated environmental permits, while the municipal environmental inspectors supervise installations with B-integrated environmental permits. Both use the services of commercial laboratories for their emission measurements because the State Laboratory at the MoEPP has not been accredited for air pollution measurement methods for decades. Therefore, environmental inspectors do not have an unbiased tool for checking samples taken from pollutants – industrial and other facilities with A- and B-integrated environmental permits, but must seek the services of private accredited laboratories to make the measurements which should then serve as evidence in court proceedings.

The possibility of corruption lies in the fact that the same laboratories have as their clients the same industrial facilities, which they hire due to the legal obligation to monitor their emissions, so there may be a conflict of interest in the laboratories themselves, which operate on a commercial basis. The possible link between pollutants and laboratories has been warned about in several media outlets as well as in reports of international organizations, such as the one of EUROSAI mentioned above. Some of the problems that SEI is facing include: outdated database of issued A-integrated environmental permits, permits for storage and treatment of waste, approved reports for environmental protection, but also “technological blindness” when the same inspector has been inspecting the same legal entity for many years⁸⁵.

Control over deforestation

The State Inspectorate for Forestry and Hunting (SIFH) within the MAFWE controls all legal entities that deal in forest economy. SIFH has several responsibilities, such as overall logging control, implementation of annual plans and issuing logging approvals. SIFH files charges reports cases of illegal logging to the Forest Police. Furthermore, the FP protects state-owned and privately owned forests in accordance with the Law on Forests and the Rules of Procedure. It is the duty of the FP to guard the forest, intervene, prevent, identify and arrest persons caught committing forest offenses or crimes, and to inspect all means by which timber and other forest products are transported. The FP documents the persons

84 <http://nvoinfocentar.mk/wp-content/uploads/2020/04/lzvestaj-za-opstinskite-inspekcijski-sluzbi.pdf> (p.3)

85 <https://www.slobodenpecat.mk/intervju-so-ana-petrovska-namesto-rutinski-kontroli-ke-se-fokusirame-na-golemite-zagaduvachi/>

transporting timber and, if they do not have the appropriate documents, the FP may temporarily confiscate their vehicles and file criminal charges against the offenders.

The Ministry of Interior (Moi) is also involved in the process of combating illegal logging, in accordance with the Law on Forests and the Criminal Code. The Ministry of Interior has a very important role in the process of implementing the laws aimed at protection of the environment and nature, according to the Constitution, the Criminal Code, the Law on Misdemeanours and the Law on Forests. There is no specific sector in the Ministry of Interior that deals with environmental crime. In 2014, the Ministry of Interior launched the operation “Gora”, in which 1334 criminal charges were filed against 2204 perpetrators, and wood mass in the total amount of 97843 m³ was confiscated. The material damage is estimated at more than 335 million denars.⁸⁶

Research on corruption and illegal logging suggests the potential for corruption in two segments: the porosity of controlling the transport of illegally logged timber from the place of logging to the place of sale and the lenient penal policy by public prosecutors and courts. Last year, a Kanal 77 study was published investigating cases in which employees of institutions responsible for overseeing, controlling and sanctioning have entered the “black” business of illegal logging and resale of timber⁸⁷.

Some researches indicate that there are cases where due to the overlap of the territory under the jurisdiction of PE “Macedonian Forests” with forest plantations that are part of a current or future declared protected area, due to the lack of coordination of all affected institutions, no management plans have been prepared for resource management, which increases the danger of uncontrolled and illegal logging, which, due to the weak capacities of the control bodies and the lack of interest of the competent authorities, goes by unsanctioned.

IV.7. Public Involvement as a Form of Control

During the research on the topic of corruption in the field of environment and the specific examples in which the public, most often the local population, was affected by or came in conflict with the decisions of the competent institutions, we came across numerous testimonies of lack of information and non-involvement in the process of making those decisions, as opposed to the legal obligation to inform and ensure public participation in decision-making. The examples that have been researched show that the public is often bypassed in the process of deciding on matters in the field of

86 <http://eurothink.mk/wp-content/uploads/2021/02/CIP-FINAL-Izvestaj-Drvokradci-%D0%9C%-D0%9A.pdf>

87 <https://mms.mk/137905/%D0%B4%D0%B8%D0%B2%D0%B0%D1%82%D0%B0-%D1%81%D0%B5%D1%87%D0%B0-%D0%BD%D0%B0-%D1%88%D1%83%D0%BC%D0%B8%D1%82%D0%B5-%D0%BA%D0%BE%D1%80%D1%83%D0%BF%D1%82%D0%B8%D0%B2%D0%BD%D0%B8-%D0%B7%D0%B4%D0%B5%D0%BB/>

environment that are vital to them, so that the principle of informing and involving the public in that process was either observed only as a form devoid of any substance or was completely neglected. The affected public, i.e. the local population affected by the decisions of the government in the field of environment, most often found out about the realization of a project only at a much later stage of its realization. The public usually reacted only at the stage when construction work started in the field, and the attempts of the citizens to have their say on that particular project were intercepted by the competent authorities, explaining that the reaction was delayed and that the public already had the opportunity to speak, but had not seized that opportunity.⁸⁸ The most common examples when the public was not informed are the cases in which the local population opposed to the construction of small hydropower plants on the watercourses that they use for their own needs or to changes in the integrated environmental permits, which allows increased pollution threshold or use of different technology.⁸⁹ In the village of Zhirovnica, the obligation to consult the public for granting concession of the local river that passes through the village was avoided for as many as three small hydropower plants, so the population found out that the water will be occupied⁹⁰ only in 2018, after the preparatory works before the construction began. After the local community in Zhirovnica categorically maintained that they would not allow construction, the Government revoked one concession, while for the other two the Municipality of Mavrovo Rostushe revoked the already granted construction permit.⁹¹

The manner in which the public is informed in the procedure for issuing permits by the MoEPP has so far not proved to be sufficiently effective. In the response received from the Ministry, it is clarified that within seven working days from the day of receipt of the request, the request is published in at least one daily newspaper available on

88 As part of the field research on the connection of informing the public about potential corrupt practices in the field of water management, a series of conversations were held with representatives of the local population from the villages of: Zherovica (Municipality of Mavrovo Rostuya), Tursko Rudari (Probistip), Gorno and Sredno Konjari (Petrovec), Brodec, Bozovce (Tetovo) where small hydropower plants are being built or planned. Their testimonies, some of which were published on the portals of meta.mk and slobodenpechat.mk were used for the needs of this research.

89 As in the case of Paper Mill from Kochani, which led to several protests, an extraordinary inspection by the SEI and a fine and closure of the factory.

90 <https://www.slobodnaevropa.mk/a/%D0%BD%D0%B5%D0%BC%D0%B0-%D0%B2%D0%BE-D0%B4%D0%B0-%D0%B7%D0%B0-%D0%BB%D1%83%D1%93%D0%B5%D1%82%D0%BE-%D0%B0-%D0%BD%D0%B5-%D0%BF%D0%B0%D0%BA-%D0%B7%D0%B0-%D1%85%D0%B8%D0%B4%D1%80%D0%BE%D1%86%D0%B5%D0%BD%D1%82%D1%80%D0%B0%D0%BB%D0%B8/30059972.html>

91 <https://www.slobodnaevropa.mk/a/%D0%BA%D0%BE%D0%BD%D1%84%D0%BB%D0%B8-%D0%BA%D1%82-%D0%BD%D0%B0-%D0%B8%D0%BD%D1%82%D0%B5%D1%80%D0%B5%D1%81%D0%B8-%D0%BF%D1%80%D0%B8-%D0%BD%D0%BE%D0%B2%D0%B8%D1%82%D0%B5-%D1%80%D0%BE%D0%BA%D0%BE%D0%B2%D0%B8-%D0%B7%D0%B0-%D0%BC%D0%B0%D0%BB%D0%B8%D1%82%D0%B5-%D1%85%D0%B8%D0%B4%D1%80%D0%BE%D1%86%D0%B5%D0%BD%D1%82%D1%80%D0%B0%D0%BB%D0%B8-/30058563.html>

the entire territory of the Republic of North Macedonia and on its website, while any remarks should be submitted to the registry office of the Ministry at the headquarters in Skopje, a procedure that proved to be inappropriate for the involvement of the rural population, at the end of which the construction of small HPPs was planned. In most cases where the local population resisted the construction of small hydropower plants or the granting of concessions for the exploitation of sand and gravel from riverbeds, complaints were made about the failure to consult them about the decision to give away the use of vital resources from their immediate environment, especially when there is a possibility of endangering the right to access to drinking water and irrigation. It should be emphasized that the website of the MoEPP does not contain information on how many water permits have been issued in total, but a total of six requests for water use have been published for the period 2015-2016. When asked about why the total data on issued permits and public consultation were not published, MoEPP answered that they keep records, but that “permits are posted on the website in accordance with the technical possibilities. “We are currently in the process of developing a new website that will meet the growing needs for public disclosure of the relevant documentation of all services in the MoEPP.”

When public consultation is “bodged”

In accordance with the legislation, the municipalities give an opinion on projects that should be implemented on the territory of the municipality based on a prepared environmental impact assessment study, including small hydropower plants and concessions for sand exploitation. One specific case is that of the Municipality of Kochani, where the current mayor and the City Council, after the investor of the small hydropower plant on Mala Reka near the Gradche reservoir requested a construction permit for the project, prepared information on the negative impacts of the construction of the small hydropower plant on Mala Reka and the need for stopping its construction with a request to the Government and the Ministry of Environment to terminate the concession with the holder of the concession, but the MoEPP replied that in 2015 the Municipality gave a positive opinion on the project on the basis of which the Ministry issued the permit. Indicative is the information received from the local self-government, that the new composition of the Municipality did not have a written document supporting the claim that the Municipality of Kochani actually gave a positive opinion about the hydropower plant, so they asked the Ministry to provide it to them. The document submitted by the Ministry shows not only that the previous line-up of the local authorities in Kochani gave a positive opinion but also that a public debate was held on this project, of which the residents of the Municipality were informed through a press release. It remains unclear how it is possible that the Municipality of

Kochani did not have information that this had really happened, nor where and when the public hearing was held, and how it is possible that the civil environmental organizations were not informed⁹².

An example of neglect of the public interest when it comes to water resources, water law, endangering the right to clean water and a healthy environment by dodging the obligation to consult the affected public is the case of pumping sand from the river Pchinja near the villages Sredno Konjari and Gorno Konjari, Municipality of Petrovec, which for several years has been causing high tensions between the local population and the concessionaire, a company owned by a fellow citizen from the neighbouring village Dolno Konjari – “Progress Company”. The concession was issued in 2009, with validity until 2041.⁹³

IV.8. Gender Perspective of Environmental Corruption

Globally, the gender perspective of environmental corruption is an area that has been in the focus in recent decades, especially after it has been widely accepted that women constitute the majority of the poor population in the world, that women who are poor are more dependent on the availability of goods and services and that they feel the impact of grand or institutional corruption more strongly than men. This phenomenon presents itself in the form of illegal premiums when it comes to public procurement, which reduces the total amount of public resources available for distribution and it affects the equality in distribution across different social segments. There is evidence that such abuses are much more common when it comes to resources intended for marginalized groups, and it is these groups that do not have the necessary political power to oppose this corruption.⁹⁴

It is widely accepted that women are less prone to tolerating corruption and are less likely to be corrupt themselves. In part, this is due to the statistics that speak of the far lower representation of women in decision-making positions in society, in the political life, and in the business world. Women in the world today still have lower incomes, most of them have lower levels of education, and thus represent a more vulnerable part of the population when it comes to corruption. There is evidence that it is corruption that prevents women from entering politics, not only in parliament but also at higher levels of the executive power, or discourages them from thinking about it. The lower representation of women in politics is not a reflection of their lack of interest, but of the

92 Telephone conversation with the Mayor of Kochani, Nikolcho Iliev, September 2020.

93 <https://www.slobodenpecat.mk/foto-video-matni-igri-so-pesokta-od-pchina/>

94 Goetz, A.M. and Jenkins, R: ‘Reinventing Accountability: Making Democracy Work for Human Development’, Palgrave Macmillan, Basingstoke, 2005.

fact that their doors are closed to certain (often corrupt) networks that mediate their entry into politics.⁹⁵

In December 2020, the OSCE Ministerial Council adopted Decision no. 6/20 “Preventing and Combating Corruption through Digitalization and Increased Transparency” in which it called on participating States to fight corruption by strengthening the responsibility of public services to achieve a sustainable economic development, improvement of the business climate and facilitation of social inclusion and equal economic participation of women and youth in their societies. Participating States were also called upon to engage in promoting full, equal and substantial participation of women in the development of anti-corruption activities by achieving gender equality, given that corruption disproportionately affects women and vulnerable groups.⁹⁶

Climate change as the most drastic form of environmental impact on people’s lives and gender perspective is enshrined in the United Nations Framework Convention on Climate Change (UNFCCC)⁹⁷, which requires parties to ensure that the principles of gender equality and women’s empowerment are respected, promoted and considered when developing climate change projects/programmes, including “gender responsibility”.

Unfortunately, it is clear that the poor are at a greater risk of climate change because they find it more difficult to adapt to drastic changes such as drought or floods, which directly affects their livelihood and ability to produce food, and which, in turn, deepens inequality among men and women. Unequal access to education for women, however, means unequal opportunities for inclusion in social affairs that facilitate access to financial assistance for managing the effects of climate change. The OSCE Ministerial Council Decision no. 10/11 of 2011 aims at overcoming the obstacles to greater participation of women in economic and social flows by calling on participating states to work on increasing the participation of women in political and social trends.⁹⁸ This is especially important because it is not only the participation of women that matters, but also the way and the extent of their participation⁹⁹. And because women show greater concern about the environment, are more supportive of policies to protect it, and vote for “green” leaders, their greater involvement in politics and civil society will result in better environmental policies and better achievement of the Millennium Development Goals¹⁰⁰. This requires support of women’s participation through laws and policies that guarantee that women will be heard and will take part in decision-making.¹⁰¹

95 <https://www.undp.org/content/undp/en/home/librarypage/womens-empowerment/corruption-accountability-and-gender-understanding-the-connection.html>

96 <https://www.osce.org/files/f/documents/2/b/472833.pdf>

97 https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf

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100 https://www.slideshare.net/mcems_mk/ss-2070437

101 <https://unfccc.int/news/climate-action-needs-gender-action>

To create effective and efficient responses to climate change, one first needs to understand how gender inequality affects multiple issues such as access to and control of resources, institutional structures, social, cultural and informal networks, and decision-making processes. The systematic inclusion of the gender perspective in climate change policies and interventions will ensure.¹⁰²

- Climate change policies and activities that are appropriate and relevant to the local context by addressing the different perspectives, roles, rights, needs, priorities and interests of men and women as key actors;
- Climate change approaches that are more efficient, effective, responsive and will provide wider benefits if both men and women are equally involved in the use of those benefits;
- Equal access to opportunities, resources, decision-making processes and benefits of anti-climate change actions;
- Strengthening the female population where there are gaps (inequality) in the distribution of power, resources, services, participation as well as overcoming the institutional and socio-cultural barriers to women's participation in these processes;
- That the knowledge, experiences and capacities of the entire population (both men and women) are used and taken into account;
- Fulfilment of obligations from international standards UNDHR, CEDAW.

The relationship between gender, corruption and the environment is an unexplored topic in the Republic of North Macedonia. Research addressing the issue is mainly focused on gender representation in politics and institutions, as well as on non-functional tools for preventing gender discrimination and affirming the policy of equal opportunities.

The environmental sector in the Republic of North Macedonia is mainly based on laws and state strategies that are gender neutral, which start from the position that environmental issues at first glance equally affect both sexes. Policies are created based on the assumption that the goals and instruments of a given policy are widely applicable, not taking into account the different (possible) effects that the policy may have on women and men and that they do not integrate a gender perspective. Neither the domestic scientific community, nor civic activism has so far had any remarks on that aspect of this issue.

102 <https://klimatskipromeni.mk/data/rest/file/download/7b705f174c1ba220ebd359638ea9deb84e80b37965ed78f7cf3a783b70363269.pdf>

V. RECOMMENDATIONS

Based on the analysis made - office and field research and interviews with relevant stakeholders on the risk of corruption in the field of environment, it can be concluded that in the recent years it is the civil sector that plays a key role in shedding light on corruption in the field of environment, by pointing out the unsatisfactory results from the work of the competent institutions regarding the implementation of the laws.

Raising the public awareness about the need for a clean and healthy environment, as well as identifying conflicts of interest and corruption in the field of environmental protection should be a top priority because the best way of strengthening it is by providing citizens with the right information about what is happening and how it concerns them and their immediate environment.

It is also necessary to substantially improve the co-operation between civil society organizations working on the protection of the right to a healthy environment, clean air, water, preserved natural resources with the media. In order to fulfil this role of the civil society organizations, it is important to increase the pressure on the government to facilitate access to information and to respect the laws and obligations towards the public in the proceedings arising from the Aarhus Convention. That is the only way to prevent and detect corruption through transparency.

Hence, the following recommendations can be made to reduce the risks of corruption in the field of environment:

1. There is a need for consistent implementation of the obligation for public consultation in the process of environmental impact assessment by the state administration bodies and the local self-government units in issuing permits and implementing the provisions of the laws and the Decree for Public Participation.
2. The SCPC, by receiving information from the competent institutions, to follow the procedures for issuing permits for exploitation of resources and pollutants by the competent authorities in the field of environment, as well as to provide guidelines for consistent application of the principle of public participation, aimed at reducing opportunities for corruption.
3. In order to prevent or detect corruption, conflict of interest or trade in influences, the SCPC should strengthen the co-operation with the competent institutions for supervision over the issuance of licences for economic activities in protected areas, in accordance with the degree of protection.
4. The Government in co-operation with the civil society sector to devise a way for external control over the process of determining locations for small hydropower plants, for issuing concessions and for water rights that the Minister of Environment proposes to the Government.

5. MoEPP to investigate the effectiveness of the current way of informing the public in the field of environment and to modify it in a way that will enable the information of local importance to reach isolated rural communities, which are often most affected by certain solutions prepared at central level (e.g. water permits).
6. Separate the responsibilities and authorizations in the two units of the Water Sector of the MoEPP to avoid the concentration of power and conflict of interest in the management of a vital social resource such as water by a few officials.
7. To prepare amendments to the Law on Waters or other bylaws to regulate the procedure for issuing permits for water law, which will make it mandatory to go out in the field during the procedure for issuing permits, sand extraction and exploitation of water for the production of electricity from small hydropower plants.
8. To urgently increase the number of state environmental inspectors, especially for water; the current number of two water inspectors is insufficient to cover the inspection of all bodies of water in the country.
9. To urgently adopt the Law on Environmental Inspection, which is constantly remarked on in the EC Progress Reports.
10. To promote the independence of local environmental inspectors in relation to mayors and to separate the competencies of municipalities for issuing integrated environmental permits and for environmental inspection.
11. To clearly define the competencies of the institutions regarding the illegal constructions in protected areas.
12. Consistent compliance with the recommendations of the UNESCO Reactive Mission regarding illegal construction and usurpation of land in the protected Ohrid region.
13. Accreditation of the State Laboratory at the MoEPP for methods for testing air pollutants.
14. Priority adoption of the Law on Industrial Emissions in the Parliament and its consistent implementation.
15. Consistent application of the “polluter pays” principle. The polluter is obliged to reimburse the costs of eliminating the danger to the environment, to bear the costs of remediation and to pay fair compensation for the damage caused to the environment, as well as to bring the environment, as far as possible, in the state it was prior to the damage. The fees should be collected in the Environmental Fund and used only to reduce pollution and improve the environment¹⁰³.
16. Equipping the Forest Police and the State Inspectorate for Forestry and Hunting with material and technical resources in order to increase the efficiency of their work.
17. Promotion of intersectoral co-operation of the MoEPP and MAFWE in order to make their joint efforts for conservation and improvement of forests more efficient.

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