



APRIL 2010 MONTHLY REPORT* ON FIGHTING CORRUPTION AND CRIME AND THE STATE OF TRANSPARENCY IN SOCIETY

In the monthly report for April 2010 on fighting corruption and crime and the state of transparency in society TM wants to caution about the following cases:

POLITICAL CONTAMINATION OF THE REGULATORY BODIES

1. The vision and the concept for the Judicial Council in the Republic of Macedonia are based on two essential postulates. The first one, the majority of the members to be elected by the very judicial profession by direct elections at all levels of the judicial hierarchy and the second one, the elected members to be with a strong personal credibility. Regretfully, the practice has shown that both these premises did not justify the expectations from the election of **Mr. Branko Uskovski** as a member of the Judicial Council. How it happened in the process of secret voting both these principles to be violated is still a mystery, and the results from the voting show strong political logistics.

A key factor in the work of the Judicial Council is the personal domination of Minister **Mihajlo Manevski**. That domination is due to his desire and the desire of the executive authorities to establish complete control over judiciary. Obviously, the other members of the Council cannot oppose this thus making their own and needed personal integrity questionable.

However this tendency will not change in the near future, which is evident from the election of Mr. Uskovski as a member of the Judicial Council. This election represents a direct intrusion in the Constitution of the Republic of Macedonia and in the Law on the Judicial Council. Namely, Article 104 from the Constitution establishes the standard about the election of the members of the Judicial Council, proposed by the Assembly of the Republic of Macedonia, referring to University professors of law, lawyers and renowned jurists.

* *Transparency Macedonia* (TM) publishes regular monthly reports on fighting corruption and transparency of the Macedonian society related to the activities of the state bodies and other social and political institutions in the Republic of Macedonia. TM's reports point out and warn about irregularities and violations of procedures as well as the good practices in implementing the public policies and spending public funds. The intention is for the Macedonian political actors, as well as the citizens, to take these remarks constructively as a continuing and objective mechanism for observing the situation in the Republic of Macedonia concerning society's transparency and fighting crime and corruption. The monthly reports are financed by the Foundation Open Society Institute - Macedonia.

Having in mind that Mr. Uskovski is neither a university professor, nor a lawyer, it is evident that the parliamentary majority saw him as a renowned jurist. TM believes that the qualification of a “renowned jurist” is not a pure and subjective reference that would tolerate any biography. This qualification justifies only a person that has referential scientific papers and/or evident practical contribution in the field of law. Mr. Uskovski as a jurist at the Crisis Management Centre is not even close to what one could place under the category of renowned jurists. He has no professional experience in judiciary and he is now in a position to assess the work and the competence of the judges in the Republic of Macedonia.

TM expresses concern about the further discrediting of the Judicial Council and concludes that the essence of the problems of this body does not lie in its concept, but in the conduct of Minister Manevski and his party installations in the Council.

2. The appointing of Mrs. **Gordana Ivanovic** as a President of the Commission at the Agency for Electronic Communications, a body that plays the role of a steering board of this very important institution, is another example of a drastic party intrusion in the independence of the regulatory bodies. In compliance with the Law on Electronic Communications, the Agency for Electronic Communication supervises controls and monitors of the work of the operators of the electronic communication networks and providers of these services, as well as other issues. This Agency plays an utterly important role in regulating the conditions on the market in the field of electronic communications.

Having in mind this position of AEC, the appointment of a renowned party member of VMRO-DPMNE as a president of the Agency’s steering body is improper. Ivanovic’s biography states that she is a member of the party’s commission for financing and monetary affairs, and at one point of time she was also Secretary of the City of Skopje, again as a member of VMRO-DPMNE. The appointment of Mrs. Ivanovic is contrary to the provisions from the Law on Electronic Communications as well as the recommendations by the EU urging to ensure the necessary independence of the regulatory bodies. Along that the recruiting of renowned party members in the regulatory bodies turns into a rule for this government.

TM condemns the politisation of the regulatory bodies having in mind the fact that it undoubtedly points at conflict of interests in their management structures that could cause serious violation of the market conditions.

LEGISLATION

3. Legalising the domination of the executive over the legislative power is one of the most dangerous tendencies in democracy that destabilises the necessary balance between the two fundamental functions of power. That is exactly what has been happening in the Republic of Macedonia with the brutal attempt by the parliamentary majority to “force” the **amendments to the Law on**

State Audit. With these amendments the Assembly will prevent the reports by the State Audit Office that contain the ways, the procedures and the amounts of budget funds spent by the public institutions to be reviewed. Thus the principle of transparency, as the fundamental principle in the work of every bearer of power in the democratic societies in the Republic of Macedonia, is seriously threatened. Bearing in mind the fact that the SAO does not have nor should have prosecutorial competences, the only mechanism for public control over the spending of budget funds by the public institutions – the publishing of the SAO's reports, their submission to the Assembly and when necessary to the Public Prosecutor's Office – is prevented. With the legislative prohibition for SAO's reports to be reviewed by the legislative body, the Assembly's control is avoided as well as the control of the broader public over the financial functioning of the governmental institutions.

TM would like to ask why the Government is afraid of transparency in spending public money and based on which analyses (comparison and domestic) the decision was made to amend the laws prohibiting the Assembly of the Republic of Macedonia to perform one of its basic competences - control over the execution of the executive power?

4. MOI adopted a Rule Book on fire protection equipment that envisaged new expenses for the citizens of the Republic of Macedonia. Only few days after it went into effect, after it was realised that there were no legal grounds or European directions or a directive for its adoption, the Rule Book was withdrawn. However, most of the citizens complied with the short-lasting obligation and spent money buying fire protection devices. The companies that procured big quantities of fire protection devices had losses. This is not the first time for the Government to adopt short-lasting bylaws and to impose financial obligations for citizens that afterwards are revoked. Similar were the cases with the patriotic fiscal receipts established with the Rule Book of the Ministry of Finance (which was revoked by the Constitutional Court without a compensation for the citizens) as well as the illegal obsolete and forced collection of firm fees in the city of Skopje, the bills for the broadcasting tax illegally collected by MRTV, etc.

TM wonders whether the Government of the Republic of Macedonia due to its improvisations and unprofessional attitude plans to compensate all the citizens in the state that have been exposed to financial expenses imposed by illegal and improper acts?

LOCAL SELF-GOVERNMENT

5. The Prime Minister Nikola Gruevski brutally interfered with the local governance by forming a party body called **Council of VMRO-DPMNE's Mayors**. With the public "session" of this party body the work of the sole organisation of local self-government units-ZELS regulated by law was made obsolete. At that session the Prime Minister was enquiring the mayors about their activities, giving them directions thus conducted unambiguous partisanship and direct interference of the central government with the local self-governments.

TM is wondering whether the Prime Minister is planning in the future to form new party institutions (councils) composed of directors, physicians, professors, teachers, state and public officials of VMRO-DPMNE and by that to participate every pore of our social living.

MISUSE OF BUDGET FUNDS

6. The action of afforesting and the census of the population in the month of April draw the attention of the public, suspecting misuse of budget money.

It is really unclear how it was possible in only one day to plant 7.5 million nursery plants? Was it possible, with this noble action, to plant so many trees, having in mind that the population's turnout this year was not that massive? Was it possible that only twenty inspectors of the Public Enterprise Macedonian Forests to do the entire inspection and to determine how many trees were planted and to make reports on that? It is a fact that nobody will ever be able to prove how many trees were planted with that action.

The census of the population, the households and the apartments that should be carried out in 2011 should cost 14 million Euros, twice more than the previous 2002 census. If the entire organisation of the census follows the same methodology as the previous one, then why would this census cost twice more? The official explanation by the State Statistical Office about the doubled number of activities in the course of the census cannot justify the doubled expenses. Probably the higher expenses are due to the doubled number of census takers, 20,000 compared to the 11,000 census takers in 2002 that make us suspect a possible paid engagement of a big number of party members.

7. The shameful scandal at the Agency for European Educational Programmes has far-reaching consequences on the further financing of the programmes financed with European money. Namely, the European Commission stopped all the programmes implemented with European money. According to the initial information 260 thousand Euros of the European funds were embezzled. Even though the illegal actions were evident, Prime Minister Gruevski treated this case only as "unethical conduct".

At the Agency for European Educational Programmes two audits are currently underway - one by the Ministry of Education and a second independent one upon a request by the European Commission. **TM encourages the auditors to finalise the audit as soon as possible, and all the competent institutions are urged to make efforts to disclose the crimes committed at the Agency because this development has blemished the international reputation of the Republic of Macedonia.**

8. The claims of the state auditor in the audit report on the Foreign Investments Agency proved to be true after the disclosure of the case with the economic promoter to the United States. The state auditor noticed that for 18 economic promoters in the period between January 2008 and August 2009 MKD 39.95 million were spent. Furthermore, it was also pointed out that the Agency

has no adequate system of control and monitoring of the work of the economic promoters.

The case with the economic promoter to the United States depicts the best the work of the economic promoters. The economic promoter to the United States, **Filip Petkov** at the same time when he was appointed to this position founded his own company which according to its web site operates on the US market. This case according to TM should be treated as malfeasance and conflict of interests.

TM believes that every representative of the state, including the economic promoters should temporarily close their businesses in order to avoid possible conflict of interests.

TM urges the Government to have a more serious look into the performance of the economic promoters abroad and to immediately act upon the recommendations made in the report by the State Auditor. Moreover, the Government should look into the overall performance of the Agency for Foreign Direct Investments because both from the audit reports that point out a number of shortcomings and from the level of foreign investments in the Republic of Macedonia it is evident that the Agency not only that has failed to achieve the goals it was established for but it is also involved in misuses.

THE SITUATION IN THE NGO SECTOR

9. Continuing with a practice that has existed in the Republic of Macedonia for some time now i.e. the creation of virtual NGOs which actions were directly in correlation with the needs and the interests of the ruling centres of power, and all aimed at creating an illusion that the policies and practices (especially the governmental ones) are based on the activities and the beliefs of the “free” civic and non-governmental organisations. Regardless of the detailed provisions that forbid performing political activities or using property and funds of these organisations for achieving the goals of the political parties, in the public in specifically determined periods associations of citizens appeared which objective was to push into the background some other more important issue. On the other hand the NGOs, which constructively criticise i.e. criticise the Government are subjected to verbal attacks or labelled as civic organisations founded by the opposition. Hence, TM in the last few months was verbally attacked by the ruling party as an organisation that acts as a mechanism of the opposition.

Transparency Macedonia points out that the creation of new “a la carte” NGOs, and the attacking of those that criticise the Government do not deepen the democracy in our society, but on the contrary they hold it back.

THE CASE WITH THE “HYDRO POWER SYSTEM ZLETOVICA”

10. The Macedonian public was agitated by the scandal linked to the hydro system Zletovica, which is being constructed with a 70 million Euros loan from

the Government of Japan. Namely, there are suspicions that in the Zletovica scandal the company “Sileks Nemetali” from Kratovo is involved, a company linked to the MP and President of the Socialist Party Ljubisav Ivanov-Zingo, who is also a coalition partner of the Government of the Republic of Macedonia.

TM suspects the procedure for selecting this company as the most favourable bidder, since this company was initially refused by the foreign consultants as a company with no experience in conducting the required activities. Still, the Minister of Agriculture, Forestry and Water Economy at the time, who came from the Socialist Party and the current Ambassador of the Republic of Macedonia in Ukraine, confirmed the suitability of the company “Sileks Nementali” for a subcontractor in the construction.

TM wonders what were the criteria that Minister Aco Spasenovski applied in determining the suitability of the company “Sileks Nemetali” to be the subcontractor for the construction of the Zletovica Hydro System.

TM suspects that no criteria were followed in the selection of the subcontractor and that it was a classical case of malfeasance of the political position for acquiring financial advantage. TM urges the Government and all the competent institutions to re-examine the way in which the company “Sileks Nemetali” was selected as the best bidder and as soon as possible to deal with all the suspicions regarding this project.

May 2010

Transparency Macedonia

Ferid Bajram 39, 1000 Skopje, Republic of Macedonia
Tel./Fax: 02/ 31 21 100

www.transparentnost-mk.org.mk