

*Towards 2<sup>nd</sup> generation of*  
**Security Sector Reforms**  
**in MACEDONIA**



Andreja Bogdanovski | Magdalena Lembovska

SKOPJE  
2012



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# TABLE OF CONTENT

*Towards 2<sup>nd</sup> generation of  
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<b>List of Abbreviations</b>	8
<b>Preface</b>	9
<b>Internal control</b>	11
	<b>Executive summary</b>
<b>1   Legislation</b>	12
1.1   Ministry of Interior	13
1.2   Ministry of Defence	14
1.3   Intelligence Agency	16
<b>2   Implementation and administrative capacities</b>	17
2.1   Ministry of Interior	17
2.2   Ministry of Defence	23
2.3   Intelligence Agency	25
<b>3   Values</b>	27
<b>4   Recommendations</b>	29
<b>Budgetary Control</b>	30
	<b>Executive Summary</b>
<b>1   Legislation</b>	31
1.1   Financial Management and Control (FMC)	32
1.2   Internal Audit	33

1.3   Harmonization of internal control and internal audit - Public Internal Financial Control Department (PIFC Department)	35
2   <b>Practice</b>	36
3   <b>Administrative Capacity</b>	39
4   <b>Values</b>	42
5   <b>Recommendations</b>	43
<b>Parliamentary Control</b>	44
	<b>Executive Summary</b>
1   <b>Control and oversight</b>	45
1.1   Budgetary Control	45
A   <i>Legislation</i>	45
B   <i>Practice</i>	47
1.2   Control of the compliance of work with laws and the respect of human rights	49
A   <i>Legislation</i>	49
B   <i>Practice</i>	50
1.3   Control and oversight over the implementation of government policies and laws adopted by the Parliament	53
A   <i>Legislation</i>	53
B   <i>Practice</i>	54
1.4   Control and oversight of the state's bilateral and multilateral security cooperation and integration	55
A   <i>Legislation</i>	55
B   <i>Practice</i>	56
2   <b>Administrative Capacity</b>	58
3   <b>Values</b>	60
4   <b>Recommendations</b>	61
<b>Bibliography</b>	62
<b>Annex 1</b>	68
<b>Annex 2</b>	69



## **List of Abbreviations**

BPS – Bureau for Public Security

CPT- Council of Europe’s Committee for Prevention of Torture

CSD- Committee for Security and Defence

DCAF- Democratic Control of Armed Forces

DSCI- Directorate for Security and Counterintelligence

EU- European Union

FBC- Finances and Budget Committee

FMC- Financial Management and Control

IA- Intelligence Agency

ICITAP- International Criminal Investigation Training Assistance

MoD- Ministry of Defence

MoI- Ministry of Interior

MP- Member of Parliament

NPAA- National Program for the Adoption of the Acquis Communautaire

SAO- State Audit Office

SIGMA- Support for improvement in Governance and management

(L)PIFC- (Law on) Public Internal Financial Control



## Preface

The peaceful dissolution from communist Yugoslavia in the 90s, together with the experiences from and after the Internal Armed Conflict in 2001 and the efforts to join EU and NATO make Macedonia an interesting case for observing how its security sector governance has evolved and whether it has actually succeeded in institutionalising good practices.

This policy paper, therefore, aims at identifying the trends and the main challenges for governance of Macedonia's security sector for the period 2009 - 2012 in three arenas: externally (through the Parliament), internally (through the executive control) and lastly, the control over the spending of public funds.

The authors of this publication try to illuminate the stage to which Macedonia has progressed in the implementation of the second generation of Security Sector Reforms identified by Timothy Edmunds as "the consolidation of previous reforms, and the effective and efficient operation of institutions and procedures at a sustainable cost for the state and society."<sup>1</sup>

In Chapter 1 of this publication focus is put on the way internal control and oversight is practiced within the Ministry of Defense, Ministry of Interior as well as the Intelligence Agency. Chapter 2 examines the implementation of Public Internal Financial Control, as an essential tool for exercising internal budgetary oversight. Lastly, Chapter 3 takes the Parliament as an oversight but at the same time as a legislative body and analyses its performance in four key areas applicable to the security sector: budgeting, human rights, implementation of government policies as well as its oversight of the state's bilateral and multilateral security cooperation and integration.

The findings in this publication are a result of a three year long project "Civil Society Capacity Building to Map and Monitor Security Sector Reform in the Western Balkans" carried out by a regional consortium of seven think tanks in the Western Balkans. The

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1 | Timothy Edmunds (2003) 'Security Sector reform: Concepts and Implementation', in Wilhelm N. Ger-mann and Timothy Edmunds (eds) Towards Security Sector Reform in Post Cold War Europe: A Frame-work for Assessment. Baden Baden: Nomos, p. 11.



project resulted in publishing several policy papers: 1) Almanac on Security Sector Reforms in the Western Balkans, 2) Context Analysis of the Security Sector Reforms in the Western Balkans, 3) Security Policies in the Western Balkans, and in the case of Macedonia 4) Transparency of the Security Sector.

The research to a large extent is based on a methodology<sup>2</sup> which has been developed by the Belgrade Center for Security Policy and further enhanced by the six other think tank organisations working on the project (including Analytica). Most of the data collected for the purpose for this publication reflects the period 2009 and 2012 and is built on qualitative interviews with experts, policy makers and academics, as well as members of Parliament and Government officials. The findings of this publication also result from data obtained using the Law on Free Access to Information of Public Character.

We would like to acknowledge the support of the Geneva Center for the Democratic Control of the Armed Forces (DCAF) and the Belgrade Center for Security Policy for managing the project and providing us with valuable feedback. Additionally, we would like to express our gratitude to Mr. Rade Rajkovcevski who provided his valuable insights and external expertise on the early versions of this publication.

This publication should ultimately contribute to a better understanding of the main features of internal and external control and oversight over Macedonia's security sector and fill in the gap of literature that exist in this field. Moreover, the lists of recommendations at the end of the publication contribute to its practical use by providing targeted and realistic recommendations which can address the shortcomings identified previously.

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2 | More detailed information about the methodology can be found in the "Almanac on security Sector Reforms in the Western Balkans" pp. 241, available at: [http://www.analyticamk.org/images/stories/files/ALMANAC\\_FINAL\\_WEB2.pdf](http://www.analyticamk.org/images/stories/files/ALMANAC_FINAL_WEB2.pdf)

# Internal control

## Executive summary

The primary legislation that regulates internal control within the security sector actors (Ministry of Interior, Ministry of Defence and Intelligence Agency) is scarce and as such is vastly regulated with secondary legislation acts (issued by the relevant minister). All security sector institutions have established different mechanisms for conducting internal control.

The Ministry of Interior has established the Sector for Internal control and Professional Standards (SICPS) dealing with complaints from citizens. The number of submitted complaints has a tendency to increase from year to year which may show that the Sector for Internal Control and Professional Standards has gained the trust of citizens, but on the other hand, it may also show an increased number of cases where the citizens are facing inappropriate police treatment.

The Ministry of Defence conducts internal control through inspectors in defence that are checking whether the employees' performance is in accordance with the relevant laws. Strangely enough according to the Ministry of Defence, there are no records of initiated disciplinary, misdemeanours or criminal procedure against employees of the Ministry of Defence. Apart from the inspection, there is also a possibility for the citizens to submit complaints and suggestions to the Ministry of Defence.

On the other side, the Law on Intelligence Agency lacks even the basic provisions regulating internal control. The position of General Inspector within the Intelligence Agency was abolished in 2000 because of the rationalization of funds and the internal control is performed by a disciplinary commission.



## 1 | Legislation

Lawmakers have a tendency to be as vague as possible when it comes to internal control in the security sector (Ministry of Interior, Ministry of Defence and Intelligence Agency). Almost all primary laws provide scarce information about the way how the control is conducted. This area is furthermore regulated with secondary legislation which tends to be far from the eyes of the public. An institution that stands out from this image is Mol which has published its rules and procedures online.

The Constitution stipulates that every citizen has the right to submit a complaint to state institutions and other public sector entities and to be given a response<sup>3</sup>. The Law on internal affairs establishes a special unit that deals with the complaints from the citizens and the professionalism in the work of the employees within the Ministry of Interior<sup>4</sup> (Sector for internal control and professional standards). In the case of the Ministry of Defence, the control over legality of actions regarding the defence is done by inspectors of defence.

Competences that are given to the internal bodies entitled to exercise legal control are sufficient to conduct basic control. SICPS within Mol and the inspectors of defence within MoD enjoy free access to data and premises that are necessary for their effective work and all employees have to be cooperative and provide them with all documents and information that they need<sup>5</sup>. Ministers (both for interior and for defence) have the right to initiate internal control in certain units of the Ministry as well as rights to give guidelines and directives.

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3 | Constitution of the Republic of Macedonia, Official gazette of Republic of Macedonia no. 52/91, article 24

Available at: <http://www.sobranie.mk/en/default-en.asp?ItemID=9F7452BF44EE814B8DB-897C1858B71FF>

4 | Закон за внатрешни работи [Law on Internal Affairs]. Official Gazette of the Republic of Macedonia No. 92/2009, article 38

5 | For MoD: Закон за одбрана – пречистен текст [Law on Defence – consolidated text] Official Gazette of the Republic of Macedonia no. 185/11, article 166

## 1.1 | Ministry of Interior

The Law on Internal Affairs envisages internal and external control over its work<sup>6</sup>. While external control is conducted by the Parliament and the Ombudsman<sup>7</sup> the internal control within the Ministry of Interior is conducted by the Sector for Internal Control and Professional Standards (SICPS). It has competences over all departments of the Ministry, including the Bureau for Public Security and the Directorate for Security and Counterintelligence<sup>8</sup>. Concrete competences and the manner of performing internal control are specified in the secondary legislation act – Rules and regulations of the SICPS<sup>9</sup>.

In addition, the Law on Police<sup>10</sup> regulates the manner of performance of police work clearly prescribing the cases when the police officers could use police authorizations and thus limit the freedoms of citizens.

The head of SICPS is independent from the other organizational units within Mol and is accountable directly to the Minister which adds to the overall importance given to this organizational unit. The head of SICPS is appointed by the Minister. In addition, with an idea to give prominence to its independence, the premises of the SICPS are not located in the Mol building, but in a building next to it.

Regarding its competences, the SICPS acts ex officio, based on information gathered on the basis of complaints of citizens, internal documentation and information from Mol employees or upon an order from the Minister of Interior. The Head of the SICPS informs the Minister for all cases when violations are found and also the Director of the organizational unit which the employee is part of. SICPS decisions are obligatory for

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6 | Закон за внатрешни работи [Law on Internal Affairs]. Official Gazette of the Republic of Macedonia No. 92/2009, article 37

7 | Ibid, Article 39

8 | Please refer to Annex 1 for the organizational chart of Mol.

9 | Available at <http://www.mvr.gov.mk/Uploads/pravilnik%201SVKPS%20konecna%20verzija.doc>

10 | Закон за полиција [Law on Police] Official gazette of Republic of Macedonia, no.114/2006



Mol employees, and if they are not met, this entails disciplinary sanctions<sup>11</sup>. If there are findings of a criminal act, the Public Prosecutor and the Sector for Criminal Investigation are informed<sup>12</sup> so they could start an investigation.

In addition, the internal control within the Bureau for Public Security is regulated by the Standard Procedures and Practices for Oversight and Control of the Police Act which provides directions for the persons (head of units) that have competences to conduct control and the types of control. These procedures are based on the existing legislation and do not entail new obligations but rather are considered as auxiliary tools for ensuring efficient implementation of the control provisions. Control and oversight are recommended to be conducted at every level of the Bureau for Public Security and at least once in 4 years the Director of Bureau for Public Security performs general oversight<sup>13</sup>. It represents an overall oversight and control (inspection) over the overall performance of one department, with an aim to provide a legality, professionalism, quality, efficiency and compliance of the operations with the mid-term or long-term operational objectives and plans. It can be ordered by the Director of the Bureau for Public Security.

## **1.2 | Ministry of Defence**

The legal framework that regulates the internal control within the Ministry of Defence is sufficient for conducting proper control. However, the only manner of oversight prescribed by the Law on Defence is the inspection of the implementation of the Law on Defence and other relevant regulations of the area of defence. The inspection is not exclusively done internally, but it is conducted also in the other state institutions, public enterprises, services of special importance for the defence, local municipalities etc.<sup>14</sup> The inspectors of defence are entitled to give recommendations and suggestions for

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11 | Data received using Free Access to Information

12 | Правилник за вршење на работите на СВКПС [Rules and regulations of SICPS], article 10

13 | Стандардни процедури и постапки за вршење надзор и контрола во полицијата [Standard procedures and practices for oversight and control of the Police], point 11

14 | Закон за одбрана – пречистен текст [Law on Defence – consolidated text] Official Gazette of the Republic of Macedonia no. 185/11, article 163

detected irregularities and if those are not eliminated or if the inspector of defence considers violation of regulations as a criminal offense or misdemeanour, he/she is obligated to submit a request for initiating an adequate procedure – criminal or misdemeanour.

Additionally, the Law on Defence also refers to the Law on Inspection<sup>15</sup> as the relevant legislation act that should be consulted. However, the provisions in both laws are more or less the same and do not specify any different procedures when conducting inspection of defence compared to inspections in other areas.

For the performed inspections, the changes of the Law on Defence from April 2011<sup>16</sup> impose quarterly reports that have to be published on the web-site of the MoD about the performed inspections. This is the first time that a security sector actor is subject to a legal obligation to publish reports on performed inspections online. There are three types of inspection envisaged in the Law on Defence<sup>17</sup>:

- Regular – inspection over the compliance of actions with the relevant legislation in the defence, conducted according to an annual programme prescribed by the Minister of Defence.
- Extraordinary – as a result of a request from the Minister, state institution, other institution or individual, or after a report of an inspector of defense - when there is suspicion in irregularities.
- Controlling – checking if the indicated irregularities have been resolved.

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15 | Закон за инспекција [Law on Inspection], Official Gazette of the Republic of Macedonia no.50/10

16 | Закон за изменување и дополнување на Законот за одбрана [Law Amending the Law on Defence] Official Gazette of the Republic of Macedonia no.51/11

17 | Закон за одбрана – пречистен текст [Law on Defence – consolidated text] Official Gazette of the Republic of Macedonia no. 185/11, article 165



In accordance with the Law on Acting upon Complaints and Suggestions<sup>18</sup> the MoD is obligated to appoint a person or to form an organizational unit responsible for acting upon complaints and suggestions of the citizens regarding their rights and interests or any initiative of public interest.

### **1.3 | Intelligence Agency**

Looking into the internal control envisaged by the Law on Intelligence Agency, it is noticeable that the current law on the IA does not provide any references to internal control, but only lists the possible breaches of the working discipline<sup>19</sup> without further examination of the discipline procedures.

Previously, the Law on Intelligence Agency included a provision that enabled the Director of IA to prescribe heavier breaches of working discipline, owing to which the employee is suspended from work, the length of the suspension period as well as the cases when that right is not exercised, but the Constitutional Court annulled this provision considering that it could endow arbitrariness and possibility for unequal treatment so this issue should be regulated with the Law on IA or the Collective Agreement<sup>20</sup>.

According to an employee from the intelligence services interviewed for this publication, the Intelligence Agency has a disciplinary commission that acts on a request for initiating disciplinary procedure. Such a request could be submitted from heads of organizational units of the Intelligence Agency or from the Director of the Intelligence Agency. The work of the Disciplinary Commission relies on Rules and regulations for conducting disciplinary proceeding<sup>21</sup>.

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18 | Закон за постапување по претставки и предloзи [Law on Acting upon Complaints and Suggestions] Official Gazette of Republic of Macedonia 82/2008

19 | Закон за Агенција за разузнавање [Law on the Intelligence Agency], Official Gazette of Republic of Macedonia no.19/95 article 30

20 | Ruling of the Constitutional Court No. 37/1988

21 | Interview with an official from the intelligence services in Macedonia, conducted on 10.07.2012



Even though it is considered to be an effective internal control setup in most of the countries, the position of General Inspector does not exist in the Macedonian Intelligence Agency. According to our interviewee, this position did exist until 2000 but was abolished due to rationalization of funds and resources<sup>22</sup>.

The legal framework covering the segment of internal control within the Intelligence Agency is scarce and it requires the inclusion of commonly agreed principles for control and oversight such as the introduction of a General Inspector who would assume the central role in IA's internal control.

## **2 | Implementation and administrative capacities**

### **2.1 | Ministry of Interior**

Screening through relevant foreign reports (please see footnote no.24, 25 and 26) on the country's progress and the practices for protection of human rights, the first impression is that there is still much to be done in the field of internal control.

The presence of police in daily life and in sizeable numbers throughout the country has increased the likelihood of human rights abuses. Increased accountability mechanisms have contributed to greater scrutiny of police work. Despite increased involvement of the international community in Mol's work, which led to increased openness towards citizens, the performance of oversight institutions does not necessarily show that Mol has performed exceptionally well in improving transparency and accountability towards citizens and state institutions<sup>23</sup>.

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22 | Ibid

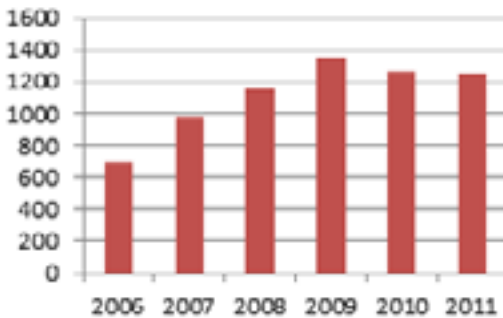
23 | Bogdanovski. Andreja: Chapter 5 - Macedonia in Almanac on Security Sector Oversight in the Western Balkans, Belgrade, 2012, available at: [http://analyticamk.org/images/stories/files/ALMANAC\\_FINAL\\_WEB2.pdf](http://analyticamk.org/images/stories/files/ALMANAC_FINAL_WEB2.pdf)



The EU Commission Progress Report on Macedonia for 2011<sup>24</sup> covers this area by saying that the SICPS intensified its monitoring of police work, but it is yet to be transformed into an authority that is fully independent from the police with the ability to implement effective investigations, the U.S. Department of State Report on Human Rights Practices for 2011 for Macedonia<sup>25</sup> adds that although there were improvements with internal investigations and an active ombudsman, police impunity remained a problem.

The graph 1. illustrates the steady increase in the number of proceedings that the SICPS administrated since 2006. This trend reached its peak in 2009 after which it marks a slight

### Number of overall cases



Graph 1 - Statistical data on the total number of cases

drop in proceedings. In fact, the SICPS acted upon 691 cases in 2006, but in 2009 the number of cases was almost double – 1355 cases. During 2011 the SICPS had 1250 cases to react to. The first half of 2012 shows again an increase in inspected cases – 758 compared to 630 in the first half of 2011. The increased number of managed investigations is a positive sign that SCIPS is reinforcing its work and more citizens are deciding to seek justice through this mechanism. But on the other hand, it might show that Police officers' behaviour is getting worse.

The report of the Council of Europe's Committee for Prevention of Torture (CPT)<sup>26</sup> from 2010 states that a significant number of people alleged they had experienced ill-treatment by police officers, especially by civilian crime inspectors and also by members of the special Alpha unit.

24 | EU Commission Progress Report on the Republic of Macedonia for 2011, Chapter 22 Available at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2011/package/mk\\_rapport\\_2011\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/mk_rapport_2011_en.pdf)

25 | Available at <http://www.state.gov/documents/organization/186589.pdf>

26 | Available at <http://www.cpt.coe.int/documents/mkd/2012-04-inf-eng.htm>

Moreover, the CPT notices a lack of structural independence of the SICPS and underlines that this issue is of particular importance when allegations of ill-treatment or improper action by law enforcement officials are made in the context of high profile operations.<sup>27</sup>

The SICPS has developed a practice to regularly publish reports of the conducted inspections on the Mol's website. The reports contain sufficient and detailed information but what is lacking is separate information regarding the Bureau for Public Security and the Directorate for Security and Counterintelligence.

Even in having a clear mandate to act upon misconduct of employees within the Directorate for Security and Counterintelligence, the publically available information shows no cases where such inspections have occurred. This poses the question as to whether there are no inspections taking place within the DSCI or whether the SICPS is not transparent enough to publically present the findings of the control. Taking into consideration the powers vested in the DSCI (use of special measures, firearms etc.), it is of paramount importance to ensure proper internal control over this body. What additionally hampers effective internal control when it comes to the DSCI is the secrecy of special investigative measures (such as wiretapping) which decreases the possibility of submitting complaints from the citizens about their usage.

By analyzing the annual reports<sup>28</sup> of the SICPS approximately 2/3 of the indicated irregularities originate from the complaints of citizens and legal entities and the other third was based on information from employees of the Mol, their own findings, media or upon an order from the Minister.

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27 | The report refers to the operation "Mountain Storm" from 2007 when despite the medical documentation and widespread circulation of photographic evidence of injuries indicative of ill-treatment of arrested persons, the SICPS reported that it "has performed detailed investigation regarding the operation, thus has estimated that it is a professionally planned, professionally performed and the goals for which was planned are achieved, and the means of force and firearms are used according to the legal regulations".

28 | Annual report of SICPS for 2011, 2010 and 2009, available at: <http://www.mvr.gov.mk/Desktop-Default.aspx?tabindex=0&tabid=201>



	Total number of complaints	Grounded	Ungrounded	Lack of evidence	Partially grounded
Year 2007	61	9	33	19	✓
Year 2008	64	4	36	24	✓
Year 2009	79	6	37	36	✓
Year 2010	64	5	38	20	1
Year 2011	63	8	44	11	✓

Table 1<sup>29</sup> Filed complaints to SICPS on the basis of suspicion for use of over excessive use of force

If one compares graph 1 and table 1 it is clear that the excessive use of force is not a high percentage of the overall cases. It ranges between five and six per cent. What is also evident is that most of the complaints submitted to the SICPS are qualified as ungrounded or they are lacking in evidence. The amount of grounded complaints is negligible. Many additional questions arise from these facts, such as which challenges the SICPS is facing during investigation of the indicated cases or whether citizens are well informed about the competences of the SICPS? If this trend continues, it may lead to a decrease in confidence of citizens in the SICPS and consequently, in the number of complaints submitted.

### Imposed mandatory measures

The SICPS in 2011 submitted 19 criminal procedures for 30 employees in Mol. In 2010 the number of criminal proceedings was 27 and in 2009 the SICPS submitted 36 criminal proceedings. While the number of criminal proceedings tends to decrease, the number of disciplinary proceedings is increasing: 201 in 2009, 219 in 2010 and 228 in 2011. None of the criminal proceedings in the period 2009-2011 were against employees of the Directorate for security and counterintelligence<sup>30</sup>.

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29 | Annual report of the SICPS for 2011 available at: <http://www.mvr.gov.mk/ShowAnnouncements.aspx?ItemID=10937&mid=1094&tabId=201&tabindex=0>

30 | Data received using Free Access to Information

	Total number of cases	Initiated criminal procedure	Initiated disciplinary procedure	Warning	Compensation procedure	Suspension from work-place	Request to initiate a dismissal without previous disciplinary procedure
2007	974	106	179	149	3	84	
2008	1148	75	173	122	32	39	
2009	1355	50	201	193	84	28	66
2010	1261	29	219	161	85	9	14
2011	1250	30	228	230	62	9	29

Table 2<sup>31</sup>- Imposed mandatory measures by the SICPS

SICPS is only initiating disciplinary procedures and its role ends at this point. Afterwards the disciplinary procedure continues in front of a Disciplinary Commission formed by the Minister. This is also noted in the U.S. Department of State Report on Human Rights Practices for 2011 for Macedonia<sup>32</sup> where it states that SICPS only has the authority to impose administrative sanctions during the course of its investigations and therefore cannot impose disciplinary sanctions (such as dismissal or reassignment to a lower position) which require a ruling from a disciplinary commission or more serious criminal sanctions for more serious violations when there are findings of a criminal act which require court action. The Council of Europe's Committee for Prevention of Torture (CPT) also acknowledged that the SICPS had no influence as regards the disciplinary sanctions, which remained in the hands of the superiors of the police officer in question.<sup>33</sup>

31 | Source: Annual report of the SICPS for 2011

32 | Available at <http://www.state.gov/documents/organization/186589.pdf>

33 | Council of Europe's Committee for Prevention of Torture report on the country's visit in 2010 available at: <http://www.cpt.coe.int/documents/mkd/2012-04-inf-eng.pdf>



The SICPS's performance is also criticized by the Ombudsman in its annual report for 2011 who stated that the weaknesses can be seen in the work of the Sector for Internal Control and Professional Standards in procedures towards police officers for violation of human freedoms and rights by over passing official authorizations<sup>34</sup>. In the same annual report, the Ombudsman emphasizes the need for professionalism in the work of the SICPS.

Concerning administrative capacity, in 2011 the SICPS has established a new organizational structure. Starting at the beginning of 2011, the SICPS now consists of five departments, instead of three<sup>35</sup>. That said, a separation between the proactive and reactive is made, or more precisely between preventive works towards elimination of conditions that have impact on unprofessional behaviour of police officers and conducting activities to provide evidence for indicated irregularities<sup>36</sup>. It also envisaged increasing the number of staff members from forty to sixty, but there is no information as to whether this happened or not. However, the US Department of State report for 2011 finds that insufficient funding and staffing hampered the SICPS effectiveness, and the professional capacity of the SICPS remained low<sup>37</sup>.

The SICPS mainly strengthens its capacities through foreign donors' assistance. An example of this can be observed when the International Criminal Investigative Training Assistance Program (ICITAP)<sup>38</sup> donated sophisticated investigative equipment that should improve the capacities of the SICPS to deal with more complex cases. Furthermore, the SICPS employees regularly take part in international trainings, seminars and study visits<sup>39</sup>.

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34 | Annual report of the Ombudsman for 2011, Skopje, March 2012 available at:

<http://www.ombudsman.mk/ombudsman/upload/documents/2012/lzvestaj%202011-ANG.pdf>

35 | Annual report of the SICPS for 2011, available at <http://moi.gov.mk/ShowAnnouncements.aspx?ItemID=10937&mid=1094&tabId=201&tabindex=0>

36 | *Ibid*

37 | Available at <http://www.state.gov/documents/organization/186589.pdf>

38 | ICITAP is a program of the U.S Department of Justice working with foreign governments.

39 | Data received using Free Access to Information

## 2.2 | Ministry of Defence

From the information obtained using the Freedom of Information Act the Ministry of Defence has established two bodies responsible for internal control<sup>40</sup>. The first one is the Sector for Inspection in Defence consisting of a separate Department for Inspection in Civil Defence. Within this department, there is an Advisor-Inspector in charge of protecting the rights of the employees and the citizens: the Ombudsman. In the last few years there has never been a case concerning the breach of human rights and freedoms or illegal activities during the work of the Ministry.<sup>41</sup> Moreover, there have never been disciplinary, misdemeanours or criminal procedure initiated against employees of the MoD.<sup>42</sup>

The MoD identifies this result as a consequence of the professionalism of their work<sup>43</sup>. The work of external oversight bodies, such as the Ombudsman, when it comes to the Armed Forces is limited, thus very little information has been revealed regarding the actual treatment of Armed Forces personnel. However, it is strange that the Ministry of Defence has established an Ombudsman for defence when there is no publically available information regarding that position.

The Inspector for the rights of the employees and the citizens Ombudsman is responsible and answers to the Head of the Unit for inspection in civil defence.

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40 | Data received using Free Access to Information

41 | Ibid.

42 | Ibid.

43 | Ibid.



Type of inspection		Total number of Inspections 2008-2011
Regular	According to an Annual Programme prescribed by the Minister of Defense	36
Extraordinary	Request from the Minister, state institution or individual because of suspected irregularities	11
Controlling	Checking if the indicated irregularities are overcome	2
Total		49

Table 3<sup>44</sup>

As stated before, the MoD is obliged to publish quarterly reports of the conducted inspections. The Ministry started publishing such reports in January 2012 and there are two such reports available online. The reports are scarce in terms of data, lacking even basic information such as the outcome of inspections. The reports consist only of the name of the institutions where inspections were conducted.

Apart from the inspection and the Advisor-Inspector for the rights of the employees and the citizens, the Minister of Defence has appointed a person responsible to act upon complaints and suggestions of the citizens<sup>45</sup>, as an Advisor for acting upon complaints and suggestions employed within the sector for support of the Minister. But on the web page of the Ministry there is no information that such a position exists, nor concrete information about the person employed to fulfil this mandate. From 2009 to the first half of 2012, the advisor acted upon 130 complaints and suggestions of the citizens but information about the outcome of those complaints and suggestions is not

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44 | The table is based on information received using Free Access to Information

45 | An obligation coming from Law on acting upon complaints and suggestions



available. The MoD stated that all of the citizens concerned had been given a reply.<sup>46</sup> However, there is no information regarding the percentage of complaints and the percentage of suggestions derived from the overall number of submissions.

However, one cannot fail to notice that it is strange that there are two different institutions in charge of protecting the rights of citizens which may only confuse citizens who are looking to bring forward a complaint, suggestion or problem.

When it comes to military intelligence and counterintelligence, this unit is directly subordinated to the Minister of Defence and in the last few years there has never been a case noted for breach of laws and human rights or initiating disciplinary procedure against the employees of military intelligence unit<sup>47</sup>. In the last 3 years, no inspection has been carried out at the military intelligence and counterintelligence unit.<sup>48</sup>

### 2.3 | Intelligence Agency

One of the biggest weaknesses identified in the internal control mechanisms within the Intelligence Agency is the non-existence of the Inspector General. Due to budgetary constraints this position was removed. This explanation seems in contrast with the best practices established throughout the Western Balkans as well as in Western Europe where such a position is considered to be a central role in ensuring legality of the work of the Intelligence Agency.

This function was substituted by the Disciplinary Commission. The Director of the Intelligence Agency seems to have embedded part of the internal control practices in his/her own portfolio as well. Complete independence of internal control bodies is not provided, it depends on the profile of the head of the Intelligence Agency, and therefore certain tendentious procedures do occur<sup>49</sup>. The experience so far suggests that

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46 | Data received using Free Access to Information

47 | Ibid.

48 | Ibid.

49 | Interview with an official from the intelligence services in Macedonia, conducted on 10.07.2012



whenever breach of procedures of IA employees was recorded most of the penalties were financial fines, but there were also cases of dismissal from the Intelligence Agency. The lack of Inspector General reflects in the complaints system within the IA. If the employee wants to submit a complaint about the decision of the Disciplinary Commission, it has to go through the IA Director. An alternative to that would be a referral to the Courts.

It is than evident that the funds provided from the Budget are not sufficient for the needs of the Intelligence Agency and this has significant implications on the controlling mechanism. However, instead of an increase, from year to year the budget of the Intelligence Agency decreases.<sup>50</sup>

A scandal regarding the employees' behaviour occurred in 2008 when an insider allegedly revealed<sup>51</sup> the identities of the agents and their weaknesses, demoralized behaviour and spicy stories from the workplace when he/she sent an anonymous letter to several addresses, including to the director of the Intelligence Agency. The official position of the Intelligence Agency was that the findings in the letter are not true.<sup>52</sup> This short statement does not provide any information about the level of investigation that has occurred and whether there are certain repercussions for the employees. In light of this, it is worth mentioning that the IA does not have a Public Relations Officer.

Regarding the administrative capacities, of the internal control bodies of the Intelligence Agency there is a notion that professionals that are trained for the tasks for this job portfolio are employed<sup>53</sup>, but due to the lack of publically available information no concrete information about the human recourses could be provided.

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50 | Budget of the Republic of Macedonia for 2012,2011,2010 and 2009, available at <http://www.finance.gov.mk/view/budget2012>

51 | Македонските тајни агенти провалени (Macedonian sec ret agents revealed), Vecer 27.02.2008 available at: <http://www.vecer.com.mk/?ItemID=5A857525894E3F48800B99EE29496B1F>

52 | Ibid.

53 | Interview with an official from the intelligence services in Macedonia, conducted on 10.07.2012

### 3 | Values

The observed trend of an increase in the number of complaints to the SICPS when it comes to the Police might show a rise in the level of trust and recognition among the citizens that the SICPS is doing the job properly, but the other side of the coin, however, is that this also might indicate a bad track record in the professionalism of police officers. The greatest concern is that only a few of the complaints made to the SICPS were found grounded.

The critical assessment of foreign reports regarding the violations of human rights in Macedonia, hand in hand with increasing calls to pay greater attention to the control of the security sector actors (especially the police) has put internal control again under the spotlight of public discourse.

The most recent example, which sparked debates and protests on the streets of Skopje, is related to the murder of a 24 years old student from Skopje by an officer from the special police unit “Alpha” during the post election celebration. This resulted in an increase in calls for the Alpha unit to be disbanded and put the professionalism of the SICPS under question. At the same time the Mol was criticized for lack of transparency and communication with the public.

The civil society movement “Stop Police Brutality” initiated a proposal to establish an independent authority which would take over the competences of the SICPS in the field of civil complaints and petitions for violation of the rights and freedoms of the citizen by police officers in police actions. The proposal was accepted by the opposition parties after which they have submitted to the Parliament a draft-law on Police Ombudsman that had to obtain specific powers and responsibilities in implementing inquiry cases when police brutality against citizens is found<sup>54</sup>. However, the draft-law was not accepted.

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54 | Draft-law on Police Ombudsman was submitted by group of 42 MPs is available at [https://docs.google.com/file/d/1Oqj1\\_oGhEGxdu236lfDrRkT9qXBcdMzLoTU81xRXem\\_eDAR-1FBizYlcTIWQ/edit?pli=1](https://docs.google.com/file/d/1Oqj1_oGhEGxdu236lfDrRkT9qXBcdMzLoTU81xRXem_eDAR-1FBizYlcTIWQ/edit?pli=1)



*Towards 2<sup>nd</sup> generation of*

## **Security Sector Reforms in MACEDONIA**

In light of the fact that the MoD does not publicly promote the possibility of submitting complaints from citizens and is not transparent enough with regards to internal control, it is possible to infer that these issues are not a priority for the MoD. The same applies for the Intelligence Agency that has even abolished the core internal control body, the General Inspector.

## 4 | Recommendations:

- The Law on the Intelligence Agency should be amended to include democratic principles of internal control and re-introduce the post of general inspector in charge of internal control and professional standards.
- The SICPS should be granted permission to be involved in the whole process of disciplinary procedures as well as in their final outcomes.
- The MoD should improve its transparency with regards to the inspections conducted by publishing detailed reports.
- Additionally, it should promote and familiarize the public with the possibility for citizens to submit complaints and suggestions for the work of the MoD.



## Budgetary Control

### Executive Summary

The successful implementation of the concept of Public Internal Financial Control is an important tool for ensuring that public money is spent in the most proper and efficient way. As such, the concept behind it has been developed by the European Commission and is one of the three components of the European Union's *acquis communautaire* on financial control (most recently grouped under Chapter 32, during the enlargement negotiations with Croatia)<sup>55</sup>. Public Internal Financial Control involves three components: 1) financial management and control, 2) internal audit and 3) central harmonization unit. While the unit for financial affairs and the unit for internal audit are established within every public sector entity, the central harmonization unit is a separate department within the Ministry of Finance serving as a central point for coordination and communication. Until now all efforts have been focused on adopting and improving the legal framework, so this process has concluded and all bylaws accompanying the Law on public internal financial control have been adopted and have come into force. On a central level, not all of the public sector entities have established the features listed in the Law on Public Internal Financial Control – a financial affairs unit, an internal audit unit and an appointed person responsible for informing on irregularities. But when it comes to the security sector actors (Ministry of Interior, Ministry of Defence and the Intelligence Agency) they have fulfilled the necessary requirements of the law. However, the administrative capacities remain weak especially within the internal audit units. Further development should put the legislation into better practice and raise the awareness of the institutions towards the role and the importance of public internal financial control.

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55 | Besides PIFC, the other two components are: external audit and protection of EU's financial interests.

## 1| Legislation

The backbone of internal budgetary control within the state's budget recipients (including the security sector institutions – Ministry of Interior, Ministry of Defence and Intelligence Agency) is ensured with the introduction of the Public Internal Financial Control System. The beginnings of the system can be traced back to 2000<sup>56</sup>, but substantial efforts for building a modern system of internal financial control in the public sector started with the adoption of the Law on Public Internal Financial Control<sup>57</sup> in 2009. This internal financial control system has to guarantee *reasonable spending of the public funds*<sup>58</sup> as well as fully respecting the law during daily work. A key principle for achieving these aims is the application of principles of decentralized responsibility of the management and establishing independent internal audit. The legal provisions stemming from the Law on Public Internal Financial Control apply to all public sector entities<sup>59</sup> that are financed by the state's budget including EU funds.

The Public Internal Financial Control (PIFC) consists of:

1. Financial Management and Control
2. Internal audit
3. Harmonization of internal control and internal audit

While the regularity of expenditures was at the centre of traditional internal control systems, the PIFC brings up higher standards, paying more attention to the “money value” which means not only taking care that public money is not misused, but also ensuring that it is spent in the most economical, efficient and effective way. Given that the PIFC is

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56 | Ministry of Finance, <http://www.finance.gov.mk/node/92>

57 | Закон за јавна внатрешна финансиска контрола [Law on Public Internal Financial Control] Official Gazette of the Republic of Macedonia, no. 09/09

58 | Ministry of Finance, available at: <http://www.finance.gov.mk/node/864>

59 | Under the term “public sector entity” the Law stipulates: mean users of the funds of the Budget of the Republic of Macedonia, the Funds, the municipalities and the City of Skopje, agencies and other institutions established by law, public enterprises, public institutions and other legal entities owned by the state or in which, the state shall be shareholder.



a relatively new concept, the process for providing a relevant legal framework has been completed, including secondary legislation, consisting of an abundance of bylaws for procedures and standards which have been adopted and which have come into force. The legal framework that regulates the Public Internal Financial Control has been assessed by the Support for Improvement in Governance and Management - SIGMA<sup>60</sup> as coherent, comprehensive and fully consistent with the legal requirements of the European Union<sup>61</sup>.

## 1.1 | Financial Management and Control (FMC)

The first layer of internal financial control is ensured with the “Financial Management and Control” mechanism encompassing a *system of policies, procedures and activities established by the head of the public entity in order to provide reasonable assurance that the objectives of the entity have been accomplished*<sup>62</sup>. Even though the Law does not specifically say what those objectives are, the Law on Public internal financial control later describes that Financial Management and Control looks as to whether the public entity:

- Performs financial activities in a proper, ethical, economical, effective and efficient manner
- Ensures conformity of operations with the laws, other regulations, establishes policies, plans and the procedures<sup>63</sup>.

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60 | SIGMA is a joint initiative of the Organization for Economic Cooperation and Development OECD and the European Union, principally financed by the EU.

61 | SIGMA Assessment report on Macedonia , May 2010

62 | Закон за јавна внатрешна финансиска контрола [Law on Public Internal Financial Control] Official Gazette of the Republic of Macedonia, no. 09/09 Article 3 paragraph 3

63 | Ibid. Article 6



The security sector actors (Ministry of Interior, Ministry of Defence and Intelligence Agency), as public sector entities, are tasked with the establishment of a separate organizational Financial Affairs Unit whose head directly responds to the Minister and the Secretary of State.<sup>64</sup> In addition, the security sector actors have an obligation to appoint a person responsible for informing on irregularities. The Ministry of Finance has prepared a Financial Management and Control Manual<sup>65</sup> as guidance for the public sector entities in establishing Financial Management and Control system and in performing the tasks properly.<sup>66</sup>

## 1.2 | Internal Audit

The aim of the internal audit is similar with the aim of the Financial Management and Control system – that is, ensuring legal and proper use of public funds whilst identifying gaps and possible breaches in legal procedures. Whilst the Financial Management and Control system continuously monitors the procedures and the processes of public entities, the Internal Audit is performed periodically. It provides recommendations for financial management and control and contributes to its constant improvement, but without possessing competences for imposing sanctions. The Ministry of Finance has produced an Internal Audit Manual<sup>67</sup> and its use is obligatory for all internal auditors when conducting audits within the entities.

After 2004 the internal audit turned from being centralized in the Ministry of Finance to a decentralized model with the idea of establishing internal audit units in each public sector entity.

Among the security institutions, the law does not explicitly mention the Intelligence Agency among those entities that require an establishment of internal audit units. Still,

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64 | Ibid. Article 9

65 | Available at [http://www.finance.gov.mk/files/u10/PRIRACNIK\\_FMC30012012.pdf](http://www.finance.gov.mk/files/u10/PRIRACNIK_FMC30012012.pdf)

66 | For the main objectives of the FMC and its head's competences, please see Annex 2.

67 | Available at <http://www.finance.gov.mk/node/972>



according to the law, an internal audit unit should be established in all public sector entities whose average yearly budget in the last three years exceeds the total amount of 50 000 000 MKD (819 774 Euros). Bearing in mind that the budget of the Intelligence Agency for 2011 was 144 821 000 (2 354 813 Euros)<sup>68</sup> it is clear that the obligation for establishing internal audit unit applies here as well. It remains unclear as to why the Intelligence Agency is not taking part in the list jointly with the rest of the state institutions such as the Ministry of Defence.

The lawmakers took care to provide (at least on paper) independence of the internal audit units from political pressures. These particular units are organizationally independent from other inner organizational units of the entity and directly responsible to the Minister. Accordingly, the Head of the internal audit unit together with the other internal auditors cannot get fired or reassigned to another job post for reporting on specific irregularities. Moreover, the Minister of Interior and Minister of Defence do not enjoy the freedom to issue disciplinary sanctions, reassignment or dismissal of the employees in their internal audit unit on their own accord, but first have an obligation to notify the Department for Public Internal Financial Control within the Ministry of Finance and to provide the necessary documentation that justifies such a decision. If serious irregularities or suspicions of fraud or corruption are found, the internal auditor informs the head of the Internal Audit Unit who has an obligation to submit written information to the Minister and to the person authorized for reporting on irregularities<sup>69</sup>.

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68 | Budget of Republic of Macedonia [http://www.finance.gov.mk/files/Budzet\\_na\\_RM\\_za-2011\\_god\\_ZA%20OBJAVUVANJE\\_13.12.2010.pdf](http://www.finance.gov.mk/files/Budzet_na_RM_za-2011_god_ZA%20OBJAVUVANJE_13.12.2010.pdf)

69 | Закон за јавна внатрешна финансиска контрола [Law on Public Internal Financial Control] Official Gazette of the Republic of Macedonia, no. 09/09 Article 50, paragraph 4

### 1.3 | Harmonization of internal control and internal audit - Public Internal Financial Control Department (PIFC Department)

A separate department for internal financial control is placed within the Ministry of Finance and serves as a Central Harmonization Unit for the operationalization of the public internal financial control and for the supervision of its implementation. It provides recommendations for improving Public Internal Financial Control. Additionally, the PIFC Department is mandated to conduct supervision of the quality of the financial management and control system and of the operations of the internal audit units, but so far it has never carried out such supervision<sup>70</sup>, although it is *sine qua non* for improvement of the implementation of the public internal financial control and detecting the obstacles that hamper the proper functioning of the system.

Apart from the PIFC Department, the Minister of Finance establishes two Committees as his/her consultative bodies within the Ministry of Finance, one for issues related to financial management and control and the other for auditing purposes. Both committees have an obligation to meet at least once every three months<sup>71</sup> exchanging information and giving advice to the Minister of Finance.

Even though the structure seems to be complex, it is an EU model developed by the European Commission which constantly encourages countries that want to join the European Union to develop *modern public internal control systems*<sup>72</sup>. Although the public internal financial control has been firstly introduced as “soft” acquis (without specific EU legislation), *the European Institutions (Council, Parliament, Court of Audit and the Commission) have agreed that in this Chapter<sup>73</sup>, the Candidate countries have to reform their public internal control and external audit systems in such a way as to*

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70 | Interview with an official from a public sector entity, conducted on 17.07.2012

71 | Закон за јавна внатрешна финансиска контрола [Law on Public Internal Financial Control] Official Gazette of the Republic of Macedonia, no. 09/09 Articles 44 and 45

72 | Robert de Koning, Public internal financial control, available at <http://www.pifc.eu/pdf/intro.pdf>

73 | Chapter 32 of Acquis communautaire



*follow and implement international standards and EU best practice<sup>74</sup>.*

## 2 | Practice

The Ministry of Finance (considered as the overarching institution in charge of setting up the new structures and following up on the progress) has produced an Internal Audit Manual and a Financial Management and Control Manual which form guidebooks detailing methods and techniques used during the performance of day-to-day activities and provide a comprehensive overview of the main principles of the public internal financial control<sup>75</sup>. In addition, as envisaged by Article 13 paragraph 2 - Law on PIFC, Internal Control Standards in the Public Sector<sup>76</sup> were published, as internationally recognized standards for internal control. The manuals and rulebooks produced by the PIFC Department within the Ministry of Finance are used by the budget users<sup>77</sup> which shows that the Department produced practical and applicable legislation that is beneficial for its users.

All security related actors (Ministry of Interior, Ministry of Defence and Intelligence Agency) have undertaken the required initiatives for establishing organizational units and appointing positions envisaged by the Law on Public Internal Financial Control. All of them have established a financial affairs unit, an internal audit unit and have appointed a person responsible for informing on irregularities. They regularly fulfil the obligation to submit annual reports of conducted audits to the PIFC Department within the Ministry of Finance<sup>78</sup>.

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74 | Ibid.

75 | Internal Audit Manual and Financial Management and Control Manual, as well as other relevant laws and bylaws regarding PIFC are available at <http://www.finance.gov.mk/node/679>

76 | Official Gazette of the Republic of Macedonia, no. 147/11, available at [http://www.finance.gov.mk/files/u10/ernal\\_control\\_standards\\_in\\_the\\_public\\_sector.pdf](http://www.finance.gov.mk/files/u10/ernal_control_standards_in_the_public_sector.pdf)

77 | SIGMA Assessment Report On Macedonia, May 2011

78 | Interview with an official from a public sector entity, conducted on 17.07.2012

During the first couple of years after the law on PIFC was introduced, this mechanism faced difficulties in fulfilling the requirements stemming from the Law. Only few public sector entities have established the envisaged Financial Affairs Unit, Internal Audit Unit and appointed person for informing on irregularities. Due to delays in the implementation, the Committee for Financial Management and the Control and Audit Committee, as consultative bodies of the Minister, were established in August 2011, two years after the adoption of the Law on public internal financial control. In May 2012 rulebooks for their work were produced.

According to the 2011 EU Commission Progress Report on Macedonia, some progress can be reported in the area of public internal financial control, but it is mainly related to legislative alignment and implementation of the legislation remains slow.<sup>79</sup> The Ministry of Finance developed a draft strategy for the period 2012 – 2014 as a medium-term plan for the development of the PIFC. It contains comprehensive analysis of the current situation and recommended measures for improvement, but long-term goals and an action plan are still missing. Furthermore, although a draft strategy was developed in November 2011 and even though it applies from 2012, the final version of the strategy has not yet been published<sup>80</sup>.

The draft strategy consists of a gap analysis outlining the following shortcomings in the PIFC<sup>81</sup>:

- awareness of financial management and responsibility is low at all levels within institutions
- insufficient use of audit resources
- lack of knowledge and experience of other audit functions (performance and IT audit)
- procedures for providing quality in internal audit are not implemented

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79 | 2011 EU Progress Report for Macedonia, Chapter 32: Financial control, page 78

80 | As of September 2012

81 | Нацрт- стратегија за развој на ЈВФК [Draft-Strategy for development of PIFC] (2012-2014) [http://www.finance.gov.mk/files/u10/Strategy\\_for\\_PIFC\\_MKD\\_proposal\\_Final.pdf](http://www.finance.gov.mk/files/u10/Strategy_for_PIFC_MKD_proposal_Final.pdf)



- legal framework is not fully implemented

Based on the gap analysis, the strategy also outlines the objectives and recommendations as to how to reach them, however, more concrete actions and a time frame should be inserted.

In terms of budgeting, public sector entities put emphasis on control over expenditures rather than efficient, effective and economic usage of the funds. The reports that institutions submit to the PIFC Department mostly give quantitative and poor qualitative information<sup>82</sup>.

Another deficiency that is hindering full implementation of the LPIFC is the certification of the internal auditors. An exam to certify internal auditors has not been conducted yet, which means that current internal auditors do not have the necessary certification that will testify to their professionalism and provide them with authority and reputation in the eyes of other employees in the entities where internal audit is carried out. It is not clear why it has been postponed, but preparations for such an exam have commenced recently with the start of the project "Training of internal auditors in the public sector"<sup>83</sup> and the publishing of a public call for trainers. For the first phase it is envisaged for 40 internal auditors to be trained and to achieve international certification.

As the main purpose of the internal audit is to provide recommendations to overcome the shortcomings of the financial management, an official of a public sector entity who was interviewed for the purpose of this publication says that the percentage of adopted recommendations within the security sector public entities is at a satisfactory level<sup>84</sup>.

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82 | Нацрт- стратегија за развој на ЈВФК [Draft- Strategy for development of PIFC] (2012-2014) page 13, [http://www.finance.gov.mk/files/u10/Strategy\\_for\\_PIFC\\_MKD\\_proposal\\_Final.pdf](http://www.finance.gov.mk/files/u10/Strategy_for_PIFC_MKD_proposal_Final.pdf)

83 | The project has been launched in the summer 2012, in cooperation with Center of Excellence in Finance CEF based in Ljubljana and Chartered Institute for Public Finance and Accountancy CIPFA based in London.

84 | Interview with an official from a public sector entity, conducted on 17.07.2012

### 3 | Administrative Capacity

Public Internal Financial Control, as a relatively new concept, requires substantial investment into the establishment and equipping of civil servants with the appropriate skills and knowledge. The Government adopted action plans for the realization of the National Program for the Adoption of the Acquis Communautaire (NPAA) for 2009 (among other priorities) which also aims to increase the human resource capacities involved in the system of PIFC. Within all public sector entities, the Government envisaged employing 144 people within the internal audit units and 130 employees within the financial affairs units. None of those prospective employments was for the security sector institutions (MoI, MoD and IA). According to this Action Plan, these institutions did not face shortage of employees within their financial affairs units, so no new vacancies have been proposed. According to the Action Plan<sup>85</sup>, the minimum of workplaces in the financial affairs units within the MoI was thirty-nine, the MoD had forty-eight and the Intelligence Agency six. It is worth mentioning that the MoI and the MoD are among the leaders in terms of the number of employees within the financial affairs units.

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85 | Action plan for realization of NPAA for 130 new employments in the financial affairs units within entities on central level, available at [http://www.finance.gov.mk/files/u10/Akcionen\\_plan\\_fmc.pdf](http://www.finance.gov.mk/files/u10/Akcionen_plan_fmc.pdf)



Table 1 (see below) shows the human resource capacities in the internal audit units within the MoI, MoD and IA.

Name of the public sector entity	Number of internal auditors as of 28.05.2009	Envisaged employments 2009-2010	Envisaged employments 2011	Envisaged employments	Total number of envisaged employments	Envisaged number of internal auditors after the employments	Number of internal auditors As of July 2012 <sup>1</sup>
Ministry of Interior	3	2	0	2	5	3	3
Ministry of Defence	2	2	1	3	5	7	7
Intelligence Agency	1	1	0	1	2	0	0

Table 1<sup>86</sup> - Internal Audit Units

It is notable that the Ministry of Defence has not only reached, but it has exceeded that envisaged number of internal auditors, a fact that places this Ministry among the group of ministries with the biggest number of employees in the Internal Audit Unit<sup>87</sup>. However, the Action Plan of the Government is in contradiction with the needs of the MoD according to the Ministry's Systematization Act<sup>88</sup> which prescribes more work places for this sector. From that perspective, one may say that the Ministry of Defence remains understaffed.

In spite of the envisaged employments within the Ministry of Interior, it still relies on only three internal auditors. Bearing in mind that the MoI is one of the biggest public

86 | The table is based on the table: Action plan for realization of NPAA for 144 new employments of internal auditors within entities on central level, available at [http://www.finance.gov.mk/files/u10/Akcionen\\_plan\\_vr.pdf](http://www.finance.gov.mk/files/u10/Akcionen_plan_vr.pdf)

87 | Only the Ministry of Finance has more internal auditors – 8 (as of July 2012)

88 | Information gained through sending questionnaires to the Ministry according to the Law on Free access to information from public character



entities with a complex organizational structure, three auditors is far from the sufficient number to conduct a comprehensive quality internal audit. Moreover, if one makes a comparison with the budget of the MoD, the budget of the MoI is almost double.<sup>89</sup> The necessity of more employees is also highlighted in the Strategic Plan of the Internal Audit Unit of the Ministry of Interior for the period 2009 to 2011 which envisages that the number of employees to meet the needs of the Ministry is two teams of five people with different competences plus a supervisor<sup>90</sup>. As it is the case within the MoD, the Action plan of the Government and the Strategic plan of the MoI are not harmonized.

What is most concerning is the situation within the Intelligence Agency. Namely, in 2009 the Intelligence Agency had one internal auditor and according to table 1, the Government envisaged employment of one more. But if one analyzes the list of internal auditors published on the web site of the Ministry<sup>91</sup>, not only has no further internal auditor been appointed, but the one auditor that they had is missing. However, according to an interviewed official from the intelligence services, an audit body does exist.

On the other hand, in the PIFC Department within the Ministry of Finance, the human and material-financial resources are sufficient to meet the needs for this department as a central harmonization unit.<sup>92</sup> The PIFC Department within the Ministry of Finance continually organizes trainings for all employees from public sector entities included in the system of public internal financial control. Employees of the Ministry of Interior and the Ministry of Defence also take part in these trainings. It is worth mentioning that most of the trainings are a result of foreign donors' assistance, or more specifically, under the MATRA<sup>93</sup> and TWINING<sup>94</sup> projects.

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89 | Budget of MoI for 2011 – 10 056 979 000 MKD, Budget of MoD for 2011 – 5 671 376 000 MKD  
[http://www.finance.gov.mk/files/Budzet\\_na\\_RM\\_za-2011\\_god\\_ZA%20OBJAVUVANJE\\_13.12.2010.pdf](http://www.finance.gov.mk/files/Budzet_na_RM_za-2011_god_ZA%20OBJAVUVANJE_13.12.2010.pdf)

90 | Data collected using Free Access to Information

91 | [http://www.finance.gov.mk/files/u16/ci\\_navnatresni\\_revizori-centralno-03-07-2012.pdf](http://www.finance.gov.mk/files/u16/ci_navnatresni_revizori-centralno-03-07-2012.pdf)

92 | Interview with an official from a public sector entity, conducted on 17.07.2012

93 | MATRA – Strengthening and implementation of public internal financial control on central level (2009 – 2010), funded by the Dutch Government

94 | TWINING – "Supporting the process of fiscal decentralisation through strengthening the capacities for sound financial management and internal financial control on local and central level", financially sup-



## 4 | Values

There is a great level of awareness of the need for establishing public internal financial control amongst the all political parties and the adoption of the Law on Public Internal Financial Control was accompanied with constructive amendments in the Parliament. Still, when it comes to implementation of PIFC, it seems that the main criterion for the level of implementation is the existence of the features stemming from the law and not the quality of their work. It may lead one to conclusion that the purpose and benefits that it provides are not fully understood by public sector entities. Although the key principle of public internal financial control is decentralized responsibility of the management, the decision-making competence is still reserved for top-management and the Minister.

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ported by EU and managed by the European Agency for reconstruction in collaboration with Ministry of Finance of Netherlands

## 5 | Recommendations:

- The PIFC Department within the Ministry of Finance should start supervising the quality of the PIFC system without further delays.
- The Ministry of Finance should include an action plan as well as time framework in the Strategy for PIFC. Additionally, the Strategy has to include long term goals.
- The human resource capacities in Internal Audit Offices within the Ministry of Interior and Intelligence Agency should be strengthened by employing additional staff.
- Certification process of the internal auditors should start without delay.



## Parliamentary Control

### Executive Summary<sup>95</sup>

Macedonian Parliament continuously performs basic control and oversight of security sector institutions. Still, current legislative gaps and lack of political will very often transforms parliament into a “government agency.” Lack of material, financial and administrative resources continue to hamper the process of thorough oversight. Evident gap exist when it comes to its oversight role on the exchange of confidential data and arms trade.

In terms of budget spending, parliament does a fair job of exercising control. Budget proposals and the final budget bill are analyzed both by the relevant parliamentary committee as well as on a plenary level. The Committee on Security and Defence shows good track record in discussing financial implications when new security related legislation is on the agenda. However, the MPs are facing difficult times to oversee the spending of the intelligence services.

Considering parliament’s role in overseeing the use of special investigative measures, coercive means and human rights, it tends to provide good oversight. A specialized committee for oversight of the work of the Intelligence Agency and the Security and Counter Intelligence Unit is in place. Since 2008 there has been an additional committee dealing with the supervision of the application of communication – interception techniques. Both of the committees are headed by an opposition party member who contributes to greater autonomy and increased pro-activeness. In practice though, the two committees face continual obstructions by the parties in power through various means (frequent change of the members of the committee, unanimous voting etc.)

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95 | For more on parliamentary oversight, see also Bogdanovski, Andreja: Chapter 5 - Macedonia in Almanac on Security Sector Oversight in the Western Balkans, Belgrade, 2012, available at: [http://analyticamk.org/images/stories/files/ALMANAC\\_FINAL\\_WEB2.pdf](http://analyticamk.org/images/stories/files/ALMANAC_FINAL_WEB2.pdf)

Apart from their role of voting to determine participation in peace support operations, parliament lacks political will to become engaged more actively in discussing issues such as budget implications, purposefulness or mandates. In the view of the parliamentarians, participation in operations abroad is a prerequisite for successful EU and NATO integration, something that a significant proportion of the population identifies as a priority.

## 1 | Control and oversight

### 1.1 | Budgetary Control

#### A | Legislation

According to the Constitution<sup>96</sup> (Article 68) and the Law on the Budget<sup>97</sup>, the Parliament is in charge of adopting the budget. Still one may not say that the Parliament has the “power of the purse” since the procedure includes many other actors<sup>98</sup> and the Parliament is given the role to say the last word. At first, the budget proposal is discussed on committee level and then goes through a plenary session. Among all 21 committees the Committee for Security and Defence (CSD) and the Finances and Budget Committee are the only two committees to be consulted and represent the views on the budget proposal from the security perspective<sup>99</sup>. There are however three

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96 | Устав на Република Македонија. [Constitution of the Republic of Macedonia]. article 68

97 | Закон за буџет. [Law on the Budget]. Official gazette of the Republic of Macedonia, no.64/05 articles 29 and 30

98 | The Ministry of Finance is preparing the budget proposal according to the strategic priorities of the Government and the strategic priorities of the budget users. Then the budget proposal is submitted to the Government and the Government submits it to the Parliament.

99 | Водич во буџети (Budget guide) CRPM, available at: <http://www.crpm.org.mk/wp-content/uploads/2012/03/VodicvobuzetiMKD.pdf>



additional committees that are dealing with security related topics and which are not consulted by automatism:

- Committee for Supervising the Work of the Security and Counter Intelligence Directorate and the Intelligence Agency (herein Committee Supervising Intelligence Agencies);
- Committee for the Supervision of the Application of Communication Interception Techniques by the Ministry of Interior and the Ministry of Defence (herein Committee Supervising Communication Interception);
- Standing Inquiry Committee for Protection of Civil Freedoms and Rights (*herein Committee Supervising Communication Interception*).

Still, if one takes a closer look at the composition of the Parent Committee<sup>100</sup> for issues related to finances, the Finances and Budget Committee (FBC) also hosts some of the members of the committees which are dealing with different security topics (mentioned above), something which gives them the possibility to raise questions of the possible financial implications over the security sector when discussing the budget proposal. Furthermore, any Member of Parliament can ask to be present at a meeting of a committee different from the one whose member he/she is, but without having the voting rights<sup>101</sup>. Still, this right has only been used on an ad-hoc basis.

Looking into the legislation related to the adoption of the budget (Law on Budget and the Rules and Procedures of the Parliament) the security sector actors or the security sector in a broader context is not mentioned. The Law on Defence, however, and in particular Article 17 which describes the role of the Parliament in issues related to the defence of the country<sup>102</sup>, stipulates that the Parliament decides on the level of financial resources for the defence needs as well as that the national Parliament adopts the

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100 | Parent Committee represents the main committee within the Parliament which acts as a central point for a particular theme of discussion and coordinates the other committees which are closely connected with that particular topic.

101 | Деловник на Собранието на Р.Македонија [Rules and procedures of the Assembly] article 121

102 | Закон за одбрана – пречистен текст [Law on Defence – consolidated text] Official Gazette of the Republic of Macedonia no. 185/11 Article 17, 2001

budget in a state of war. Additionally, when it comes to the control over expenses, the Law on Defence<sup>103</sup> obliges the Ministry of Defence to inform the Government as well as the Parliament about the realization of the approved financial resources. On the other hand, the laws regulating the work of the Ministry of Interior and the Intelligence Agency do not explicitly refer to parliamentary control over budget spending.

When it comes to the planning of the budget the committees do not have clear competences to be involved in the planning stages of the budget. Still, they can do so indirectly as they are able to file amendments to the draft budget.

Although the Committee Supervising Intelligence Agencies is not mentioned in the regulation of the budget adopting and budget control process, the Law on the Intelligence Agency<sup>104</sup> in Article 11 obliges the Director of the Intelligence Agency to enable access to all reports and information from the work of the Agency to the Parliamentary Committee tasked to follow the work of the IA (in this case that would be the Committee Supervising Intelligence Agencies). The same applies regarding the Directorate for Security and Counterintelligence<sup>105</sup>. Still the track record in this regard is very limited and inconsistent.

## **B | Practice**

With the power of the Parliament to say the last word in the budget adoption process, it actually does ex ante control on the security actors expenditure plans and the percentage they get from the overall state budget. Going through the recent history of the work of the Finances and Budget Committee, the data shows that this parliamentary committee has not discussed legislation which is security sector oriented per se<sup>106</sup>.

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103 | Ibid. Article 147

104 | Закон за Агенција за разузнавање [Law on the Intelligence Agency], Official Gazette of Republic of Macedonia no.19/95

105 | Закон за внатрешни работи [Law on Internal Affairs]. Official Gazette of the Republic of Macedonia No. 92/2009article 42

106 | Minutes from committee meetings, website of the Parliament, [www.sobranie.mk](http://www.sobranie.mk)



Besides, the portion of the budget of the Republic intended for the security sector institutions is subject to debate on plenary level. "Discussions often get more animated at plenary sessions when scandals over alleged misuse of public money have broken out and it becomes a chance for the opposition to score political points. Such behaviour could be explained by opposition MPs having little power at committee level. They cannot overrule ruling party MPs, who are seldom interested in acting independently and in getting involved in discussions which are critical of the government."<sup>107</sup> In plenary sessions MPs also tend to discuss the expenditures of MoI, the proportion between the MoI and MoD budget and possible misuse of public money.

When looking at the power of the Committee Supervising Intelligence Agencies to check the spending of the DSCI and the IA, the committee shows poor quality. In May 2012, the DSCI submitted the report for the previous 2011 year, but according to the committee, the report of the DSCI was lacking even the basic financial information. It is not clear where and how the budget funds are spent, what type of equipment has been purchased, what was the procedure and if everything was in accordance with the law. Neither a financial report for the so-called special budget of the Directorate has been provided<sup>108</sup>. Put aside, the report of the IA fully complied with the legal provisions and all necessary information was provided.<sup>109</sup>

One of the more animated discussions when it comes to allocation of funds in the security sector took place in 2008 when the budget of the DSCI was increased 32 times or more exactly the amount of 780 000 Euros planned at the beginning of the year, with the rebalance of the Budget in July the same year turned into 25 million Euros while the funds of the MoD were cut.<sup>110</sup>

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107 | Bogdanovski, Andreja: Chapter 5 - Macedonia in Almanac on Security Sector Oversight in the Western Balkans, Belgrade, 2012, available at: [http://analyticamk.org/images/stories/files/ALMANAC\\_FINAL\\_WEB2.pdf](http://analyticamk.org/images/stories/files/ALMANAC_FINAL_WEB2.pdf)

108 | Што содржи извештајот на УБК до Парламентот? [What does the DSCI report for the Parliament consist?], Utrinski, 15.05.2012, available at: <http://www.utrinski.com.mk/?ItemID=C42D9EC98F2D-814B8C8A07A833CC73EC>

109 | Првпат УБК достави извештај до пратениците, Мижалков не ојде [DSCI submitted a report to the MPs for the first time, Mijalkov didn't come] available at: <http://www.plusinfo.mk/vest/43127/Prvpat-UBK-dostavi-izveshtaj-do-pratenicite-Mijalkov-ne-dojde>

110 | Тајна контролата на тајните служби [Secret control of the secret services] Denevnik, 27.11.2011



The Committee on Security and Defence, acting as a parent committee for security issues, is not primarily interested in the financial matters of the security sector. However, it has shown good track record discussing the financial aspects of the proposed legislation when there are envisaged financial implications.

## **1.2 | Control of the compliance of work with laws and the respect of human rights**

### **A | Legislation**

When it comes to the compliance of the work with laws and the respect of human rights, three out of the four previously mentioned committees have competences in this regard as well.

The Committee Supervising Intelligence Agencies is specially designated to oversee the methods and means used by the Security and Counter - Intelligence Directorate and the Intelligence Agency when applying special investigative measures and coercive means. Members of the committee enjoy access to classified data. There is a requirement for the president of the committee to belong to the opposition party, thus contributing to greater independence.

The Committee Supervising Communication Interception in its competences also clearly has elements that are dealing with the human rights dimension. This committee looks upon issues that are related to the supervision of the application of the communication interception techniques by the Ministry of the Interior and the Ministry of Defence. Also, it examines the lawfulness in the application of the communication interception techniques by the Ministry of the Interior and the Ministry of Defence in

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available at:

<http://www.dnevnik.com.mk/?itemID=BF99804621491D4F9EA4D53A97F6B2F5&arc=1>



terms of their compliance with the Communication Interception Law.<sup>111</sup> Just like their colleagues from the Committee Supervising Intelligence Agencies, the members of Committee Supervising Communication Interception enjoy free access to all classified data and the president of the committee also comes from the opposition. Moreover the majority of the members of this committee come from the opposition party.

There is a difference between the above mentioned two committees and the Standing Inquiry Committee for Protection of Civil Freedoms and Rights in one particular aspect. The findings and the conclusions of this Inquiry Committee can represent a basis for starting a procedure for accountability of public office - holders<sup>112</sup>. Apart from this, the Inquiry Committee has the competences to review complaints from citizens and to take position on them, to follow the implementation of the international agreements that the country has ratified and which deal with human rights protection. It could also give opinions and proposals regarding the implementation of the Constitution's provisions regulating human rights.<sup>113</sup>

## **B | Practice**

The Committee Supervising Communication Interception has faced difficult times providing a state-secret level security clearance for some of its members because the vetting process for some of its members took longer than expected, although the Law on classified information prescribes that the vetting process lasts maximum 6 months and could be prolonged only in more complex or extraordinary cases.<sup>114</sup>

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111 | Собрание на РМ [Macedonian Parliament]. Available at: <http://www.sobranie.mk/?ItemID=8608F9D2973DFD4EAB951DD13354E2C4>

112 | Ibid ,available at: <http://www.sobranie.mk/default-mk.asp?ItemID=B029F595A44B0049BB-0C38372A2CEF54>

113 | Ibid, available at: <http://www.sobranie.mk/?ItemID=334C6DD00873D74D802B2A1B79B2E437>

114 | Закон за класифицирани информации [Law on classified information] Official Gazette of Republic of Macedonia, no. 9/04, article 57

The President of the committee claimed that the Minister of Interior is trying to keep the committee away from the MoI and obstruct their proper work. It even adopted a conclusion that the Parliament should consider political responsibility of the Minister of Interior because of the *degrading and irresponsible treatment regarding the Committee Supervising Communication Interception, MPs and the Parliament, as well as for the disrespect of the Law on interception of communications*<sup>115</sup>. One of the reasons for the interpellation for the Minister of Interior in 2012 was her refusal to provide the Committee Supervising Communication Interception access into the MoI's facilities to check the legality over the use of the special investigative measures "used" during the case "Campaign"<sup>116</sup>. The Minister denied such allegations, saying that they never used communication interception techniques during that case<sup>117</sup>. The interpellation was not successful due to the support of the MPs from the ruling parties who all voted against it.

Even though the Committee Supervising Communication Interception has a mandate for oversight over the communication interception techniques used by the MoD, it has never been subject of a debate at the committee meetings. One possible explanation is that the military intelligence has never been involved in any scandal and also the MPs may find it less interesting for the public. However, it is worth mentioning that the committee members had a meeting with the Minister of Defence and other high officials from the MoD in July 2012<sup>118</sup>, but the information provided to the public is scarce

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115 | Комисијата за надзор над спроведувањето на мерките за следење на комуникациите на МВР и МО бара политичка одговорност од Јанкулоска за случајот "Кампања" [Committee supervising communication interception is asking for political responsibility from Jankuloska for the case "Campaign"] MTV, available at: [http://www.mtv.com.mk/mk/vesti/makedonija/34735/komisijata\\_za\\_nadzor\\_nad\\_sproveduvanje\\_na\\_merkite\\_za\\_sledenje\\_na\\_komunikaciiite\\_na\\_mvr\\_i\\_mo\\_bara\\_.aspx?utm\\_source=daily.mk](http://www.mtv.com.mk/mk/vesti/makedonija/34735/komisijata_za_nadzor_nad_sproveduvanje_na_merkite_za_sledenje_na_komunikaciiite_na_mvr_i_mo_bara_.aspx?utm_source=daily.mk)

116 | The case "Campaign" refers to the arrest of Ljube Boskovski, leader of a political party, who was convicted and sentenced to 7 year prison for illegal funding of his political campaign and abuse of position (after the election in 2011). The supporters and the family of Mr. Boskovski are claiming that he was arrested because of political reasons.

117 | 15th plenary session of the Parliament, conducted on 25.11.2011

118 | Бесими на средба со членовите на ККНМСМКМБРМО (Besimi had meeting with members from MIMDC), MIA, Macedonian information agency, available at: <http://www.mia.mk/default.aspx?mid=31&vld=95952239&lld=1&title=%D0%9C%D0%90%D0%9A%D0%95%D0%94%D0%9E%D0%9D%D0%98%D0%88%D0%90+-+%D0%9E%D0%94%D0%91%D0%A0%D0%90%D0%9D%D0%9>



and lacking basic information on what has been discussed.

The Committee Supervising Intelligence Agencies also faces challenges conducting its oversight function. Although the DSCI and the IA have a legal obligation to submit their yearly reports to this committee at the beginning of the year<sup>119</sup>, the institutions do not always respect the deadlines. For instance, IA and DSCI submitted their yearly reports for 2009 in December 2010. Besides the delayed reports, the Committee Supervising Intelligence Agencies never saw the annual programme of the DSCI for 2012<sup>120</sup>. Furthermore, the Director of DSCI has never attended a committee session and usually sends other officials from DSCI. Additionally the president of this committee stated that they were promised that a CD with detailed view of the use of special investigative measures will be submitted to the committee, but such submission has not yet happened<sup>121</sup>.

The Standing Inquiry Committee for Protection of Civil Freedoms and Rights usually meets to discuss the domestic and foreign annual reports from relevant institutions<sup>122</sup> concerning the human rights, but also legislation that deals with protection of human rights and freedoms. Going through the history of its work, it is evident that this committee is decreasing the frequency of its meetings and had only one meeting during the first nine months of 2012. The Inquiry Committee made greater use of its role when it discussed the case "Sopot" (2009-2010) and had established a working group to review the case. In the "Sopot" case 11 people were suspected of terrorism offences and were found guilty when two NATO soldiers and one civilian were killed in a mine explosion in the Sopot village in 2003. The initiative for establishing a working group came from the convicts' family claiming that they were innocent. Besides, the main witness

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119 | The Law on internal affairs (O.G.92/09) prescribes that DSCI has to submit the annual program in January and the report for the previous year in February.

120 | The deadline for submitting annual programme is January for the current year.

121 | Што содржи извештајот на УБК до Парламентот? [What does the DSCI report for the Parliament consist?], Utrinski, 15.05.2012, available at: <http://www.utrinski.com.mk/?ItemID=C42D9EC98F2D-814B8C8A07A833CC73EC>

122 | Report of the Ombudsman, Directorate for protection of personal data, EU Commission progress, US report on human rights

who indicated those people as perpetrators later said that he gave his statement while being ill-treated by the police. The working group obtained retrial.

Contrary to the Sopot case, the Standing Inquiry Committee for Protection of Civil Freedoms did not do any proper check whether the authorities used illegal procedures in the case of Khaled El- Masri who was detained by Macedonian border police officers mistaken for a terror suspect, allegedly held in a hotel in Skopje for over three weeks and then removed to a CIA-run prison and tortured<sup>123</sup>. El Masri started a judicial proceeding at the European Court of Human Rights against the Republic of Macedonia.<sup>124</sup>

### **1.3 | Control and oversight over the implementation of government policies and laws adopted by the Parliament**

#### **A | Legislation**

According to the Parliament's Rules and Procedures the Parliament has competences in political control and oversight of the Government<sup>125</sup>. It has three mechanisms for exercising control and oversight over the implementation of government policies and laws: oversight hearings, interpellations and parliamentary questions.

The Law on the Parliament envisages only one control mechanism and that is through holding oversight hearings conducted by the committees in order to obtain informa-

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123 | For more information about the Khaled El Masri case please read his statement at: [http://www.aclu.org/human-rights\\_national-security/statement-khaled-el-masri](http://www.aclu.org/human-rights_national-security/statement-khaled-el-masri)

124 | El-Masri v. Macedonia, European Court of Human Rights, application no. 39630/09 available at: [http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{"fulltext":\["El Masri"\],"documentcollectionid":\["COMMITTEE","CLIN","ADVISORYOPINIONS","REPORTS","RESOLUTIONS"\],"itemid":\["001-110887"\]}](http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{)

125 | Rules and Procedures of the Parliament (consolidated version) Official Gazette of Republic of Macedonia, no. 130/210 Article 213, available at: <http://www.sobranie.mk/?ItemID=72D87D12D74B-454FA2C28948BD83AA44>



tion in relation to the establishment and the implementation of the policies, the implementation of the laws and the other activities of the Government and the state institutions. The invited authorized representatives have an obligation to be present at the meeting on which an oversight hearing is held<sup>126</sup>. The President of the committee invites the authorized representatives and can also request information, opinions and views to be sent in a written form at least three days before the holding the meeting of the body.

Apart from the oversight hearings the rules and regulations of Parliament precisely elaborates the procedure for interpellation which could be initiated by at least five MPs. The same act prescribes the procedure for parliamentary questions, according to which every last Thursday in the month is reserved for parliamentary questions session.

The Parliament has also competences to organize public debates prior adoption of the legislation inviting experts and concerned parties in order to discuss the laws proposed by the Government.

## **B | Practice**

The Parliament committees do not exercise the competence to hold oversight hearings. In July 2012 the main opposition party prepared a list of possible oversight hearings of which two out of seven are related to security sector actors: the first one is focusing on the DSCI funds and the second has to do with the alleged misuse of the interception techniques by the Ministry of Interior in the case “Campaign”.<sup>127</sup>

While the oversight hearings are hardly ever used, the Parliament initiated three in-

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126 | Закон за Собранието [Law on the Assembly of Republic of Macedonia], Official Gazette of Republic of Macedonia 104/09article 20

127 | Опозицијата решена преку Собранието да ја контролира Владата [Opposition determined to control the Government through the Parliament], Kapital, 05.07.2012, available at: [http://www.kapital.mk/MK/makedonija/86076/opozicijata\\_reshena\\_preku\\_sobranieto\\_da\\_ja\\_kontrolira\\_vladata.aspx](http://www.kapital.mk/MK/makedonija/86076/opozicijata_reshena_preku_sobranieto_da_ja_kontrolira_vladata.aspx)

terpellations for the Minister of Interior – in 2009, 2010 and 2012, which places her among the ministers with biggest number of interpellations. However, all of them were unsuccessful. Ever since Macedonia became independent in 1991, a minister has never left the function because of interpellation. MPs from the ruling parties regularly show trust towards the ministers being under interpellation. MPs are also regularly addressing their parliamentary questions to the Minister of Interior. The hard questions usually come from opposition members and the members of the ruling party mainly ask directed questions that would create an image of active oversight. The parliamentary questions are usually related with concrete cases from the work of the Mol, but also broader questions about the Mol policy in general, priorities and future activities. MPs have also asked the Prime Minister questions with regards to the internal affairs and the work of the Minister of Interior.

As for the public debates, the security related committees do not utilize the possibility to organize public debates on the proposed security related legislation. During the summer 2012, the Parliament held three public debates discussing security relevant laws<sup>128</sup>, but the initiator instead was the National council for European integration.

## **1.4 | Control and oversight of the state's bilateral and multilateral security cooperation and integration**

### **A | Legislation**

Regarding the bilateral and multilateral security cooperation, the Parliament is given the role for ratification of the international agreements signed by the Government or by the President.<sup>129</sup> The Law on Defence stipulates that the Parliament ratifies internation-

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128 | Public debates were held in regards to: Law amending the Law on communication interceptions, Law amending the Law on internal affairs and Law amending the Law on Police.

129 | Закон за одбрана – пречистен текст [Law on Defence – consolidated text] *Official Gazette of the Republic of Macedonia* no. 185/11, article 17



al agreements which are related to entering, passing or residing of foreign armed forces of the territory of the Republic because of exercise, training and participation in peace or humanitarian actions. This paragraph is also applicable to the Macedonian Armed Forces' (Army) peace support missions. However, once Macedonia enters NATO, this full decision power would be limited, meaning that under exceptional circumstances the Government can decide whether to join NATO led peace support operations.<sup>130</sup>

Regarding the exchange of confidential data, the Parliament has competences in ratifying international agreements when it comes to exchange of classified information. However the central role in this regard is given to the Directorate for protection of classified information.

Questions regarding the arms trade are exclusively discussed by the Government. Only once the Parliament had a fierce debate and stripped the immunity of the MP Vlado Buckovski when he was accused of involvement in defraud and illegal procurement of weapons during his tenure as Minister of Defence<sup>131</sup>.

## **B | Practice**

The process for ratification of international agreements as well as sending troops in peace keeping operations tends to be a formality among the MPs, both on committee and plenary level. What is lacking is a wider debate among the members of the Parliament about these activities. Primarily, as Macedonia progresses towards the EU and NATO, there is a common belief that contributing to PSOs will strengthen the bid to join these organizations. The lack of scrutiny over PSO budgets could be explained by the fact that other countries cover a large portion of the PSOs' costs<sup>132</sup>.

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130 | Article 41a, introduced with the amendments on the Law on Defence from 2006, (Official Gazette of the Republic of Macedonia no.58/06), article 16

131 | Please read more about this case at [http://setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2007/08/21/feature-01](http://setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2007/08/21/feature-01)

132 | Bogdanovski. Andreja: Chapter 5 - Macedonia in Almanac on Security Sector Oversight in the Western Balkans, Belgrade, 2012, available at: [http://analyticamk.org/images/stories/files/ALMANAC\\_FINAL\\_WEB2.pdf](http://analyticamk.org/images/stories/files/ALMANAC_FINAL_WEB2.pdf)



There is a modest record of requested ad hoc reports for operations with higher risks. On this note, the only time MPs asked for an extraordinary committee meeting was in 2008, when a helicopter from Macedonia's contribution to the EU's military mission in Bosnia and Herzegovina crashed and eleven were killed.<sup>133</sup>

Macedonian citizens associate the contribution to international peace support operations with the prospects of joining the EU and NATO. In 2010, 73% of citizens assessed the role of Macedonian Army within peace support missions as positive, according to the survey done by the Institute of democracy "Societas Civilis". In other countries, the percent of supporters among the citizens to peace support operations rarely exceed 50%.<sup>134</sup>

Annually, besides those in the delegation of Republic of Macedonia who visit peace support units from the Army in Afghanistan, it is practice for two members from the Commission on Security and Defence to take part in the delegation. The communication in this aspect with the Ministry of Defence seems to be good, since every time there is a visit by MoD representatives a CSD member joins the delegation<sup>135</sup>.

Apart from the participation in peace support missions, the MPs during the sessions for parliamentary questions have been asking the Minister of Interior about the regional cooperation and signed bilateral agreements, but usually coming from members from the ruling parties when they want to emphasize recent positive developments when it comes to regional cooperation.

However this practice was interrupted in February 2012, when the (ethnic) Albanian party DPA<sup>136</sup> strongly reacted against the Law ratifying the Agreement for police cooperation between Macedonia and Serbia which enables hot pursuits of the Serbian Po-

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133 | Ibid.

134 | Nova Makedonija daily, [Македонците најголеми поддржувачи на своите војски во странство Macedonians the biggest supporters of their soldiers abroad] , Nova Makedonija, available at: <http://www.novamakedonija.com.mk/NewsDetal.asp?vest=517101026129&id=9&set-lzdanie=21985>

135 | Data collected using Free access to information

136 | Democratic Party of the Albanians



lice on the territory of Macedonia (and vice versa), arguing that it was unconstitutional and anti-Albanian<sup>137</sup>.

## 2 | Administrative Capacity

Parliamentary committees lack the know-how necessary for enhanced oversight of the security sector institutions. Financial oversight over the budget spending in areas such as security and national defence can sometimes be too technical and specific (e.g. when discussing procurement of weapons etc.) but also it can be really restricted subject where security sector actors are not willing to reveal the correct number and figures in front of the overseers. That being said it is expected from the Parliament to ensure proper support services (in terms of expertise) and training of the MPs for enhancing their oversight role.

The CSD being the parent committee consists of 12 members in total and accordingly their deputies. Even though most of them do not have prior experience and background in the field of security and defence there seems to be a mixture of different education backgrounds which provide a basis for substantial debate on the topic. The committee's President, however, reiterated that the knowledge and expertise in the work of the committee is on a sufficient level and that hiring additional staff can be costly.<sup>138</sup>

The Committee Supervising Intelligence Agencies is comprised of the President, eight members and their deputies. None of its members has relevant education background in security related areas. It's worth mentioning that three MPs have a background in legal studies.

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137 | Тачи: Македонија и Србија соработуваат на штета на Албанците [Tachi: Macedonia and Serbia cooperate against the Albanians], Dnevnik, 22.02.2012 available at <http://dnevnik.mk/default.asp?ItemID=F9CDC90C7622C24FBB60A181FD70EC73>

138 | Interview with Vladimir Gjorcev – President of the Committee on Security and Defence, conducted on 23 July 2010.

In this context the Committee Supervising Communication Interceptions comprised of President, four members and their deputies. Their administrative capacity is satisfactory, taking into account that most of them concluded legal studies and one member holds a MA in information and communication technologies. In the annual report for 2011 on the work of Committee Supervising Communication Interception submitted to the Parliament the committee members stated that they will ask for external expert support and cooperation with foreign parliamentary bodies.<sup>139</sup> The Committee Supervising Communication Interception has cooperated with the CSO sector, inviting external experts to discuss and share their views at committee meetings. For example, two university professors were present at the committee meeting and took part in the discussion when the draft-law amending the Law on communication interceptions was on the agenda<sup>140</sup>.

These committees do not have a separate budget and support staff members to provide additional expertise for the MPs (apart from ones for administrative needs). According to article 20 of the Law on the Parliament as an enhancement of its legislative, oversight and analytical-research capacity, the Parliament shall establish a special organizational unit - a Parliamentary Research Institute. Indeed, in 2010 the Parliament started working on establishing its own independent source of knowledge and expertise. The project was financed by the Swiss agency for development and cooperation (SDC) with further support from USAID and parliamentary institutes of Slovakia and the Czech Republic. Although this project has been widely announced and the employment selection process had started, the SDC decided to cancel the project<sup>141</sup>.

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139 | Пратениците ќе бараат искусни колеги од странство за надзор на прислушувањето [MPs will ask experienced colleagues from abroad to help them with the oversight over communication interception] Kanal 5, 31.01.2012 available at: <http://kanal5.com.mk/default.aspx?mld=37&egld=13&eventid=86389>

140 | Mr.Vladimir Pivovarov, PhD and Ms.Frosina Remenski, PhD were present at the 9th meeting of the Committee Supervising Communication Interception, held on 18.07.2012.

141 | There is no official position for the cancelation of the project from SDC, nor from the Macedonian Parliament. In January 2012 SDC sent a letter to the General Secretary of the Parliament expressing their dissatisfaction that the contest for the three managerial positions has been waived, although the candidates fulfilled the necessary requirements. Source: <http://www.vesti.alfa.mk/default.aspx?eventid=46004&mld=36&egld=6>



### 3 | Values

There is a lack of political will to perform parliamentary control and oversight over the security sector. Members of Parliament coming from the ruling party (regardless of the time period) fear that being engaged or pro-active in initiating or questioning public officials on their work will only jeopardize their party membership and furthermore their future. The fact that the Parliament has never voted against any member of the Government shows that once MPs elect the Government they give them open support due to party loyalty.

A survey done from the Institute for Democracy together with the Westminster Foundation for Democracy directly points towards citizens' perception on this matter. 45,7% of respondents on the question of the level of control the Parliament has over the Government answered that control is weak, 32,1% that is appropriate and only 10% believe that the Parliament has sound control over the Government.<sup>142</sup>

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142 | Public opinion on the work of the Parliament, Institute for democracy "Societas Civilis" & Westminster Foundation, January 2012 <http://www.idscs.org.mk/images/stories/upload/anketi/prezentacija-sobranie-201201.pdf>

## 4 | Recommendations<sup>143</sup>:

- When political parties decide on appointing MPs to committees, particularly those dealing with oversight of intelligence, they should ensure that the MPs have genuine interest in the particular field and possibly legal experience.
- Committee members should undergo specially designed training, particularly in budget scrutiny; intelligence services functioning; peace support operations.
- Parliament should hire advisors to assist the Committee for Supervision of the Interception of Communications, the Committee for Defence and Security and the Standing Inquiry Committee for Protection of Civil Freedoms and Rights. Additionally, all four should receive separate budgets. Committees tasked to follow the Intelligence Agency, the Directorate for Security and Counter Intelligence and the Army Intelligence and Counterintelligence Unit in coordination with the relevant ministries and agencies (MoI, MoD and Intelligence Agency) should develop an annual training plan to fill gaps in the competences of parliamentarians. The Committee for Defense and Security and other relevant committees should insist on public debates and hearings on draft laws.
- A parliamentary workgroup should be formed to examine final reports by the State Audit Office.
- The Committee for Security and Defence and the other relevant committees should insist on organizing public debates on draft laws, especially those on systemic laws (i.e. police, Ministry of Interior, Intelligence Agency, etc.)

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143 | See also Bogdanovski. Andreja: Chapter 5 - Macedonia in Almanac on Security Sector Oversight in the Western Balkans, Belgrade, 2012, available at: [http://analyticamk.org/images/stories/files/ALMA-NAC\\_FINAL\\_WEB2.pdf](http://analyticamk.org/images/stories/files/ALMA-NAC_FINAL_WEB2.pdf)

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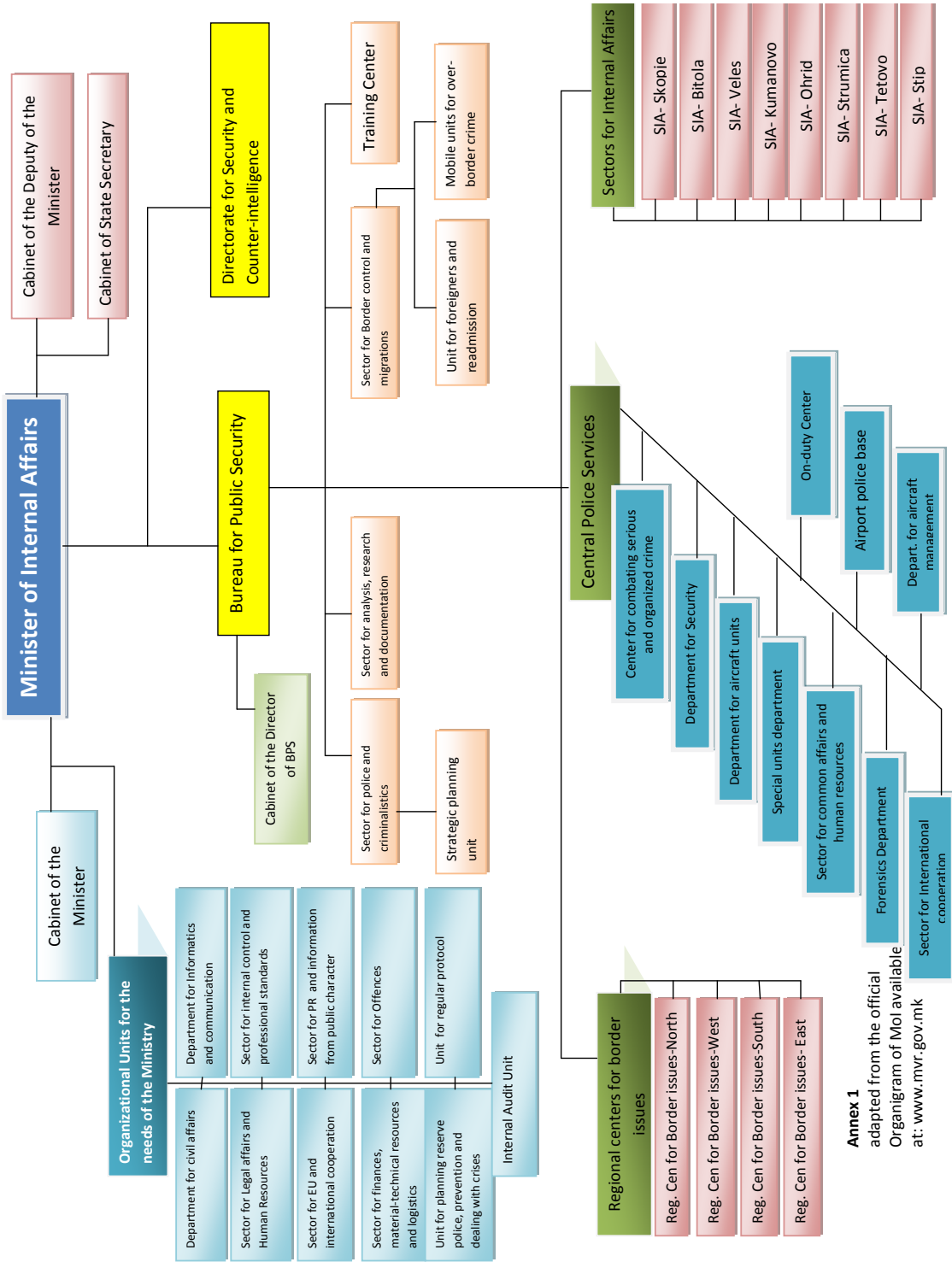
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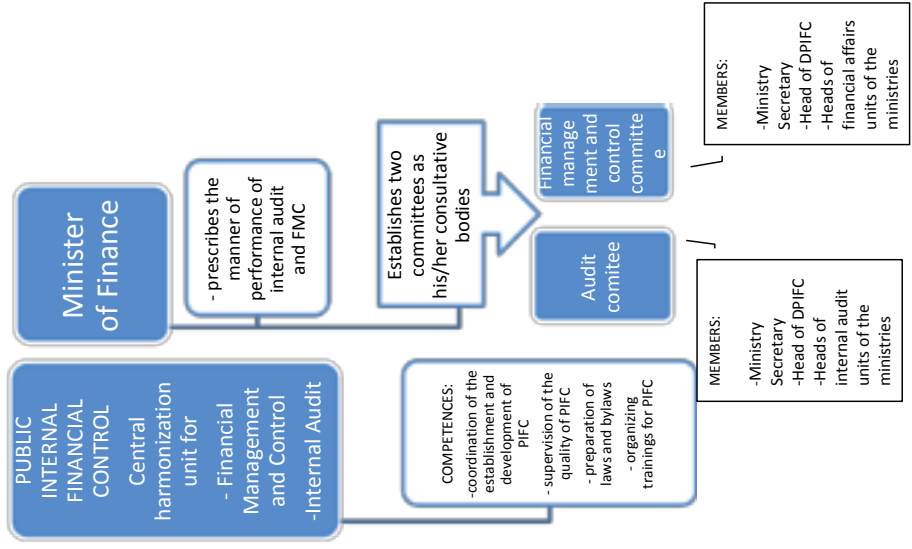
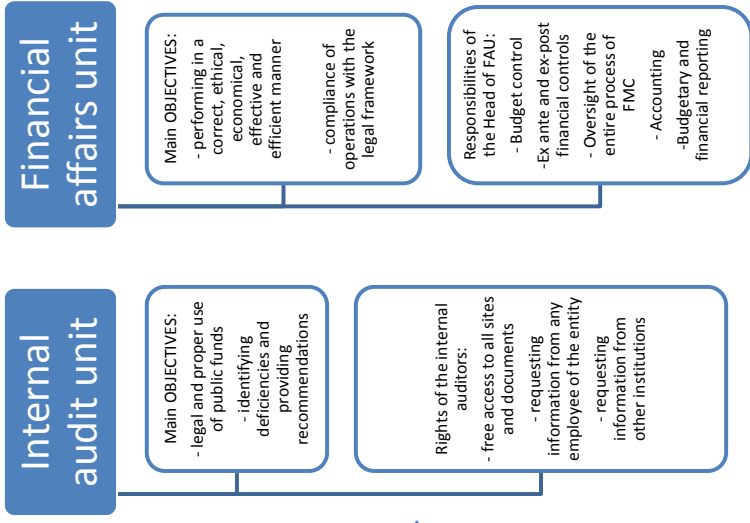
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3. Interview with an official from the intelligence services in Macedonia, conducted on 10.07.2012.



**Annex 1**  
 adapted from the official  
 Organigram of MoI available  
 at: [www.mvr.gov.mk](http://www.mvr.gov.mk)

# SYSTEM OF PUBLIC INTERNAL FINANCIAL CONTROL KEY ACTORS







*Towards 2<sup>nd</sup> generation of*  
**Security Sector Reforms**  
**in MACEDONIA**

