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Promoting Transparency and Accountability

in Public Administration in North Macedonia



# ProTRACCO

Promoting Transparency and Accountability in Public Administration

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## Integrity Concept for North Macedonia

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## PREFACE

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## LIST OF ABBREVIATIONS:

<b>SCPC</b>	State Commission for Corruption Prevention
<b>CRA</b>	Corruption Risk Assessment
<b>MoF</b>	Ministry of Finance
<b>MoJ</b>	Ministry of Justice
<b>RNM</b>	Republic of North Macedonia
<b>LAS</b>	Law on Administrative Servants
<b>LPCCI</b>	Law on Prevention of Corruption and Conflict of Interest
<b>LPSE</b>	Law on Public Sector Employees
<b>LPW</b>	Law on Protection of Whistle-blowers
<b>LFPP</b>	Law on Financing Political Parties
<b>LUDSMP</b>	Law on Use and Disposal of State-Owned Property and Municipal Property
<b>Government Ethics Code</b>	Code on Ethics for the members of the Government and for the public officials appointed by the Government
<b>LFAPI</b>	Law on Free Access to Public Information
<b>LIQMS</b>	Law on Introduction of a Quality Management System and a Common Framework for Assessing Operations and Providing Services in the Civil Service
<b>LPP</b>	Law on Public Procurement
<b>SCPPA</b>	State Commission for Public Procurement Appeals
<b>SAO</b>	State Audit Office
<b>PRO</b>	Public Revenue Office
<b>SEC</b>	State Election Commission
<b>MISA</b>	Ministry of Information Society and Administration
<b>APDAS</b>	Academy for Professional Development of Administrative Servants

# Integrity Concept

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## 1. CHAPTER I. Introduction to the Integrity Concept

### 1.1 Background

The development of an Integrity Concept of the North Macedonia (RNM) was included as an activity in the State Program for Prevention and Repression of Corruption, Prevention and Reduction of the Occurrence of Conflicts of Interest, as well as in its Action Plan 2016 – 2019<sup>1</sup>. According to this Plan, the elements of the Integrity Concept covered: ethical codes; operating standards and procedures; corruption risk assessments; integrity policy; internal controls; trainings; internal reporting channels; management (conflicts) of interests; reporting and (transparency). The current Action Plan of the Public Administration Reform Strategy 2018-2022<sup>2</sup> pursues strengthening the integrity of institutions. To this end, the Plan requires conducting an analysis of the integrity and ethics implementation at the political and professional level, as a prerequisite for the risk management mechanism, as well as policy upgrade and monitoring based on clearly defined indicators.

In September 2020, the EU-funded Project *Promoting Transparency and Accountability in Public Administration in North Macedonia* commissioned the preparation of recommendations for drafting a concept of integrity (strategic document), alongside with a comparative analysis with other countries on integrity concepts (including preparation of analysis of the national legislation that regulates integrity and ethics)<sup>3</sup>. From the outset of the mission, the representatives of the State Commission for Corruption Prevention (SCPC) clarified that the idea of developing an Integrity Concept was linked to the extensive discussions from the past decade on the integrity plans, which mark the conclusion of the corruption risk assessment (CRA). Although it was always perceived as a natural area of expertise of the SCPC, the CRA was included as a part of the risk management process, prescribed to the public institutions under the legislation regulating public internal financial control (PIFC), the implementation of which was to be secured by the Ministry of Finance (MoF). This approach, however, prevented the SCPC from getting involved in what seemed to be its obvious area of competence. Therefore, the SCPC came to the conclusion that a broader view is required, in the form of an Integrity Concept, enabling the SCPC to develop various tools, such as: monitoring integrity obligations at the central/local levels; integrity training program; sectoral integrity assessment (complimentary to the institutional CRA).

Based on the mission's terms of reference and the expectations expressed by the SCPC, this paper presents a draft Integrity Concept, recommendations to further develop it and explanations for its intended use in line with the 2016-2019 national anti-corruption policy and

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<sup>1</sup> Under strategic goal 1: Strengthening institutional system and legislation for prevention of corruption and conflict of interest, 1.1. Area: Integrity and ethics in institutions at all levels.

<sup>2</sup> Under priority area 3: Responsibility, Accountability and Transparency, Special Objective 3.3.: Strengthening the Integrity of the Institutions, Measure 3.3.1. Strengthening the integrity and ethics at the political and professional level.

<sup>3</sup> Objective: "Strengthen ethics, integrity, transparency and accountability of public administration", Activity 1.2.1 "Concept of Integrity drafted".

the 2018-2022 public administration reform policy. It is not an assessment, nor a comparative analysis, but rather a systematization in a logical framework the existent and intended integrity requirements currently found throughout various sources of legislation. Most of the integrity elements described in the Integrity Concept are existent and compliant with international standards. However, several gaps (unregulated areas) were identified as well. The Comparative review conducted could be used as a source of inspiration for further developing the Integrity Concept and for closing the gaps.

## 1.2 Defining the terms used in the Integrity Concept

The **2017 OECD Recommendation on public integrity**<sup>4</sup> “integrity” clarifies the definition of “public integrity” and that of “public sector”:

*public integrity* refers to the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritizing the public interest over private interests in the public sector<sup>5</sup>.

In line with international standards, the **2019 Law on Prevention of Corruption and Conflict of Interest** (“Official Gazette of the Republic of Macedonia”, No.12/2019) contains the definition of an even broader term, that of “integrity”<sup>6</sup>. Besides, it would be relevant to quote additionally definitions provided in the same Law to “public interest”<sup>7</sup>, “corruption risk”<sup>8</sup>, “official person”<sup>9</sup> and “official duty”<sup>10</sup>, used throughout the Integrity Concept:

*integrity* means legal, independent, impartial, ethical, responsible and transparent performing of activities with which official persons protect their reputation and the reputation of the institution they are responsible for, i.e. are employed in, remove risks and remove the suspicions for possibilities of occurring and development of corruption and thus they provide confidence of the citizens in the performing of the public functions and in the work of the public institutions.

*public interest* means protection of basic freedoms and human rights recognized by the international law and determined by the Constitution of the Republic of Macedonia, prevention of risks for health, defence and security, protection of environment and nature, protection of property and freedom of market and entrepreneurship, rule of law and prevention of crime and corruption.

*corruption risk* means any kind of internal or external weakness or a process that may

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<sup>4</sup> <https://www.oecd.org/gov/ethics/recommendation-public-integrity/>

<sup>5</sup> The 2017 OECD Recommendation on public integrity defines the public sector as including “the legislative, executive, administrative, and judicial bodies, and their public officials whether appointed or elected, paid or unpaid, in a permanent or temporary position at the central and subnational levels of government. It can include public corporations, state-owned enterprises and public-private partnerships and their officials, as well as officials and entities that deliver public services (e.g. health, education and public transport), which can be contracted out or privately funded in some countries”

<sup>6</sup> Article 8 paragraph (7).

<sup>7</sup> Article 8 paragraph (8).

<sup>8</sup> Article 8 paragraph (6).

<sup>9</sup> Article 8 paragraph (2).

<sup>10</sup> Article 8 paragraph (10).

constitute an opportunity for occurrence of corruption within state bodies, public enterprises and other public sector institutions, which includes issues of conflict of interests, incompatibility of functions, receipt of gifts and other illicit payments, lobbying, lack of whistle-blower protection system, fraud, inappropriate use of powers, discretionary authorizations, financing of political parties and campaigns against the law, trading and unauthorized use of information, transparency of procedures and documents and other issues relevant for the integrity.

*official person* means all elected or appointed persons and public sector employees.

*official duty* means the sum of obligations that a person is obligated to undertake and which derive from the performance of a certain function or profession or the official position of the person.

Additionally to the definitions provided in the international and national legal frameworks, for the purposes of this Integrity Concept, such terms as: “professional integrity”, “institutional integrity”, “integrity climate” and “sectoral integrity” are further defined:

*professional integrity* means performing official duties with integrity and through constant adherence to shared ethical values, principles and norms for upholding and prioritizing the public interest over the private interest at the workplace (public institution).

*institutional integrity* imply all official persons in a public institution, managers and employees, acting with professional integrity.

*integrity climate* is the corruption-free environment in which public and private institutions function, achieved through implementation of the integrity requirements.

*sectoral integrity* represents the activity of all institutions in a sector unfolded with institutional integrity (examples of broader sectors: public, political, private; examples of narrower sectors: healthcare, education, law-enforcement, judicial etc.).

### 1.3 Scope of the Integrity Concept

According to the earlier mentioned RNM policy documents, the Integrity Concept is intended to cover the public administration and public institutions.

However, nation-wide, it is impossible to grow a culture of integrity if the public sector is dealt with in isolation from the private sector and the political sector. The latter partly overlaps with the public sector, through political party members appointed and elected in state functions, and partly overlaps with the private sector through political party members remaining outside state functions, but enjoying or not state financial support.

For these reasons, the scope of the Integrity Concept, as defined by the SCPC, extends to cover requirements for the:

- *public sector*
- *political sector*
- *private sector (to the extent to which it connects to the public sector).*



### 1.4 Responsibilities within the Integrity Concept

There are different responsibilities engaged in the process of achieving integrity in the public, political and private sectors: to establish an integrity climate in the institution, to support it using “friendly” means, to further enhance it through stricter means such as control and sanctioning. These four types of responsibilities within the Integrity Concept are further illustrated:

<i>Establishing the Institutional Integrity Climate</i>	Official persons (managers and employees) in a public institution acting with professional integrity, i.e.: merit-based recruitment and promotion, declaring gifts, managing conflicts of interests, avoiding incompatibilities, observing restrictions, enabling protected reporting, providing access to information, transparent public procurement etc.
<i>Supporting the Institutional Integrity Climate</i>	Integrity training Developing guidelines, methodologies, software aimed to assist fulfilment of integrity requirements
<i>Integrity Control</i>	Corruption Risk Assessment Corruption proofing of legal acts Control of the property status and interests Control of conflicts of interests Control of public spending Control of political parties financing Control of observing transparency and free access to information etc.
<i>Sanctioning Lack of Integrity</i>	Imposing disciplinary sanctions for ethical and integrity violations, which do not amount to other types of liability Imposing misdemeanour and criminal sanctions for integrity violations, as prescribed by the law

The above-illustrated delimitation of responsibilities can be used to further explain the construction of the Integrity Concept. At the Core of the Integrity Concept is the *responsibility for establishing the institutional integrity climate*, belonging to official persons in the public institutions: employees, on one hand, who have to comply with the integrity requirements and managers, on the other hand, who have to create the proper conditions in the institutions to enable employees to fulfil their integrity requirements, as well as to lead by example. In other words, official persons have to act with professional integrity.

The core responsibility is then further strengthened through the *responsibility for supporting institutional integrity climate*, belonging to the managers of the public institutions, but also to outside actors, such as specialized state bodies such as the SCPC and others, as well as civil society organizations. Thus, if the official persons are not entirely able to act with professional integrity, due to insufficient understanding of integrity requirements or due to their complexity, it is possible to support them through special integrity training sessions, through development of methodologies, guidelines and software solutions. In charge of these supporting function can still be the institution's manager and/or other entities with special expertise.

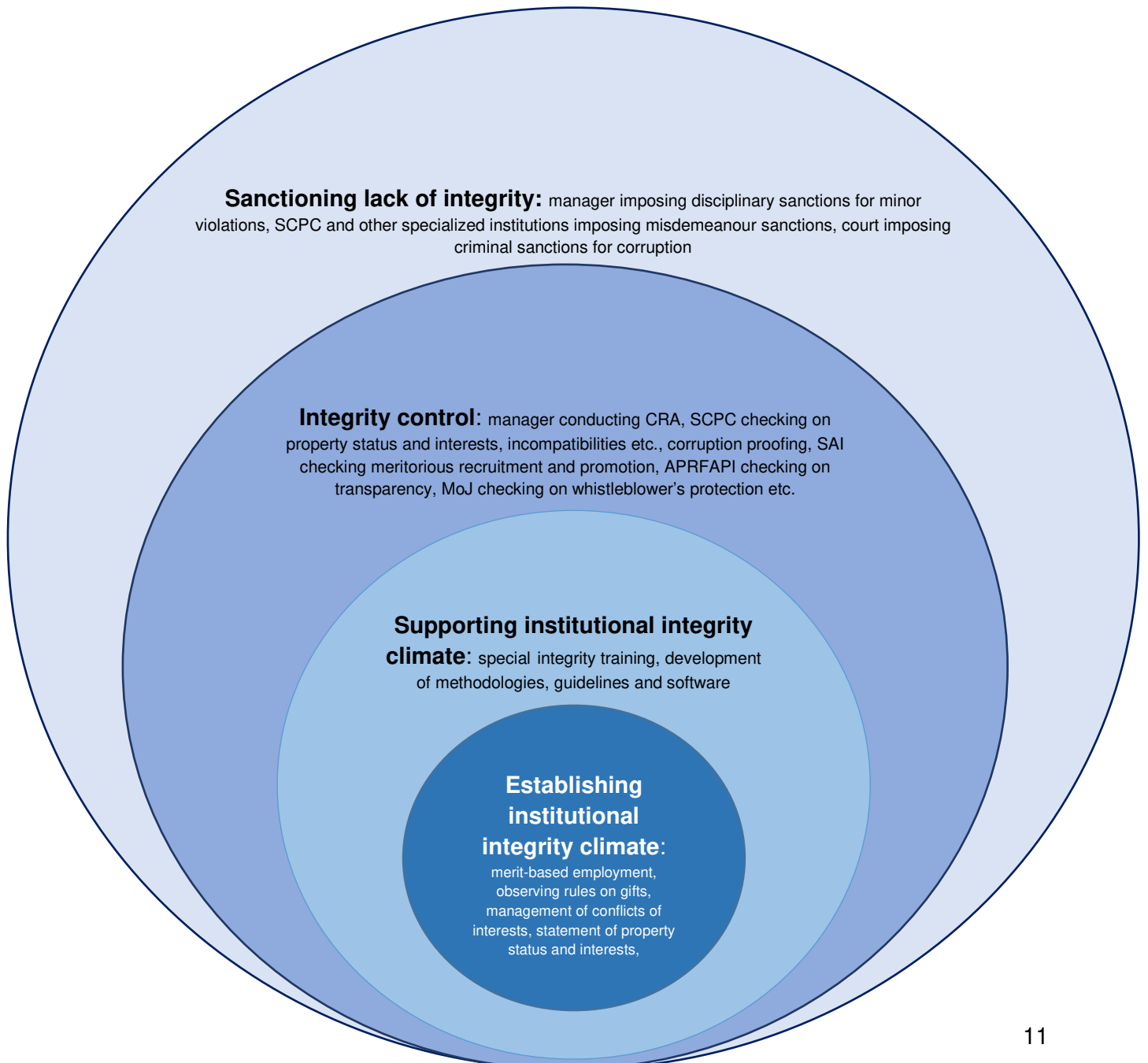
If the core responsibility of establishing the integrity climate is not fulfilled by managers and employees, if they do not seek support from other for the establishment of the institutional integrity, the next way of strengthening it is through *responsibility for integrity control*, through which either the public institution's manager has to check what is wrong and needs to be fixed to prevent corruption (i.e. through risk management and internal control of corruption) and/or external specialized institutions step in with control, oversight, monitoring over various aspects of integrity: SCPC checks on the property status and interests, conflicts of interests, incompatibilities, restrictions and limitations, conducts corruption proofing; the State Administrative Inspectorate – checks the observance of the merit-based recruitment and promotion; the Agency for the Protection of the Right to Free Access to Public Information – checks the transparency and openness towards the citizens of the public institution; the Public Procurement Bureau and the State Audit Office – the observance of the public procurement rules and the overall effective management of public assets; the Ministry of Justice – the observance of the whistle-blowers' protection etc.

At last, if the first three tiers of responsibility have not been able to secure the achievement of professional and institutional integrity, intervenes the *responsibility for sanctioning lack of integrity*, through which either disciplinary, misdemeanour or criminal sanctions are imposed. The institution's manager at this stage can only enforce the integrity requirements among employees through disciplining them and when the breaches are beyond the scope of disciplinary liability – it is for the manager or any other person to report the breach to the competent sanctioning bodies (i.e.: SCPC, prosecution, courts etc.)

Below is a graphical illustration of these four tiers of responsibilities within the Integrity Concept:

Figure 1.

### Responsibilities within the Integrity Concept



## 2. CHAPTER II. Establishing the Institutional Integrity Climate

### 2.1 Integrity requirements for all sectors

In the logical construction of an Integrity Concept, based on the above-mentioned four-tier list of responsibilities, it is important to understand that the responsibilities of establishing the institutional integrity should be primordial and that the rest of responsibilities only come afterwards. Therefore, at the core of the Integrity Concept should be the proper defining of the obligations related to fulfilling the integrity requirements by official persons, both managers and employees of public institutions.

- **Public sector integrity requirements**

- 1) Merit-based employment, promotion, leadership and rewards;
- 2) Respecting incompatibilities and restrictions;
- 3) Submitting statement of property status and interests;
- 4) Management of conflicts of interest;
- 5) Rules on gifts;
- 6) Codes of ethics;
- 7) Transparency, openness and access to information of public interest;
- 8) Transparent public procurement and efficient resource management;
- 9) Post-employment restrictions (pantouflage/revolving doors);
- 10) Whistle-blowers' protection;
- 11) Intolerance of integrity violations.

- **Political sector integrity requirements**

- 1) Transparency of political parties funding and financing of electoral campaigns
- 2) Ethics codes for political parties and parliamentarians
- 3) Conflict of interest, statements of property status and interests for candidates in elections and candidates for political appointments
- 4) Observing lobbying rules

- **Private sector integrity requirements (connected to public sector)**

- 1) Refraining from hiring former public employees during the period of post-employment restrictions (pantouflage/revolving doors)
- 2) Observing public procurement rules
- 3) Observing lobbying rules

### 2.2 Public sector integrity requirements

The sources of the integrity requirements are the laws and by-laws, depending on which the obligations to fulfil the public sector requirements will be clear or not in the course of implementation. In this section, both the legal framework and the obligations included in it with regards to each integrity requirements in the public sector will be presented.

#### 2.2.1 Merit-based employment, promotion, leadership and rewards

##### **Legal framework:**

The *Law on Public Sector Employees (LPSE)*<sup>11</sup> sets the general legal framework on the human resources management in the public sector. LPSE is an umbrella-law above other specific-sectoral laws, which separately regulate the details of certain public activity. Articles

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<sup>11</sup> Law on Public Sector Employees, Official Gazette of RNM no. 27/14 and subsequent amendments

4-13 regulate the general principles or the basis on which employment in the public sector is based. Articles 20a-23 regulate the employment process. The implementation of these articles is further clarified in the *related bylaws*:

- Rulebook on compulsory elements of the public call for filling a job position in the public sector throughout application for employment, and the form, content and the manner of keeping a register of persons who provided false data in employment in public sector;
- Methodology on planning of the employment in the public sector pursuant to the principle of adequate and equitable representation and the content and the form of the annual plan for employment and report on implementation of the annual plan for employment.

The *Law on Administrative Servants (LAS)*<sup>12</sup> is a special law that covers in a broader and precise way all aspects of employment of the administrative servants (one of the four groups of public sector employees).<sup>13</sup> Articles 30-47 regulate the employment process. Articles 48-53 regulate the promotions. Articles 85-97 regulate the rewarding system. The implementation of these articles is further clarified in the *related bylaws*:

- Decree on implementation of the procedure for employment of administrative servants;
- Rulebook on the form and content of the internal note, the manner of submission of the application for promotion, performance of administrative selection and interviews as well as the way of scoring and the maximum number of points from the selection process, depending on the category of work;
- Rulebook on performance semi-annual interview, the detailed criteria for the assessment of the administrative servants;
- Annual decisions on determination of the value of the single unit for calculation of the salaries of the administrative servants.

### ***Obligations of managers and employees in public institutions***

Obligations related to recruitment, promotion, professional development, evaluation and reward of the employees in the public sector are set in a clear way, with clearly defined time frames in the LPSE.

The employment in the public sector should be planned in advance, through annual employment plans adopted by each institution individually. The employment plan should be confirmed and accepted by the state body responsible for the budgeting of the institution.

Recruitment and promotions are based on open competition and the results of a selection procedure.

The merit system introduced in the LAS for the administrative servants precisely defines the duties on the side of the public institution and on the side of the administrative servants.

The public institutions plan the employment of administrative servants in advance, in their annual plans.

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<sup>12</sup> Law on Administrative Servants, Official Gazette of RNM no. 27/14 and subsequent amendments

<sup>13</sup> Certain issues related to the employment of administrative servants in the judiciary and public prosecution, diplomacy, customs and tax administration, inspectorates, state audit office, regulatory bodies and the National Bank, may be regulated with separate law or by collective agreement in a manner different from the LAS.

The recruitment process starts with a public announcement for the vacant job position and the criteria that are required from the potential candidates. In a transparent, fair and competitive selection procedure, the best candidate for the job should be selected.

The promotion process starts with internal announcement, after which in a transparent, fair and competitive selection procedure the best candidate from the current employees in the institution shall be selected.

The recruitment process for administrative servants is managed by the Agency for Administration.

### 2.2.2 Respecting incompatibilities and restrictions

#### **Legal framework:**

Article 38 from the LPSE sets the general framework of incompatibilities in the public sector. Article 45 from the *Law on Prevention of Corruption and Conflict of Interest (LPCCI)*<sup>14</sup> regulates the restrictions of the appointed and elected officials in the exercise of public office.

Articles 44 and 49 from the LPCCI regulate the incompatibilities of the appointed or elected officials with other professions.

#### **Obligations of managers and employees in public institutions**

The LPSE establishes that the work of the employees in the public sector is incompatible with exercising direct political activities during the working time and at the working place.

The LPCCI defines the particular situations and activities that are incompatible with the role of public function due to public confidence in the integrity, impartiality, and personal disinterestedness of the official persons. The appointed and elected officials during the exercise of public office are restricted in (i) managing a company or institution as an owner (ii) holding managing rights in the management board of a private company or institution.

The appointed or elected official is obliged to notify the institution where he is appointed or elected, about the legal entities in his ownership, in which he has shares or managing roles. The appointed or elected official should transfer the management rights to third parties.

### 2.2.3 Submitting statement of property status and interests

#### **Legal framework:**

The LPCCI determines the categories of officials who are obliged to report their property status and interests to the SCPC. Articles 82-86 regulate the manner of the reporting. Article 87 regulates the publicity of the submitted declarations. Articles 89-91 regulate the Register that is kept by the SCPC. Articles 92-96 regulate the procedure for control checks and investigation of the assets and interests of the officials.

#### **Obligations of managers and employees in public institutions**

Any elected or appointed person, responsible person in a public enterprise, public institution or other legal entity with state capital, administrative servants of category A determined by law or a person employed in the office of the President of RNM, the President of the Assembly of

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<sup>14</sup> Law on Prevention of Corruption and Conflict of Interest, Official Gazette of RNM no. 12/19 and subsequent amendments

RNM, the Vice-Presidents of the Assembly of RNM, the Prime Minister of RNM, the Deputy Prime Ministers of RNM, the Ministers and the Secretary General of the Government of RNM, are obliged to submit a statement of property status and interests within the strictly deadlines stipulated by LPCCI.

The same officials are obliged to report any changes in their property status and interests that may occur during the exercise of the office.

#### 2.2.4 Management of conflicts of interest

##### Legal framework:

The LPCCI regulates the prevention of conflict of interests between officials' personal interests and their duties as civil servants. Articles 72-75 regulate the process in case of and reporting a conflict of interests. Articles 76-81 regulate the procedure for determination of conflict of interests in front of the SCPC.

##### Obligations of managers and employees in public institutions

The LPCCI defines in a consistent way the main duties for the officials (any elected or appointed person and public sector employees) for managing conflict of interests:

- to undertake measures for avoidance of any potential conflict of interests;
- to notify their superior in case of conflict;
- to ask for exemption and stop their actions under certain circumstances; etc.

Also, upon notification of the officials, the managing person of the institution where they work, is obliged to take all measures in order to prevent the occurrence of conflict of interests.

#### 2.2.5 Rules on gifts

##### Legal framework:

Article 39 of the LPSE regulates the gifts for officials. The implementation of the above-mentioned article is further clarified in the Decree on the manner of utilization of the received gifts and management of the records of the received gifts and other issues related to the received gifts.

Also, gifts are regulated in Article 58 of the LPCCI.

Further provisions applicable to gifts are contained in Articles 55, 56 of the *Law on Use and Disposal of State-Owned Property and Municipal Property*<sup>15</sup> (LUDSMP).

The implementation of the above-mentioned article is further clarified in the Decree on the criteria, the process of receiving and giving gifts and reporting of gifts.

##### Obligations of managers and employees in public institutions

The LPSE provides that the employees in the public sector should not receive gifts that are connected with their work, except protocolary and occasional gifts of non-significant value. The LPSE defines the way the gifts should be reported to the institution and the value of the gifts that are allowed to be received.

The SCPC is responsible for preparing and publishing a catalogue of gifts based on data obtained in accordance with the law.

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<sup>15</sup> Law On Use And Disposal Of State-Owned Property And Municipal Property, Official Gazette of RNM no. 78/15 and subsequent amendments



Under the LPCCE the officials in the public sector should not receive gifts that are connected with their work, with certain exceptions determined by law.

The institutions are obliged to submit an annual report on received gifts to the SCPC.

According to the LUDSMP the officials should not receive gifts while exercising office, except in cases and under circumstances precisely determined by law. The law also determines which gifts would be considered to be a property of the state, and not of the individual who received them.

The public institutions and the state authorities could give gifts under the rules determined with law.

## 2.2.6 Codes of ethics

### Legal framework:

The *Code on Ethics for the members of the Government and for the public officials appointed by the Government (Government Ethics Code)*<sup>16</sup> regulates the manner of their behaviour and work in order to ensure strengthening of their integrity and the citizens' trust in their work. Articles 3-11 determine the basic work principles and standards. Article 12 regulates the avoidance of the conflict of public and private interests. Article 13 regulates the separation of state and political party interests. Article 15 regulates the approach towards the employees related to their impartiality. Article 17 regulates the receiving gifts. Article 18 regulates the integrity regarding the use and costs of material resources. Article 22 regulates the reporting of conflict of interests.

The *Code of Administrative Servants*<sup>17</sup> regulates the ethical standards and rules of conduct of administrative servants. Articles 5-12 determine the basic work principles and standards. Article 13 stipulates a prohibition for the administrative servants on taking advantage of their work status.

### Obligations of managers and employees in public institutions

According to the Governments Ethics Code, the members of the Government and the public officials appointed by the Government are obliged:

- to sign a statement confirming that they will adhere to the Government Code while performing their duties;
- to avoid any conflict of interests;
- to provide mechanisms for compliance with the legal regulations by all employees in the institution they manage;
- when participating in party activities, they should not jeopardize the professionalism and availability of the public function;
- to respect the professionalism and impartiality of the public sector employees, and under no circumstances to instruct them to act contrary to the law; etc.

The Code of Administrative Servants stipulates obligations for the administrative servants, such as:

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<sup>16</sup> Code on Ethics for the members of the Government and for the public officials appointed by the Government, Official Gazette of RNM no. 232/20

<sup>17</sup> Code of Administrative Servants, Official Gazette of RNM no. 183/14



- to sign a statement for accepting the Declaration for joint mission of the employees in the public sector, at the time of employment;
- not to allow a conflict on personal and public interest and always to represent the public interest;
- not to take advantage of the status as an administrative servant; etc.

### 2.2.7 Transparency, openness and access to information of public interest

#### Legal framework:

The general legal framework on transparency is regulated by Article 10 of LPSE.

The special legal framework is defined by the *Law on Free Access to Public Information (LFAPI)*<sup>18</sup>. Article 8-11 from LFAPI regulates the duties of the holders of information for providing transparency and openness.

Articles 4, 6, 12-28 of the LFAPI regulate the process for gaining access to public information and the cost for the access.

#### Obligations of managers and employees in public institutions

The LPSE provides that the duties for public sector employees to provide access to public information are determined by law.

The LFAPI provides several ways of exercising transparent and accountable public sector: disclosure of documents, information and data at the initiative of the institution and disclosure of documents, information and data at a request of a third party.

The Agency for protection of the right to free access shall prepare a list and publish the holders of public information.

The LFAPI allows individuals and legal entities to exercise their right to access public information, providing detailed steps and timelines to be followed in this process. The individuals or legal entities could initiate the process through written, verbal or electronic requests.

The public institution holding of information should respond to the received request within 20 days.

The legal entity or the individual has the right to appeal in case their request has been denied.

The access to information is free of charge, except when copies of documents have been provided, the charge should be equal to the real cost for providing the copies.

### 2.2.8 Transparent public procurement and efficient resource management

#### Legal framework:

The *Law on Public Procurement (LPP)*<sup>19</sup> defines the legal framework for the public procurement procedures in order to be ensured the transparency and integrity of the process. Articles 33-38 regulate the general measures on preventing corruption and conflict of interests. Articles 41-42 regulate the public call for the procurement and availability of the tender documentation to all interested economic operators. Article 136 prohibits influence on the

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<sup>18</sup> Law on Free Access to Public Information, Official Gazette of RNM no. 101/19

<sup>19</sup> Law on Public Procurement, Official Gazette of RNM no. 24/19

decision-making by the State Commission for Public Procurement Appeals (SCPPA). Article 169 requires exemption of the members of SCPPA in case of conflict of interests.

Article 38 and 57 of the LPCCI also prohibits any type of privilege, discrimination or influence in public procurement procedures.

Articles 5 and 6 of the *Law on Introduction of a Quality Management System and a Common Framework for Assessing Operations and Providing Services in the Civil Service (LIQMS)*<sup>20</sup> regulates the introduction and use of international or Macedonian standard systems by the official within the institutions in order to ensure better quality of the services.

### **Obligations of managers and employees in public institutions**

The LPP determines the duties of the employees at the public authority, as members of the public procurement commission, and the appointed members of the SCPPA. The main duties are:

- all instructions regarding the procedure should be given to the employees in written or in electronic form;
- any person engaged at the public authority who has information about corruption case is obliged to inform the SCPC or the Public Prosecutor's Office;
- the members of the public procurement commission, as well as the responsible person of the public authority shall sign a statement for non-existence of conflict of interests, or in case of existence, they shall resign from the work in the commission;
- the members of the SCPPA shall be exempted from work in cases when there is a conflict of interests; etc.

According to the LPCCI the officials are obliged to:

- enable the SCPC to inspect the public procurement documentation; and
- not to exercise any unlawful influence on any other person in public procurement procedure.

The LIQMS imposes different duties on different categories of employees, such as:

- introduction of at least the basic standard ISO 9001;
- introduction of a common framework for assessing through employee involvement and self-assessment; etc.

### **2.2.9 Post-employment restrictions (pantouflage/revolving doors)**

#### **Legal framework:**

Articles 47 and 48 of the LPCCI impose certain restrictions on the officials in relation to their further employment after termination of their mandate.

### **Obligations of managers and employees in public institutions**

According to the LPCCI, the persons whose capacity as an official has been ceased are further (within a set time lines) restricted from:

- employment in a trade company in which the person has conducted a supervision;
- employment in a company with which the person has established any contractual relationship in the exercise of public authorizations;

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<sup>20</sup> Law on Introduction of a Quality Management System and a Common Framework for Assessing Operations and Providing Services in the Civil Service, Official Gazette of RNM no. 69/13 and subsequent amendments

- advocating for an organization with which as an official has established contractual or business relationship;
- representing a legal or a natural person in front of the authority in which as official has participated in making decisions;
- performing management or audit activities in a legal entity in which as official had performed supervisory or monitoring activities.

### 2.2.10 Whistle-blowers' protection

#### Legal framework:

General provisions of whistle-blower's protection are included in Articles 30 and 35 from the LPSE. Furthermore, such provisions are also inserted in Article 43 from the LPCCI.

The special legal framework is contained in the *Law on Protection of Whistle-blowers (LPW)*<sup>21</sup>. Further provisions are contained in the bylaw – Rulebook on protected internal reporting in institutions from the public sector.

#### Obligations of managers and employees in public institutions

Public sector employees are obliged to perform the work delegated by their superior or the authorized person of the institution. However, when performance of such work results in committing a crime, they are obliged to report it to their immediate superior and the SCPC.

The LPSE provides protection for the public sector employees who would disclose administrative wrongdoing, criminal or corrupt activities against the official duties, public interest, security and defence.

The LPCCI guarantees protection to the whistle-blowers' from criminal prosecution or any other liability for the disclosed information that indicate corruption activities.

The process of protected disclosure of information, the rights of the whistle-blowers' and the duties of the institutions involved are regulated by the LPW.

The whistle-blowers' is statutory safeguarded against reprisals and is afforded anonymity and confidential handling of the information supplied.

The protected reporting could be done as a:

- protected internal reporting (direct reporting at the institution of interest),
- protected external reporting (reporting at the Ministry of internal affairs, SCPC, Ombudsman etc.)
- protected public reporting (making the information publicly available).

The whistle-blowers should be protected and be guaranteed the confidentiality of the reporting. The identity of the whistle-blowers should not be revealed without his consent. The right for confidentiality could be limited only by a court decision.

The institution that has received the reporting should proceed further and to undertake the activities described by the LPW.

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<sup>21</sup> Law on Protection of Whistleblowers, Official Gazette of RNM no. 196/15 and subsequent amendments

### 2.2.11 Intolerance of integrity violations

#### Legal framework:

The laws subject of this analysis provides sanctions on parties that have engaged in corrupt practices or other integrity violations. Depending on the type of violation, severity of the consequences, the sanctions may be imposed as a disciplinary, misdemeanour or criminal. The specific determination of the sanctions, their duration, the right of remedies etc. are provided with the related law and bylaws.

LPSE regulates employment issues, the rights and obligations of the employees in the public sector.

This law on a principal level provides disciplinary and/or material liability for the violations of the integrity-related elements (Article 40).

Namely, the LPSE does not regulate the procedure for determining the liability of the employees in the public sector or the system of sanctioning. This matter is further clarified in the separate laws.

Article 64 from the LAS regulates the monitoring of the work of the administrative servants and the sanctions in case of a negative assessment.

Articles 70-80 from the LAS regulate the administrative servants' disciplinary regime.

The implementation of the above-mentioned articles is further clarified in the related bylaws:

- RULEBOOK on the process of performance of the disciplinary procedure for disciplinary offences and on the form of secret voting

Article 4 of the LPCCI stipulates the principle of integrity as one of the main principles to which all officials, including the appointed or elected persons, should adhere while undertaking actions related to the violation of integrity;

Articles 23, 24, 27, 94 regulate the mandatory cooperation between the institutions and the SCPC related to measures and actions in case of determined integrity-related violations;

Article 61 requires reporting crimes related to corruption by any official;

Articles 77, 78 regulate the measures and actions that should be undertaken by the institutions when determine a conflict of interests of some official.

Furthermore, all of the above-mentioned integrity requirements contains sanctions in their respective legislation, namely in the LPSE, LAS, LPCCI, LPP, LFAP, LIQMS and the LPW<sup>22</sup>.

#### Obligations of managers and employees in public institutions

The superior administrative servants are obliged to monitor the efficiency of the administrative servants during the year through annual evaluations. If the outcome of two annual evaluations in a row or three in the last five years, indicate lowest (negative) performance of the administrative servant, meaning underperformance and breach of the public service principles, the managing person of the institution should terminate the employment. This could be considered to have an impact of a sanction.

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<sup>22</sup> Please note that the list of the laws regulating the sanctioning integrity-related violations is not comprehensive considering that the separate laws and collective agreements are not part of this analysis.

A disciplinary procedure could be commenced against administrative servants (administrative servants of the class of secretaries are excluded) for the violation of their official duties.

Every administrative servant or other person in accordance with the law, has the right to initiate (with written submission) a disciplinary procedure against an administrative servant.

The secretary or the managing person of the institution should process the disciplinary proceeding in a manner specified with the LAS depending on the severity of violations (serious disciplinary offences or lesser disciplinary breaches).

The LPCCI stipulates certain duties for the public institutions and the employees, such as:

- the institutions are obliged to provide all the information to the SCPC needed for a certain investigation within 15 days as of receiving the request from the SCPC;
- the institutions should enable the SCPC to inspect their documentation;
- upon a notification of the SCPC, the institutions should undertake respective measures against the official who has violated the law or is related to conflict of interest, and notify the SCPC about the undertaken measures within 60 days as of receiving the notification;
- any official who is aware of a crime related to corruption by any other official is obliged to report it; etc.

In case the disciplinary violation at the same time represents a criminal/misdemeanours offence in accordance with the law, the disciplinary proceeding does not preclude the person from being criminally /misdemeanour prosecuted.

It is not specified whether the institution should report the administrative servant's criminal/misdemeanour offences to the authorized institutions (mainly the Public Prosecutor and the Ministry of Interior Affairs).

Appointed officials who are the managing persons of the public sector institutions, do not fall under the LAS and they are not disciplinary liable. Their duties and liabilities are defined with the law under which they are appointed.

However, they are exposed to political and criminal liability. The political liability means that they could be dismissed from the office by the authority (the Government) that appointed them. Also, they are criminally liable for any crime they commit connected to the exercise of the public office.

## **2.3 Political sector integrity requirements**

### **2.3.1 Transparency of political parties funding and financing of electoral campaigns**

#### **Legal framework:**

The *Law on Financing Political Parties (LFPP)*<sup>23</sup> regulates the manner of providing funds for the operation of the political parties, as well as the control over financing by the competent authorities. Articles 4-5, 23 regulate the publicity and transparency of funding sources and expenditures. Article 17 regulates the Register of donations. Article 25 regulates the

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<sup>23</sup> Law on Financing Political Parties, Official Gazette of RNM no.76/2004 and subsequent amendments

publication of the report of the received donations and the annual financial statement on the websites of the State Audit Office (SAO) and the Public Revenue Office (PRO).

The *Electoral Code*<sup>24</sup> provides the legal framework for the financing of electoral campaigns. Article 71 regulates the mandatory legal requirements related to the bank account on which the funds can be collected. Articles 83, 84 regulate the allowed and prohibited sources of funds, set limits on permitted donations and determine the needed reports that shall be prepared by the political parties. Article 85 regulates the preparing and submitting a complete financial report on the election campaign and performing audit to the same by the SAO.

### **Obligations of political parties and members**

Under the LFPP, the political parties are obliged to:

- publish a register of donations and an annual balance sheet on their websites;
- submit a report of the received donations and an annual financial statement to the SAO;
- submit a report of the received donations to the PRO;
- submit an annual balance sheet to the SAO, the PRO and the Central Registry; etc.

For the all above mentioned duties, there are strictly stipulated terms and time frames that parties are required to meet.

According to the Electoral Code, the political parties are obliged to:

- obtain a unique tax number and open a bank account designated “for election campaign”, only for the purpose of collecting funds for elections;
- transfer the difference in the permitted and donated amount to the Budget of RNM in case the donations exceed the permitted amount (from natural persons up to EUR 3,000 and from legal entities up to EUR 30,000);
- transfer the donated value to the Budget of RNM if the origin of the donation cannot be determined;
- conduct a register of donations;
- prepare and submit to the competent authorities a financial report, reports for the received donations, and publish the same on their websites.

The Electoral Code specifies the manner in which the political parties shall fulfil the above duties in a precisely defined period of time.

### **2.3.2 Ethics codes for political parties and parliamentarians**

#### **Legal framework:**

Article 8-c of the Electoral Code stipulates only an obligation for the political parties, participants in the electoral process, to sign a Code on Fair and Democratic Elections.

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<sup>24</sup> Electoral Code, Official Gazette of RNM no.40/2006 and subsequent amendments

Following the GRECO Fourth Evaluation Round, a Code of Ethics of MPs was adopted. In January 2019, the Assembly adopted amendments to the Code of Ethics with revised rules on conflicts of interests, gifts and sanctions. In July 2019, the competent supervisory body – the Assembly’s Committee on Procedure and Mandate-Immunity – adopted “Rules on conducting the procedure for determining committed minor and serious violations of the Code and on pronouncing measures stipulated by the Code of Ethics for MPs”, which also included a gift reporting form.

### **Obligations of political parties and members**

With the EC the political parties are obliged to pledge that:

- will not exert any pressure on the employees in the public administration and institutions;
- no employee or citizen shall be subject to any kind of threat to their employment and social security as a result of their support to any political party or candidate, or lack thereof.

### **2.3.3 Conflict of interest, statements of property status and interests for candidates in elections and candidates for political appointments**

#### **Legal framework:**

The LPCCI does not stipulate an obligation for the candidates in elections and political appointments to report a conflict of interests or to submit an assets declaration to the SCPC.

### **Obligations of political parties and members**

Currently missing.

### **2.3.4 Observing lobbying rules by politicians**

#### **Legal framework:**

There are not any provisions within the Law on Lobbying which refer to the political parties.

### **Obligations of political parties and members**

Currently missing.

## **2.4 Private sector integrity requirements (connected to public sector)**

### **2.4.1 Refraining from hiring former public employees during the period of post-employment restrictions (pantouflage/revolving doors)**

#### **Legal framework:**

The LPCCI does not set out restrictions for hiring former public employees that the private companies should adhere to and pay attention to. It is only up to the former official to adhere to the restrictions stipulated by the LPCCI.

### **Obligations of businesses:**

Currently missing.

### **2.4.2 Observing public procurement rules**

#### **Legal framework:**



The LPP provides certain rights and obligations for the economic operator in relation to be assured a transparent public procurement procedure. Articles 34 regulates reporting of corruption. Articles 88 and 120 regulate the grounds for exclusion from the procurement procedure or termination of the procurement contract. Article 136 prohibits influence on the decision-making of the members of SCPPA.

#### **Obligations of businesses:**

The economic operators are obliged to:

- inform the SCPC or the Public Prosecutor's Office as interested persons in case they have information on corruption;
- not exercise any influence on the decision-making by the members of the SCPPA; etc.

#### **2.4.3 Observing lobbying rules by business**

##### **Legal framework:**

The Law on Lobbying<sup>25</sup> regulates the lobbying for the legislative and executive authority at central and municipality level, by the registered lobbyist. Article 6 regulates the transparency of the lobbying. Articles 8 and 9 stipulate a prohibition for certain categories of people to perform lobbying.

##### **Obligations of businesses:**

The companies are obliged to:

- register in the Register of Lobbyists which is kept in the Assembly of the RNM;
- give accurate data for the person who he is lobbying for and the purpose of the lobbying;
- respect the rules for the conflict of interests and prevention of corruption;
- submit a report on the lobbying to the General Secretary of the Assembly of RNM and the SCPC; etc.

### **3. CHAPTER III. Supporting the Institutional Integrity Climate**

#### **3.1 Research, education and awareness raising on integrity and anti-corruption**

Public sector employees have the right to continuous professional development, for which the institutions bring appropriate programs.<sup>26</sup> The Ministry of Information Society and Administration (MISA) is preparing an annual program of generic training for administrative staff, which it adopts no later than July 1 of this year for the following year.<sup>27</sup> Based on the trainings from the individual plans for professional development, the secretary, i.e. the head of the institution in which a secretary is not appointed, prepares an annual training plan for all administrative employees in the institution.

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<sup>25</sup> Law on Lobbying, Official Gazette of RNM no.106/2008 and subsequent amendments

<sup>26</sup> Law on Public Employees, Article 28.

<sup>27</sup> Article 56 of the LAS.



Generic trainings are performed for the purpose of professional development of the administrative employees in accordance with the framework of general competencies, and the specialized ones are performed for the purpose of professional development in relation to the special competencies. Specialized trainings can be organized at the Academy for Professional Development of Administrative Servants (APDAS), which is an organizational unit in the MISA<sup>28</sup>.

The LAS envisages mentoring as a method of transferring knowledge and skills among administrative officers. A mentor can be any administrative officer who is assigned to a higher-level job than a mentored administrative officer, and who has completed mentor training<sup>29</sup>.

The MISA envisages conducting generic trainings on “Anti-corruption measures and ethics in the civil service”, in cooperation with the SCPC. In 2018, 64 administrative staff visited such trainings. No data for trainings carried out in 2019 were available.

The administrative staff have limited opportunities to learn about the integrity and professional ethics of training, as well as the importance of corruption in the civil service and measures to prevent it through training, although officials have the will and need for specific training on ethical standards in the service<sup>30</sup>.

According to Article 17 entry 19) of the LPCCI, part of the SCPC competence is to undertake activities in the field of education and awareness raising on corruption and conflict of interest. Article 30 of the LPCCI prescribes for the cooperation of the SCPC with associations and foundations, scientific institutions and the private sector, in the frames of realization of their program activities that include research, analysis, trainings, informing and raising the awareness of the public and the public sector institutions and transfer of good practices, the State Commission may co-operate with associations and foundations, scientific institutions and the private sector, in the area of prevention of corruption.

### **3.2 Guidelines, methodologies, software supporting implementation of integrity and anti-corruption tools**

In implementing the integrity requirements, the public, political or private institutions can develop themselves or request assistance from the SCPC, other specialized state institutions or civil society organizations support in developing guidelines, methodologies, software solutions and other means to support the use of integrity and anti-corruption tools. For instance:

- guidelines for conflict of interest management, for filling out the statement of status property and interests, for providing free access to information or for handling protected reports.
- methodologies for institutional integrity assessment, for corruption proofing of legislation, for conducting integrity and anti-corruption training courses.

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<sup>28</sup> Analysis of the implementation of the regulations that govern the integrity and ethics at the political and professional level, Elena Dimovska, August 2019, page.18-19.

<sup>29</sup> Article 60 of the LAS.

<sup>30</sup> Analysis of the implementation of the Code for Administrative Servants - Current situation, conclusions and recommendations, prepared by the International Republican Institute (IRI), February 2019.

- software solutions for anti-corruption surveying, for e-learning on integrity topics, for monitoring the implementation of an action plan by employees.

## **4. CHAPTER IV. Integrity Control**

### **4.1 Responsibility for integrity controls**

Considering the legal framework of the institutional integrity climate, responsibility for exercising control over different aspects of integrity are:

- Within the public institutions – managers of these institutions;
- Outside public institutions – special state bodies.

### **4.2 Integrity controls in institutions by managers**

Managers have an overall role of exercising control over the implementation of the integrity climate requirements by the employees and are entitled to bring those who violate the rules to disciplinary liability.

However, if the violation amount to a misdemeanour or crime – the manager has to report it externally to other specialized bodies. However, such bodies can exercise control over fulfilment of integrity requirements in their ambit of competence even without such reports from the managers.

#### **4.2.1 Ethics Code**

Provisions prescribing control over integrity requirements only to the managers are those related to controlling the application of Ethics codes in the public institutions.

#### **4.2.2 Corruption Risk Assessment**

There are special means of controlling fulfilment of ethics and integrity in the public institutions, carried out under the Law on Public Internal Financial Control 2009 (PIFC)<sup>31</sup>, as part of the overall risk management approach, namely the Corruption Risk Assessment, as a result of which an integrity plan of the institution has to be developed. Corruption Risk Assessment is part of the Risk Management Guidelines, adopted by the Ministry of Finance. In this context, the internal auditors in the public institutions have a leading role in conducting risk management and alerting the manager of the risks, including those of corruption in the institution.

Implementation of this control measure is a sound indicator of the interest of the manager to uphold integrity in the public institution, through the assessment and management of corruption risks.

### **4.3 Integrity controls in institutions by special state bodies**

Different elements of the integrity climate in the public institutions and sometimes – in the political and private sectors – are checked by special state bodies, such as the SCPC, SAI, APRFAI, PPB, SAO, MoJ, PRO, SEC.

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<sup>31</sup> Law on public internal financial control (Official Gazette No.90/2009, 12/2011 and 188/2013)

The SCPC, however, due to its mandate dedicated to prevention of corruption does not carry out only integrity control in institutions, but overall in the public sector (*see section 4.4 below*).

#### **4.3.1 Mandate of the Special Commission for the Prevention of Corruption**

- Respecting incompatibilities and restrictions
- Submitting statement of property status and interests
- Management of conflicts of interest
- Rules on gifts
- Transparent public procurement and efficient resource management
- Post-employment restrictions (pantouflage/revolving doors)
- Transparency of political parties funding and financing of electoral campaigns
- Sanctioning integrity-related violations

#### **4.3.2 Mandate of the State Administrative Inspectorate**

- Merit-based employment, promotion, leadership and rewards
  - Rules on gifts
  - Transparency, openness and access to information of public interest
  - Transparent public procurement and efficient resource management
- The SAO performs an audit on all transactions as of the day of opening the election account until its closure. Even more, the three above mentioned authorities sign a Memorandum of Understanding in order to detect the irregularities in the financing of the campaign and take measures against the party which is subject to oversight.

#### **4.3.3 Mandate of the Agency for Protection of the Right to Free Access to Information**

- Transparency, openness and access to information of public interest

#### **4.3.4 Mandate of the Public Procurement Bureau**

- Transparent public procurement and efficient resource management

#### **4.3.5 Mandate of the State Audit Office**

- Transparent public procurement and efficient resource management
- Transparency of political parties funding and financing of electoral campaigns

#### **4.3.6 Mandate of the Ministry of Justice**

- Whistle-blowers' protection

#### **4.3.7 Mandate of the Public Revenue Office**

- Transparency of political parties funding and financing of electoral campaigns

#### **4.3.8 Mandate of the State Election Commission**

- Transparency of political parties funding and financing of electoral campaigns

#### **4.4 Sectoral and nation-wide integrity controls by the Special Commission for the Prevention of Corruption (SCPC)**

##### **4.4.1 Sectoral Corruption Risk Assessment (sectoral integrity assessment)**

This integrity control measure applied by the SCPC is similar to CRA as part of the risk management applicable by managers in the public institutions. However, in case of the SCPC, as of 2019 the new Law on prevention of corruption and conflicts of interests<sup>32</sup> sets the competence of the SCPC to *prepare analysis of the risks of corruption in different sectors*.

##### **4.4.2 Corruption Proofing (anti-corruption review of legislation)**

This integrity control measure is carried out by the SCPC at the nation-wide level, in line with the 2019 new Law on prevention of corruption and conflicts of interests<sup>33</sup> which sets the competence of the SCPC to *conduct corruption proofing of laws, by-laws and other general acts, in accordance with the methodology it adopts*.

### **5. CHAPTER V. Sanctioning Lack of Integrity**

All the above-mentioned integrity requirements contains sanctions in their respective legislation, namely in the LPSE, LAS, LPCCI, LPP, LFAPI, LIQMS and the LPW<sup>34</sup>. These laws provide sanctions on parties that have engaged in corrupt practices or other integrity violations. Depending on the type of violation, severity of the consequences, the sanctions may be imposed as a disciplinary, misdemeanour or criminal. The specific determination of the sanctions, their duration, the right of remedies etc. are provided with the related law and bylaws.

#### **5.1 Liability forms for integrity violations**

Integrity violations entail disciplinary, misdemeanour, tort and criminal liability.

Disciplinary liability is imposed by the managers, in both public institutions. Even though managers of private institutions are also able to impose disciplinary sanctions, the law does not require them to apply disciplinary sanctions for the integrity violations provided in this Integrity Concept.

Misdemeanour liability is established by the SAI, Labour Inspectorate, Misdemeanour Commission of the SCPC, Misdemeanour Commission within the Agency for protection of the right to free access to public information, courts.

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<sup>32</sup> Article 17 item 17 of the Law on prevention of corruption and conflicts of interests ("Official Gazette of the Republic of Macedonia" No. 12/19)

<sup>33</sup> Article 17 item 2 of the Law on prevention of corruption and conflicts of interests ("Official Gazette of the Republic of Macedonia" No. 12/19)

<sup>34</sup> Please note that the list of the laws regulating the sanctioning integrity-related violations is not comprehensive considering that the separate laws and collective agreements are not part of this analysis.

Tort liability is decided by the SAI and the Labour Inspectorate.

## 5.2 Sanctioning mechanisms by sectors

### 5.2.1 Integrity violations in the public sector

- 1) **Merit-based employment, promotion, leadership and rewards** – in case of violation of this integrity requirement, the SAI and the Labour Inspectorate issue misdemeanour payment orders for voluntary payment of the misdemeanour sanction. In case of no voluntary payment, the Inspectorate initiates a tort procedure in front of the authorized court.
- 2) **Respecting incompatibilities and restrictions** – the misdemeanour procedure is conducted and the sanctions are imposed by the Misdemeanour Commission in the SCPC.
- 3) **Submitting statement of property status and interests** – for the misdemeanours determined with the LPCCI, the Misdemeanours Commission within the SCPC leads the procedures and imposes the sanctions. In addition, if during the investigation of the property of the official, conducted by SCPC, the origin of the property is suspicious, the SCPC may initiate a criminal procedure in which case the court could impose a criminal sanction.
- 4) **Conflicts of interests** – The SCPC conducts the procedure for determining the conflict of interests. The Misdemeanours Commission within the SCPC leads the misdemeanour procedures and imposes the sanctions. Also, upon request by the SCPC, the authority that has elected or appointed the official or where the official has established employment, could initiate a procedure for dismissal or a disciplinary procedure against such official respectively.
- 5) **Rules on gifts** – Against the official who has received a gift contrary to the provided legislative, the institution where he works, should conduct a disciplinary procedure and impose a disciplinary sanction in accordance with the LAS. The Misdemeanours Commission within the SCPC leads misdemeanours procedures and imposes misdemeanour sanctions towards the officials who have been offered a gift contrary to the law, and have not refused such an offer.
- 6) **Codes of ethics** – The Government Code does not provide an external control over its implementation. Namely, the Government appoints one member of the Government who is responsible for monitoring the implementation of the Government Code and submits reports for that to the Prime Minister in a defined period of time. The Administrative Code does not provide an external control over its implementation. Considering the stipulated disciplinary liability for non-compliance, the institution where the administrative servant works is authorized to ensure execution of the Administrative Code. Failure to comply with the provisions of the Administrative Code is a basis for initiating and conducting a disciplinary procedure by the institution where the administrative servant works, in accordance with the LAS.
- 7) **Transparency, openness and access to information of public interest** – The Misdemeanours Commission within the Agency for protection of the right to free access to public information leads the procedures and imposes the sanctions.
- 8) **Transparent public procurement and efficient resource management** – Depending on the violation, different institutions are authorized to investigate the

potential violations and/or to impose sanctions, such as: the PPB; the SCPPA; the Administrative Court; the Primary Court competent for misdemeanours; the Public Prosecutor's Office; the Primary Criminal Court. The SCPC is authorized to notify the competent authorities such as the PPB, the Primary Court competent for misdemeanours or the Public Prosecutor's Office in order to be undertaken measures within their competences. The administrative inspector is obliged to issue a misdemeanour payment order to the person responsible for the misdemeanour in accordance with the Law on Misdemeanours. A competent court conducts a misdemeanour procedure and imposes a misdemeanour sanction for a performed misdemeanour under LIQMS

- 9) **Post-employment restrictions (pantouflage/revolving doors)** – The Misdemeanours Commission within the SCPC leads the misdemeanours procedures and imposes misdemeanour sanctions towards persons who do not comply with the provisions provided.
- 10) **Whistle-blowers' protection** – The misdemeanour procedure is conducted and a misdemeanour sanctions are imposed by a competent court.
- 11) **Intolerance of integrity violations** – The public sector institutions impose disciplinary sanctions for violations of their employees; the court for the criminal offences; the Government of the Republic of North Macedonia for the political sanction of the appointed officials. For the misdemeanours determined with the LPCCI, the Misdemeanours Commission within the SCPC leads the procedures and imposes the sanctions. The SCPC is also authorized to initiate a procedure for determining liability of the managing persons in front of the authorities which have elected or appointed them and/or the competent Public Prosecutor's office.

#### 5.2.2 Integrity violations in the political sector

- 1) **Transparency of political parties funding and financing of electoral campaigns** – Upon a proposal of the SAO, the Minister of Justice decides on the right for receiving funds from the Budget of RNM. The basic court is authorized to lead the misdemeanour procedure and decide on the misdemeanour sanctions. The SEC safeguard the legality of the elections in accordance with the EC. On the other hand, the SCPC decides, on its own initiative or upon filed complaints, for violation of campaign financing provisions of the EC. The Administrative Court is competent for deciding the cases initiated upon a lawsuit against the decision of the SCPC.

On the other hand, if the SAO detects irregularities in the financial report of the election campaign participant, the SAO shall initiate a misdemeanour procedure or shall report the irregularities to the respective public prosecutor.

The misdemeanours procedure shall be conducted and misdemeanour sanction shall be imposed by the court.

- 2) **Ethics codes for political parties and parliamentarians** – sanctions missing.
- 3) **Conflict of interest, statements of property status and interests for candidates in elections and candidates for political appointments** – sanctions missing, as candidates in elections and candidates for political appointments are not bound to declare conflicts of interests and to file statements of property status.
- 4) **Observing lobbying rules** – sanctions missing.

### 5.2.3 Integrity violations in the private sector

- 1) **Refraining from hiring former public employees during the period of post-employment restrictions (pantouflage/revolving doors)** – sanctions missing.
- 2) **Observing public procurement rules** – sanctions missing.
- 3) **Observing lobbying rules** The SCPC investigates violations performed by the lobbyists, imposes sanctions towards the same and notifies the General Secretary of the Assembly of RNM about it. Against the decision from the SCPC, the lobbyists are entitled to initiate an administrative dispute in front of the Administrative Court.

## 6. CHAPTER VI. Recommendations

This Integrity Concept brings together all the relevant aspects of anti-corruption and integrity aspects in the RNM in a system, explaining how integrity is born in the institutions from the public, political and private sectors, how integrity is upheld through support, control and sanctioning measures.

### 6.1 Improving the integrity system

The system described revealed certain missing elements. It is therefore recommended to consider introducing:

- Ethics codes for political parties and parliamentarians, sanctions for failure to respect them and institutionalize efficient internal monitoring mechanisms;
- Regulations on the conflict of interest, statements of property status and interests for candidates in elections and candidates for political appointments, as well as sanctions for failure to observe them and institutionalize efficient internal monitoring mechanisms with the use of information communication technology;
- Obligations of observing lobbying rules by politicians and sanctions for failure to observe them and institutionalize efficient monitoring mechanisms with the support of information communication technology;;
- Regulations and sanctions for the private sector failing to refrain from hiring former public employees during the period of post-employment restrictions (pantouflage/revolving doors);
- Review and clearly define sanctions for the private sector failing to observe public procurement rules;
- Sanctions for businesses failing to observe lobbying rules.

In addressing these recommendations, the SCPC is encouraged to refer to the identified good practices. The analysis provided therein helps to understand the process, good practices and evident weaknesses of foreign experience in implementing Integrity elements and institutes. The analysis also consists of warnings of possible failures during the implementation process.



## **6.2 Developing national and/or sectoral integrity strategies**

Understanding the role and the place of all the elements of the Integrity Concept, it becomes clearer what influences the growth of integrity in institutions, sectors and overall in the country.

It is therefore recommended to use the Integrity Concept to develop a National Integrity Strategy divided into sectors and/or to develop separate sectoral integrity strategies (i.e. for bigger sectors – public, political, private, or for smaller sectors – healthcare, law enforcement, sports etc.).

The national or sectoral strategies should aim at reinforcing the accountability of the institutions involved for carrying out their integrity-related mandate: establishing integrity climate in institutions, supporting institutional integrity climate, integrity control and sanctioning of the lack of integrity. The Strategy could make sure that no gaps are left in the accountability canvas of the institutions in charge of contributing, each at their level, to building an upholding integrity. Furthermore, such a strategy could either take the approach of filling in the gaps (i.e. establishing new obligations and sanctions which are missing, planning training sessions and designing guidelines, software etc.) or could envisage ongoing monitoring of the proper fulfilment of the obligations incumbent to different stakeholders in the Integrity Concept, additionally to filling in the gaps.

## **6.3 Designing a sectoral integrity assessment methodology**

The Integrity Concept has to set the base for designing the sectoral integrity assessment by the SCP. It would imply developing specific questionnaires on the fulfilment of the different roles of the stakeholders from a sector in terms of integrity, in order to understand what aspects of integrity need to be reinforced in the sector.

## **6.4 Developing integrity guidelines and training modules**

Frequently, the integrity framework in the RNM is not properly followed because it is scattered in different laws, by-laws, regulations. However, the systematization provided in the Integrity Concept enables the planning of appropriate trainings, as well as designing special guidelines for different professional categories, in which the general integrity requirements described herewith would be intertwined with the special professional requirements for different categories, i.e.: Integrity Guidelines for Judges, Integrity Guidelines for the Police, Integrity Guidelines for the local governance etc. It is therefore recommended to use the Integrity Concept as a basis for the drafting of different professional integrity guidelines and use them as a training material for the respective category.

## **6.5 Conducting integrity research, surveying and polling**

The Integrity Concept may be also used to research the integrity levels and issues through surveys and polls, in which questions could be asked about various integrity elements described in this Concept. These surveys and polls, if conducted regularly, could become a point of reference and a basis to design a national Integrity Index.