



REPUBLIC OF MACEDONIA
STATE COMMISSION FOR
PREVENTION OF CORRUPTION



ANNUAL REPORT

ON THE WORK OF THE
STATE COMMISSION FOR PREVENTION OF CORRUPTION
IN 2009

March 05, 2010

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INTRODUCTION

Dear all,

The State Commission for Prevention of Corruption hereby submits the Report about its work to the Parliament of the Republic of Macedonia as well as to the President of the Republic of Macedonia, the Government of the Republic of Macedonia and to the media in accordance with article 49 of the Law on Prevention of Corruption and article 21 of the Law on Prevention of Conflicts of Interest.

The report provides open, truthful and objective arguments regarding the overall work of the State Commission for Prevention of Corruption in all segments of its complex legally mandated competences specified in the two basic laws that refer to the area where the Commission is active, as well as the priority tasks from the Pre-accession partnership of the Republic of Macedonia with the European and Atlantic structures in order to raise the overall capacity of the Republic of Macedonia to address the problem of corruption in the long term.

The State Commission for Prevention of Corruption plans the work using the legislatively mandated tasks and competences as well as the provisions from the United Nations Convention against Corruption as an integral part of the national law. The State Commission for Prevention of Corruption exercises the principles of independence and autonomy in performing all of its tasks and activities.

In 2009, the positive trend of the progress of our country in the field of combating corruption on a normative and institutional plan continues. This is registered in the report of the European Commission and of NATO, as well as other relevant international institutions that monitor the efforts and the results in the fight against corruption. The contribution of the State Commission for Prevention of Corruption in that area is continuous and undoubted.

Hence, in 2009, the State Commission for Prevention of Corruption dedicated its attention to prompt and efficient work with respect to complaints and cases where there is suspicion of corruption or conflicts of interest, and, in

comparison with previous years, this year the Commission processed the greatest workload of cases. Namely, the clearance rate is two times greater than the inflow rate of cases and the promptness and efficiency in the work on the cases has increased. The facts corroborating this conclusion are elaborated in the relevant parts of the Report. This confirms that the State Commission implemented one of the suggestions in the European Report related to the clearance of the inflow cases, i.e. achieving concrete results regarding the enforcement of the laws.

Similarly, the State Commission for Prevention of Corruption acted in the field of preventing and overcoming conflicts of interest and therefore the task specified in the State Program enacted in 2008 to innovate the Law was achieved in 2009, in the initial phase and the State Commission for Prevention of Corruption participated in the whole process and in all the stages of the process where it could participate in accordance with its legally mandated competences. In addition, the SCPC enacted the form of the new tool / the Statement of Interests and started collecting these statements.

As an expression of the special dedication in achieving the main priority tasks, and in the context of the need to strengthen its visibility and supervisory role in the public, the State Commission for Prevention of Corruption in partnership with foreign expert consultants, developed a Strategy for strengthening public relations 2009 -2012. The 2009 media campaign "Clear the corruption" was just one part of this strategy.

Another typical feature of 2009, which was expressed through the work of the State Commission for Prevention of Corruption, was the presidential and the local elections. Here, the preventive role of the State Commission for Prevention of Corruption was especially highlighted, especially as regards the compliance with and enforcement of the provisions related to corruption in politics.

In one of the main areas of work, which relates to recording and tracking the assets of the officials, the State Commission registers a high level of compliance with the obligations from the Law, its correct implementation and using the direct procedural competences with respect to instigating misdemeanor procedures or procedures for investigating the assets. It is evident that the submission of complete asset declarations is a widely accepted obligation which is complied with by most of the officials.

The importance of the continuous inter-institutional cooperation with a view of increasing the efficiency of dealing with corruption led to the initiation and the signing of a special Protocol for cooperation regarding the prevention and repression of corruption and conflicts of interest in 2007 by 11 authorities and institutions competent to act in the field of corruption and conflicts of interest. In 2009 there were a total of 17 institutions that signed and participated in the Protocol, which illustrates the perception of the other institutions for the SCPC as an instigator and coordinator of the anticorruption activities and processes. The protocol undoubtedly contributes to raising the level of efficient actions by all of the signatory institutions.

The real effects from the efficient actions related to prevention of corruption can be also seen through the prism of material and financial assets recovered in favor of the state treasury. Thus, in 2009, the institutions before which the SCPC initiated its procedures, have confirmed that the total effect for the past three years amounted to 1,262,000.00 EUR.

Another characteristic of the State Commission for Prevention of Corruption is the successful work in projects with most respected international partners, whereby it provided for solid expert and financial support which contributes to saving funds from its own budget. Therefore, in addition to the fruitful cooperation with UNDP, USAID, the European Commission through the TAIEX instrument, the State Commission in 2009 received the support for the Project Fiche 2010 for the IPA Funds. This is a strategic goal to raise the overall capacity of the institutions involved in the fight against corruption which is one of the main goals in the State Program for Prevention and Repression of Corruption.

The Report about the work in 2009 contains all the information and findings not only for the purpose of illustrating the more characteristic activities indicated in the Report, in order for the authorities and the public to whom this Annual Report is addressed to be able to get a direct presentation and to be able to form their own standpoints about the work of the State Commission for Prevention of Corruption.

Sincerely,

Mirjana Dimovska President
Iljmi Selami, member
Mane Kolev, member
Arif Musa, member
Cvetko Mojsoski, member
Zoran Dodevski, member
Ljubinka Muratovska Markova, member

1. STATUS AND WORKING CONDITIONS OF THE STATE COMMISSION FOR PREVENTION OF CORRUPTION

1.1. Status

The State Commission for Prevention of Corruption (hereinafter in the text “the SCPC”) in the Republic of Macedonia was established in 2002 on the basis of the Law on Prevention of Corruption, enacted in April 2002 (“Official Gazette of the Republic of Macedonia” no. 28 from 2002), in order to implement the measures and activities for prevention of corruption while exercising power, public authority, official duty and politics, measures and activities for prevention of conflicts of interest and corruption when legal entities perform activities of public interest, related to the exercising of public authority, as well as measures and activities for prevention of corruption in companies.

In accordance with the Law, the SCPC performs the tasks determined by law autonomously and independently and has a status of a legal entity.

Thus, the Republic of Macedonia, even before the ratification of the United Nations Convention against Corruption in 2007, when it became an integral part of the national law, accepted to introduce, for the purposes of preventing corruption, the policies and instruments suggested by the World Organization to its member states. This meant the establishment of a special authority, provision of conditions to ensure the required independence to work in accordance with the basic principles of the state, which are to perform its functions efficiently, protection against all kinds of excessive influences, provision of material sources and the required specialized staff to perform the functions.

The SCPC comprises 7 members appointed by the Parliament of the Republic of Macedonia, with a term of office of five years without the right to be reappointed. The current second consecutive composition of the SCPC was appointed on 29th of January 2007, and began to work on the 5th of February 2007.

The members of the SCPC have the status of appointed persons which perform their function in parallel to the regular employment they have in other institutions.

1.2. Competences

The competences of the SCPC are determined in the Law on Prevention of Corruption, the Law on Prevention of Conflict of Interests, as well as in the Law on Lobbying in the area on lobbying supervision.

According to the laws the competences of the SCPC are:

- to enact strategic state documents – State Program for Prevention and Repression of Corruption with an Action Plan and a State Program for prevention and Reduction of the Incidence of Conflict of Interests with an Action Plan for realization;
- to initiate and provide opinions on proposed laws of significance for the prevention of corruption and conflicts of interest;
- to instigate initiatives before the authorities responsible for controlling the financial and material operations of the political parties, unions, associations of citizens and foundations;
- to initiate the implementation of procedures for dismissal, reassignment or replacement, as well as procedures for determining other disciplinary measures against appointed and elected officials and responsible persons that dispose of state capital;
- to initiate the instigation of procedures for criminal persecution of appointed and elected officials and responsible persons that dispose of state capital;
- to act on cases from the area of conflict of interests and to initiate the imposition of disciplinary measures if cases when conflicts of interests have been identified;
- to record and monitor the assets and the changes of the assets of elected or appointed officials and the responsible persons that dispose of state capital;
- to supervise lobbying and impose measures determined by the Law on Lobbying;
- to prepare an annual report about its work and the undertaken measures and activities for prevention of corruption and reduction of the incidence of conflict of interests. The Commission presents this report to the Parliament of the Republic of Macedonia, and submits it to the President of the Republic of Macedonia, the Government of the Republic of Macedonia and the media;

- to cooperate with national and international institutions in the field of prevention of corruption and reduction of the incidence of conflicts of interests;
- to educate the authorities responsible for detection and prosecution of corruption and other types of crimes and detection of conflicts of interest;
- to inform the public about the undertaken measures and activities and their results in preventing corruption and the conflicts of interest;
- to perform other tasks, according to the laws.

1.3. Capacity of the State Commission

The institutional capacities of the SCPC are assessed in accordance with the material, financial and other working conditions, staffing and professional development.

1.3.1. Budget of the State Commission for Prevention of Corruption for 2009

The State Commission for Prevention of Corruption has begun the year 2009 with a budget of 23,800,000 MKD (approximately 387,000 EUR). With the two supplementary budgets during 2009, the budget of the SCPC was reduced on two occasions, and the total amount of both reductions was 6,890,000 MKD (approximately 112,000 EUR), which represents 29% of the budget adopted at the beginning of 2009.

This reduced budget had a very adverse influence on the current functional financing of the SCPC, so that some program activities were transferred for the next year, and part of the utility and other fixed costs, in the amount of 779,074 MKD, in spite of the reallocation, could not be paid, and have been carried over as a debt to be paid in the budget year 2010. Namely, due to the restrictions of the Budget of the SCPC, the Commission reallocated funds (internal reallocations of the funds in the amount of at most 15%), mostly from the category of funds for salaries of employees, thereby securing, in December 2009, sufficient funds to settle the current expenditures in the total amount of 779,074 MKD (12,668 EUR).

In spite of the approved reallocation and the fact that funds were secured to settle the current debts and the arrears, the payment orders sent by the 31st of December 2009 were not approved nor realized.

Hence, only **88%** of the Budget of the SCPC which amounted to a total of 16,910,000 MKD, were realized, i.e. 14,627,472 MKD or 237,845 EUR. If the realization of the payment orders submitted by the SCPC was allowed, the Budget of the SCPC would have been fully utilized.

For 2010, due to the fact that the realized budget for 2009 was evaluated as being insufficient to facilitate the implementation of the planned obligations, the SCPC, in the budget circular, asked for a budget in 2010 of 24,750,000 MKD, however the approved budget is 17,450,000 MKD. Out of these funds 51% are envisaged for salaries and allowances for the employees, and 49% for

all other costs in the functioning of the SCPC, including the monthly allowance for the members of the SCPC.

1.3.2 Members of the SCPC

The members of the SCPC continuously participated in the work of the Subcommittee for justice, security, and human rights as well as the Committee for Integration of the Republic of Macedonia in NATO. The members of the SCPC have worked during the course of the year as presenters, lecturers or trainers on multiple seminars, trainings, public consultations and other forms of expression and strengthening the professional capacities in the country and abroad. The dominant issues presented at these international, professional events were the building of the institutional and individual integrity and the reduction of corruption, methodology for assessment and tools for monitoring in order to support the national anticorruption strategies, sustainable economic and social development through the fight against corruption and promoting of good governance, prevention and overcoming of the conflicts of interests, processing the asset declarations and improvement of the system for investigating assets, strengthening the investigative journalism, changes in the election and criminal legislations.

All of this is a confirmation of the capacity of the State Commission for Prevention of Corruption to implement its leading, supportive and coordinating role in the prevention of corruption in the Republic of Macedonia.

1.3.3. Secretariat of the SCPC

The professional, administrative and technical activities of the SCPC are the responsibility of the Secretariat as an administrative office of the SCPC comprising 13 civil servants.

The existing composition of the Secretariat, as a professional team of civil servants participates in the activities of the SCPC and is continuously upgraded with professional trainings in various areas. The determination to further staff the team, as a condition for strengthening of the working capacity of the SCPC in certain segments still stands.

2. ACTIVITIES OF THE SCPC FOR THE ACHIEVEMENT OF THE OBLIGATIONS OF THE REPUBLIC OF MACEDONIA FOR MEMBERSHIP IN THE EUROPEAN AND ATLANTIC STRUCTURES

In 2009, the State Commission for Prevention of Corruption, with special attention, intensity and quality, provided its contribution towards the achievement of the its obligations, as a relevant body, derived from the process of accession of the Republic of Macedonia in the European Union and NATO.

The SCPC had an exceptional cooperation while it participated in the work of all preparatory meetings of the Subcommittee for justice, freedom and security within the framework of the Committee for Stabilization and Association. This resulted in a direct and active participation on the Sixth meeting of the Subcommittee that took place in Skopje on the 10th and 11th of September 2009. On that meeting, where the European Union was represented

by the Directorate General for enlargement, representatives from the directorate generals of European Commission for enlargement and representatives of the member states, the State Commission has the opportunity to present its achievements and results in relation to the fulfillment of its obligations.

The State Commission for Prevention of Corruption manifested its dedication and responsibility towards the fulfillment of Macedonia's obligations arising from the process of accession to the European Union, through its maximal involvement in the full implementation, or significant implementation, having in mind that some of the activities are continuous, of the Main Priorities arising from the Partnership for Accession of the Republic of Macedonia in the European Union for 2009, in particular Priority C which required the achievement of continuous results in the implementation of the legislation in the field of corruption prevention. The accent in this priority was put on the implementation of following:

- Action plan for prevention and reduction of conflicts of interest;
- Establishment of continuous monitoring of the asset declarations, and
- Strengthening of the visibility and the capacity of the SCPC. The successful realization of these obligations is presented in the appropriate sections of this Report.

Because of the fact that these activities are interconnected, this report must also inform about the actions of the State Commission for Prevention of Corruption to fulfill the goals and activities contained in the National Program for the Adoption of the Acquis Communautaire (NPAA), which reflects the time schedule for harmonizing the Macedonian legislation with the European legislation, as well as the adaptation of the national institutions to the European administrative structures.

The State Commission for Prevention of Corruption made regular updates to its databases for the NPAA while performing the planned goals and activities, thereby providing its contribution towards the harmonization of the legislation and adaptation of the institutions.

Hence, another equally important activity of the State Commission in 2009, was the participation in expert working groups of the Committee for Integration of the Republic of Macedonia in NATO, for the preparation of the 11th cycle of the Action Plan for Membership (APM) and the Annual National Program for Membership of the Republic of Macedonia in NATO for 2009-2010. The SCPC actively contributed to the work of the expert groups of the Committee for Integration of the Republic of Macedonia in NATO, on the meetings held on the 10th of June and from the 17th to the 21st of August 2009.

Another activity that needs to be particularly emphasized is the participation of the president of the State Commission for Prevention of Corruption on the meeting between the Republic of Macedonia and the High Political Committee (strengthened) of NATO, held in Brussels on the 13th of October 2009. At this meeting, the SCPC presented its activities aimed at fulfilling the planned goals and priorities with a view of continuing the implementation of the overall reform processes in Macedonia. These activities were positively evaluated.

3. IMPLEMENTATION AND MONITORING OF THE REALIZATION OF THE STATE PROGRAM FOR PREVENTION AND REPRESSION OF CORRUPTION

Implementing the first of its legislatively specified competences, in May 2007, the SCPC enacted a State Program for Prevention and Repression of Corruption (hereinafter in the text: State Program) with an Action Plan for implementation of the program, which refers to the realization of the normative and institutional strengthening, intervention in the six pillars of the national integrity system, as follows:

- Political system, Parliament and political parties,
- Judiciary,
- Public administration and local self government,
- Law enforcement authorities,
- Economic and financial system and private sector, and
- Civil society, media and unions.

SCPC involved all of the institutions of the system in the process of creating the State Program in order to ensure the applicability of this strategic document. For the realization of the activities, funds have been provided in the annual budgets and there is an established system of permanent monitoring of the realization which facilitates the measuring of the level or implementation of the State Program in practice. In addition to continuously collecting the data, the SCPC, at the annual conference, with the participation of all stakeholders in the process, evaluates the success of the implementation of the program. Therefore, at the second annual conference, held in June 2009, the participants heard presentations of the achievements of the various implementing institutions and bodies in the six different pillars. In addition, the vice president of the Parliament of the Republic of Macedonia, Mrs. Svetlana Jakimovska, the representative of the European Commission in the Republic of Macedonia, Mr. Patrick Pacquet, as well as the director of the USAID office for democratic development and education, Mr. Dwaine Lee spoke to the participants on the conference. The president of the SCPC opened the conference and gave a general picture showing that the level of realization of the tasks in the Program had been raised. A high degree of realization is registered in the economic and financial sector, the law enforcement authorities, the judiciary and the local self government, while the degree of realization in the pillars one and six is different.

The following conclusions regarding the implementation of the State Program were adopted in the second annual conference:

1. The participants on the conference concluded that there is an evident progress in the realization of the activities envisaged by the State Program which is corroborated by the fact that, as opposed to the first year when 31% of the planned activities were actually completed, in the second year of the short term period this percentage increased to 39%. If one includes the partly completed activities, the performance rate is 71%.

2. At the same time, the efficiency of the monitoring of the realization of the State Program was strongly confirmed, i.e., as opposed to 14% last year, this year no information from the relevant institutions and persons was provided in only 4% of the activities.
3. In 2009, budgets were allocated for the realization of the tasks. This is a confirmation that the necessary preconditions for full realization of the activities were fulfilled. This doubles the criticisms to the leaders of the activities that were either partly realized or not realized at all.
4. In addition, the conference concluded slow realization or lack of realization of the tasks from Pillar 1: Political System, Parliament and Political Parties, which activities have a strong influence on the development of new processes and other segments of the system. The SCPC accepts to increase the efforts and to prompt the Government and Parliament to be more active and prompt.
5. The participants in the monitoring of the State Program should additionally indicate where there were only formalistic approaches and where, in spite of the fact that the activity was shown to have been realized, the planned intervention was not made in substance, i.e. the activity was not actually realized as it had been planned in the program.
6. Considering the exceptionally low level of realization of the tasks from Pillar 6: Civil Society, Media and Unions, all relevant institutions will have to be won over in order to start the necessary changes in the sphere of the media, civil society and the unions where there are strong elements of concentrated power which poses an obstacle for positive changes.
7. The SCPC was prompted to increase the pressure on all institutions to perform the tasks from the program, in particular to update the time frames stipulated in the program.
8. The SCPC will review the State Program with a view of disassemble some complex activities comprising multiple tasks in order to facilitate the monitoring of the implementation of such activities. This means that, at the same time the SCPC will clarify, augment and possibly redefine certain activities and will subsequently inform and include all the participants in the program thereof. The conference concluded that such possible interventions would be made only with respect to several points and in the form of recommendations to the institutions responsible for the realization of the program activities.

The SCPC monitors the entire process of implementing the State Program and, every six months collects the data from the participating institutions and processes this information within the framework of the system for monitoring the realization of the activities stipulated in the State Program.

In order to implement the recommendations from the previous conference, and in order to be able to have a more consistent review of the implementation of the substance of each of the tasks, the SCPC redefined several activities that contained multiple actions that had to be implemented. All of these redefined activities are monitored on the principle - completed or not completed.

4. CASE WORK

According to the legally mandated rights, anyone can report an action where there is a doubt of that a function, public authority, official duty or position, have been abuses in order to achieve personal gain or to inflict harm to someone else. The SCPC works on cases formed not only on its own initiatives, but also on cases formed on the basis of complaints submitted from any natural person or legal entity, including anonymous complaints. This provides for the widest possible coverage of deviant behaviors in society and initiating competent actions of state institutions, such as the SCPC, which has an obligation to deal with this kind of matters without any exceptions or derogations. The fact that these complaints come from citizens confirms their awareness and unwillingness to settle with the corruption and also expresses their confidence in the institution, manifested through the complaints submitted by the citizens, is a strong motivation for the SCPC, to which the Commission pays a lot of attention within the framework of its work. The SCPC informs the petitioners of the complaints about the outcome from its work. The following information about the case work in 2009 confirms the above statements:

- A total 471 complaints referring to suspected corruption in various areas, were received;
- At the same time, the Commission acted on 1171 complaints;
- A total of 828 cases referring to complaints from citizens were closed.

This shows that the SCPC has solved twice as many cases, formed on the basis of complaints from citizens, as it received in 2009 and increased the promptness and efficiency with respect to the backlogged cases from previous years which were carried over from the previous composition of the SCPC. There were a total of 891 such cases, and in 600 of these cases the procedure had not even started.

With respect to the presidential and the local elections implemented in the Republic of Macedonia in 2009, the SCPC, within the framework of its competences in the area of corruption, opened a total of 369 cases, mostly on its own initiative, and managed to finish the work in 367 cases.

Acting in accordance with the Law on Prevention of Conflicts of Interest, the SCPC opened 69 cases in 2009, and completed the procedure in 50 cases.

Table overview

Received complaints	Cases acted upon	Closed cases	Election cases	Conflict of interest cases
471	1171	828	369 (Closed 367)	63 (Closed 50)
TOTAL NUMBER OF OPENED AND PROCESSED CASES: <u>903 cases</u>				
TOTAL NUMBER OF CLOSED CASES:			<u>1245 cases</u>	

Compared with the performance indicators for the previous years, the case

work of the SCPC was greatest in 2009 in all fields of corruption and conflicts of interest. The factors that contributed to this much quicker and more efficient collection of information, data and documents by the SCPC in 2009 were the implementation of the Protocol for Cooperation which was signed by 17 institutions working in the field of corruption and conflicts of interest, the Government manual for cooperation, as well as the benefits from the project implemented by the SCPC and USAID, which include more efficient internal procedures.

The indicators of the results achieved in this field have to be looked at in the context of one of the suggestions from the Progress Report of the Republic of Macedonia in the process of integration in the European Union for 2009, which states: *“The SCPC must be fully dedicated to the backlog of cases and reduce the duration of the internal procedures”.*

4.1. INSTIGATED INITIATIVES FOR CRIMINAL PROSECUTION

4.1.1. INITIATIVES INSTIGATED IN 2009

In accordance with the competences stipulated in article 49 of the Law on Prevention of Corruption, which states that, in this area of criminal law, the SCPC shall have the initial role to instigate a procedure of criminal prosecution of elected or appointed officials, officers or responsible persons in public enterprises, public institutions and other legal entities that dispose of state capital, the SCPC submitted to the Public Prosecution Office of the Republic of Macedonia and the Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption (*BPPO-POCC*) 11 initiatives for criminal prosecution (27 initiatives in 2008, 8 initiatives in 2007).

1. Acting on complaints submitted by former employees in the PHCI “Gradska apteka Skopje” – Skopje with reference to illegal work on the part of the responsible persons in this PHCI, the State Commission for Prevention of Corruption, on its session held on 08.02.2009, enacted a conclusion to submit to the Basic Public Prosecution Office an initiative for instigating a procedure for criminal prosecution of the responsible persons including the acting director with unlimited authorizations, members of the Management Board and other responsible persons of the public healthcare institution “Gradska Apteka Skopje” – Skopje because there is reasonable doubt that they have committed the crimes of Abuse of the official duty and authorizations stipulated in article 353 from the Criminal Code of the Republic of Macedonia, because they misused the duty and authorizations of director and members of the management board of the public healthcare institution “Gradska Apteka Skopje” – Skopje for the purpose of achieving illegal profit, i.e.:

1. In the period 2001-2006, they managed the funds of the PHCI and failed to undertake all necessary measures and activities to protect the interests and the funds of the PHCI and wrote off receivables of the PHCI in a total amount of 73,930,000.00 MKD, thus incurring significant damages and losses for the PHCI,

2. During the period 2003 - 2005:

- They failed to secure funds from the Health Insurance Fund and they undertook obligations to pay a total of 51,382,000.00 MKD – payments to second ranking suppliers on tenders issued by the HIF;
 - They approved and illegally disbursed a loan in the amount of 447,000.00 MKD;
 - In a public procurement procedure they failed to sign a group procurement contract with the HIF,
 - Illegally implemented public procurement procedures in the total amount of 5,209,000.00 MKD and
3. committed multiple violations of various legal provisions with reference to the privatization process

The BPPO-POCC submitted a notification that they are in the process of collecting reports, information and documentation and therefore the public prosecution office has not made a final decision about this initiative.

2. With reference to the case regarding the final audit report after the audit of the financial reports for 2005 in the Public Enterprise for Managing Residential and Business Premises of the Republic of Macedonia – Skopje and with reference to materials – contracts and other documentation submitted by the Public Enterprise for Managing Residential and Business Premises of the Republic of Macedonia, the State Commission for Prevention of Corruption, on the session held on 08.02.2009, enacted the conclusion to submit to the Public Prosecution Office for Prosecuting Organized Crime and Corruption an Initiative to instigate a procedure for criminal prosecution of the responsible persons: (former) directors of the Public Enterprise for Managing Residential and Business Premises of the Republic of Macedonia, directors of branch offices, members of the management board, members of board for control of the material and financial operations of the Public Enterprise and other responsible persons because there is reasonable doubt that (in the period from 2000 to 2006), while they performed the duty of the director, members of the Management Board and members of the board for control of the material and financial operations in the Public Enterprise, they committed the crime of Abusing the official position and authorization stipulated in article 353 and inconscientious work stipulated in article 353-c of the Criminal Code of the Republic of Macedonia, because they failed to perform their official duty and failed to undertake the necessary measures and activities to protect the interests and the assets of the Public Enterprise, this incurring damages for the, and making a profit for themselves or others.

Notification of the PPO of the Republic of Macedonia that the initiative was sent to the BPPO POCC

3. The State Commission for Prevention of Corruption acted on a case formed in reference to an indication of a violation of the provisions of the Law on Civil Servants in multiple occasions of promotions, i.e. employment in a position of higher ranking without implementing the proper procedure, in the municipal administration of the municipality of Tetovo. The State Commission for Prevention of Corruption reviewed the entire documentation made available to it and, on 12.04.2009, made the conclusion, in accordance with article 49,

paragraph 1, line 6 of the Law on Prevention of Corruption, to submit to the Public Prosecution Office of the Republic of Macedonia and initiative for instigating a procedure for criminal prosecution of the officer managing the municipal administration of the municipality in Tetovo (the Mayor of the municipality) as well as officers from the Civil Service Agency, because there is a reasonable doubt that they committed the crime of Abuse of the official position and authorizations stipulated in article 353 of the Criminal Code of the Republic of Macedonia.

The officer managing the municipal administration in the municipality of Tetovo (the Mayor) misused his official position an authority and without implementing the proper procedure for employment, stipulated in the provisions of the Law on Civil Service, enacted several decisions to promote, i.e. employ several persons as civil servants on positions of higher ranking.

The officers from the Civil Service Agency failed to perform their official duty, pursuant to article 7, paragraph 2, line 8 of the Law on Civil Servants and failed to follow up and ensure the uniform application of the laws and regulations related to civil servants and to point out any inconsistencies regarding the enforcement of such laws and regulations. These actions have facilitated the acquisition of illegal profit by the civil servants that were promoted from lower ranking positions and were employed in higher ranking positions.

Notification from the Public Prosecution Office of the Republic of Macedonia – the Initiative was submitted to the Basic Public Prosecution Office in Tetovo for further action.

4. The State Commission for Prevention of Corruption, with reference to the material and financial operation of the Public Scientific Institution “Institute for Southern Agricultural Crops” Strumica, reviewed the entire available documentation, including the final report of the State Audit Office for the performed financial audit of the financial statements reflecting the funds transferred from the budget of the Republic of Macedonia for 2005, as well as the revenues from self-financing activities for 2005, and the final report from the Ministry of Finance – Sector for Public Internal Financial Control for the performed audit of the material and financial operations, and, on 12.05.2009, in accordance with article 49, paragraph 1, line 6 of the Law on Prevention of Corruption, submitted to the Public Prosecution Office of the Republic of Macedonia and to the Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption an initiative for instigating a procedure for criminal prosecution of the responsible officers in the PSU “Institute for Southern Agricultural Crops” Strumica, because there is a reasonable doubt that they committed the crime of abusing the official position and authorization stipulated in article 353, paragraph 5 of the Criminal Code of the Republic of Macedonia.

The responsible officers from this scientific institution have taken advantage of their official position and authority and have facilitated the expenditure of public funds in 2004, 2005, and 2006 in an illegal and a non transparent fashion, Namely, during these years, they have implemented public procurement procedures contrary to the provisions stipulated in the Law on Public Procurement, thus damaging the Public Scientific Institution.

Notification from the Basic Public Prosecution Office for Prosecution of Organized Crime and Corruption – This prosecution office submitted a request for collection of the necessary information to the Ministry of Finance – Financial Police Office.

5. The State Commission for Prevention of Corruption, in accordance with its competences determined in the Law on Prevention of Corruption, acted on a complaint submitted by the shareholders in the shareholding company “Inteks” AD Skopje. This complaint indicates that responsible officers in the company “Inteks” AD Skopje have abused their official position. These violations have been committed during the implementation of the procedure for transformation of the company, which commenced on 06.02.1995. After reviewing the complaint and the material evidence, on 09.05.2009, in accordance with article 49, paragraph 1, line 6 with reference to article 3, paragraph 1 and 2 of the Law for Prevention of Corruption (“Official Gazette of the Republic of Macedonia” no. 28/02, 46/04, 126/06 and 10/08) submitted to the Basic Public Prosecution Office for Prosecution of Organized Crime and Corruption an initiative for instigating a procedure for criminal prosecution of the management of the company “Inteks” AD Skopje which owns state capital, because there is reasonable doubt that they have committed the crime – abuse of official position and authority stipulated in article 353 from the Criminal Code of the Republic of Macedonia.

The managerial personnel of the company “Inteks” AD Skopje with state capital, had taken advantage of their official position and authority and, in the procedure for transformation of the company have acted contrary to the provisions of the Law on Transformation of Enterprises with State Capital, i.e. the transformation of the company was not performed in accordance with the law. These actions have provided the managerial personnel of the company “Inteks” AD Skopje with an opportunity to acquire personal profit, and at the same time have damaged the state capital.

The BPPO POCC has sent a notification that they are in the process of collecting the necessary information, data and documentation and therefore the prosecution office has not made a final decision with reference to this initiative.

6. The State Commission for Prevention of Corruption acted on a complaint with reference to dissatisfaction from the denationalization procedure applied in the case of the Cadastre Municipality Kisela Voda 2 and the filed request to instigate a procedure to annul a Contract for divestiture of construction land by way of direct negotiations from 2007 registered in the Ministry of Transport and Communications, and, pursuant to article 49, paragraph 1, line 6 of the Law on Prevention of Corruption, on the session held on 04.08.2009, the SCPC enacted a decision to submit to the Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption and to the Public Prosecutor of the Republic of Macedonia, an initiative for instigating a procedure for criminal prosecution of official persons from the Ministry of Transport and Communications and of the person Vukica Saveska – President of the commission deciding about the requests for denationalization in the area of Kisela Voda – Skopje, because there is reasonable doubt that they

committed the crime of abuse of official position and authority stipulated in article 353 of the Criminal Code.

The official persons from the Ministry of Transport and Communications and the person Vukica Saveska – President of the commission that decides about the requests for denationalization in the area of Kisela Voda – Skopje, used their official position and authority during 2007 and, contrary to the provisions stipulated in the Law on Denationalization, enabled and signed a Contract for divestiture of construction land with direct negotiations although they were informed of the fact that the land in question is subject to denationalization. By doing this the official persons precluded the actions in the denationalization procedure in favor of the construction land divestiture procedure, thereby enabling the acquisition of illegal profit.

A Notification was received that the BPPO Skopje is acting on this Initiative

7. The State Commission for Prevention of Corruption, in accordance with its legally mandated competences, specified in the Law on Prevention of Corruption, acted on a case regarding the work of the PSI “Tobacco Institute” Prilep and pursuant to the Final report from the audit of the financial reports in the PSI “Tobacco Institute” Prilep for 2007 and on the basis of article 49, paragraph 1, line 6 of the Law for Prevention of Corruption, on 03.10.2009 enacted a conclusion to submit to the Public Prosecution of the Republic of Macedonia and the Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption to an initiative to start a procedure for criminal prosecution of responsible and official persons from the PSI “Tobacco Institute” Prilep, because there is reasonable doubt that they committed the crime of abusing the official position and authority stipulated in article 353 from the Criminal Code of the Republic of Macedonia.

The responsible officers from the PSI “Tobacco Institute” Prilep took advantage of their official position and authority and facilitate expenditure of the public funds for 2007 contrary to the law and the intended purpose of those funds, thereby creating an opportunity to acquire illegal profit for themselves or for others, to the detriment of the public scientific institution.

The Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption informed that they submitted the initiative with the enclosed evidence to the Basic Public Prosecution Office Skopje for further action.

We received a response from the Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption where they inform that they have submitted a request for collecting information from the Ministry of Finance – Financial Police Skopje.

8. Acting on a case formed on the basis of the Final Report no. 1403-135/9 from 20.02.2007 by the State Audit Office for the performed audit of the financial reports of the authority of the Municipality of Strumica for 2005, the State Commission for Prevention of Corruption, on its session held on 09.10.2009, enacted a conclusion to submit to the Public Prosecution Office an initiative for instigating a procedure for criminal prosecution of responsible officials within the Municipality of Strumica because there is reasonable doubt

that, during the first quarter of 2005, when there were local elections of members of the councils of the municipalities and the Council of the city of Skopje and for mayors of the municipalities and the City of Skopje, they have committed the crime of abusing the official position and authority stipulated in article 353 from the Criminal Code of the Republic of Macedonia. While performing the activities of public interest and local significance, in spite of the fact that the Program for arranging the construction land in the area of the municipality of Strumica for 2005 did not envisage the activity of clarifying the property and legal relations for the "Krushevska Republika" street, they still made changes to the Program in order to facilitate the Agreement for regulating the fee to be paid for a business building "Kozhara" which was subject to expropriation for the purposes of the implementation of the urban plan of the city of Strumica with the company DGTU "DE-LUKS Inzhenering" DOO Strumica. The total amount of the case was 13,322,000.00 MKD.

In addition, when representing and presenting the municipality, when disposing of the funds of the municipality and when implementing the public procurement procedures, they failed to ensure proper and legal utilization of the funds and protection of the funds of the municipality and at the same time they acquired profit for themselves or someone else.

There is a notification from the BPPO for POCC (27.11.2009) and notification of the PPO of the Republic of Macedonia (27.11.2009) stipulate that the case and the documents have been forwarded and that action will be taken by the BPPO Strumica.

9. The State Commission for Prevention of Corruption acted on a complaint indicating violations against the provision of the Law on Denationalization and the provisions of the Law on General Administrative Procedure with reference to a procedure for issuing an approval for construction for an administrative and business building "Jadran" located on "Maksim Gorki" street bb Skopje property of the investor "Makedonski Telekomunikacii" AD Skopje. After reviewing the available documentation as well as the circumstances of the entire case, on 12.04.2009, the State Commission for Prevention of Corruption enacted a conclusion, in accordance with article 49, paragraph 1, line 6 of the Law on Prevention of Corruption, to submit to the Public Prosecution Office of the Republic of Macedonia and to the Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption an initiative for instigating a procedure for criminal prosecution of official persons from the Ministry of Transport and Communications – Branch Office Centar Skopje, because there was reasonable doubt that they committed the crime of abusing the official position and authority stipulated in article 353 of the Criminal.

The official persons have taken advantage of their official position and authority and have acted contrary to the provisions of the Law on Denationalization and contrary to the provision stipulating the deadline for providing an approval for construction (stipulated in the decision to award the right to use construction land by way of direct negotiations). By doing so, they allowed the investor "Makedonski Telekomunikacii" to acquire an approval for construction of the administrative business building "Jadran" on "Maksim Gorki" street bb Skopje, on a construction land which has not been constructed upon

and which is subject to denationalization. The investor “Makedonski Telekomunikacii” AD Skopje submitted an application for approval for construction, then a conclusion was enacted adopting the request for repetition of the procedure and the enforcement of the approval for construction was postponed. The officials failed to perform their official duty, i.e. they failed to repeat the procedure for issuing an approval for construction, failed to enact an administrative act, and failed to undertake actions aimed at sanctioning the continuation of the illegal construction of the administrative and business building. Thus, the officials allowed the investor to build the administrative and business building contrary to the laws and regulations and to use the building without an approval for use, thus acquiring illegal gain.

There is a notification from the BPPO for prosecuting organized crime and corruption, that the initiative, together with the enclosed evidence was submitted to the BPPO Skopje for further action.

10. The State Commission for Prevention of Corruption acted on a case formed on the basis of a complaint with reference to an advertisement for filling a vacant position of a “primary school teacher for grades 1-4” for a definite period of time, published on 16.01.2007, as corrected on 19.01.2007, in the daily newspaper “Nova Makedonija”. After reviewing the available documentation, on 08.02.2009, the SCPC enacted a conclusion, in accordance with article 49, paragraph 1, line 6 of the Law for Prevention of Corruption, to submit to the Public Prosecution office of the Republic of Macedonia and to the Basic Public Prosecution Office in Kavadarci an initiative for instigating a procedure for criminal prosecution of Zora Josifova, former director of the primary school “Dimkata Angelov – Gaberot” in Kavadarci and Ilija Belevski, state labor inspector in the Ministry of Labor and Social Policy – branch office Kavadarci, because there is reasonable doubt that they committed the crime “Inconscientious working” stipulated in article 353-c of the Criminal Code.

There is a notification from the Public Prosecution Office of the Republic of Macedonia stipulating that the initiative has been forwarded to the BPPO in Kavadarci for further action.

11. The State Commission for Prevention of Corruption acted on a case with reference to the operations of the Public Enterprise “Vodovod i Kanalizacija” Skopje, on the basis of the final audit report from the audit of the implementation of the public procurement procedures conducted by PE “Vodovod i Kanalizacija” Skopje for the period from 01.01.2003 to 31.08.2004. Pursuant to article 49, paragraph 1, line 6 of the Law for Prevention of Corruption, on the session held on 03.10.2009 the SCPC enacted a conclusion to submit to the Public Prosecution office of the Republic of Macedonia and to the Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption an initiative for instigating a procedure for criminal prosecution of the person Jane Cenev, director of the PE “Vodovod i Kanalizacija” Skopje from 19.11.2002 to 26.04.2005, because there was reasonable doubt that he committed the crime of abusing his official position and authority stipulated in article 353, paragraph 5 of the Criminal Code. This person, while performing his duty of director of the Public Enterprise, allowed funds of the enterprise to be

spent illegally and for purposes other than originally intended. In addition he allowed public procurement procedures to be implemented in 2003 and 2004 contrary to the provisions of the Law on Public Procurement and he also allowed the implementation of public procurement procedures in 2004 on the basis of a Public Procurement Law that was not in force at the time. With these actions, the director damaged the Public Enterprise.

Namely, during 2003 and 2004, contrary to the Law on Public Procurement and without implementing the proper public procurement procedure in accordance with the Law, PE "Vodovod i Kanalizacija" Skopje implemented and realized public procurements with a total value of **33** million and **797** thousand denars or 11 million and 920 thousand denars in 2003 and 21 million and 877 thousand denars in 2004. In addition, when the new Public Procurement Law was in the process of being enacted, during 2004, decisions had been made and public procurements had been implemented in accordance with a Law on Public Procurement which was not in force at the time. The total value of these public procurements was **32** million and **778** thousand denars.

BPPO – POCC sent a notification that they are in the process of collecting the necessary information, data and documentation and that the public prosecutor has not made a final decision with respect to this initiative.

4.1.2. Notifications obtained in 2009 about initiatives instigated in 2008

1. With reference to the initiative from 2008 against official persons in the Ministry of Agriculture, Forestry and Water Economy, the Municipality of "Gazi Baba", the State Authority for Geodetic Works, the Public Enterprise for exploitation of pastures, the Ministry of Economy and the Ministry of Environment and Physical Planning because there is reasonable doubt that they have facilitated illegal use and disposition of state owned land with a total surface area of 449.20.97 ha, leased to the company for production and marketing of agricultural and livestock products "Fakultetsko zemjodelsko stopanstvo" AD v. Trubarevo – Skopje as well as for against the person Tanas Trajkovski within the capacity of the director of the company for production and marketing of agricultural and livestock products "Fakultetsko zemjodelsko stopanstvo" AD v. Trubarevo – Skopje and the legal entity being the company for production and marketing of agricultural and livestock products "Fakultetsko zemjodelsko stopanstvo" AD v. Trubarevo – Skopje, because there exists reasonable doubt that they have committed a criminal activity referred to in articles 218 and 230 of the Criminal Code of the Republic of Macedonia.

The Basic Public Prosecution Office for Prosecuting Organized Crime and Corruption have sent a notification that they have submitted a request for collection of the necessary information from the SIA Skopje and that they have not received any feedback about what kind of actions have been undertaken. The Ministry of Agriculture, Forestry and Water Economy sent a response stating that they have UNILATERALLY TERMINATED the contract for a long term lease with the "AD Fakultetsko stopanstvo" Trubarevo (which was the subject of our case). Namely, in the statement they explain that, upon the proposal of the State Attorney's office of the Republic of Macedonia, and upon

the case initiated by the SCPC, action was taken by the State Inspectorate for Agriculture and it performed controls and concluded that there were irregularities and that the long term lease contract was not complied with.

From the above it can be seen that this actions have contributed to achieving most of the effects that result from the actions undertaken by the SCPC with reference to this case.

2. With reference to the initiative from 2008 against the Mayor of the Municipality of Shuto Orizari Mr. Erduan Iseni, officials in the local self government of Shuto Orizari and officials from the Ministry of Transport and Communications that supervise the legality of the work of the municipal authorities, because there is reasonable doubt that they the illegal construction of residential buildings – family houses in the yard of the school “Brakja Ramiz i Hamid” Shuto Orizari - Skopje.

The Public Prosecution of the Republic of Macedonia informed the SCPC that the BPPO Skopje informed the PPO of the Republic of Macedonia that the actions of the officials in the Ministry of Transport and Communications, the municipality of Shuto Orizari in Skopje, and the actions of Erduan Iseni – mayor of the municipality, did not contain elements of crimes that are prosecuted ex-officio.

3. With reference to the initiative from 2008 the person Erduan Iseni, Mayor of the Municipality of Shuto Orizari, because there is reasonable doubt that he has committed the criminal activity Frivolous performance of official duty, i.e., contrary to rules related to conflict of interests, he appointed his father to the position of director of the elementary school “Brakja Ramiz i Hamid” Shuto Orizari - Skopje.

Because the BPPO Skopje informed the SCPC that this offence cannot be prosecuted ex-officio, the SCPC asked the Public Prosecutor of the Republic of Macedonia to reexamine the case and the Public Prosecutor of the Republic of Macedonia informed that it verified the decisions enacted by the Basic Public Prosecution Offices and concluded that these decisions were legal and had merit.

4. With reference to the initiative from 2008 against Vlado Korunoski – Mayor of Kichevo because of a reasonable doubt that he spent the municipal funds illegally and for illegal purposes and thus precluded the Municipality from functioning properly.

A case is registered with the BPPO-POCC, and this case has been forwarded to the BPPO Gostivar for further action. There the procedure is pending.

6. With reference to the initiative from 2008 against responsible officers in the public enterprise “Makedonski Poshti” with reference to multiple robberies of postal vehicles in a period of 5 years.

Due to the assessment of BPPO-POCC that there is no room for any action by the public prosecutor in this case, the SCPC asked the Public

Prosecutor of the Republic of Macedonia to reexamine the case. The public prosecutor of the Republic of Macedonia in 2009 informed that the competent public prosecution offices have undertaken the appropriate actions in the procedure and have made a decision to dismiss the criminal initiative with the explanation that there is no room for any action by a public prosecutor in this case.

7. With reference to the initiative from 2008 against the Mayor of the Municipality of Chair, Mr. Izet Medjiti and officers from the Municipality of Chair, because there is reasonable doubt that they have embarked on an illegal restoration – rehabilitation of a cultural heritage structure which the memorial house of Jashar-beg in Skopje.

BPPO Skopje informed that no crime was committed that can be prosecuted ex-officio and that the structure did not suffer any interventions after having been placed under temporary protection. Considering the factual circumstances, the SCPC asked the public prosecutor of the Republic of Macedonia to reassess the case and the PP of the Republic of Macedonia informed that it confirms the assessment made by BPPO Skopje.

8. With reference to the initiative from 2008 against the person Tome Lisichkov – bankruptcy trustee in the bankruptcy procedure against the Company “Prehrana” in bankruptcy, from Bogdanci, because there is reasonable doubt that he has committed the crime of Abuse of the official position and authority and frivolous performance of the official duty by illegally selling the assets of the above mentioned company in favor of his spouse whereby he acquired personal profit in the amount of **2,335,000.00** MKD.

This initiative was taken under advisement by the BPPO Gevgelija, BPPO Veles and again by BPPO Gevgelija which dismissed the initiative. The SCPC asked for a reassessment of the case to be made by the PPO of the Republic of Macedonia. The PPO of the Republic of Macedonia informed that the decision of the basic prosecution offices to dismiss the initiative still stands.

9. With reference to the initiative against the responsible officers in the Fund for Local Roads and Streets of the Municipality of Struga, because there is reasonable doubt that they have signed a public procurement contract in the amount of 3,395,963.00 MKD using prices which were twice as high as the market prices.

BPPO Struga determined that there is no basis for criminal prosecution.

10. With reference to the initiative against the person Chedomir Ristevski, former Mayor of the Municipality of Ilinden, because there is reasonable doubt that he abused municipal funds in the amount of 3,132,000.00 MKD.

BPPO for POCC informed that the case has been registered and that a request for collection of necessary information has been submitted.

11. With reference to the initiative against the person Eshtref Iseni, former Mayor of the Municipality of Studenichani, because there is reasonable doubt that he has abused 10,000,000 MKD in various ways and Azem Sadiki formed mayor of the Municipality of Studenichani because there is reasonable doubt that in a public procurement procedure he misused about 8,000,000.00 MKD municipal funds.

BPPO for POCC informed that the case has been registered and that a request for collection of necessary information has been submitted.

12. With reference to the initiative against Aleksandar Petreski – Mayor of the Municipality of Ohrid because there is reasonable doubt that municipal funds have been abused in public procurement procedures.

BPPO – POCC informed that the case has been registered and that a request has been sent to the MIA for collection of the necessary information.

13. With reference to the initiative against management officers in the Ministry of Finance, Directorate for property matters, Department in the municipality of Chair, as well as officers from the State Authority for Geodetic Works – Sector for Survey and Cadastre Skopje because there is reasonable doubt that they have committed the crime of illegal divestiture of property subject to denationalization.

BPPO Skopje informed the SCPC that it appealed to SIA Skopje asking them to gather evidence with a view of identifying the perpetrators of the crime, as well as the basis for the reasonable doubt necessary to undertake further actions with reference to the initiative.

14. With reference to the initiative against the person Janez Sajovic, executive director, and member of the management authority of the Public Enterprise “Makedonska Radio Televizija”; the person Mlljaim Ljatifi, deputy executive director, and deputy member of the management authority of the PE “Makedonska Radio Televizija” and other management officers in the PE “Makedonska Radio Televizija”, because there is reasonable doubt that they have committed the crime of Abuse of the official position and authority because they caused harmful consequences to the PE MRT and earned illegal personal profits.

BPPO POCC informed that the case has been registered and that a request has been submitted for collecting the necessary information.

15. With reference to the initiative against the Mayor of the Municipality of Kisela Voda Djordje Arsov and officials responsible for public procurements in the municipality, because they have implemented public procurements with harmful consequences for the municipal budget.

In 2009 the BPPO Skopje informed the SCPC that there was no room for any actions on the part of the public prosecutor because it could not be concluded from the special report of the MIA – SIA Skopje – Department for

economic crime or the evidence provided from the MIA that any gain was acquired or any damages were otherwise inflicted.

16. With reference to the initiative against the person Hazbi Lika, Mayor of the Municipality of Tetovo and of the persons: Hairula Hasani, Emin Islami, and Nizamedin Ahmeti because there is a reasonable doubt that they have conducted a public procurement procedure whereby they profited and damaged the Budget of the Republic of Macedonia.

BPPO POCC informed that the case has been registered and that a request has been filed for collection of the necessary information.

17. With reference to the initiative against the Mayor of the Municipality of Cucer-Sandev, Vojislav Kirandzic and officials responsible for public procurements in the municipality, because there is reasonable doubt that during the procedure for public procurement they caused damages to the municipal budget.

BPPO POCC informed that the case has been registered and that a request has been filed for collection of the necessary information.

18. With reference to the initiative against the responsible officer – director of the national institution “Albanski Teatar” – Skopje, because he illegally used the budget funds and worked illegally thus causing damages to the Budget of the Republic of Macedonia.

BPPO POCC informed that the case has been registered, and the public prosecutor has not taken a final decisions.

19. With reference to the initiative against the officials in the Ministry of Defense, because there is reasonable doubt that they have misused their official position and authority and enabled illegal, nontransparent spending of the funds from the Budget of the Republic of Macedonia for purposes other than those initially envisaged thus enabling natural persons and legal entities to gain illegal profits to the detriment of the Budget of the Republic of Macedonia.

BPPO POCC informed that the case has been registered and that a request has been submitted for gathering the necessary information.

20. With reference to the initiative against the officials from the Ministry of Transport and Communications and officials from the Second Instance Commission for Denationalization in the Municipality of Center, because there is reasonable doubt that, contrary to the laws, they have divested construction land subject to denationalization, owned by the Republic of Macedonia, located opposite of the complex of banks in Skopje and that they committed these abuses in order to gain illegal profits.

BPPO POCC informed that the initiative has been submitted to the competent BPPOO in Skopje. We are waiting for an information from the PPO of the Republic of Macedonia.

21. With reference to the initiative against the responsible persons – directors in the Bureau for undeveloped areas because there is reasonable doubt that they have acquired illegal profits by misusing the funds of the Bureau.

BPPO for POCC informed that the case has been registered, but the public prosecutor has not made its decision.

22. With reference to the initiative against the responsible persons in the Municipality of Krivogastani because there is a reasonable doubt that through illegal operations related to the disposal of the municipal funds and representation of the municipality they have acquired illegal profits thus damaging the municipality significantly.

The SCPC was informed that the PPO in Prilep assessed that the actions of the suspects do not contain any elements of criminal activities that can be prosecuted ex-officio.

23. With reference to the initiative against the responsible persons and officials in the state owned JSC for generation of electricity “Negotino” TPP, because there is reasonable doubt that they have illegally, not-transparently spent state funds for purposes other than those originally envisaged and have caused damages in the amount of 15,979,000 MKD.

BPPO POCC informed that the case has been registered and that a request for gathering the necessary information has been submitted.

24. With reference to the initiative against the responsible persons – officials in the Public Enterprise for Management and Protection of the Multy Purpose Area “Jasen” - Skopje, because there is reasonable doubt that they have worked illegally, in a non transparent way and have spent money for purposes other than those originally intended, thus damaging the funds of the Public Enterprise.

BPPO POCC informed that they have submitted a request for gathering the necessary data to the MIA – Central Police Services – Department for Organized Crime – Sector for Financial Crime – Skopje.

25. With reference to the initiative against the former director of the Agency for Youth and Sport, Igor Gjorgjievski and other officials in the Agency for Youth and Sport, because there is reasonable doubt that they have misused their official position and authority to misspend funds in the amount of 387,889,996.00 MKD, and the envisaged sport arenas were not build, thus causing significant damage to the funds of the Budget of the Republic of Macedonia.

The SCPC has information from the Public Prosecution Office of the Republic of Macedonia that the procedure is pending.

4.1.3. Other instigated initiatives

According to the competence stipulated in article 49 of the Law on Prevention of Corruption, the State Commission for Prevention of Corruption submitted to several authorities such as the Judicial Council, the Council of Public Prosecutors, the State Attorney's Office 10 requests and initiatives for assessment of the professional and conscientious work of official persons that perform public authorities and duties.

Requests for assessment of the work have been submitted to the competent authorities, i.e. the Judicial Council of the Republic of Macedonia Public Prosecutor's Council and the State Attorney's Office.

4.2 LOOKING AT CORRUPTION IN CERTAIN AREAS THROUGH THE ACTIONS OF THE SCPC

The number of corruption cases subdivided in specific areas is shown on the following table:

AREA	RESOLVED CASES
JUDICIARY	284
STATE AUTHORITIES AND ULS	234
OPERATION OF COMPANIES	87
PUBLIC ENTERPRISES AND INSTITUTIONS	72
BANKRUPTCY PROCEDURE	61
OTHER INDICATIONS	58
PRIVATIZATION	32

The following text provides an overview of corruption in specific areas:

4.2.1 Judiciary

The caseload of the SCPC includes a total of 284 cases. There are usually a large number of cases related to judicial authorities. The citizens mostly complain about the long duration of the procedures before the courts. This dissatisfaction is justified considering that any delay in processing of the cases precludes the citizens from having their rights properly administered and may even lead to negative consequences or damages to the citizens and their interests.

In addition, there is the conclusion from the previous period that most of the time the citizens complain because they are dissatisfied with the decisions of the courts. In spite of the fact that after any court decision one of the parties is always discontent, the SCPC devotes special attention to the cases when the dissatisfaction from the court decisions is caused by weaknesses related to the actions of officials that act in court proceedings before judicial authorities. The established practice is that SCPC determines the factual situation in cases when there is reasonable doubt, by collecting appropriate information, documents and evidence. Depending on the findings, the SCPC informs the

appropriate authorities or initiates procedures before the authorities that make selections and appointments and supervision in the judiciary.

The assumptions have led to findings, which are particularly applicable to smaller communities, that there is a connection between judges, public prosecutors, state attorneys, employees in the judicial administration and other people *which* are professionally involved in the court proceedings, and this undermines the confidence in the judiciary. This suggests that there is a need for greater professionalism and accountability, as well as supervision to be performed by the professional associations in the judiciary.

Looking at the workload in this field, again, considering the exceptionally large number of cases that have the same grounds, it is obvious that the citizens appeal to the State Commission for Prevention of Corruption after they have exhausted all other legal remedies and are still discontent.

4.2.2 State authorities and local self government

During the reporting year 2009, the SCPC solved a total of 234 cases related to corruption in state authorities and in the units of local self government. These cases refer to various aspects of the work of state authorities and municipal administrations. Most of these cases refer to procedure for denationalizations, work done in the area of construction, urbanism and disposition of real estate, disposition of budget funds and the manner of implementation of public procurements. Violations of laws, acting from a position of personal interest and overstepping the authorities lead to illegal gains and damages to the citizens. Having in mind that after the decentralization, the local authorities acquired strong competences and responsibilities, as well as the facts about the weak and insufficiently efficient local administration, it turns out that this field swarms with sources of corruption. In the area of construction and urbanism, almost as a rule, the issuance of the necessary construction permits, the inspection supervision, the entities preparing the design documentation and the contractors for the civil works, function within closed circles and exclusively guided by the principle of personal interest, to the detriment of the citizens and the investors. In addition to this form of corruptive behavior there is also construction without documentation. These corruptive circles also include deliberate interventions in the detailed urban plans. The absence of efficient interventions by inspection and other supervisory authorities is explained and justified by the lack of funds for enforcement of legally effective decisions.

Strong deviations, motivated by profit, thereby incurring damages to other people, can be seen within the cases referring to denationalization. These procedures last for an unacceptably long time as a result of synchronous actions of competent authorities that should facilitate the return of the nationalized property to the former owners and factual changes are made to the property in order to preclude the former owners from ever exercising their right to recover their property.

4.2.3. Public procurement

In 2009, the SCPC has acted on a total of 55 cases with reference to public procurement procedures implemented by the state authorities, the units

of local self government, the public enterprises and the institutions. These cases were formed on the basis of submitted complaints, audit reports from the SAO and the initiative of the SCPC. When the SCPC acted on these cases and it found illegalities in the public procedure, it submitted 3 initiatives to the public prosecution office asking the public prosecutor to instigate a procedure for criminal prosecution. The SCPC received information from the public prosecutor that the prosecution office is already undertaking actions. In 31 cases the SCPC concluded that there are no elements that warrant any further action by the SCPC considering the fact that the institutions have complied with the rules and have corrected the irregularities indicated in the audit reports. The SCPC undertook actions in all other cases.

The Law on Public Procurement provides for a broad authority of the contracting authorities regarding the determination of the criteria for public procurement. Namely, they have the right to determine, depending on the character of the public procurement, the number of points that will be allocated to the price criterion, the quality, the time for delivery, the warranty period and other conditions.

The application of such solutions stipulated in the Law, in some cases that involve the interest of the public at large, lead to a situation where the selected bidder in a public procurement procedure is a bidder that offered a significantly higher price on the tender.

This suggests that there is a need to intervene in the Law on Public Procurement with a view of prescribing criteria that are significant for the public procurement and to prescribe proper evaluation methods for those criteria.

4.2.4 Use of budget funds

Acting upon the SAO audit reports regarding use of the funds allocated to the budget users, SCPC has found that some of the budget users do not return the unused funds for certain purpose to the Budget of RM after the end of the current year. The remainder is transferred to special account of the budget user or to an account of other legal entity in order to be used in the following year.

This is enabled by the provision of the article 7 paragraph 3 of the Law on Budgets that prescribes that “the unused allocated funds cease to apply on the 31st December of the current fiscal year”. This is interpreted and understood in various ways and it should be clearly prescribed that the users are obligated to return the funds to the Budget of RM.

4.2.5 Privatization

In the privatization area in 2009, SCPC has acted upon a total of 32 cases which point out illegalities in the privatization procedure and dissatisfaction of the sale of the employees’ shares. The Public Revenue Office was requested to implement two procedures for control of privatization which are ongoing. Two initiatives have been filed to the Public Prosecutor’s Office for criminal charges which are already processed and in 8 cases the SCPC has found that there are no elements for further activities because another competent authority already acts upon them. In 11 cases the SCPC established that it is not competent to act upon requests for revision of the privatization

according to the article 52 of the Law on Amendments of the Law on Transformation of the Enterprises with Social Capital ("Official Gazette of RM" number 25/99), and the remaining 9 are still in procedure.

4.2.6 Work of SCPC upon final reports by the state audit office

In this reporting period, the SCPC, upon its own initiative, has acted upon 24 final reports by the State Audit Office. The procedure is closed for 11 reports with a finding that there are no bases for corruption crimes. Criminal procedures have been initiated upon 3 reports, filed to the Public Prosecutor's Office, and 10 reports are still in procedure in SCPC.

4.3. MATERIAL EFFECTS FROM THE SCPC PROCEDURES UPON CASES IN THE 2007-2009 PERIOD

The real effects of the efficient corruption prevention are also measured by the material and financial assets returned to the state treasury as a result of the activities of the competent institution. According to the established practice for provision of feedback about the activities of the other competent authorities upon its initiatives, the SCPC in 2009 has received information about the financial effects realized in 6 cases for prevention of corruption and information for 16 fines imposed for failure to fulfill the legal obligation to submit assets declarations.

4.3.1. Stopanska Banka AD Skopje (unpaid tax)

The State Commission for Prevention of the Corruption acting upon a case initiated by a written complaint submitted by a group of PRO Skopje inspectors, regarding the inspection supervision in Stopanska Banka AD Skopje, based on article 55, item 1, line 6 of the Law on Prevention of Corruption, has initiated a criminal procedure against the former Director of PRO – Regional Office Skopje, Mirka Mandevska and the former Director of PRO – Headquarters, Petra Miteva. The initiative asks the Public Prosecutor's Office of the Republic of Macedonia to start a criminal procedure against the above mentioned persons due to reasonable suspicion that they have committed a crime misuse of the official position and enabled the taxpayer Stopanska Banka AD Skopje to pay less value added tax, causing damage to the state Budget of RM in amount of 60,172,533.00 Denars.

The Public Prosecutor's Office of the Republic of Macedonia has acted upon the request of the State Commission for Prevention of the Corruption, an investigation has been opened against the former PRO directors and the unpaid VAT in amount of 1,000,000.00 Euros have been returned to the state.

4.3.2 Investigation of the property status of the Mayor of the Municipality of Centar (unreported income)

Upon an initiative by the State Commission for Prevention of the Corruption for review of the property status of the Mayor of the Municipality of

Centar, Violeta Alarova, the Public Revenue Office – Headquarters Skopje, after the implemented procedure according to its competences, has issued a resolution that obligates her to pay a personal income tax for unreported untaxed revenues in amount of 5,255,645.00 Denars.

4.3.3. Investigation of the property status of a former judge (unreported income)

Upon an initiative by the State Commission for Prevention of the Corruption for review of the property status of the former judge Snezhana Gerovska Popchevska, the Public Revenue Office – Headquarters Skopje, after the implemented procedure according to its competences, has issued a resolution that obligates her to pay a personal income tax for unreported untaxed revenues in amount of 1,627,712.00 Denars.

4.3.4. Investigation of the property status (unreported income)

Upon initiatives by the State Commission for Prevention of the Corruption for review of the property status, the Public Revenue Office – Headquarters Skopje, after the implemented procedure according to its competences, has issued resolutions stipulating:

- that the former President of the Basic Court Tetovo has to pay a personal income tax for unreported untaxed revenues in amount of 2,992,390.00 Denars;
- that the former Mayor of the Municipality of Lozovo has to pay a personal income tax for unreported untaxed revenues in amount of 206,422.00 Denars;

The resolution issued by the Public Revenue Office states that in the procedure for review of the property status, the persons have failed to prove that the property has been obtained or increased as a result of income that has been reported and taxed i.e. their origin has not been evidenced and due to that it is deemed as illegal property which is taxed with a tax rate of 70%.

4.3.5. “TRANSKOP” AD Bitola (unpaid tax)

The State Commission for Prevention of Corruption, action upon a case regarding illegal activities of AD Transkop – Passenger transport from Bitola and after the review of the necessary documentation has concluded to ask for a control of the public duties in the last three years paid by the above mentioned legal entity. The Public Revenue Office – Headquarters has acted upon the request of the State Commission for Prevention of Corruption and performed an external control in AD Transkop – Passenger transport from Bitola for the period between 2005 and 2008. The control found uncalculated and unpaid public duties and the taxpayer AD Transkop – Passenger transport from Bitola had to pay a tax debt of 4,800,000.00 Denars.

4.3.6. RZ Services Skopje (unpaid tax)

The State Commission for Prevention of Corruption, action upon a case regarding illegal activities of RZ Services AD Skopje and after the review of the necessary documentation has concluded to ask for a control of the public duties of the above mentioned legal entity. The Public Revenue Office – Headquarters has acted upon the request of the State Commission for Prevention of Corruption and performed an external control in RZ Services AD Skopje for the period between 2003 and 2007. The control found less calculated and unpaid public duties and the taxpayer RZ Services AD Skopje had to pay a tax debt of 791,824.00 Denars out of which 503,474.00 Denars for less paid VAT and 288,350.00 Denars for fines for tax misdemeanors.

4.3.7 Fines collected upon legally effective court decisions violation of the legal obligation to submit survey lists. In this area, in 16 court procedures, fines in amount of 194,340 Denars or 3,180 Euros have been imposed.

According to the above, the procedures implemented by SCPC have generated finances in amount of 77,468,333 Denars or 1,262,628 Euros.

Compared to the annual SCPC budget which covers all the expenses of the institution and its overall functioning of between 230 – 250 thousand Euros, the revenues generated to the state budget amount to 5 annual SCPC budgets.

Year	Material effects from the SCPC as money revenues to the state treasury from unpaid taxes or unreported and untaxed income (Euros)	Fines imposed upon misdemeanor procedures for survey lists (Euros)
2007	1,000,000	3,020
2008	110,000	5,800
2009	140,000	3,180
Total	1,250,000	12,000

4.4 WORK ON THE CASES REGARDING THE PRESIDENTIAL AND LOCAL ELECTIONS IN 2009

On the 10/01/2009 the President of the Assembly of the Republic of Macedonia has issued a Decision to call the elections for President of the Republic of Macedonia and mayors and members of the councils in the local self-government. The Law on prevention of corruption, in the chapter Corruption in the Politics, prescribes a regime of behavior regarding the financing of the elections and handling of the public goods and funds during the electoral process i.e. from the day of the call for elections to the constitution of

the newly elected authorities. According to the legal norms, SCPC acts in cases regarding handling of the budget and other public funds for new investments and extraordinary payments, misuse of budget and other public funds, use of illegal and anonymous sources of financing of the elections, bribery of voters, privileges and discrimination after the elections and influence in the elections, appointing and dismissing of officials. The subjects of specific activities of SCPC during the 2009 elections included the investments in new structures during the election period, the extraordinary payments from budget and public funds, divestiture of state capital, public procurements, financing of the campaign and electoral advertisements as well as employments during the election period. The real circumstances showed that the advertisements for vacancies and the employments during the election period in general are several times more frequent than usually although the Law does not specify the employments as specific corruption indication which can be sanctioned as such. Realizing its operative competence in this area, SCPC in 2009, immediately after the call for elections, has published Rules and Standings with Operative Work Plan in the process and published them on its website and promoted them in the public for preventive action i.e. more precise explanation of the legal obligations that apply to the organizers and participants in the elections. These rules and standings cover the legal bans and the sense of the norms included in this chapter of the Law, enabling the SCPC to contribute in the implementation of the regulations in specific cases mainly through its opinions and recommendations to institutions and individuals, by its own initiative or upon their request. An example for this is the issue of employments which are not legally banned although it is evident that they are included in the election promotion. Out of the total number of **369** electoral cases, as much as 232 are for advertisements for employment of a total of 1280 persons. SCPC, according to the Operative Plan, monitored the advertisements on daily basis and addressed the state authorities, public institutions and other legal entities and individuals, by its own initiative, with recommendations and opinions which were completely obeyed, with minor exceptions. As a result, according to the SCPC recommendation, the Civil Service Agency stopped the advertisements for hiring of civil servants, and the initiated procedures were stopped and delayed until the end of the election process.

SCPC gave a special priority to the cases regarding behaviors which are banned in the Law by collecting information and data in order to determine the factual situation to implement the regime stipulated in article 11 paragraph 2 of the Law. Except the ban of new investments it also includes the exemption regarding engagement of public funds according to the previously determined purposes prescribed in the annual program for the current year with provided earmarked budget funds. SCPC also worked on 137 cases about various forms of handling of public assets. 108 of these cases are upon requests for opinions on the regime of the divestiture of state owned construction land (signing contracts, solemnization), lease, public procurements, handling of budget funds etc.

The finding regarding the obligatory feedback about complying with the SCPC opinions, it is evident that the authorities and institutions have obeyed the determined regime and the SCPC recommendations.

Out of the 39 cases for allegations on election irregularities SCPC has submitted 4 reports to the Public Prosecutor about reasonable suspicion in

activities stipulated in article 14 paragraph 1 of the Law on Prevention of Corruption in the part about bribery during elections and voting, such as:

1. Due to a reasonable suspicion that during the election process, in the Municipality of Debar there were cases of bribery of voters, SCPC has sent a written report to the BPPO – Debar and the reply was that the information is submitted to BPPO – Gostivar which is competent authority. BPPO – Gostivar has informed the SCPC that it has sent a request to the Police Station Debar to collect the necessary information and data and that after the receipt of the report on the necessary checks, SCPC will be informed about the activities undertaken in written.

2. Due to a reasonable suspicion that during the election process in the Municipality of Resen there were cases of activities stipulated in article 14 paragraph 1 of the LPC, SCPC sent a written report to the BPPO for organized crime and corruption which informed the SCPC that the report has been sent to the BPPO – Bitola which is competent authority. BPPO – Bitola sent a written report that “the criminal charges for the crime of bribery during elections and voting has been rejected since that violation is not a crime which is prosecuted ex officio. The decision to reject the charges with a note stipulated in article 56 paragraph 2 of the Law on Criminal Procedure has been sent to the damaged party – the Municipality of Resen – Mayor that may undertake i.e. continue with the prosecution and may submit a request for an investigation to the Basic Court Bitola”.

3. Due to a reasonable suspicion that during the election process in the Municipality of Shuto Orizari there were cases of activities stipulated in article 14 paragraph 1 of the LPC, SCPC sent a written report to the PPO of RM which has informed the SCPC that the SCPC report has been sent to the BPPO – Skopje which is competent authority.

4. Due to a reasonable suspicion that during the election process in the Municipality of Demir Hisar there were cases of bribery of voters by several officials, the SCPC sent a written report to the PPO of RM and BPPO for organized crime and corruption. These institutions sent written reports that BPPO – Bitola has initiated measures and activities within its competences. The most recent information is that “BPPO – Bitola has established that there is no reasonable suspicion that some of the persons have undertaken activities which can be characterized as crime which is prosecuted ex officio”.

SCPC acts upon two cases of construction works during the election process in the Municipality of Kumanovo and in the Municipality of Gjorche Petrov. The cases are pending.

The SCPC in processing cases of new investments and other activities in 2009 determinate the factual situation from written documents and evidence about the annual investment programs, the determined earmarked budget expenditures, the public procurement procedures, the correct purpose of the budget funds and other relevant circumstances. In these cases it was concluded that the authorities and the legal entities which were controlled, complied with the article 11 paragraph 2 of the LPC i.e. that they have undertaken investment and other activities of handling with public funds and goods using the legally prescribed exemption of the ban for such activities during the election process.

5. PROCEDURE UPON ASSETS DECLARATION

The United Nations Convention against Corruption (UNCAC) suggests that the corruption has a corrosive effect on the state and it is focusing on the prevention as most significant element for addressing this evil. One of the most important elements is the process of building of the integrity which requires building efficient systems for revealing and prevention of the corruption. The system of recording, monitoring and publication of the assets of the elected and appointed officials is an important element for building of a successful fight against corruption.

In the last seven years, with the assets declarations, the State Commission for Prevention of Corruption permanently focuses on the development of the assets declaration system for the appointed and elected officials as a preventive element as well as a repressive element for fight against the corruption.

The obligation to file an assets declaration in the moment of election i.e. appointment, as well as after the cease of the function, was prescribed in the Law on Prevention of Corruption enacted in April 2002. The publication of the assets of the officials, started by the State Commission in 2007, improves the accountability of the elected and appointed officials in front of the public thus improving the possibility to reveal if their property or property of their family members has increased disproportionately to regular income i.e. if it is obtained or increased as a result of income which is reported and taxed.

A total of 694 new assets declarations were received by the State Commission for Prevention of Corruption in 2008 from appointed or elected officials and 100 assets declarations after the cease of the function. 24 reports on the change of the function, 35 for reelection and 146 reports for change in the assets were received. The increased number of assets declarations received is a result of the local elections since the mayors and the members of the municipal councils are obligated to submit assets declarations. (Attachment: Table)

In the reporting period, the State Commission, according to its competences, initiated misdemeanor procedures against 58 elected and appointed officials because they failed to file assets declarations when they were elected/appointed. Most of these cases, 28 are against former municipal mayors because they failed to submit assets declarations when their functions ceased and 25 against new mayors who failed to submit assets declarations after they were elected. In this period the courts issued 31 decisions for these and previously initiated cases out of which: 16 fines were imposed, 8 misdemeanor warnings and in 5 cases absolute stature of limitations occurred. The State Commission filed one appeal for a court decision when the court has released the defendant due to lack of evidence although the explanation says that the defendant has admitted the misdemeanor and asked for less severe penalty. After the repeated procedure, since the Appellate Court has approved the appeal submitted by the State Commission against the Verdict which releases a state secretary, although he failed to submit an assets declaration, the Basic Court has reverted its decision and imposed a measure of warning because he was guilty for the misdemeanor.

According to the article 36 of the Law, in the reporting 2009, the State Commission filed 29 requests to the Public Revenue Office to initiate a procedure for review of the property and assets such as: in 26 cases due to failure to submit assets declarations and in 3 cases due to incomplete and false data. In the same period, the State Commission received 6 replies out of which in 4 cases the Public Revenues Office – Headquarters Skopje, after the procedure has stopped the procedure because it has established that the persons have not obtained and do not own property in excess of the taxed income i.e. their property is from income which has been taxed and is legally obtained, and in two cases resolutions were issued with which: the former president of the Basic Court Tetovo has to pay the amount of 2,002,390.00 Denars and the former Mayor of the Municipality of Lozovo has to pay the amount of 206,422.00 Denars for personal income tax for unreported and untaxed income. The resolution of the Public Revenue Office says that in the procedure for investigation of the property and assets, the persons failed to prove that their property is obtained with their reported and taxed income i.e. its origin was not proved, which makes it illegally obtained property which is taxed with a rate of 70%.

According to article 35 of the Law, starting from July 2007, the State Commission started to publish the data from the assets declarations on its website (www.dksk.org.mk). Out of 1005 assets declarations published by the end of 2008, with day to day update of the property status and processing of the new assets declarations, at the end of the reporting period there were 1483 assets declarations of current officials published on the website.

After the realization of the network connection between the State Commission for Prevention of Corruption and the Public Revenues Office in 2008, in 2009 the same was realized with the Office for Prevention of Money Laundering and Financing of Terrorism. With the permanent input and update of the data in the State Commission's database, the Public Revenue Office and the Office for Prevention of Money Laundering and Financing of Terrorism can have an overview in the persons who are obligated to file assets declarations, persons who have submitted their assets declarations with full data about their assets and persons who have changes in their assets declarations with full data about the changes. Except the review of the data in the assets declarations, it is envisaged to enable their comparison with the databases of the Public Revenue Office and of the Office for Prevention of Money Laundering and Financing of Terrorism.

In 2009, the State Commission continued the activities for collection of the assets declarations from the officials who are obligated to submit them according to article 33-b of the Law such as the state authorities staff, local administration and Skopje city administration. In order to achieve that, the State Commission held 4 trainings for the officials from the state authorities in Skopje and one in Shtip with the judiciary staff from that appellate region. The participants included persons designated to collect the assets declarations in their institutions according to the article 4 of the Rulebook on the Method of Handling with the Official's Assets Declarations. According to the article 13 of the Rulebook, the State Commission received semi-annual reviews of the situation of filing of the assets declarations from 21 institutions.

The State Commission is active participant in the "Asset declaration of officials as means for combating corruption" project, jointly implemented by the

OECD – Anticorruption Network in the East Europe and Central Asia (ACN) and SIGMA – joint initiative of the European Union and the OECD. The goal of this project is to prepare a study with recommendations for development of the national systems for assets declaration as well as the methods for making them more efficient. There is a possibility for financial assistance to establish a regional network of similar institutions in order to improve the mutual cooperation.

II. SCPC REPORT ON THE WORK, ACTIVITIES AND MEASURES UNDERTAKEN FOR PREVENTION OF THE CONFLICT OF INTERESTS

The contemporary legal systems define the conflict of interests as the foyer to the corruption because it is a fact that any corruption case includes conflict of interests, however not every conflict of interests is a corruption. SCPC, pays special attention to the conflict of interests starting from its role to encourage the strengthening of the capacities for prevention of this exceptionally harmful social phenomenon which is the most appropriate strategy to prevent the corruption in the society on long term. Furthermore this is a phenomenon which is included in the scope of activities of the anticorruption bodies in the other countries, including in the states with highly developed political and legal systems, as an institute which is currently and permanently upgraded theoretically and normatively.

1. State Program for Prevention and Reduction of the Conflict of Interests with Action Plan

In 2008, the SCPC expressed the interest of our country to this issue, which has already been realized in the countries in the region as an example that has to be followed, through the State Program for Prevention and Reduction of the Conflict of Interests which was successfully concluded as one of the priority tasks for the Macedonian accession to the EU. The implementation of the State Program and its 2009 Action Plan was also one of the priority tasks by which the Macedonian progress is assessed.

1.1. Amendments to the Law on Prevention of the Conflict of Interests

Amendments to the Law on Prevention of the Conflict of Interests enacted in 2007 were adopted in 2009 contributing to better recognition of the conflict of interests and its manifestations and improved implementation of the Law. The amendments identify the need to create an initial database of the officials through registering of the submitted statements of interests and the regime prescribed by the Law was extended to the civil and public servants and the relations where the conflicts of interests occur and are possible including the business in addition to the family relations of the officials and précising the procedure for determination of the conflict of interests. The amendments enabled the implementation of the obligation to submit statements of interests by the end of the year.

The situation on 31.12.2009 shows 138 statements submitted, out of which 81 in the local self-government, 49 in the judiciary and 7 in the government authorities.

1.2. Trainings

SCPC, in order to implement this legal obligation in efficient manner, held training for 80 staff authorized to collect the statements of interests in the state administration authorities and local government. The consistence of SCPC regarding the implementation of the priorities from the EU agenda was expressed through the set of trainings about the conflict of interests and its prevention and overcoming held by the SCPC members during the year. In the appellate regions, 4 trainings for prevention of the corruption and conflict of interests were held with participation of 120 judges and public prosecutors, and 5 trainings in the field of prevention of corruption and conflict of interests were held in cooperation with the Civil Service Agency for the civil servants in central and local level. The Guide for management of the conflict of interests, issued by the SCPC in 2008, as useful tool for the officials was distributed during the trainings. Organization of various forms and application of the Law shall proceed in the upcoming period for the officials in the other segments of the National integrity system, according to a special program determined by SCPC.

SCPC, through the methodology of permanent monitoring, follows the process of realization of the activities stipulated in the State Program for Prevention and Reduction of the Conflict of Interests and at the end of 2009 it has established that the realization during the first year is 63%, which means that some of the stipulated activities were implemented completely or partially. The remaining activities should be implemented in the second year of the Action Plan for realization of this State Program.

2. Work on cases in the field of conflict of interests

The advance of the Republic of Macedonia in the realization of the long term and efficient anti corruption policy is expressed in the improvement of the legal regulations and in the strengthening of the institutional capacities and in the field of practical and efficient application of the innovated regulations. SCPC is competent to implement the Law on Prevention of Conflict of Interests through specific cases of suspicion or indication for assumed, possible or factual conflict of interests. The procedure in front of the SCPC is maximally open regarding its initiators and it acts not only by its own initiative but also upon requests by specific officials, managing authority in the body, report by third party, natural person or legal entity and upon anonymous report. SCPC does not assess the initiative according to the proposing party but works with all complaints, directly or indirectly received information, public knowledge, without exceptions.

It establishes facts relevant for making conclusions and acting through data, official information and other documents as well as the possible relations of the official with close persons and possibilities for conflict of interests in light of the legal competences, authorizations and duties prescribed in the Law on Prevention of the Conflicts of Interests and in the other laws that include provisions related to the conflict of interests. Taking into account its legal

obligations, SCPC safeguards the data obtained during the procedure from any manipulation, it is careful with the publication of facts during the procedure in order to protect the personal integrity of the official from unnecessary exposure and informs the public about the cases it has acted upon.

The issue of alleged conflict of interests is permanently present in the public; for certain persons who may be found that have, but very often are not found to have conflict of interests. This is especially true for the membership of officials in several management and supervision bodies, about which the Law on Prevention of the Conflicts of Interests, as an exemption, refers to other material laws which prescribe that possibility.

During 2009, SCPC opened 63 cases of conflict of interests, and the procedures were concluded in 50 cases. Together with the cases which were proceeded, the number of cases processed in the reporting year was 77, and out of 50 which were concluded, 14 were cases from the previous year, while the remaining 36 cases were opened in 2009.

Regarding the content of the cases i.e. the form of the conflict of interests which may be found, in 31 of the total number of 77 cases processed the accumulation of functions in one person is the area which is most risky regarding the conflict of interests of the nine areas prescribed in the State Program for Prevention and Reduction of the Conflict of Interests.

According to the legal norm, the SCPC shall inform about the cases of conflict of interest it has acted upon. This report includes the procedures finished in 2009:

A) Cases in which conflict of interests was established

1. Members of management boards in public enterprises established by the City of Skopje

In this case the SCPC has established conflict of interests due to parallel execution of two incompatible functions – director of a state authority in the central government and member of MB of PE established by the City of Skopje. After the intervention of the State Commission, these persons resigned from the membership in the management boards.

2. Director of PE Makedonski Shumi Skopje.

This official asked for an opinion by SCPC if he can be a Director of the Public Enterprise Makedonski Shumi and to perform the function of chairman of a commission appointed by the Government of RM. SCPC found conflict of interests which was ceased by leaving the function.

3. Member of the Securities Exchange Commission.

SCPC found conflict of interest in a member of the Securities Exchange Commission due to membership in a SB of a joint stock company. The person resigned from the function – commissioner, member of the Securities Exchange Commission.

4. Municipality of Shuto Orizari

In this case the SCPC gave opinion that there is a conflict of interests due to parallel execution of two incompatible functions – member of the municipal council and director of a primary school established by the same municipality.

5. Other interested party

In this case the SCPC gave opinion that there is a conflict of interests if a person performs two parallel functions, member of the municipal council and member of a Management Board of a public enterprise established by the same municipality.

6. Council of Public Prosecutors

In the relation which was asked to be assessed, SCPC found incompatibility of the functions member of the Council of Public Prosecutors and professor on the Faculty of Law in Shtip and requested that the member should not perform professor's activity.

7. Municipal Economy High School "Gostivar" from Gostivar

The SCPC gave opinion that there is a conflict of interests due to parallel execution of two incompatible functions – member of the municipal council and director of a school established by the same municipality. The procedure for selection of a director of the school was annulled.

8. City Health Protection Institute Skopje.

Due to nepotism found with the director of the Institute, SCPC established a conflict of interest. The factual situation was changed and the procedure was stopped.

9. Economy High School "Gostivar" from Gostivar.

Upon a report by the authority that implements the procedure for selection of a director that the Mayor has overstepped its authority through a conflict of interests. SCPC found conflict of interests and requested action by the education inspector.

10. Ministry of Culture

SCPC gave opinion that a person elected as a member of a municipal council, during his/her term, cannot be appointed as director of a cultural institution established by the municipality.

11. Municipality of Staro Nagorichane

Upon initiative by a current mayor, SCPC found a conflict of interests in the case where a president of a municipal council was employed in the municipal administration in the previous period; however, due to change of the factual situation, the procedure was stopped.

12. Citizen who is not an official

Initiated by other interested person. It was asked if there is incompatibility of the functions member of a municipal council and president of the supervision board. SCPC found a conflict of interests but due to change of the factual situation, the procedure was stopped.

13. PSI – Institute for ancient Slavic culture Prilep

SCPC gave opinions on several questions by the Director of the Institute regarding the simultaneous execution of two functions and cooperation of the Institute and a company where a member of the family is employed is conflict of interests.

14. Government of RM – Secretary General

SCPC found alleged and factual conflict of interest in the function Secretary General of the Government of RM where his son is a minister. The Secretary General offered a resignation and it was accepted.

15. Official – civil servant in the Ministry of Justice L.U. Valandovo

SCPC found conflict of interest in the case where a civil servant is also a head of a department in the Ministry of Justice and a member of the MB of the

PI Social Work Center. Due to accumulation of functions it was requested that the official resigns from the function member of the management board. SCPC was informed that the person has filed a request to be dismissed from the MB.

16. Accumulation of functions

SCPC found conflict of interests – incompatibility of functions in the case of member of the parliament. After the information that he has already submitted a resignation to the second function, SCPC stopped the procedure.

17. Accumulation of functions

SCPC found conflict of interests – accumulation of functions in the case of state advisor. After the recommendation given by SCPC, the official requested from the appointing authority to be dismissed.

18. Accumulation of functions

SCPC found conflict of interests – accumulation of functions in the case of assistant minister. After the recommendation given by SCPC, the official requested from the appointing authority to be dismissed.

19. Accumulation of functions

SCPC found conflict of interests – accumulation of several functions. After the recommendation given by SCPC, the official requested from the appointing authority to be dismissed.

20. Citizen who is not an official

SCPC gave an opinion that there is a conflict of interest if a member of a municipal council is also a member of a MB of PE established by the municipality.

B) Cases in which a conflict of interests was not found

1. Official – accumulation of functions.

SCPC did not find a conflict of interest because one of the functions – Director of the Commission for Relations with the Religious Communities and professor at the Faculty of Drama is dormant.

2. Sts Cyril and Methodius University Skopje

SCPC gave an opinion that there is no conflict of interests in the case of president of the Students Union, who is member of the Rector's administration ex officio, in the public procurement procedure where the person has not participated.

3. PE Makedonski Shumi

SCPC gave opinion upon the initiative by two members of the Management Board of the enterprise due to reasonable suspicion that in the public procurement procedure there is a conflict of interests in other persons who voted against and were dismissed from their functions. SCPC found that the public procurement procedure was implemented properly from the aspect of conflict of interests.

4. Municipality of Chashka

SCPC gave opinion that there is no conflict of interests if head of the branch of the PE Makedonski Shumi is appointed as a member of the Management Board of the public enterprise.

5. State Attorney's Office of RM

An official from this authority informed SCPC that she was employed in a regular procedure despite the fact that her close relative already works in the

Office. SCPC did not find a conflict of interests because it has already given an opinion and checked the statements of the complaint.

6. Anonymous applicant

SCPC did not find conflict of interest regarding the anonymous complaint that a member of the Assembly of RM performs doctor's activity when it established that the statements of the complaint are not founded.

7. SSS Georgi Dimitrov - anonymous applicant

SCPC did not find conflict of interests if a parent is a member of the school board in the school where his child is enrolled. However he should be recused if the board decides upon issues of interest for his child.

8. Anonymous applicant

SCPC did not find conflict of interest regarding the anonymous complaint for nepotism since the correctness of the statements was not confirmed.

9. Faculty of Medicine Skopje

SCPC did not find conflict of interest in the public procurement procedure in which a company, owned by a person employed at the faculty who does not have managerial function, neither participated in the public procurement procedure, participated.

10. Broadcasting Council

SCPC did not find conflict of interests in the case of the president of the Broadcasting Council regarding the BC competences in the elections and the fact that his spouse was a candidate on the councilor list in the Municipality of Prilep.

11. Municipality of Rankovce

SCPC gave a positive opinion on a question by the municipality that the members of the public procurement commission should sign statements of conflict of interests.

12. Citizen who is not an official

SCPC did not find a conflict of interests in the case of an official in the Ministry of Justice with the function of member of a municipal council.

13. Customs Administration of RM

Regarding the report by the administration if there is a conflict of interests in the case of customs official who is owner of his close relative is an owner of a company, for which the administration has implemented a disciplinary procedure in which the person was fined, SCPC found that the goal of the law has been achieved.

14. Customs Administration of RM

Regarding the report by the administration if there is a conflict of interests in the case of customs official who is owner of his close relative is an owner of a company, for which the administration has implemented a disciplinary procedure in which the person was fined, SCPC found that the goal of the law has been achieved.

15. Customs Administration of RM

Regarding the report by the administration if there is a conflict of interests in the case of customs official who is owner of his close relative is an owner of a company, for which the administration has implemented a disciplinary procedure in which the person was fined, SCPC found that the goal of the law has been achieved.

16. Customs Administration of RM

Regarding the report by the administration if there is a conflict of interests in the case of customs official who is owner of his close relative is an owner of a company, for which the administration has implemented a disciplinary procedure in which the person was fined, SCPC found that the goal of the law has been achieved.

17. Customs Administration of RM

Regarding the report by the administration if there is a conflict of interests in the case of customs official who is owner of his close relative is an owner of a company, for which the administration has implemented a disciplinary procedure in which the person was fined, SCPC found that the goal of the law has been achieved.

18. State Education Inspectorate

SCPC gave an affirmative answer that the ban for appointment of directors of the schools applies in the period from the constituting of the council to the publication of the decision.

19. Anonymous applicant

A complaint of the applicant to the SCPC asking to give answer to certain questions from the aspect of its competence.

20. Public Healthcare Institution – Psychiatric Hospital Negorci - Gevgleija

SCPC gave answers to questions regarding possible conflict of interests.

21. Mayor of the Municipality of Cheshinovo - Obleshevo

Upon two complaints, SCPC did not find conflict of interests in the relations between the council and the mayor regarding lease of a structure owned by the municipality.

22. Ministry of Culture

SCPC gave answers to questions regarding possible conflict of interests.

23. Inter municipal Social Works Center - Prilep

SCPC did not find a conflict of interest in a public procurement procedure in which a firm owned by a close relative of a employee of the center participated since that person did not participate in the public procurement procedure.

24. Municipality of Cheshinovo - Obleshevo

SCPC did not find conflict of interests in the relations between the council and the mayor regarding lease of a structure owned by the municipality.

25. Membership of a judge in a MB of a citizen association

SCPC found that there is no conflict of interests if a judge is a member of a MB of a citizen association if he is not paid for that.

26. Basic Court Radovis, President of the Court Danka Ristova

Establishing that there is no factual but there is a possible conflict of interests if a president of a court signs a public procurement contract with a firm managed by her close person, SCPC asked the president to be recused and the contract to be signed by a person, who according to the law undertakes the competences of the court president in such cases.

27. Submitted by a person employed in the Ministry of Culture

SCPC did not find conflict of interests in the case of an official – head of sector who coordinated the realization of the program for reconstruction of the public institutions.

28. Citizen – former acting mayor of a municipality

Upon this request, SCPC recommended that there would be a conflict of interest if a former mayor is employed in a company with which the municipality has business relations within three years.

29. Ministry of Culture

SCPC gave answers to several questions regarding possible conflict of interests.

30. Official – civil servant

SCPC did not find conflict of interests in the case of an official employed in the Ministry of Economy with the function of member of a MB of a public institution. Initiated by the concerned official, SCPC did not find conflict of interests – accumulation of functions in the civil servant.

III. OTHER COMPETENCES AND ACTIVITIES

3.1. STRATEGY FOR INTER-INSTITUTION COOPERATION AND PUBLIC RELATIONS

In order to inform the public, more directly and more completely, about issues which may not be attractive but they are especially important for creation and strengthening of the normative and institutional prerequisites and capacities for addressing the corruption as well as on all aspects and segments of its activity, at the end of 2008 SCPC has determined directions for development of a Strategic Plan for Promotion of the Public Relations. Trainings in communications skills for the SCPC members and the Secretariat were implemented before the Strategic Plan which was issued at the beginning of 2009 with expert consultation within the successful project cooperation with USAID – World Learning. In the same time, the strengthening of the visibility and the supervision capacity of SCPC were defined as one of the main priorities of the 2009 EU Accession Partnership of the Republic of Macedonia. The accession goals are included in the Strategic Plan for Public Relations with realization period 2009 – 2012 in the following directions:

1. Enriching of the model of communication with the public through the media and institutions.

In 2009, 40 press releases were issued, 10 press conferences were held, and 42 information posts on the SCPC website were published. At the end of 2009 SCPC started to send information to electronic addresses of relevant domestic and international institutions and the 2010 NPAA plans for engagement of SCPC spokesperson which will strengthen the Public Relations Department.

2. Strengthening of the communication and cooperation with the institutions involved in the prevention of corruption and conflict of interests.

Considering the character of the problem of corruption, the cooperation between the institutions responsible for prevention and repression is a significant condition for successful and efficient fight in a long term. The communication and coordination between the institutions is established in order to raise the institutional perception for the supporting, coordinating and supervising role of the State Commission, especially for the institutions signatories of the Protocol for cooperation for prevention and repression of the corruption and conflict of interests which in 2007 was signed by 11, and in 2008 and 2009 by additional 6 institutions.

Based on the Protocol, a mutual day to day communication was established, rapid exchange of information, writs and documents between the State Commission for Prevention of Corruption, the Public Prosecutor's Office of RM, the Ministry of Interior, Public Revenue Office, State Audit Office, State Attorney's Office, the Council of Public Prosecutors, Judicial Council, Customs Administration, State Elections Commission, Broadcasting Council, Securities Exchange Commission, Public Procurement Bureau, State Appellate Commission for Public Procurements, Real Estate Cadastre Agency and the Office for Prevention of Money Laundering and Financing of Terrorism. At the working meeting held in June 2009 about the work on joint topics and competences it was established that the activities on cases as a result of the cooperation according to the Protocol were accelerated and far more efficient.

SCPC with some of the signatories of the Protocol agreed to apply the recommendations of the Feasibility Study planned in the 2010 IPA Twinning Project Fiche.

For the mutual raising of the efficiency in the activities, SCPC in 2009 and the Office for Prevention of Money Laundering and Financing of Terrorism established a network VPN connection. The database of the assets of the elected and appointed officials is placed on the SCPC server, it is permanently updated according to the assets declarations and the Office can have any necessary data for its activities from there.

3. Strengthening of the public awareness about the role of the State Commission and the negative effects of the corruption and conflict of interests.

The goal is to develop public awareness raising campaigns about the negative effects and the devastating power of the corruption on the society and the raising of the citizen awareness on the legal role and mission of the State Commission as an independent, confident and objective institution and their expectations of the activities of the State Commission.

In 2009, SCPC promoted the start of the public awareness campaign on the negative effects of the corruption and the role of the State Commission.

Brochures, posters, radio and video pieces "Clear the Corruption" were prepared for the realization of the campaign. The State Commission distributed the campaign material – the brochures and the poster to the state authorities, local self-government authorities, courts, universities, Clinical Center and to the places which are most accessible to the citizens in order to involve them in the campaign and to contribute in the fight against this social phenomenon. The brochures are printed in Macedonian and Albanian languages in 5500 copies and they were also distributed through the daily newspapers Dnevnik, Vest and Koha.

A radio and video pieces were prepared within the framework of the campaign, in duration of 30 seconds in Macedonian, English and Albanian languages.

Having in mind that this is a media campaign of public interest which should raise the public anticorruption awareness, the State Commission asked the national and local televisions and radio stations to get involved in the campaign as media sponsors and to contribute in the fight against corruption. With the free broadcasting of the video and audio, the 15 day media campaign was supported by 18 televisions and 12 radios which contributed in the public awareness raising and fight against corruption and corruptive behavior which disrupt the integrity of the social institutions and of the society in general.

The campaign was realized in cooperation and with financial assistance from USAID.

4. Public debates with representatives of the political and governmental institutions, public, private and nongovernmental sector on the following topic “Corruption and Conflict of Interests”.

The first of the serious of debates of the State Commission for Prevention of Corruption was held in November 2009 with a topic “Party and political influence in the education” with participation of many representatives of all institutions involved in the realization of the problem of influence in the education. SCPC made a summary of the standings and it was distributed to the participants.

At the beginning of December, just before the World Anticorruption Day, it was planned to hold the round table with the members of the Assembly of the Republic of Macedonia about the “Conflict of interests – legislation and practice” which was prepared for a long period of time and which was supported by the international institutions.

In order to provide better attendance, the thematic round table was postponed for 2010.

5. Holding trainings for certain target groups regarding corruption and conflict of interests from the aspect of the legal regulations, procedures, competences, practical aspects and challenges.

According to the Strategic Plan for Promotion of the Public Relations and according to the State Program for Prevention and Reduction of the Conflict of Interests and the 2009 Work Program of the State Commission for Prevention of Corruption, trainings in conflict of interests – recognizing and overcoming, for the judicial branch staff, were organized during 2009. Four trainings were realized in the appellate regions Shtip, Skopje, Bitola and Gostivar. These trainings involved 120 representatives of the judicial branch.

Trainings on the method of acting with the assets declarations of the officials were held during 2009 which involved the persons from the state authorities nominated for acting with the assets declarations of the officials. Four trainings for the nominated persons from the local self-government, state authorities and judicial branch were realized in Skopje in 2009.

During 2009, the State Commission in cooperation with the Civil Servants Agency has held five trainings for civil servants in authorities and institutions from the central and local government on the topic of Corruption and Conflict of Interests.

At the end of December 2009, in cooperation with the Government of the Republic of Macedonia, SCPC realized training in practical application of the institute Statement of Interests of the authorized persons responsible for collecting and keeping of the Statement of Interests in the authorities and institutions where they work.

6. SWOT analysis and electronic forms of survey and activity which will be realized in the upcoming period for realization of the Strategic Plan for Public Relations.

3.2. NORMATIVE ACTIVITIES

The State Commission for Prevention of Corruption participates in the preparation of the new anticorruption regulations directly in the working groups

established in the relevant ministries or through opinions for bills and amendments to the laws. The State commission pays special attention to this activity working on the provisions and solutions regarding corruption and conflict of interests. Such participation, SCPC realized in the following fields:

- amendments to the Law on Prevention of Conflict of Interests,
- amendments to the Electoral Code,
- amendments to the Criminal Code,
- amendments to the Law on Criminal Procedure, and
- amendments to the Law on Financing of the Political Parties.

The amendments to the Law on Prevention of Conflict of Interests resulted from the need determined in the State Program for Prevention and Reduction of the Conflict of Interests issued in 2008 and they detailed this field in order to achieve more efficient implementation of the Law and the conflict of interest as entrance to corruption. SCPC in several occasions, in the work group established within the Ministry of Justice and in the public assembly debate, placed and represented its standings which were available to the public through its website.

In 2009, SCPC gave opinion on the amendments to the Law on Construction and Law on Privatization and Lease of State Owned Construction Land.

3.3. PROJECT ACTIVITIES

3.3.1 COOPERATION WITH UNDP

SCPC and UNDP continued their cooperation in 2009 in the framework of the “Fight against Corruption for Better Management” project. They contributed to the finalization of the indicators for assessment of the transparency, accountability and responsibility of the local self-government authorities developed by UNDP in the previous period. The Project was implemented in four pilot municipalities and after its evaluation during 2009, UNDP, with State Commission support, initiated the implementation in the other urban units of local self-government. Within the framework of this Project, representatives of the Secretariat of the State Commission participated in trainings on the procedures and administrative procedures in the field of urbanism and communal activities. The successful cooperation continued in 2009 through partner development of innovative anticorruption projects such as the manuals for corruption and conflict of interests, United Nation Anticorruption Convention and access to public information. Training for 30 journalists in investigation reporting in the field of corruption was also implemented. The successful cooperation during 2009 was completed with the joint event for celebration of the International Anticorruption Day – 9th December. A debate on the role of the media and journalists in the fight against corruption was organized on this date.

3.3.2. COOPERATION WITH USAID WL

The cooperation established with USAID – World Learning continued in 2009. Based on the Annex to the Second Memorandum for Cooperation we realized trainings in conflict of interests – management and overcoming for representatives of the judicial branch, in cooperation with the Judicial Academy. The Strategy for Promotion of the Public Relations was also issued.

In November 2009, USAID realized two evaluations of the quality of the USAID support to SCPC and of the Project for Strengthening of the Human and Institutional Capacities of the Secretariat and SCPC.

The preparation of the final report from the second evaluation in fact is the conclusion of the cooperation based on the signed memorandums.

3.3.3 TAIEX PROJECTS

During 2009, SCPC used the TAIEX instrument of the European Commission with three projects aimed toward strengthening of the institutions through study visits, engaging of experts and assistance in workshop organization. The European Commission approved and provided financial support for two study visits of similar institutions:

- The Central Office for Prevention of Corruption (SCPC) Paris, France. The goal of the study visit was to gather experiences on the mechanisms for prevention of the corruption, investigation, monitoring and preparing reports;
- The Anticorruption Bureau (KNAB) Riga, Latvia. The goal of the visit was to gather experiences in monitoring of the property situation and conflict of interests.
- An international workshop on Conflict of interests and assets declarations realized on 8 and 9 February 2010 in Skopje with participants from 11 countries including 4 EU members.

In November 2009, 14 TAIEX draft projects for 2010 were submitted to SEI.

3.3.4. IPA 2010 TWINNING PROJECT

For more efficient prevention and repression of the corruption as well as prevention of the conflict of interests, SCPC prepared and submitted to the European Commission, through SEI, Twinning Project Fiche for IPA 2010: Support for efficient prevention and fight against corruption. The basic goal which has to be realized through realization of the activities envisaged in the Project Fiche is to improve the implementation of the national legal framework and strengthen the national mechanisms for prevention and fight against corruption through support of the State Commission for Prevention of Corruption, the judiciary, law enforcement authorities (supervision bodies) and other institutions involved in the preventions, detection and repression of the corruption.

The Project Fiche, according to the comments of the European Commission Delegation in the Republic of Macedonia, is acceptable.

3.4 WORKING MEETINGS, WORKSHOPS, CONFERENCES, STUDY VISITS

SCPC realizes all forms of promotion, international cooperation with similar bodies and institutions, joint expert work and study visits and according to its role of specialized national body for prevention of corruption and conflict of interests realized the following activities:

-February 2009. Meeting of the SCPC members with the Ambassador Erwan Fouéré of the European Commission Delegation in order to inform him about the current activities of the State Commission, especially about its activities during the electoral process.

-February 2009. Joint press conference of SCPC, SEC and Broadcasting Council held on SCPC initiative to emphasize the connections in the day to day functioning and eliminate the voids and procedural insufficiencies and establish close cooperation during the electoral process.

-February 2009, Bratislava, Slovakia. Visit to the UNDP regional center and signing of the Memorandum of Understanding between UNDP and SCPC. In the same time a meeting with members of the Slovakian Parliament on the topic of incompatibility of functions and conflict of interests was realized.

-March 2009. Participation of SCPC members in a public debate on the new Law on Criminal Procedure, organized by the Ministry of Justice.

-May 2009, Paris. Study visit of SCPC members and SPCP secretariat staff to the Central Service for Prevention of Corruption of the Republic of France.

-meanwhile a study visit of SCPC secretariat staff was realized to the Sector for Prevention of Corruption and Conflict of Interests, KNAB in Riga, Latvia.

The study visits were financed by EC TAIEX Instrument.

- May 2009. Participation in the international conference on "Integrity Building and Reduction of the Corruption in the Security Sector" in Zagreb, Republic of Croatia.

- June 2009. Participation in a seminar on "Strengthening of the ethics in the public sector" in Podgorica, Montenegro.

- June 2009. Participation in the regional workshop on "Programming of the support to the Anticorruption Agencies" in Bratislava, Slovakia, organized by UNDP. The Methodology for Assessment of the Capacities of the Anticorruption Bodies was promoted at the workshop.

- June 2009. Participation as a lecturer on the summer school for newly elected judges and public prosecutors from the South East Europe on the

“International Standards and Cooperation in the Fight against Corruption” in Ohrid.

- June 2009. Participation in a seminar about the anticorruption measures, organized by NATO in Brussels, Belgium.

- July 2009. Participation as a lecturer on a seminar about the “Investigation Journalism in the Field of Corruption”, organized by UNDP.

- September 2009. Astana, Kazakhstan. Participation in the international conference about “Creating Conditions for Sustainable Economic and Social Development in East Europe and Central Asia: Fight against Corruption and Promoting Good Management”, organized by ACN, OECD and UNODC.

- October 2009. Participation in a meeting of the delegation of the Republic of Macedonia with the NATO high political committee in the NATO headquarters in Brussels.

- October 2009. Study visit to the Oslo management center, Norway. The topic of the visit was: “Methods of evaluation and tools for monitoring for support of the national anticorruption strategies”. The study visit was enabled by the UNDP office in Skopje.

- October 2009. Working meeting in the premises of the SCPC with a representative from UNODC. The topic of the meeting was “Research for the purpose of evaluation of the corruption and crime in the western Balkan”.

- November 2009. International conference about “Assets Declarations as a tool for fight against corruption”, Belgrade, Serbia, organized by OSCE, OECD, ACN.

- November 2009. International conference about the “Experiences of the West Balkan countries in the fight against corruption”, Pristine, Kosovo, organized by the Kosovo Agency for fight against corruption and UNDP – Kosovo.

- December 2009. Participation in the conference about “Strengthening of the regional cooperation in South East Europe in the implementation of the UN Convention against corruption”. The conference was organized by RAI and UNODC – Vienna central office in cooperation with UNODC office in Sofia, Bulgaria.

- Seminar in cooperation with UNDP within the “Fight against corruption for better management” Project. Representatives of the State Commission participated in the finalization of the indicators for assessment of the transparency, accountability and responsibility of the local self-government authorities. The project was implemented in 4 pilot municipalities and in 2009, UNDP with SCPC support implemented it in the remaining rural units of local self-government.

3.5 SCPC SESSIONS

The State Commission for Prevention of Corruption realizes all the activities of its complex competences with participation of all members of the State Commission on the Commission's sessions.

A total of 80 SCPC sessions were held in 2009. Regardless of the issues discussed, a team work is applied in reaching the standings and making decisions. It creates conditions for participation of any member of the Commission in the decision making which results with the fact that all decisions of the State Commission have been brought unanimously.

ANNUAL REPORT ON THE ACTIVITIES ACCORDING TO THE LAW ON FREE ACCESS TO PUBLIC INFORMATION

1. In the period between 1.01.2009 and 31.12.2009, SCPC received a total of 8 written requests for free access to public information.

1.1 Written request for access to information of public character which asks for information whether there is a case regarding a public suspicion in a conflict of interest of an elected official.

**(positive answer);*

1.2 Written request for access to information of public character which asks for information on the change of the assets of several elected officials.

**(positive answer);*

1.3 Written request for access to information of public character which asks for information about how many judges in the Basic Court Strumica have submitted assets declarations and information from the submitted assets declarations.

**(positive answer);*

1.4 Written request for access to information of public character which asks for copy from the assets declarations submitted by three elected officials.

**(positive answer);*

1.5 Written request for access to information of public character which asks for information from a case received regarding the initiative by the "Board to Save Veles from the Smelter".

** Conclusion that establishes that the request has been withdrawn according to article 17 paragraph 3 of the Law on free access to public information since the applicant failed to act according to the written request sent by the holder of the information within the deadline prescribed in article 17 paragraph 1 of the Law, to amend the request for free access to public information .*

1.6 Written request for access to information of public character which asks for a Xerox copy of the assets declaration submitted by the acting director of the PHI University Radiology Clinic Skopje.

* (information according to article 26 paragraph 2 of the Law in free access to information of public character that the request is about an information which is not in a possession of the holder)

1.7 Written request for access to information of public character which asks for information regarding to alleged complaint to the holder of the information of public character.

*(information according to article 26 paragraph 2 of the Law in free access to information of public character that the request is about an information which is not in a possession of the holder)

1.8 Written request for access to information of public character which asks for a copy of the Minutes of the session of the holder of information held on 18.01.2007.

* (*positive answer*);

Total number of requests submitted	8
Number of requests solved	8
Number of approved requests	5
Number of rejected requests	0
Information according to article 26 paragraph 2 of the Law in free access to information of public character that the request is about an information which is not in a possession of the holder.	2
Conclusion that establishes that the request has been withdrawn according to article 17 paragraph 3 of the LFAIPC	1

2. Out of 8 written requests for free access to information of public character, 5 were approved (items 1.1, 1.2, 1.3, 1.4 and 1.8), in 2 cases the applicants were informed in written according to article 26 paragraph 2 of the Law on Free Access to Information of Public Character that their request is for an information that is not in a possession of the holder (item 1.6 and 1.7) and in one case a conclusion was issued that it has been established that the request has been withdrawn, according to article 17 paragraph 3 of the Law on Free Access to Information of Public Character (item 1.5).

3. None of the 8 written requests for free access to information of public character was rejected.

4. Regarding the submitted written requests for free access to information of public character, according to the Law on Free Access to Information of Public Character ("Official Gazette of the Republic of Macedonia" no. 13/2006 and 86/2008), the applicants have not submitted any appeals.

5. There were no administrative disputes against a final decision of the Commission for protection of the right of free access to information of public character or in case of silence of the holder of the information.

6. There are no court decisions with positive solution of the complaint by an applicant for free access to information.

CONCLUSIONS

1. In 2009, SCPC realized largest workload in all segments of its competence.
2. SCPC realized the main priorities of the 2009 Pre-accession partnership consistently.
3. SCPC raised the level of preparation of the officials to comply with the obligations stipulated in the laws on prevention of corruption and conflict of interests.
4. From the citizens' complaints and institutions applications one may see the trust and acceptance of the role of the State Commission as a credible institution for prevention of corruption.
5. The reduction of the budget of the State Commission for Prevention of Corruption is worrying. The 29% reduction in 2009 has already had harmful effect on the operations.
6. There is continuing trend in certain subjects which see the role and work of the State Commission only through certain daily politics and attractive issues which is inappropriate to its institutional position.

TABLES

ATTACHMENT 1

DATA ABOUT ACTIONS UNDERTAKEN WITH REFERENCE TO CASES – COMPLAINTS SUBMITTED BY CITIZENS AND LEGAL ENTITIES FOR THE PERIOD 2007 – 31.12.2009

Year	Received complaints	Processed Cases	Closed cases *	Election cases	Cases of conflict of interest	Asset declarations
At the beginning of 2007 SCPC inherited a situation with 891 cases of which in 600 there were no actions undertaken and in 291 cases the procedure was pending						
2007	1114	560	386	/	30 *conflict was established 4 *conflict not established 15	* received (new and termination) 365 * notifications of changes 189 * misdemeanor charges 55 * received decision 42 * valuation of assets 23
2008	767	728	567	117 *opinions 44 *suggestions 70 * notifications to PPO 3	44 * conflict was established 9 * conflict not established 20	* received (new and termination) 561 * notifications of changes 247 * misdemeanor charges 33 * received decision 39 * valuation of assets 19
2009 as of 31.12.2009	471	1171	828	369 *opinions 138 *suggestions 225 *notifications to PPO 4 * pending 2	63 * conflict was established 20 * conflict not established 30 * closed 50 * pending 24	* received (new and termination) 794 * notifications of changes 205 * misdemeanor charges 58 * received decision 31 * valuation of assets 29
Total:	2352	2459	1781	486	137	Received and processed 1720 Misdemeanor charges 146 Examination of assets 71

*Overview of closed cases	2007	2008	2009
INITIATIVES for criminal prosecution	8	27	11
OTHER INITIATIVES for accountability	4	4	10
Submitted for further actions to other competent authorities	47	29	38
AFTER ACTIONS HAVE BEEN UNDERTAKEN IT WAS CONCLUDED THAT THERE ARE NO ELEMENTS FOR FURTHER ACTIONS (<i>any further action would be pointless since other authorities are competent; or actions have already been undertaken</i>)	125	266	265
THE SCPC CONCLUDED THAT IT IS NOT COMPETENT (there are no grounds for taking actions; there are no elements for taking action;)	202	231	493

REPORT ABOUT THE WORK ON THE CASES AND THE EFFECTS FROM THE ACTIONS OF THE SCPC
for 2007, 2008 and 2009

Year	All types of complaints received ¹⁾	Processed cases (all types)	Closed cases (all types)	Material effects from the actions of the SCPC as revenues to the state treasury from unpaid taxes or unreported incomes (in EUR)	Imposed fines for misdemeanors with reference to asset declarations (in EUR)
2007 ₂₎	1144	590	416	1,000,000	3,020
2008 ₃₎	928	889	728	110,000	5,800
2009	903	1617	1245	140,000	3,180
Total	2975	3096	2389	1,250,000	12,000

1) all types of complaints (cases on corruption, conflict of interests, election cases)

2) data for 2007 correspond with the data of the Annual Report for 2007

3) data for 2008 correspond with the data of the Annual Report for 2008