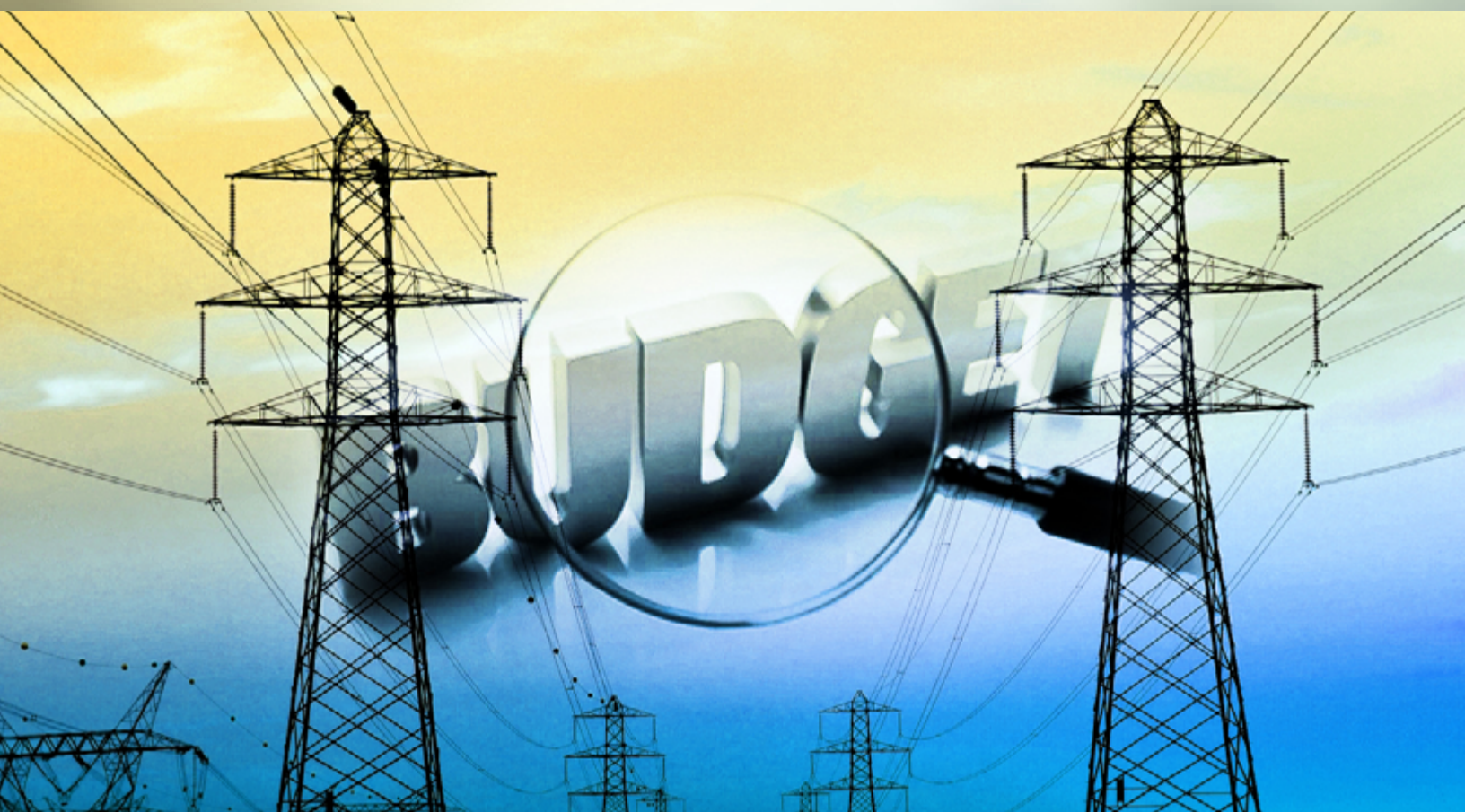


# THE ROAD TO FINANCIAL TRANSPARENCY AND ACCOUNTABILITY OF THE INSTITUTIONS AND COMPANIES IN THE ENERGY SECTOR IN THE *REPUBLIC OF MACEDONIA*



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The project "Monitoring of tenders, procurement and budgeting in the energy sector in Macedonia" was implemented under the project "Action network for good governance" implemented by Metamorfosis, Macedonian Center for European Training and Reactor – Research in action.

## Abbreviations

CPC	–	Commission for Protection of Competition
EA	–	Energy Agency
EC	–	European Commission
EU	–	European Union
ELEM	–	<i>Macedonian</i> Power Plants
ELES	-	System Operator for Electricity Transmission
ERC	–	Energy Regulatory Commission
HEP	-	HEP Group (Croatian Electricity Company)
HOPS	-	Croatian power system
HSE	-	HSE Group (Slovenian power generation)
ME	-	Ministry of Economy
MEPSO	–	<i>Macedonia</i> Electricity System Operator
PPL	–	Public Procurement Law
PPPO	–	Primary Public Prosecution Office
PPP	–	Public-Private Partnership
RM	-	Republic of <i>Macedonia</i>
SAO	–	State Audit Office
SCPC	–	State Commission for Prevention of Corruption

## Contents:

Introduction.....	4
Why is it important to know how the finances in the energy sector are being planned and spent?.....	5
The legislation and the institutions/companies in the energy sector .....	8
Energy budgeting.....	11
Institutional Placement.....	15
The role of parliamentary committees in funding of the energy sector.....	16
The role of the Energy agency of the Republic of <i>Macedonia</i> .....	20
The role of the Energy Regulatory Commission.....	25
Energy department at the Ministry of economy.....	29
Experiences from Slovenia and Croatia .....	33
ELEM AND MEPSO – how the two state companies operate.....	42
ELEM.....	42
MEPSO.....	49
Positive experiences from Slovenia and Croatia.....	54
Slovenia.....	54
Croatia.....	61
Problems with the financing and spending of public finances in the <i>Macedonian</i> energy sector.....	68
The findings of the SAO on concessions granted for the use of water for the production of electricity from small hydro power plants.....	68
The case of REK Bitola.....	71
Case study – cartel association and tax evasion.....	73
Conclusion.....	77
Recommendations.....	78
Sources.....	82

## Introduction

Good governance, based on transparency and participatory decision-making, is a precondition for a transition into a sustainable production and energy consumption in the Republic of *Macedonia*, cleaner environment and protection of nature and people's health. The energy sector in *Macedonia* is characterized by lack of transparency, which can be explained as it being a legacy from a former socialist way of governance, and a prolonged liberalization of the energy market. Considering that the energy sector in the Republic of *Macedonia* began with the process of privatization only in the last few years (beginning with the privatization of ESM<sup>1</sup> in 2006), this process of transitioning from state to private ownership was not without challenges, one of which of course, is the abuse of power by certain actors in the energy sector. Long-term strategies and the options for efficiency and diversification of the resources are often not properly developed, due to certain private interests in the energy sector. Among the actors, there are many state enterprises, as well as ones in private ownership, which are characterized with inefficient working and have a tendency towards non-transparent reporting and lack of accountability.

The lack of vision for the development of the energy sector in a direction that will offer solutions for the contemporary challenges, as well as favoring the large and ecologically controversial energy development plans are part of the issues that concern the energy sectors in all the Balkan countries. There is also the problem with lack of transparency in spending of public finances in the energy sector. All the while, the civil society sector is very little involved in the development of the energy policies, and in the active participation in the decision making process, as well as the oversight of their implementation.

Precisely because of this, it is important to analyze the different aspects of the functioning of the energy sector, with paying particular attention on the budgeting processes and financing of the institutions that create the energy policies, the state companies that are part of the energy system, as well as the private actors that profit from the energy market, often from the money of the taxpayers. The energy sector as such is quite complex, with the fore mentioned state and private actors, all the way to the end customers and households as the largest consumers of energy in *Macedonia*. Here of course, are also the non-state actors who observe the work of all entities involved "externally", such as civil society organizations, media, foreign donors etc.

The extensive analysis in this document generally refers to publicly available information, that is most often available on the websites of the state institutions, companies, as well as information gathered through the use of the Law on protection of the right to free access to public information, which is the main research tool used in this paper. The subjects of analysis in this document are the Energy Regulatory Commission of the Republic of *Macedonia*, the Energy Agency of the Republic of *Macedonia*, the Department of energy by the Ministry of Economy of the Republic of *Macedonia*, the Parliament of the Republic of *Macedonia*, ELEM<sup>2</sup> and MEPSO<sup>3</sup>. The transparency and accountability in their work were evaluated based on their financial operations, budget planning

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<sup>1</sup> Elektrostopanstvo *Makedonija*.

<sup>2</sup> Main generation company.

<sup>3</sup> Main transmission company.

and oversight of their implementation, their spending, public procurements and tenders, as well as in what shape and size this information is publicly available.

The methodology is based on an overview of the legal framework and analysis of the work of the institutions/companies that are subject of this research, based on certain parameters: 1. Whether there's an annual operation plan; 2. Whether there's an annual narrative, as well as financial statement for their operation; 3. Whether there are other types of published reports related to their work; 4. Whether there was a discussion about energy projects and about the financial element of energy projects (by analyzing the sessions of the Parliamentary commissions); 5. Comparing the planning and adopting of the budgets in the energy sector for the past five years; 6. The findings in the audit reports by the State Audit Office; 7. The availability of news and publicly available information about alleged misconducts, findings about corruptive behavior and other kinds of illegal behavior in the energy sector.

The analysis contains three key studies related to tenders on energy projects and with electricity trades, like for example discovered shortcomings in the functioning of the energy sector, rounded up with positive experiences of transparency in the energy sectors of other countries. At the end, there are conclusions and recommendations for each institution subjected to this analysis.

### Why is it important to know how the finances in the energy sector are being planned and spent?

There are many reasons why it is important to know how the budgets in the energy sector are being planned and subsequently spent. The most important reason for that of course, is that one of the main principles by which a democratic society functions is the democratic and impartial oversight over the ways the taxpayer's money is being spent. Furthermore, the mere nature of the energy sector, and its priceless value without whose existence the functioning of any modern society would be impossible, brings responsibility and risks of its abuse, risks that should be mitigated with clearly established rules of conduct. The problem is that, unlike other sectors, the energy sector is most often between state and private ownership, where the market rules must exist and be respected, but on the other hand, there has to be an appropriate legislature and regulation by the state since energy is a service that is unique and incomparable to others, so therefore it touches upon human rights. The insight into how the public finances are being spent for the upkeep and functioning of the energy sector, should be aided by an independent oversight from bodies formed by separate legislature granting them that role, along with the legislative branch of government as the supreme representative of the citizen's will.

According to the *Macedonian Law on Energy*<sup>4</sup>, an "energy system" is the system comprised of generation facilities, the electricity transmission grid, one or more electricity distribution grids and electricity consumers", while an "energy sector" is the economy sector that includes the energy activities stipulated under the present law; "regulated energy activity" is the energy activity by means of which the public service is provided and performed under the terms and conditions, manner, prices and tariffs stipulated, i.e., approved by the Energy Regulatory Commission (ERC). Another important definition in the context of this research is that 'obligation or obligations of public service provision', shall be one or more obligations imposed to the entities performing regulated energy

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<sup>4</sup>Law on Energy, Official Gazette nr. 16, 10.02.2011



activities for the purpose of public interest realization pursuant to the present law, and related to safety, including the reliability of supply, service affordability for users at all times, energy or energy fuel quality and price, services, as well as environmental protection, including energy efficiency and climate change protection. This in fact is the most important part of the law, where it is reflected that even though the state is oriented towards a liberal energy market, the goal is still to protect the end consumers.

For these reasons, there is a need for bodies/institutions that will alertly monitor the work of all actors involved in the energy system and the energy sector of RM, whose job, except involving large financial sums, is of exceptional value for the wellbeing of all citizens in the country, so henceforth the consequences of any abuse can be far-reaching. Unlike many other sectors, the oversight by the media, civil society organizations and expert bodies on how the public money are being spent in this sector is limited, partially due to its complexity and the need of expert knowledge of the energy field and functioning of all parts of the energy system. Precisely because of this, there is a need of external oversight institutions, like the Parliament and the supreme audit institutions, which will have a bigger role in how the public money is being spent in the energy sector in RM, which is a form of control against their possible abuse.

Another two laws that are very important for how the energy market will function, and whether there will be opportunities for abuse, are the Law on Protection of the Competition and the Law on the Control of State Aid. According to the Report from the Energy Community, the problem with the energy sector is precisely in the lack of their implementation. **The Law on protection of the competition** was adopted in 2010. The prohibition of cartel formations and abuse of dominant position are in line with articles 101 and 102 of the TFEU<sup>5</sup>. The law applies to public undertakings owned by the state or municipalities, as well as undertakings that have been entrusted with performing services of general economic interest. The implementation of the law has been entrusted with the Commission for Protection of the Competition (CPC). The changes and additions amending the Law on protection of the competition were adopted in February 2014 and refer to qualifications the members of the CPC should possess in order to be elected by Parliament. The changes that foresee the conditions under which the directors would qualify were not only limited to CPC, but were introduced in all the laws by which the work of all other commissions/ agencies (including the Energy Regulatory Commission) is regulated.

**The Law on the control of state aid** was also adopted in 2010. The law foresees prohibitions on state aid and rules for compatible aid in line with Art. 107 (2) and Art.107 (3) of the TFEU.<sup>6</sup> The CPC is assigned with evaluation and monitoring of the state aid. It is entrusted with considering the notifications and can order the return of an illegally awarded aid.<sup>7</sup> In both of these laws, there are no separate chapters or articles addressing energy issues, rather the articles generally refer to the energy sector through the provisions for state aid and protection of competition.

Fourth important law influencing the functioning of the energy sector with all its subjects, is the **Law on public procurement** that regulates the manner and the procedure for awarding public contracts, sets the competences of the Public Procurement Bureau, the competences of the Public Procurement Council, the establishment and competences of the State Appeals Commission and the legal protection in the procedure for awarding public

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<sup>5</sup>Treaty of the functioning of the EU - Annual Implementation Report, 2013/2014, Energy Community Secretariat, 01.08.2014

<sup>6</sup> Ibid.,

<sup>7</sup>Annual Implementation Report, 2013/2014, Energy Community Secretariat, 01.08.2014.

contracts.<sup>8</sup> There are several areas regulated by the law, one of which is Energy. As such, Article 182 through Article 184 regulate the installation and management of fixed grids intended for provision of public services in connection with the production, transport and distribution, i.e. the supply of gas, heat or electricity to such grids. The law does not regulate the production of electricity for own consumption.<sup>9</sup> The law regulates the suppliers, i.e. traders of electricity that import according to the market needs. Regarding the penalty provisions, the law even foresees punishments by imprisonment, most often with duration between one to three years. What the law fails to mention regarding the following areas it regulates

- Water
- Energy
- Transport
- Postal services; and
- Other covered activities

is that there are no specific penalties proscribed for breach of the articles in the above mentioned areas. Only the procurement of legal drugs has a specific penalty proscribed in Articles 232-b and 232-c.

"He who will consciously have a part in the subject of procurement of drugs, medical devices and / or medical disposables without the consent of the Council, and contrary to Article 15 paragraph (7) of the Act, and therefore will have greater benefits, or will cause more damage to himself or another, shall be punished with imprisonment of up to one year ... He who will consciously define the technical specifications of the procurement of drugs with a trade mark or a name of the producer / holder of the authorization for trade, contrary to Article 36 paragraph (3) of this Act, and with it will have greater benefits, or will cause more damage to oneself or for others, shall be punished with imprisonment of up to one year. "<sup>10</sup>

Such concrete provisions cannot be found regarding the trade, production, transfer and distribution of gas and electricity, which is a considerable omission since it represents a market that includes large funds, and a service that directly impacts people's lives and well-being. Another problem is that according to this law, one always has to choose the most favorable offer, i.e. the cheapest, which can be the expense of the quality offered. This runs the risk of choosing offers that do not meet fully the criteria of the public procurement announcement, but are the most economical option.

## The legislation and the institutions/companies in the energy sector

The main body which by the *Macedonian* legislation is charged with regulating all energy markets in *Macedonia* (the electricity, natural gas markets, and the markets for heat and oil derivatives<sup>11</sup>) is the Energy Regulatory Commission of the Republic of *Macedonia*, established in 2002 by the Law amending the Law on Energy (Official Gazette no. 94/02). However, the real work of the Commission began in 2003 after the adoption of the Decision

<sup>88</sup> Law on public procurement (пречистен текст на Законот за јавни набавки објавена од страна на Бирото за јавни набавки) <http://www.bjn.gov.mk/bjn-portal/wordpress/>

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.,

<sup>11</sup> Note of the ERC officially delivered to Analytica on 4.02.2015

regulating the appointment of the Director and members of the Commission by the Parliament of RM. The Decision was adopted on 32.07.2003. The main work of the Commission is governed by the general Law on energy and the Commission's own rules of procedure.

The whole of chapter 3 from the Law on energy<sup>12</sup> is solely devoted to the Energy Regulatory Commission, which describes in detail its responsibilities and authorities, its composition, who can be selected as a member, how the members are elected, the mandates, etc. Parliament of RM appoints the members and the Director of the Commission on the proposal of the Government (Article 16), though it is said that it is an independent institution. Also, the Parliament approves the Statute of the Regulatory Commission, and the Commission must, by 31 March each year (Article 35) submit an annual report for the previous year, including a report on the material and financial operations, to Parliament for approval. Although by law the Commission should be independent regulatory body that will carry out an independent, transparent control of the energy market (electricity, gas, etc.), where participation should be on a professional basis, still, these provisions provide opportunities for an indirect pressure on the Commission to be in line with the Government policies, or at least, for the lawmakers to approve its work.

The Commission is in fact the highest decision-making body in the energy sector, since even though the Government and the Ministry are the ones adopting the strategic documents, the market would not function without the existence of the Regulatory Commission that regulates all market participants - from granting licenses for manufacturing, to deciding on energy prices. Because of this, its independence and professionalism are of exceptional value for the transparent functioning of the energy market, with great care for the end consumers.

An interesting note is that the Parliament, which in many other energy aspects does not play any significant role, like active and substantial participating in the debates on the Strategies for energy development / sustainable development / energy efficiency etc., is now unnecessarily given additional authority of "control" over the work of a professional body such as the Regulatory Commission. This is the also the conclusion of the Energy Community, in which *Macedonia* is a member since its formation. Thusly, in the annual implementation report of the Energy Community Secretariat published on August 1, 2014, the section on *Macedonia* states that, among other things, *"ERC is granted autonomous and directly binding decision-making powers that are subject to judicial review only. Financial independence is provided by allowing the ERC to define its annual budget to be financed by means of charges collected from licenses and autonomously decide on the use of its budget"*<sup>13</sup>

The legally required approval of the Commission's budget by Parliament does not have to be of critical importance by itself, since the Parliament has no right to intervene in the right of the regulator to decide on allocating its budget. Also, the legal responsibility for approving the annual report of the ERC by the Parliament may not be of critical importance since the lack of approval is not listed as a reason for dismissal. However, the need for approval may also be a cause for undue political pressure on the regulatory body's decision-making. In practical terms, the Energy Regulatory Commission, still, does not live up to its legally granted independence to the maximum possible extent and, in particular, still does not take the active role necessary for tackling competition barriers in the energy market. To this extent, its complete independence could not be proven yet.<sup>14</sup>

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<sup>12</sup> Adopted in 2011.

<sup>13</sup> Annual Implementation Report, 2013/2014, Energy Community Secretariat, 1.08.2014

<sup>14</sup> Ibid.,



As an example, one can take the discussion of the Committee for Economic Affairs of the Parliament, held on November 29, 2013, where they discussed the draft financial plan for 2014. Thus so, the Director of the ERC Dimitar Petrov, as every year, presents the budget for the next year to the lawmakers, who then have an opportunity to comment. The biggest objection came from former MP Nikolche Acevski of NSDP<sup>15</sup>, who pointed to the troubled independence of the ERC, but not from the Parliament, to whom ERC is liable to, but by the Government. He said:

“In the past 4 years, from 700.000 Euros, the financial plan for 2014 calls for 1.120.000 Euros... In the European energy community’s report, it is stated that the ERC is not independent; the decisions made should be respected and implemented by the companies that own licenses for the energy business. ERC should investigate whether those decisions are being implemented. In case they are not, there should be sanctions... ERC is not independent, but under tight control of the Government of the Republic of *Macedonia*. That calls into the question the extent to which the rights of the consumers in Republic of *Macedonia* with regarding the monopolies.”<sup>16</sup>

The response of the President of the ERC Petrov was that ERC is “financed by an independent budget approved by the Parliament of the Republic of *Macedonia* and it is independent from the Government of the Republic of *Macedonia*”<sup>17</sup>. There was no explanation regarding the protection of the monopolies<sup>18</sup>.

If we take a look at the Law on Energy, the role of the Parliament, except in the part of “control” over ERC, is almost nonexistent when it comes to the energy sector. The state energy companies have almost no abutment. What exactly is being discussed on the Committees’ sessions when discussing the budget, especially regarding the energy sector, will be analyzed in the following section. The Parliament also has a limited role in adopting of the different strategies related to energy, such as the Strategy for development of the energy sector until 2020 with a vision to 2030, the Strategy for energy efficiency, as well as the Strategy for renewable energy sources. Even though the Government may submit such strategic documents for review to the Parliament, Article 10 from the Law on Energy states that the Government of the Republic of *Macedonia*, on the proposal of the Ministry responsible for the activities in the field of energy (hereinafter: Ministry) is publishing the Strategy for Energy Development.<sup>19</sup> The Government, on the proposal of the designated ministry, in this case the Ministry of Economy’s special Department of energy, has to at the latest one year from the day of adopting the Strategy for development of the energy sector, adopt a program for implementation of the Strategy for the period of five years, as well as an Energy balance for five years with which the country’s energy needs are set. Here too, the role of Parliament is almost nonexistent, since it is not mentioned at all. Article 10 also mentions the Energy Agency of the Republic of *Macedonia*, which according to the law “provides support for the preparation of the Strategy for Energy Development and implementation of energy policy”. As well as that the funds required for

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<sup>15</sup> A political party in *Macedonia*.

<sup>16</sup> Committee on Economic Affairs of the Parliament, Report on the Draft Financial Plan of the Energy Regulatory Commission for 2014, the thirty-ninth session held on November 29, 2013.

<sup>17</sup> Ibid.,

<sup>18</sup> A note submitted by the ERC on this was that it is problematic in the methodological aspect of the preparation of the study that conclusions are made solely on the basis of a note from stenographic minutes of a brief discussion in Parliament when making the financial plan for 2014. The study authors reviewed all discussions related to finance and energy in the Committees for Economic Affairs and Finance and Budget, and the said example is the only one where there was a discussion on the ERC.

<sup>19</sup> Law on Energy, Official Gazette no. 16, from 10.02.2011.

the preparation of the Strategy for development of the energy sector are provided from the Budget of the Republic of *Macedonia*, grants or donations.<sup>20</sup> Although, it is not stated where and in which budget item exactly the funds for the implementation of the strategy would be listed, nor is the role of the Parliament in this segment.

Regarding ELEM and MEPSO, even though they are companies in state ownership, the former for electricity generation and the latter for electricity transmission, i.e. the main transmission system operator, their work is not separately regulated. Part of their work is regulated through the articles relating to the areas like construction of new power plants, construction of new transmission and distribution systems and direct lines, the electricity market, what are the obligations of the electricity transmission operator, the distribution system operator, the licensed electricity etc., sections of the law that generally refer to all participants in the energy market, without separately mentioning the two largest companies on the market that are in state property. Regarding the segregation of the activities, what is most important is that the law prohibits “the legal entity performing electricity transmission activity cannot hold licenses on electricity generation, distribution, trade, supply and supply of last resort activities” as well as “the legal entity performing electricity distribution activity cannot hold licenses on electricity generation, transmission, trade, supply or supply of last resort activities.”<sup>21</sup> Even though this assures equality before the law for all market participants, it still leaves the impression that precisely the different status of the largest producer and the largest operator of the electricity transmission system should be regulated in more detail, whether by this one a different law for easier implementation of the legal provisions.

The other electricity producers, particularly the ones that use feed-in tariffs for utilizing renewable energy sources, will not be examined, since the focus is the spending of the money of the taxpayers in the energy sector. These companies are not in that scope, except through the feed-in tariffs, which are beyond the scope of this research<sup>22</sup>.

On the other hand, the electricity traders, which often import electricity on call, i.e. tender for the Government itself, will be part of this research. Their work is regulated with the Law on Energy through the Articles regulating the electricity market, so that “the Electricity Market Code, adopted by the Energy Regulatory Commission, stipulates in particular... the establishment, organization and supervision of electricity and ancillary services, including cross-border trading... Furthermore, Articles 81, 82, 83 govern the electricity traders in particular. What is most important here is that the electricity trader shall purchase electricity in the country and from abroad, for the purpose of selling it to other traders, suppliers, the electricity transmission system operator and electricity distribution system operator, as well as for the purpose of selling it to customers abroad... the electricity trader is obliged to: 1) Operate in compliance with the electricity market code as regards the reliability and volume of supply, for the purpose of fulfilling its obligations towards the customers; 2) to fulfill the financial guarantee requirements stipulated under the market code... As well as, for the purpose of transparent, efficient and competitive trade in electricity and ancillary services, electricity market participants can perform trade in electricity or ancillary services on the electricity exchange in the republic of *Macedonia* established pursuant to the law or

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<sup>20</sup> Ibid., Art. 10

<sup>21</sup> Ibid., Article 71 and Article 78

<sup>22</sup> The problem with renewable energy sources in *Macedonia* is that the financing through the feed-in tariffs is non-transparent, there is no separate budget for the feed-in tariffs, there is no information how big it is and where its revenues are from – with this the predictability for new investments is lowered, and with that the accountability of the Energy Agency and the Government towards the taxpayers. However, as it was stated, since it is, above all, private companies that manage such projects, for the needs of this research, RES will be excluded.

on the regional electricity exchange<sup>23</sup>. Naturally, the further work and the actual functioning of the electricity traders are regulated by the Energy Regulatory Commission in its rules and regulations.

## Energy budgeting

At first glance, in the Budget as prepared by the Ministry of Finance, it is difficult to notice the budgetary projections for energy in the specific calendar year. This certainly does not mean that nothing is financed from the Budget, but that the items planned for certain activities, like strategy implementations, action plans and the like, are most often placed in the items planned for the various ministries, agencies, commissions. However, taking into account the fact the energy sector is quite large, and penetrates in all aspects of social life, there might be a need for condition to change in the future in order to have a more transparent reporting on where the budget funds for energy go.

When we look at the Budget through the years, it is noticeable that here too there is no consistency in what will be presented and in what way. For example, in the Budget for the year 2000, there is a notification for the results achieved in the part of the Ministry of Economy in 2009 (Item 1), followed by priorities and goals for 2010<sup>24</sup>,

### 10001 МИНИСТЕРСТВО ЗА ЕКОНОМИЈА ВКУПЕН БУЏЕТ: 1.217.228 илјади денари

#### ОПИС И ГЛАВНИ ФУНКЦИИ

Министерството за економија е надлежно за создавање на услови за развој на индустријата базирана на иновации и знаење, регулација на внатрешниот пазар, развој на енергетскиот сектор, унапредување на деловната клима и поттикнување на домашните и странските инвестиции, зголемување на конкурентноста на корпоративниот сектор, создавање на услови за поттикнувачка деловна и инвестициона клима за раст на деловните активности и инвестициите, развој на претприемништвото и малите и средни претпријатија, искористувањето на природните минерални ресурси, зголемување и промоција на извозот, развој на јавно-приватното партнерство и развој на туризмот.

#### ПОСТИГНАТИ РЕЗУЛТАТИ ВО 2009 ГОДИНА

Во текот на 2009 година реализирани се активностите согласно: Програмата за развој на туризмот, Програмата за развој на претприемништвото, конкурентноста и иновативноста на малите и средни претпријатија, Програмата за подобрување на конкурентноста на македонските производи и услуги, Програмата за основни геолошки истражувања, Програмата за детални геолошки истражувања, Програмата за заштита на потрошувачите за период 2009-2010 година, Програмата за поддршка и развој на кластерското здружување во Република Македонија и Програмата за ревитализација на текстилната индустрија.

Изработена е WEB страна за туризмот, учествувано е на повеќе туристички саемски настапи, реализирана е соработка со англиски туроператори и потпишана е билатерална соработка со Црна Гора. Реализирани се меѓународните саеми за вино, земјоделско прехранбени производи, одржана е работилница „Стандарди за квалитет, нови технологии и трендови, можности и потенцијали за извоз за дрвната индустрија и индустријата за производство на мебел“.

Во делот на искористувањето на природните ресурси во текот на 2009 година сключени се договори за концесии за основни и детални геолошки истражувања на енергетски минерални сировини; ставени се во дигитална форма Основната инженерскогеолошка карта (ОИК) и Основната хидрогеолошка карта (ОХГК) за листовите Битола и Лерин; спроведени се дополнителни геолошки истражувања за јаглен во рамките на јагленовото наоѓалиште „Неготино“-Неготино; изработена е Студија и Проект за геолошки истражувања на нафта и гас на Република Македонија и започнати се истражувања и испитувања на геотермална енергија на река Пена-Тетово.

Донесени се Правилник за начинот за стекнување на статус на повластен производител на електрична енергија, произведена од обновливи извори на енергија, како и содржината, формата и начинот на водењето регистар на повластени производители на електрична енергија, произведена од обновливи извори на енергија и Уредба за критериумите и условите за прогласување на електроенергетска кризна состојба, начинот на снабдување со електрична енергија во овие услови, како и правата и обврските на носителите на лиценци за вршење на енергетска дејност. Во текот на 2009 година на 500 домаќинства надоместен е дел од трошоците за набавка на соларен колекторски систем.

Во текот на 2009 година Бирото за метрологија изврши жигосување на предмети од скапоцени метали, злато, сребро, верификувани мерила (електрични и механички), издадени се потврди за сообразност на единично прегледано возило.

while the one for 2011 includes only the priorities for that year, without an analysis of what has been done before. Consequently in the section on energy, the Budget for 2010 states: providing energy and investment growth in the energy sector<sup>25</sup>, while the one for 2011 only states energy development<sup>26</sup>. For a sector of invaluable importance, from which the growth and development of the economy depend on, as well as the well-being of all citizens, such short and unclear descriptions are not contributing towards larger transparency and accountability, or towards strategic growth and development.

#### Item 1

More detailed explanations about specific projects envisioned and budgeting can be found in the Statement of revenue and, accordingly, expenditures by items of all the bodies within the government, as well as the governmental and development programs,

<sup>23</sup> Law on Energy, Official Gazzette no.16 of 10.02.2011, Article 81 and Article 83.

<sup>24</sup> It is impossible to find such narrative explanation of the results for the previous year in any report after 2010. The reasons for such change in reporting by the Ministry of Finance are unknown.

<sup>25</sup> Budget of the *Republic of Macedonia*, 2010

<sup>26</sup> Budget of the *Republic of Macedonia*, 2011

where projects of the energy sphere can be found in the various budget items. As so, under the section of expenditures of the Ministry of Economy, it can be seen that the expenditures of the Energy Agency are also listed, as well as the Program for energy development (Item 2). This begs the question regarding the budget items of the Energy Agency, and why they are in the column of the Ministry of Economy when the Agency is a separate governmental institution and why, if regarded as such, and listed as a separate budget user, and its employees as civil servants, is not listed anywhere else in the budget.

Regarding the comparison of the funds planned for projects and ongoing activities in the area of energy in the Budget of RM, the budget analysis showed that:

- 1) Within the Ministry of economy, the program for energy development, the planned funds from 2010 until 2014 were (in thousands of denars):
  - 2010 –69.925
  - 2011 – 34.668
  - 2012 – 34.839
  - 2013 – 28.266
  - 2014 –22.472<sup>27</sup>

The drastic decrease in planned expenditures is more than obvious, where from 2010, until 2014 there is a decrease of 68%! Even though these are only the energy expenses that the Ministry of Economy should have, apart from the rest of the stakeholders involved in this sector, the drastic decrease in only four years whilst not knowing why in fact the Ministry is getting, or has planned, less funds is worrisome.

- 2) The largest projects outside of the energy development programs can be found in the programs of the Ministry of Economy and the Ministry of transport and communications (mostly when it comes to hydro power plants that are under the competence of the Ministry), and somewhat in the Ministry of environment and physical planning. As such, the analysis determined that gasification (feasibility study etc.) was a priority for RM, as stated in the overview of the development programs:

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<sup>27</sup> Budget of RM, 2010, 2011, 2012, 2013, 2014

THE ROAD TO FINANCIAL TRANSPARENCY AND ACCOUNTABILITY OF THE INSTITUTIONS AND COMPANIES IN  
THE ENERGY SECTOR IN THE REPUBLIC OF MACEDONIA

2010:	2011	2012	2013	2014
Program for electrification of villages under the competence of the Ministry of Economy with a budget of (in thousands of denars) from: 10,000 for 2011 and 13,000 for 2012 <sup>28</sup> .	The Program for electrification of the villages is no longer mentioned even though there were funds predicted for this year			
There were no other larger energy development programs planned with the budget for 2010	<p>A new gasification program under the competency of the Ministry of transport and connections is introduced with budgets (in thousands of denars) 44.000 for 2011, 468.810 for 2012 and 218.508 for 2013.</p> <p>These are from the core budget, while there are predicted expenses for this program from loans (foreign sources mostly) from (in thousands of denars): zero loans for 2011, 876.732 for 2012 and 1.213.938 for 2013<sup>2930</sup>.</p>	Development of a Gasification subprogram with (in thousands denars): 300.000 for 2012, 390.000 for 2013 and 900.000 for 2014. There are 90.655 for 2012, 735.720 for 2013 and 2.023.230 for 2014 predicted from loans <sup>31</sup> .	Gasification program predicted funds (in thousands denars): 244. 246 for 2013, 75.518 for 2014, and 27.590 for 2015 from the core budget, while 0 denars for 2013, 30.665 for 2014 and 153.275 for 2015 <sup>32</sup> are predicted funds from loans	Gasification program, 233.000 for 2014, 294.524 predicted for 2015, and 538.352 for 2016. Predicted funds from loans for this program are the following: 0 denars 2014, 10.829 for 2015 and 231.275 for 2016 <sup>33</sup>

What is symptomatic is that there are huge differences in the planned funds for this program which leads to the conclusion that there is a possibility that the way the Budget is being made does not leave space for explanations, so it is difficult to conclude whether the difference in the planned funds between one and more years is because part of them has been spent, so it is calculated at the end of each following year, or whether they are decreased so there is a revision with the next budget when larger funds are calculated. Or whether it is an issue of bad

<sup>28</sup> Budget of RM for 2010

<sup>29</sup> Budget of RM for 2011

<sup>30</sup> What is not stated is from which sources are the loans planned to be taken from, neither why there is a predicted increase of the funds, especially in the loans, knowing that those are funds with interest rates that the following generations will have to be pay back.

<sup>31</sup> Budget of RM for 2012

<sup>32</sup> Budget of RM for 2013

<sup>33</sup> Budget of RM for 2014



planning on the side of the responsible bodies about how much funds are needed for a particular activity within the gasification subprogram. In any case, since the country's gasification is moving at a slow pace, and almost nothing has been done on the ground, the conclusion would be that these are badly planned budget funds.

Generally, it can be stated that with an analysis of the Budget of *Macedonia* and the budget items, there cannot be a whole rounded conclusion drawn about how the Government is planning the energy development, neither can there be a conclusion about the noticed budget changes from one year into another, especially regarding the funds predicted for certain projects.

Here one would point out the case of the Energy Agency. The role of the Energy Agency is not clearly distinguished, since according to the Law establishing the Agency, its competencies are not clearly specified, even though it is an important segment of the implementation of the measures for energy efficiency and renewable energy sources, as well as with the latest amendments to the Law on Energy from 2013 it is also responsible for issuing licenses for energy auditors. Further on, the supervision of the Agency by the Ministry of Economy is not clearly defined, since there is a management body, also called Management board, comprised of representatives from the Government and the Ministry. Thus then, most likely, in the incomes/expenses of the Ministry of Economy, the incomes/expenses of the Agency are also listed. This creates problems since, even according to the audit of the State Audit Office from 27.01.2011, it is stated that: "In the Law on energy, the competences of the institutions involved in the energy sector should be specified and, because of the important role that the Agency has, it should receive a separate chapter in the Law, such as is the case with the Energy Regulatory Commission".<sup>34</sup> Unfortunately, this recommendation was not followed through and the Agency is still ambiguously listed under the Ministry of economy, and same as three years ago, there are stated problems with the unclear division of the energy intuitions.

The rest of the stated problems are the ambiguities surrounding the predicted funds, some from the domestic budget and some from the loans, as they are always different sums in the yearly budgets, and the issue of having no narrative explanation for those processes. It is also problematic that, since 2011 onwards, the explanations about what has been accomplished the previous year and how that relates to the plans for the following one are no longer there. All in all, the Budget of *Macedonia* does not present a clear image of the energy policies and the state expenditures in this field.

### **Institutional Placement**

- Role of the Parliament
- State Audit Office
- Commission for Protection of Competition (now an independent state body, should be a professional and independent body with an independent budget)
- Energy Agency
- Energy Regulatory Commission
- The Energy Department at the Ministry of Economy

### **The role of parliamentary committees in funding of the energy sector**

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<sup>34</sup> Final report of the authorized state auditor for the Energy Agency, number 08-200/2, 27.01.2011

Discussions on the topic of energy can mainly be seen in two parliamentary Committees. In the **Committee for Economic Affairs**, where in the description it is stated that the Committee has a president, ten members and deputies, and is discussing issues relating to:

- Production and trade
- Raw minerals and energy
- Tourism, catering and crafts
- Foreign trade operations
- Foreign investments
- Ownership transformation
- Measures against monopolies and monopolistic behavior in the market
- Consumer protection
- Public enterprises
- Concessions
- Statistics
- To deliver international cooperation on issues relating to the economic system and
- Other issues related to the economic system<sup>35</sup>

Unfortunately, energy is separate from the environment, which, as a topic, is placed under the Committee for transport and connections as ecology, quite insufficiently having in mind the weight of the problem with climate change and pollution not only in the world but in *Macedonia* as well.

The other Committee dealing with energy issues is the Committee for financing and budget, owing to the fact that when the annual budget of the state is being prepared, it encompasses all areas, including energy. Naturally, the extent of the discussion here is smaller than the one of the Committee for economic affairs in whose portfolio energy is.

Regarding the discussions in the Committees themselves, chronologically, the research established that:

1. Committee for Economic Affairs, Draft Budget proposal for Republic of *Macedonia* for 2011:<sup>36</sup>
  - There are 9 million denars for the Energy Agency planned for that year;
  - The Minister at the time highlighted that the program foresees subsidies for RES, solar panels in particular, in the amount of 6 million denars;
  - The opposition's criticism of this is that the funds planned for this program are not sufficient;
  - A question directed at the Minister about why the then-tender for concession of Galishte has been postponed for the reason of being an almost 700 milion euros investment;
  - The MP Radmila Sekerinska Jankovska posed a question about why the Lukovo Pole project was not incorporated in the Draft Budget for 2011, even though it has been announced that the funding would start in this year;<sup>37</sup>

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<sup>35</sup> Parliament of the *Republic of Macedonia*, Parliamentary groups for cooperation 2014-2018, Committee for economic affairs, [http://www.sobranie.mk/rabotni-tela-2014-2018-ns\\_article-komisija-za-ekonomski-prashanja-2014.nsp](http://www.sobranie.mk/rabotni-tela-2014-2018-ns_article-komisija-za-ekonomski-prashanja-2014.nsp)

<sup>36</sup> Report of the Committee on Economic Affairs of the Parliament of the fifty -first session, held on November 5, 2010 as an interested body reviewed the Draft Budget for 2011 , 11/08/2010 .

<sup>37</sup> This project has not started in 2014 either

- A comment that 35 million denars are not enough funds foreseen for energy, also because after the payments of salaries and various expenses there would be 6 million left for energy development, so what would be invested in with so little funds?
  - A reply the Minister at the time Fatmir Besimi said that the solar panel collectors were reintroduced and there was new funding planned for the sector.
2. Committee for Financing and Budget, Draft Budget of the Republic of *Macedonia* for 2011:<sup>38</sup>
- Again, a remark from the opposition that in the Budget of RM there is no planned construction of energy objects;
  - Comment on the need for lowering the energy dependency of the country;<sup>39</sup>
  - New for the 2011 budget is that it foresees a RES program, called the green package;
  - An explanation what the budget for the green package is<sup>40</sup>
3. Committee for Economic Affairs, Draft Budget for 2012<sup>41</sup>
- Discussions about foreseen budget funding for the development of energy and there is a description of program activities in the field of energy such that the Ministry of Economy should provide more resources for, specifically for the implementation of the 15 hydro power plants in the region of the Shar Mountains;
  - A question of why there is only 3% set aside for energy from the total budget of 1.067 billion denars was addressed to the Ministry of Economy. MP Nikolche Acevski said that the Republic of *Macedonia*, instead of having a Ministry of Energy, sets up an Energy agency which is allocated only 0.7% of the Budget. This means that the capacities of this agency, that are very small, did not increase;
  - In terms of resources for energy development, it was emphasized that there were very little provided. Special emphasis was given to the gasification and it was noted that it would be very important for it to be completed and to have gas brought to TEC Negotino<sup>42</sup>. With that, Republic of *Macedonia* will have an increase in the electricity production as well as a decrease in imports;
  - Again regarding the funds from the budget planned for energy, in response to criticism, the then Minister Valon Saracini noted that most of the projects in this area are donations and projects funded by various organizations, and the Republic of *Macedonia* is on track to achieve the set

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<sup>38</sup> The Committee for Financing and Budget of the Parliament of the Eighty-second session of 8,9,10,11,12,17,18,23,24,26 and 27 of November 2010, as a parent task force reviewed the: proposal for the State Budget for 2011. 08/11/2011

<sup>39</sup> Note that this situation remains unchanged. In 2014 almost 40% of the energy needs of Macedonia were covered by electricity imports.

<sup>40</sup> Amendment in the government program for the central budget to add a new section "green package" S, submitted by MP Ljiljana Popovska under the file number (07-4338 / 179) ... In terms of this amendment, the Deputy Minister of Finance said that he accepts it with modified content to add a new government program S which reads "Improving the environment" with a total amount of 308 648 000 denars. The same funds can be deployed in the main budget expenditures in the first column in the amount of 74.698 million denars, in the second column 122.5 million denars and donations expenditures in the amount of 111.45 million denars. These funds are to be provided with the transfer of assets from Section 12101 from Ministry of Environment and Physical Planning, Program 2, sub-20 Improving the environment ... The Commission with 7 votes "for" 1 Voice "abstention" adopted this amendment's proposed content.

<sup>41</sup> The Committee on Economic Affairs of the Parliament on the sixth session on November 10, 2011 as responsible working body, reviewed the Draft Budget for 2012. 14.10.2011.

<sup>42</sup> Note that TEC Negotino has still not been transferred to gas

targets by 2020, particularly in the field of renewable energy<sup>43</sup>. Subsidies are provided in the area of solar energy, and other projects which are done in the field of energy with the help, which with the help of donors are doing in the field of energy;

Committee for Financing and Budget, Draft Budget of the Republic of *Macedonia* for 2012:<sup>44</sup>

- Most of the debate on energy issues was about planned capital investments in the energy sector;
- Capital expenditures are foreseen in the amount of 26 billion denars that is 29% higher compared to 2011, in order to achieve and maintain the positive growth rates. In this framework, there are significant investments in road and railway infrastructure envisioned, energy and utility infrastructure as well as capital investments to improve the conditions in the educational, social and health care system, agriculture, protection of the environment and the justice system<sup>45</sup>;
- Note from the opposition that there is not a single energy facility object being built.

Committee for financing and budget, Draft budget of the Republic of *Macedonia* for 2013<sup>46</sup>

- There are 244 million denars in the budget provided for gasification<sup>47</sup>;
- Note that the budget allocates little money for energy, i.e. only around 350,000 Euros;
- In the Republic of *Macedonia*, like in the past as well as today, investments in the energy sector are done by MEPSO and ELEM and they are among the largest investors in the country. The energy projects should not be sought only in the Draft Budget for 2013, but in the budgets of these companies as well;<sup>48</sup>
- Another note on the enormous import of electricity since 2006 onwards, and that it is a worrying phenomenon, as well as that there is no building of new energy facilities;
- Again a note on the problems with the gasification of the country: "There are only 4 million Euros planned, because it is obvious that the government does not plan to start investing in the development of energy and gasification in order to reduce the import of electricity. If in September (2012), there were 40% of the total electricity demand imported, it is clear what the percentage of import will be like in the months to come when due to the winter the demand would increase. From 2006 to 2012 there were 1 billion Euros from the Budget spent on electricity imports. The high import price of electricity affects the cost of electricity to the end customers – the citizens, which is rapidly growing;

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<sup>43</sup> According to the latest EC report in 2014, *Macedonia* is not on a good track in this area, noting that the National Action Plan for renewable energy sources has not been adopted by the Government and the deadline for its submission to the Energy Community is not met. National legislation has not been changed to reflect the obligatory target of 28% of final energy consumption to come from renewable sources, set by the Energy Community. [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf)

<sup>44</sup> Committee on Financing and Budget of the Parliament of the Twelfth Session held on 14, 15, 16, 21, 24, 28, 29, 30 November, 1, 2 and 3 December 2011, as a responsible working body consider proposal Budget for 2012. 12/03/2011.

<sup>45</sup> However in the analysis in the previous chapter of how much funds are allocated for 2011 and 2012 for energy development, there is almost no difference in the amounts, and it in the amount of around 34 million denars, thus making the statement overtly optimistic.

<sup>46</sup> Committee on Financing and Budget of the Parliament of the forty-third session held on 19, 23, 26, 27, 29, 30 November, 1, 3, 4, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and December 22, 2012, as a competent working body reviewed the Draft Budget for 2013. Report 22.12.2012.

<sup>47</sup> Something that has not yet been done in 2014

<sup>48</sup> No changes in this field

- Again a note that instead of in the energy sector, assets are invested in other things, such as an ELEM owned ski center;
- Note that not even in 2012 there are any budgetary funds planned for the implementation of the Energy Strategy until 2020<sup>49</sup>;
- Comment on comparing how little resources are allocated for energy versus other government programs, ex. only 900,000 Euros are planned in the Budget for 2013 for energy, as opposed to the money planned for advertising and promotion, which amounts up to staggering 11 million Euros.

The main objection is that, in the Committees the hearings usually go towards: criticism of the government, justification/counterargument of the criticism, without there actually being any substantial debate about what has been done in the previous years, what remains to be implemented and what new is planned for the next year for which the budget applies. The hearings appear to be ad hoc and without prior preparation of the members of the Committees. Furthermore, energy is rarely the main point of discussion, being neither in the Committee for Economic Affairs or in the Budget Committee. Hearings have always gone along with other topics, which leaves little room for extensive and thorough review of how the state spend taxpayers' money on energy needs, which, aside through taxes, citizens personally pay through the energy bills. Also, since the only role that the Parliament has in the field of energy is control over the money bag, and the analysis shows that discussions mostly revolve around what the money is being spent on and how rationally that is being done, it is expected from the MPs to show a greater interest for a more substantial inclusion in the decision-making process regarding where the energy policy in *Macedonia* is going, without in the meantime supporting the reports and plans of the ministries which were not previously discussed and debated.

### The role of the Energy agency of the Republic of *Macedonia*

The Energy agency was established to support the implementation of the energy policy of the Government through the preparation of energy strategies, development plans and programs, with particular emphasis on energy efficiency and the use of the renewable energy sources. Unlike the ERC, the Energy Agency has no legal authority of imposition, and it is also not considered to be an independent body outside the state administration. As for its status and its funding, the Agency is a legal entity, and the funds for its establishment are provided from the state budget. The funds for its activity are provided through transfers from the state budget, revenues from the performance of specific services in the field of energy, as well as donations with which its self-sustainability is ensured. The agency also has a role of implementing the domestic and foreign projects<sup>50</sup>. With the amendments to the Law on Energy Agency from 2013, the Agency also has a significant role in issuing licenses for energy auditors.

The Agency publishes its work programs on its official website, where listed are the programs from 2006 to 2014, as well as the reports on what was accomplished, with listed reports from 2007 to 2012. No explanation is given on why 2006 is missing, as well as 2013 at the time of writing of this report, knowing that the reports for the

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<sup>49</sup> The situation with the (non)enforcement of this Strategy has not changed in 2014 either. Based on information from the civil society organizations, there is an upcoming initiative for it to be revised.

<sup>50</sup> Energy agency of the Republic of *Macedonia*

[http://www.ea.gov.mk/index.php?option=com\\_content&view=article&id=46&Itemid=128&lang=mk](http://www.ea.gov.mk/index.php?option=com_content&view=article&id=46&Itemid=128&lang=mk)



previous years are prepared in January of the following year<sup>51</sup>. Generally, the Agency's reports follow the work programs for the year to which they apply. The reports are detailed, clear to review and read, can be downloaded from the website of the Agency and be disseminated further. The budget of the Agency is generally in accordance with the guidelines on budget drafting of other state bodies in terms of which items will be presented, as the following example:

## Item 2

**Табела 1. Буџет на Агенцијата за енергетика за 2012 година во (000) денари**

		Опис	Буџет за 2012 година	Состојба по ребаланс за 2012 година
1	40	Плати, наемнини и надоместоци за вработените	2.569	2.922
1.1	401	Основни плати	1.852	2.132
1.2	402	Придонеси за социјално осигурување	717	790
2	42	Стоки и услуги	5.160	4.835
2.1	420	Патни и дневни расходи	310	310
2.2	421	Комунални услуги, греење, комун. и транспорт	400	328
2.3	423	Ситен инв., алат и др. материјали за поправки	130	111
2.4	424	Поправки и тековно одржување	320	320
2.5	425	Договорни услуги	4.000	3.591
2.6	426	Други тековни расходи	0	175
2.7	480	Купување опрема и машини	0	75
3	637	Вкупно буџетски средства (1+2+2.7)	7.729	7.832
4	631	Расходи од буџетски органи	150	150
5	785	Расходи од донации	4.663	4.663
6	787	Расходи од самофинансирачки дејности	350	350
		Вкупно ( 3+4+5+6)	12.892	12.995

It is interesting to note that there is no table of revenues and that there is no consistency in creating the annual reports, so in the report for 2010 there is no table with the annual budget presented but only a Summary of financial indicators for the implementation of the work program for 2010<sup>52</sup> while in the 2011 budget, there is a separate annex which lists, along the financial indicators, all public procurements of the Agency in 2011, as seen from Item 3<sup>53</sup>. Thus it can be seen from the report what purpose were the public procurements for, the amounts and who the carrier of the service is. The total amount of all procurements of the Energy Agency for 2011 amounts to 5.530.011.75 denars, without the supplies within the framework of donor projects which are usually financed by foreign sources, while the total budget of the Agency for that year was 27.389.000 denars.

## Item 3

<sup>51</sup> Ibid. [http://www.ea.gov.mk/index.php?option=com\\_content&view=article&id=1992&Itemid=133&lang=mk](http://www.ea.gov.mk/index.php?option=com_content&view=article&id=1992&Itemid=133&lang=mk)

<sup>52</sup> Annual report of the work of the Energy Agency for 2010  
[http://www.ea.gov.mk/images/stories/E\\_Izdanija/Izvestaj/Izvestaj\\_za\\_rabota\\_2010.pdf](http://www.ea.gov.mk/images/stories/E_Izdanija/Izvestaj/Izvestaj_za_rabota_2010.pdf)

<sup>53</sup> Annual report of the work of the Energy Agency for 2011  
[http://www.ea.gov.mk/images/stories/E\\_Izdanija/Izvestaj/Izvestaj\\_za\\_rabota\\_2011.pdf](http://www.ea.gov.mk/images/stories/E_Izdanija/Izvestaj/Izvestaj_za_rabota_2011.pdf)

Прилог 1.

ЈАВНИ НАБАВКИ НА АГЕНЦИЈАТА ЗА ЕНЕРГЕТИКА ЗА 2011 ГОДИНА						
Р.Б.	Опис и број на договорот	Носител на набавката	Датум на потпишување	Времетраење до:	Износ на Договорот со ДДВ	Месечен износ/Забелешка
1.	Услуги за одржување и поправка на телефонска централа: 03-31/10	Дигитал ДОО	02.02.2011	02.02.2012	33.984,00	По извршена услуга
2.	Изнајмување на уред за копирање и печатење: 03-116/9	Копир сервис	18.02.2011	18.02.2012	16.992,00	По извршена услуга
3.	Користење на апарат за топла /ладна вода и снабдување со вода:03-134/7	Кодинг	28.02.2011	28.02.2012	10.560,00	По извршена услуга
4.	Услуги за хигиена: 03-104/10	Хаусмајстор	28.02.2011	28.02.2012	71.364,00	Месечен износ
5.	Набавка на канцелариски материја:03-117/6	Петро М	01.03.2011	01.03.2012	24.306,00	По извршена услуга
6.	Преведувачки услуги:03-157/10	Германски јазичен центар	04.03.2011	04.03.2012	354.000,00	По извршена услуга
7.	Издавачки и печатарски услуги:03-135/10	Винсен графика	09.03.2011	09.03.2012	354.000,00	По извршена услуга
8.	Набавка на услуги за воздушен транспорт на луѓе, хотелски и угостителски услуги и дополнителни транспортни услуги:03-172/9	Киниси	10.03.2011	10.03.2012	354.000,00	По извршена услуга
9.	Услуги за одржување и поправка: 03-202/10	Хаусмајстор	29.03.2011	29.03.2012	362.850,00	По извршена услуга
10.	Изработка на апликативен софтвер: 03-971/9	Веником Софтвер ДООЕЛ	07.12.2010	07.12.2011	180.000,00	Еднократно
11.	Одржување на компјутери и компјутерска мрежа: 03-947/9	АМЦ ДОО	02.12.2010	02.12.2011	84.000,00	По извршена услуга
12.	Услуга за закуп на панели за комерцијално упатување и огласување: 03-244/2	Продукција Перспектива	12.04.2011	12.04.2012	36.297,00	Еднократно
14.	Изнајмување на моторно возил:03-291/9	Порше Македонија	18.05.2011	18.05.2012	354.195,00	Месечен лизинг
15.	Телекомуникациски услуги – услуги од мобилната телефонија:03-650	ВИП	25.10.2011	25.10.2012		По извршена услуга
16.	Ревизорски услуги:03-836/11	МУР Стивенс	15.11.2011	15.11.2012	195.880,00	Еднократно
17.	Имплементација на ИСО стандард 9001:2008 03-444/11	Контрол Доо Скопје	15.07.2011	15.07.2012	184.080,00	Еднократно
18.	Сертифицирање на ИСО стандард 9001:200803-445/11	ТУВ груп доел Скопје	15.07.2011	15.07.2014	178.219,00	1 година =98.197,00 2 година =40.011 3 година =40.011

15

This practice would be a great example for other institutions, not just those in the energy sector, to publicly and transparently publish which are the procurements they have done during one fiscal year. Thus any interested party can have easy insight and access to inspect how the taxpayers' money are spent and for what purposes and needs. What is worrying is that the Agency did not continue this practice and, in 2012, the annual report, does not state the public procurements of the agency, but only lists the budget and financial indicators for the implementation of the work program in 2012. The Agency has not used the momentum to, with the report in 2011 introduce a practice of transparent disclosure of important information to the public regarding a not so well known area such as procurement, spending budget money and whether it is done sensibly.

Although the State Commission for Prevention of Corruption is not a subject to analysis in this document, after the initial research there were some findings that in 2012 the Commission instituted proceedings against the former director of the Energy Agency. The whole section of the report that refers to the work of the executive of the Agency states that: "The State Commission for Prevention of Corruption initiated proceedings for the prosecution of the person L.G. - Director of the Energy Agency of the Republic of *Macedonia* and the members of the Board of the Energy Agency of the Republic of *Macedonia* on the grounds of suspicion of committing a

crime - Abuse of power and authority, of Article 353 paragraph 3 VV with paragraph 1 of the Criminal Code of *Macedonia*, and crime - negligent performance of duty under Article 353-B of K.Z *Macedonia*."<sup>54</sup>

Also, the Commission has initiated a procedure for another kind of responsibility, which is a second procedure different from the previous one, and also applies to the Agency, the responsible person and the year 2012. The report says: "In accordance with the powers under Article 49, paragraph 1, item 5 of the Law on Prevention of Corruption according to which the SCPC initiates proceedings before the competent authorities for resolution, deployment, removing or applying other measures of responsibility to elected or appointed officials, officers or responsible persons, in 2012 the following initiatives have been raised: The SCPC initiates proceedings before the competent authorities for resolution, deployment, removing or applying other measures of responsibility to elected or appointed officials, officers or persons responsible, in 2012, the following: 1. Based on the final audit report of the regularity of the financial operations of the Energy Agency of the Republic of *Macedonia* in 2009 and 2010 by the Ministry of Finance - Public Internal financial control, the State Commission for Prevention of Corruption, to the Government of the Republic of *Macedonia*, initiated proceedings for dismissal of L.G., Director of the Energy Agency, and of the members of the Management Board of the Agency, for reasons that as a governing and management body of the energy Agency, enabled uneconomical spending of the Agency budget in 2009 and 2010."<sup>55</sup>

During the course of publishing of this report, it is only known that since 2014, the Agency has a new director, without officially announcing the reason for replacement of the old one.

On the request to free access to public information submitted to the SCPC to ask about the status of the two cases, on the question of the status of the procedure for criminal prosecution of the person L.G. (former) Director of the Energy Agency and the members of the board, it was told that it is pending before the competent public prosecutor. While on the question of status of the motion for dismissal of the person L.G. and members of the Board, it was said that the SCPC has no such information. Of course it is known that as of 2014 the Energy Agency has a new director, but what is not known, and is not publicly available information, is whether members of the Board of Directors who were recommended to be dismissed were actually dismissed, and whether the former director was dismissed on the request of the SCPC or on other grounds. What is problematic in the case is that the media were not reporting on it, and even if it happened, two years later one cannot find almost anything in the archives of the online media outlets. Therefore, the right of citizens to be consistently and timely informed on cases where there is a reasonable suspicion of people abusing official powers for personal gain is violated.

### *The findings of the State Audit Office*

Using the Law on Free Access to Public Information, the researchers approached the State Audit Office in order to obtain the audit proceedings of the Energy Agency for 2009. SAO has not expressed an opinion on this audit (whether the financial activities, transactions and the rest of the financial statements of the Agency are in accordance with the relevant legislation, guidelines and policies established) because, as it is stated, the audit did not provide enough evidence to make sure that the accounting records are full and complete enough for a fairly preparation of financial statements for 2009. Namely, the following situation was found: In August 2009, Gechevski was named as a new director, and the contract with the accounting office with which the agency then worked

<sup>54</sup> Annual Report of the State Commission for Prevention of Corruption for 2012, <http://www.dksk.org.mk/images/godisenizvestaj2012.pdf>, May 2013

<sup>55</sup> Ibid.,

was terminated on the grounds that the unusually high price and unethical accounting practices were harmful. In November the same year, the Agency signs a contract with a new accounting office which undertook all activities for successful preparation of the annual financial statement for 2009. However, with the signing of this agreement, a handover of the accounting records and documents with the previous Bureau was not done, with which the continuity of managing the accounting books is interrupted.<sup>56</sup>

Otherwise, there were reasonable suspicions of irregularities in the work of the previous director until 2009, first because the final bill for 2008 has not been prepared in accordance with the legislation, and also because, in terms of the Agency's treasury, after the inventory was done, it is stated that the real situation cannot be determined because in that period, till 2009, there has not been a record of treasury operations established, i.e. there were no treasury reports drafted and neither were records of admission or use of treasury funds (from the cash-register) submitted, as well as there were not invoices drafted for business trips, etc.. In 2009, there was a notification about this sent to the Financial Police. Ultimately, the conclusion of the Audit is that despite all the activities undertaken by the Agency, by the end of the year, the audit could not verify the completeness of the reported conditions in the final bill, even more because there are no analytical records of assets and sources of funds established.<sup>57</sup> The response of the Financial Police of the request for free access to public information, on the question whether they have received a request to initiate any investigation into the then Director of the Agency, was that information is not qualified as public information.

As it can be seen, the problems with the Energy Agency are quite extensive, with findings of alleged mismanagement by the two previous directors. This leads to the conclusion that the competent authorities must take measures to correct the irregularities in the work of the Agency if it is wanted to break with the tradition of opaque, illegal working, especially since the Agency is of vital importance for the proper progress of the overall energy policy of the country.

## The role of the Energy Regulatory Commission

Although the legal framework regulating the role of the ERC in the energy sector in *Macedonia* was quite extensively explained in the previous chapters, the part regarding the ERC's work plans, annual reports and noted problems during its functioning, that refer to alleged issues with its independence from the executive branch in *Macedonia*, still remains to be analyzed. The ERC is the only institution that during the preparation of this report had their annual work report for 2013 published. The ERC publishes its annual reports each year since its foundation, so the reports for each year from 2004 to 2013, are publicly available on ERC's website.<sup>58</sup> Except containing information about markets for electricity, gas, heat, oil and petroleum products, renewable energy, etc., the ERC's reports, mostly in the last chapter, also contain the financial details of the work of the Commission in the year to which the report relates, as well as the planned activities for the year that follows.

What is positive in these reports is that except for the tables, there is also a narrative explanation of the budget of the ERC, where any interested party can easily see how and what means the Commission is funded by. For

<sup>56</sup>Final report of the authorized state auditor for the Energy Agency , No. 08-200 / 2 , 27.01.2011

<sup>57</sup> Ibid.,

<sup>58</sup> Energy Regulatory Commission of the *Republic of Macedonia*, <http://www.erc.org.mk/pages.aspx?id=18>

example: "The total revenue of the Energy Regulatory Commission for the period 01.01 - 31.12.2013 is 54.242.470 denars which: 52.243.995 denars or 96.32% are billed annual fees of the holders of licenses in the energy sector. Invoiced revenues for 2013 are calculated as 0.037% of the total income of the holders of licenses in the energy sector of the previous year (data derived from the Central Registry of the Republic of *Macedonia*), 1.846.269 denars or 3.40% are revenues from fees for issuing licenses, 73.620 denars or 0.13% are revenues collected on other grounds and 78.586 denars or 0.15%, are other revenues (from interest and exchange rate differences)<sup>59</sup>.

This is followed by a table of expenditures of the ERC (Item 4), and a narrative explanation of whether or not there is an increase in revenues/expenditures from the previous year and for which reason it occurred. For example, the report of 2013 states: "In 2013, all costs are reduced compared to the planned ones as a result of rational spending of the necessary funds, despite the increased responsibilities of the Energy Regulatory Commission

arising according to the Law on Energy."<sup>60</sup> Positive in this case is that there is a consistency in the reporting, so in all reports from 2004 to 2013 the state of the financial operations of the ERC can be found reported in almost the same way, and it is an easily accessible and transparent way. This situation of course can be improved, with introducing a display of all ERC's public procurements, as well as the audit reports with which the accountability and transparency of the Commission would be strengthened.

Item 4

As for the negative phenomena observed in the work of the Commission, the report of the Energy Community where the lack of independence of the Commission's work is being

Табела IX.2. Преглед на планирани и остварени расходи од работењето на Регулаторната комисија за енергетика за 2013 година

Р. бр.	РАСХОДИ	2013 година		
		планирани (денари)	остварени (денари)	остварени/ планирани (%)
<b>I.1</b>	<b>Трошоци за материјали, енергија, ситен инвентар и автогуми</b>	<b>2.902.320</b>	<b>2.152.281</b>	<b>74,16</b>
1.	Трошоци за материјали, ситен инвентар, автогуми	1.110.000	854.970	77,02
2.	Трошоци за енергија	1.792.320	1.297.311	72,38
<b>I.2.</b>	<b>Трошоци за услуги со карактер на материјални трошоци</b>	<b>13.336.600</b>	<b>11.167.143</b>	<b>83,73</b>
3.	Поштенски услуги, телефонски услуги и интернет	3.753.800	2.597.742	69,20
4.	Услуги за одржување и заштита	500.000	266.735	53,35
5.	Наемнини	8.038.800	7.692.491	95,69
6.	Комунални услуги (вода, комун. хиг)	114.000	61.781	54,19
7.	Останати услуги (печатарски, судски такси, регистрација на возила, огласи, и др.)	930.000	548.394	58,97
<b>I.3.</b>	<b>Останати трошоци од работењето</b>	<b>8.141.800</b>	<b>4.512.491</b>	<b>55,42</b>
8.	Трошоци за репрезентација	750.000	710.653	94,75
9.	Трошоци за осигурување	93.400	68.832	73,70
10.	Банкарски услуги и трошоци за платен промет	85.000	77.444	91,11
11.	Членарини и други давачки	1.200.000	758.247	63,18
12.	Надомест за Комисијата за жалби од областа на енергетиката	493.400	493.332	99,99
13.	Авторски хонорари, договор на дело, поврем. и прив. работи	3.500.000	1.829.097	52,26
14.	Преведувачки услуги	300.000	3.809	1,27
15.	Адвокатски услуги, вештачење	350.000	68.284	19,51
16.	Трошоци за стручна литература, дневен печат, Службен весник и др.	170.000	119.062	70,03
17.	Останати расходи (ИТ услуги, курсни разлики и др.)	1.200.000	383.731	31,98

<sup>59</sup> Report of the Energy Regulatory Commission of the Republic of Macedonia in 2013

<http://www.erc.org.mk/odluki/Godisen%20izvestaj%20za%20rabota%20na%20Regulatorena%20komisija%20za%20energetika%20na%20RM%20za%202013%20godina.pdf>

<sup>60</sup> Ibid.,



criticized has already been mentioned. Even the EU's Commission report from 2014 states that: "the Regulatory body (author's note: meaning the ERC) should have more power to enforce its decisions, and businesses that have received licenses should effectively fulfill the obligations assigned to them".<sup>61</sup> What is so far given as an official and publicly available response to these observations is a letter from the Director of the ERC submitted to the Director of the Energy Community, on the occasion of an incident where the Director of the Energy Community, while giving a statement for a *Macedonian* TV station, called into question the independence of the ERC. The answer is in the form of a protest note and rejection of the criticism that the Commission is not independent, saying that "ERC meets the criteria for independence under the Law on Energy and the Directives for electricity and gas, as well as that only ERC decides on how to spend the allocated budget and that the fact that the Parliament approves its budget is not an obstacle to budgetary autonomy."<sup>62</sup>

However, the independence of the ERC was again called into question by new worrying developments surrounding the liberalization of the energy market. The Minister of Economy Bekim Neziri announced a postponement of the liberalization of the energy market, which was supposed to start on January 1, 2015<sup>63</sup>. What is worrying is that there are indications that this delay is because it allegedly protects the monopoly of EVN as the main and only distributor of households' electricity, and not because of the price shock the citizens would experience with the liberalization of the electricity market, as was announced.<sup>64</sup> Even more worrying is that the ERC has not given a statement about this step even though it is the main regulatory body that even under a liberalized market would control the prices and protect the interest of the consumers. This is also stressed by the President of the Energy Community Secretariat Janez Kopac when saying: "I am also shocked by this decision, because we were not informed about it despite the Partnership implementation we signed with the Ministry of Economy and Energy Regulatory Commission in 2011 ... The regulatory body can continue to regulate prices as long as it deems necessary without depriving customers of their right to switch to another provider from EVN."<sup>65</sup> The inactivity of ERC when publicly accused of protecting the interests of a monopoly instead of the one of the consumers, casts a doubt on the justifications of the Commission that the mere fact that it has an independent budget and a team of experts, means it is indeed independent. From the stated, there remains a high probability that all international bodies will continue their criticism of the ERC in the future as well<sup>66</sup>.

## Findings of the State Audit Office

Using the Law on Free Access to Public Information, the researchers approached the State Audit Office in order to obtain the audit of the operations of the Energy Regulatory Commission during 2009. The findings are far from

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<sup>61</sup> *Macedonia* Progress Report 2014 – European Commission, Brussels 8.10.2014

[http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-strategy-paper\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-strategy-paper_en.pdf)

<sup>62</sup> Letter to the Energy Community Secretariat, the Energy Regulatory Commission of the *Republic of Macedonia*, 05.12.2013 <http://www.erc.org.mk/odluki/20131205105740953.pdf>

<sup>63</sup> Source: Faktor [http://www.energy-community.org/portal/page/portal/ENC\\_HOME/NEWS/News\\_Details?p\\_new\\_id=9661](http://www.energy-community.org/portal/page/portal/ENC_HOME/NEWS/News_Details?p_new_id=9661)

<sup>64</sup> Source Energy Community of South East Europe: [http://www.energy-community.org/portal/page/portal/ENC\\_HOME/NEWS/News\\_Details?p\\_new\\_id=9661](http://www.energy-community.org/portal/page/portal/ENC_HOME/NEWS/News_Details?p_new_id=9661)

<sup>65</sup> Ibid.,

<sup>66</sup> On January 30, 2015, the Energy Community Secretariat announced that it initiates proceedings against *Macedonia* because of the delay of the opening of the electricity market for all consumers. The statement says the amendments to the Energy Law, adopted in October 2014, deprives small businesses and households of all their right to purchase electricity directly from suppliers of their choice. Source: [https://www.energy-community.org/portal/page/portal/ENC\\_HOME/NEWS/News\\_Details?p\\_new\\_id=10461](https://www.energy-community.org/portal/page/portal/ENC_HOME/NEWS/News_Details?p_new_id=10461)

positive. The main conclusion is that "a negative opinion is expressed regarding the true and fair presentation of the financial condition in the financial statements, and a qualified opinion is expressed regarding the compliance of financial transactions with the relevant legislation. [...] The audit noted that the financial results presented in the financial statements are unrealistic, because the revenues are not recorded on an accrual basis (billed revenues), but based on the payments (cash basis) by economic entities that have a commitment to make payments in respect of compensation. [...] On the other hand, expenditures are recorded on an accrual basis, based on [...] invoices."<sup>67</sup>

Other irregularities pointed out in the audit:

- There is no regulated way of bookkeeping – the Ministry of Finance interpreted that the ERC should keep accounting in accordance with the Law on enterprises. The recommendation of the Audit is to have the responsible person establish accounting policies and principles prescribed for keeping accounting records on an accrual basis (billed revenues);
- During the inventory of fixed assets there was only a physical counting of assets carried out and not a harmonization of the accounting situation with the actual one. These gaps in doing the inventory of assets affect the real and objective statement of financial statements;
- Without the implementation of procurement procedures prescribed under the Law on Public Procurement, there were 3.058 thousand denars spend for the purchase of translation services, plane tickets, legal services, temporary employment agency services, insurance services, procurement of spare parts, internet services and purchase of office supplies. (In 2010, the Audit found that public procurements were made according to the Law);
- Highlighting the issues of uncertainty, i.e. that during 2010, the annual report for the work of the ERC was adopted by the Parliament of RM without noting that it does not contain the activity in the part of buying government bonds as an activity that is not regulated by the law or the financial plan (the activities of the ERC are foreseen by Article 19 of the Law on Energy). The answer from the ERC was that this pertains to surplus funds that should be used for office space and if offers are insufficient are reused for government bonds. However, the financial plan for 2010 envisages further buying of government bonds. Based on that, the audit could not verify that appropriate measures are taken to address the issue of the office premises.<sup>68</sup>

ERC submitted comments on all points of the Audit, but only one note on accounting in the Commission was accepted, wherein the main objections remain. This audit shows the importance of having external control by independent expert bodies of the work of the energy institutions, since despite the regular publishing of Annual Reports, without doing an audit it is difficult to conclude whether the work is in accordance with the laws of the Republic of *Macedonia* or there are some inconsistencies. It is not enough to establish inconsistencies, but also to provide guidance as to how to correct them and to keep records (track record) of what has been improved, and what still remains to be accomplished.

Also problematic is the fact that none of the above institutions have published the audit reports, nor it is known if they acted upon the indicated shortcomings. This is also the case with the institution analyzed in this chapter.

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<sup>67</sup> Final report of the authorized state auditor ERC of RM, No. 08-142 / 7 , 28.12.2010

<sup>68</sup> Ibid.,

While in Slovenia and Croatia, the audit reports are regularly published- those made by their State Audit Office as well as ones by independent (mostly foreign) auditors.

## Energy department at the Ministry of economy

As previously analyzed, the most important state body in the area of energy in *Macedonia* is still the Ministry of Economy, i.e. the Energy Department. Here is where all the laws, strategies, action plans and generally anything necessary for smooth operation of the energy sector in *Macedonia*, its planning and development, is being prepared. The access to this sector by the general public is not simple though. When searching for the Department of Energy, the website of the Ministry of Economy has only the following<sup>69</sup>:

### Item 5



What cannot be found is who is in charge of the department, who works there, which are the exact responsibilities it has, annual plans and budgets of its work, as well as the work performed audits. When visiting the webpage, one need to click the field Ministry, choose the organogram of the Ministry (only available in *Macedonian*) and again one cannot find detailed information about what exactly is the energy department apart from the general division of the departments within the ministry<sup>70</sup>. This situation is also applicable for all departments within the Ministry, which leads to the conclusion that it is a systematic error, i.e. nontransparent operation of the entire ministry.

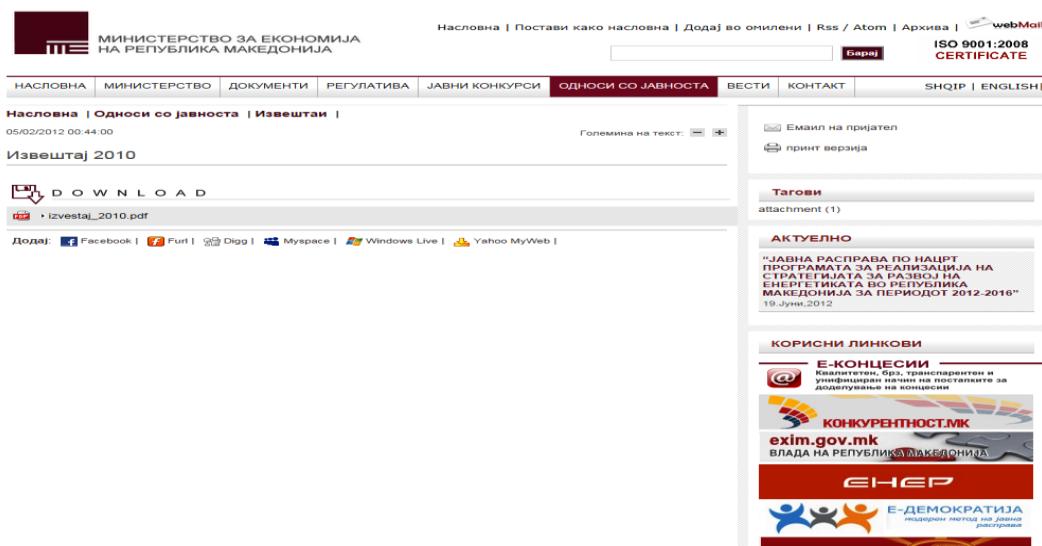
Also, the last report published on the website of the Ministry of Economy, at the same time being the only one, is the report for 2010. There are no financial statements, audit reports, nor plans for work (Item 6). Since it is impossible to compare it with other reports from other years, the analysis will not be getting deeper into what the report contains. Of course, energy is part of the report of what has been done in this area. Under Chapter 4, entitled Development of energy, are contained the following chapters: 1) Regulation (what is adopted / changed / amended by laws and by-laws / other strategic documents); 2) Projects (This includes such projects funded by foreign donors as well as local plans for the construction of energy facilities / pylons / etc); 3) Activities (campaigns / activities in international bodies / etc). Nowhere in the report or in the energy chapter is contained the budget for the year, what is spent and on what activity. Hence it can be concluded that the reporting of the Energy Department at the Ministry of Economy is poor with information and data, and weak regarding transparency and accountability. The biggest problem is that it does not have any financial reports of the work of any sector under the Ministry.

<sup>69</sup> Source, Ministry of Economy of the Republic of Macedonia,

[http://www.economy.gov.mk/ministerstvo/sektori\\_vo\\_ministerstvo/sektor\\_za\\_energetika/index.1.html](http://www.economy.gov.mk/ministerstvo/sektori_vo_ministerstvo/sektor_za_energetika/index.1.html)

<sup>70</sup> Source, Ministry of Economy [http://www.economy.gov.mk/ministerstvo/organogram\\_na\\_me/3681.html](http://www.economy.gov.mk/ministerstvo/organogram_na_me/3681.html)

## Item 6



Another problem is the adoption and change of important laws and other regulations in short terms without the possibility of discussions, comments or criticism by all stakeholders. This, as mentioned in the chapter on the Energy Regu-

latory Commission, happened with the sudden change on the course of the Ministry from the announced liberalization of the energy market on January 1, 2015 to the delayed liberalization by 2020. The main initiator of this change is precisely the Ministry of Economy.<sup>71</sup>

Of course the announcements to initiate proceedings against *Macedonia* by the Energy Community Secretariat unless liberalization begins on January 1, 2015<sup>72</sup>, as well as the fact that despite the "good" intentions of the Ministry, consumers remain stuck with the monopoly of EVN, do not go in favor of the state or the institutions in charge nor does it give the impression that they are running a rational energy policy and economically dealing with the money paid by the citizens through taxes and bills. The possible payment of penalties or fines could not be considered as a good strategy at a time when more resources and investments are necessary in the energy sector in *Macedonia*. It remains to be seen whether the Energy Department and the whole Ministry will change course after the threats from the Energy Community, and where will it take the energy policy of the country from 2015 onwards.

### *Findings of the State Audit Office*

In accordance with the audit of the financial statements along with the concurrence audit from the Ministry of Economy the audit of accounts 631 and 637 of 2011 of the main budget done by the State Audit Office, found the following shortcomings in the area of energy activities of the ME:

#### Report number 17-122 / 9<sup>73</sup>

- Recommendation – the litigation process that *Macedonia* is running against a legal entity over ownership of the gas pipeline system, and which is not reported in the written response of the energy sector, that

<sup>71</sup> Source, Faktor <http://faktor.mk/archives/126273>

<sup>72</sup> Statement of the President of the Secretariat Mr. Kopach is: If this bill is adopted, the Energy Community Secretariat will launch an infringement procedure immediately after the deadline for complete market liberalization as of January 1, 2015.

Source :[http://www.energy-community.org/portal/page/portal/ENC\\_HOME/NEWS/News\\_Details?p\\_new\\_id=9661](http://www.energy-community.org/portal/page/portal/ENC_HOME/NEWS/News_Details?p_new_id=9661)

<sup>73</sup> State Audit Office, Final Report of the Auditor General of the Ministry of Economy , No. 17-122/9 dated 25.9.2012

according to a letter received from the State Attorney in Skopje on 23.12.2011 there is a request for evidence for the percentage of investments of the legal entity in the gas system that is of significant interest to RM. ( p.14 )

- Based on the contract for carrying out joint procurement to campaign for energy savings made between ELEM, ME and MEPSO, the Ministry was obliged to conduct the public procurement procedure for selection of the agency that will organize the campaign. Based on the insight into the public procurement procedure, the Audit found that:
  - o There is an exceeding of the deadline for execution of the contracted works;
  - o The guarantees given to the bidder for carrying out the contract do not cover the whole period of validity of the contract

This type of procurement procedure causes the absence of inadequate monitoring of public procurement contracts, which has a bearing on how the overall procedure is conducted. (P. 32-33)

- For the period of 2008-2012, there are no sufficient measures and activities taken by the ME for completion and commissioning of the full functioning of the solar test laboratory (STL). Also emphasized is the reluctance of companies to test their manufactured or imported solar panels, with which the STL does not perform its intended commercial function. The end effect of this is that there is no quality manufacturing of solar collectors provided or improvement of the quality of solar systems, as well as protection of the consumers who buy and install solar panels in their homes; (P. 35-36)
- In the Department of Energy in ME, there was insufficient and incomplete monitoring of the collection, i.e. refund of the funds from approved commissioned loans of the end consumers with a specific purpose (implementation of programs for saving and alternative of energy supply and purchase of equipment for the adaptation of plants for natural gas) (P. 36-37); for all of the proposed measures, it is necessary that the Government is informed in order to determine the appropriate measures to be taken for payment of the unpaid requests, which are budgetary funds and for which there is a possibility for a real payment; (P. 38)
- The lawsuit for damage compensation based on the difference in prices of petroleum products is emphasized as a more significant litigation procedure against (P . 39)

General findings on the financial operations of the Ministry:

- There is no complete system of internal controls established that will ensure that the financial management and control is to be implemented in all organizational units and at all levels, with which the risk of mismanagement of public funds would be reduced; (P . 1 )
- A complete and quality inventory of assets and their sources has not been made by 31.12.2011; the audit determined that there are incomplete and inaccurate information about the actual situation, and an inventory of tangible and intangible assets in preparation, needs and obligations has not been carried out, and there has not been a harmonization and reduction of the accrual with the factual situation (P .2)

Remarks on the draft report 17-122 / 9 by the Ministry of Economy related to energy activities and the above observations by the auditor:

- Regarding the recommendation in point 4.4.5, in the case of the campaign between ME, ELEM and MEPSO, there is no legal basis for the activation of the performance guarantee of the contract as the non-timely realization of the campaign is not the fault of the economic operator; (P. 18-19)



- Remark on item 7.1 regarding the project of solar panels; according to the information by the management, the subject study is prepared and will be submitted to the Government of RM and there will be appropriate actions undertaken; (P. 20)
- In relation to item 7.2, on approved commission credit through credit lines of the EBRD, gasification and SEZ, the ME- Department of Energy made analysis and held working meetings. In the period that follows, this analysis will be updated based on the same information and there will be and Information for the Government of RM prepared in order to determine the further actions to be undertaken (P. 20-23)

Answers and comments on the draft report of the authorized state auditor

- The remarks on section 4.4.5 are not accepted because no new evidence was submitted along with them; (P. 10)
- With the submitted remark on item 7.2 ME provides additional information on credit lines that do not affect the conditions stated in the audit report, hence they still apply (P. 10)

Report number 17-122/10<sup>74</sup>

- In 2011, there has been realized revenue in the amount of 165 thousand denars by the Department of Energy, on the basis of it being a payment for taking professional exams for handlers of energy devices and plants. There is no explanation why the funds have remained on the account of the ME, and why the Commission who did the exams was not compensated for the done work. (P. 6-7)
- On the account of ME, funds have been collected unfoundedly, based on a Call for participation in the procedure for granting concessions for Chebren and Galiste and participation in a public private partnership with ELEM. These revenues are public and should be transferred on the treasury account, not stay in the budget of ME (P. 9-10).

Perceived systemic weaknesses concerning concessions (tenders) are: further specifying of the fundraising procedure in accordance with Article 37 of the Law on Public Procurement is needed, in order to have a unified approach by all state authorities. According to the Guidelines for the recording, deployment and recovery of public revenues, there is a payment account of the treasury account foreseen, for revenues from tenders. During 2011, on the account 631 of the basic budget of ME, there are 411 thousand denars paid for picking up tender documentation. For the purpose of a unified approach by the of the state authorities, the audit recommended that the Ministry of Finance specify the way in which the fundraising of fees for obtaining tender documentation will be done, in order to ensure the wholesomeness of public revenues.

The findings of the audits are the key in seeing how the taxpayers' money is being spent and whether the institutions operate in accordance within their statutory powers or not. It can also be seen where there is a need for new legislation or other regulation in order to further specify the financial operations of the institutions, and not

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<sup>74</sup>State Audit Office, Final Report of the Auditor General of the Ministry of Economy, No. 17-122/10, dated 09.25.2012

just those in charge of the energy sector. The above mentioned examples of revisions by SAO show how necessary it is to have them carried out much more regularly, and how important their publishing and sharing with the public is, with the purpose of having the institutions change their problematic working where needed.

## Experiences from Slovenia and Croatia

The issue of transparency when it comes to spending tax payers' money in the energy sector is a delicate matter not only in *Macedonia*, but also in the countries from the neighborhood as well as the EU Member States. Hence, the countries have committed themselves to a legal, transparent and independent monitoring of the spending of public finances, as well as an objective reporting. Meanwhile, the European integration facilitates this process through the obligation of the candidate countries to transpose and implement the relevant EU legislation in the energy sector. Even though in terms of institutional reform and the separation of production, transmission and distribution of energy, the results of the reforms are positive, in terms of transparency of spending public money and the independence of the institutions that monitor energy budgets, there is a different degree of readiness between the countries of the region.

Below are shown the experiences of different stages of transparency of the institutions in the energy sectors in Slovenia and Croatia.

institutions	Comparative results		
	<i>Macedonia</i>	Slovenia	Croatia
<b>National parliament</b>			
Independence	1) Adopts the budget and the final account of the budget	1) Proposes, adopts and oversees the implementation of the annual budget of the state	1) Proposes, adopts and oversees the implementation of the annual budget of the state
Accountability - Financial statements - Audit reports	1) Committee for Finance and Budget - considers issues relating to Budget, public procurement. 2) Publishes annual reports on the work of the Parliament of the Republic of <i>Macedonia</i> from 2006 to today.	1) Committee for control of public finances - oversees the implementation of the state budget and the validity of the financial statements by the Court for audit; public funds, public enterprises and public institutions established by the state.	1) Committee on Finance and the Central Budget, responsible for monitoring the implementation of policies relating to: the system of public finance in Croatia, consideration and adoption of the annual central budget, the structure, authority and working methods of the Central Office for audit and the Financial Agency.
Transparency	1) Published archive: transcripts of the	1) Published archive: parliament sessions, sessions of the President's council,	1) Live broadcast of the plenary sessions, availability of archival

	<p>Committee's sessions, questions to the MPs</p> <p>2) Regular publication of the agenda for the sessions. (in <i>Macedonian</i>)</p> <p>3) Television coverage of the sessions – through a special Parliamentary channel.</p> <p>4) On the website: citizens' corner (public discussions on the draft laws on the website) and a media corner.</p>	<p>questions to the MPs (in Slovenian)</p> <p>2) Session of the working bodies and other events transmitted directly for parliamentary radio and TV.</p> <p>3) A separate media room (technically equipped) for full-time or occasional use.</p> <p>4) The media have a right to be present at the Assembly and the working groups' sessions.</p>	<p>recordings of hearings of the current and previous Assembly.</p> <p>2) Collaboration with the citizens and the media - Office for Citizens and Media Office</p> <p>3) Relevant information and contacts for questions and access to public information available on the website</p>
<b>Ministry/ Department for Energy</b>			
Independence	Energy Department, within the Ministry of Economy	Energy Directorate, within the Ministry of Infrastructure	Department of energy and mining, within the Ministry of Economy
<p>Accountability</p> <ul style="list-style-type: none"> <li>- Financial statements</li> <li>- Audit reports</li> </ul>	<p>1) There are no annual work reports published (except for 2010), planned budget or financial statement</p> <p>2) No published audit reports.</p>	<p>1) Annual reports of the work available on the website (including financial statements for the work of the current year) and plans for the work of the Inspectorate for transport, energy and spatial planning.</p>	<p>1) There are no financial and audit reports available on the website, neither budget nor planned expenses.</p>
Transparency	<p>1) No data on the management staff in the department.</p> <p>2) The website only contains public notices, there is no archive of published/finished public procurements or concessions.</p> <p>3) Small number of public consultations are published.</p> <p>4) Quite a limited number of laws and bylaws published on the website (no consistency between</p>	<p>1) The website of the Ministry of Infrastructure lists all laws, bylaws and draft laws.</p> <p>2) The energy portal regularly publishes invitations for participation in tenders, public procurements, public notices etc (available only in Slovenian).</p> <p>3) Separate space on the website available for media, news archive, videos, public announcements, calendar of activities.</p>	<p>1) The website contains:</p> <ul style="list-style-type: none"> <li>- Strategic plans and energy balances</li> <li>- Laws and bylaws</li> <li>- EU regulation in the area of energy</li> <li>- Decisions and other documents adopted pertaining to the energy market: natural gas, oil and oil derivatives, heating energy</li> <li>- Decisions, maps, registers for OIE and EE.</li> </ul>

	<p>the <i>Macedonian</i>, English and Albanian version of the website).</p> <p>5) No separate contact for cooperation. Outdates public announcements.</p>		<p>2) There is an independent Directorate for public relations within the ministry.</p> <p>3) Publicly available contact details for persons in charge of a certain area.</p>
Energy Agency*			
Independence	<p>1) Formed by a separate law, not an independent body outside of the state apparatus.</p> <p>2) Budget – transfers form the budget of RM, income from performing specific services in the area of energy, donations, project implementation, issuing licenses for energy controllers.</p>	/	/
<p>Accountability</p> <ul style="list-style-type: none"> <li>- Financial statements</li> <li>- Audit reports</li> </ul>	<p>1) Published</p> <ul style="list-style-type: none"> <li>- Programs for work (for 2006-2014)</li> <li>- Annual reports for the work for 2007-2012 (including financial statements) and partial information on public procurement.</li> </ul> <p>2) No published Audit reports (in <i>Macedonian</i>).</p>	/	/
Transparency	<p>1) Published on the website, strategies, laws and by-laws, registrars, pricelists.</p> <p>2) E-editions of digital maps for potential investors, Handbooks for authorized producers of OIE, guidelines for EE (in <i>Macedonian</i>).</p>	/	/

	<ul style="list-style-type: none"> <li>3) Current and an archive of completed projects.</li> <li>4) Access to public information.</li> <li>5) No separate contact point for the media.</li> </ul>		
<b>Regulatory body</b>			
<b>Independence</b>	<p>Regulatory Commission</p> <ul style="list-style-type: none"> <li>1) Work regulated by the Energy law.</li> <li>2) Appointment of the president and the members by the Parliament, on the nomination of the Government</li> <li>3) Annual report submitted for adoption to SRM (Parliament of RM).</li> <li>4) The Parliament approves the budget.</li> </ul>	<ul style="list-style-type: none"> <li>1) Relatively wide spectrum of work and jurisdiction.</li> <li>2) The president and the members of the executive board are appointed and dismissed by the National Assembly, on the proposal of the government.</li> <li>3) Financially independent.</li> <li>4) Financed by charging tariffs for the use of the grid, not from the state budget.</li> </ul>	<p>Croatian Energy Regulatory Commission</p> <ul style="list-style-type: none"> <li>1) Founded with the Law regulating energy activity.</li> <li>2) Self standing, independent, non-profit institution.</li> <li>3) Accountable to the Croatian Parliament (members nominated by Parliament).</li> <li>4) Financial independence – fees from the services of regulating the energy activities (proscribed with the Decision for tariffs for regulating energy activities).</li> </ul>
<p>Accountability</p> <ul style="list-style-type: none"> <li>- Financial statements</li> <li>- Audit reports</li> </ul>	<ul style="list-style-type: none"> <li>1) Annual reports for the work published continuously since 2004-2013, publicly available on the website of ERC, contain financial details of the work, in tables, and a narrative explanation of the budget.</li> <li>2) No audit reports published.</li> </ul>	<ul style="list-style-type: none"> <li>1) At least once a year, it submits a report on the state of the energy sector to the Government and the National Assembly, containing information on the activities and measures taken by the Agency for fulfilling its duties.</li> <li>2) No financial statement or audit reports published.</li> </ul>	<ul style="list-style-type: none"> <li>1) Published annual reports for its work. for 2005-2013</li> <li>2) No financial statements published.</li> </ul>
<b>Transparency</b>	<ul style="list-style-type: none"> <li>1) Published laws and bylaws related to the work of the ERC.</li> </ul>	<ul style="list-style-type: none"> <li>1) The rules of procedure of the Agency are publicly available on the website.</li> <li>2) The website contains useful information for</li> </ul>	<ul style="list-style-type: none"> <li>1) The website contains: <ul style="list-style-type: none"> <li>- The budget, register of licenses for performing energy related</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>2) Internal organizational acts published- statute, rules of procedure, rulebooks.</li> <li>3) No public procurements- tenders published.</li> <li>4) Access to public information.</li> <li>5) Regular publishing of public announcements.</li> <li>6) No separate part and contact for the media.</li> </ul>	<p>all energy consumers – households, small and medium enterprises and industry (legal framework, creation of the price of electricity and gas, help with choosing the most economical supplier of gas and electricity, information on the standing of the electricity and gas market, OIE) (in Slovenian) ( all the information is only available in Slovenian).</p> <ul style="list-style-type: none"> <li>3) Consultations with the public and public announcements.</li> <li>4) Separate contact point for the media.</li> </ul>	<p>activities, opinions, decisions, solutions, tariff pricelists, laws and bylaws, overview of the signed public procurement contracts and their implementation (for 2010-2014).</p> <ul style="list-style-type: none"> <li>2) Published Register of public procurements, tenders, plan for procurement.</li> <li>3) The website only contains information on the market of natural gas. Not enough information on the price of electricity and the energy infrastructure.</li> <li>4) Consultations with the interested public in the process of adopting regulations and methodology in the scope of their work.</li> <li>5) Regular publishing of the announcements from the meetings of the management board.</li> <li>6) Access to public information.</li> </ul>
<b>Audit body</b>			
Independence	<p>State Audit Office-</p> <ul style="list-style-type: none"> <li>1) Founded with the Law on State audit.</li> <li>2) Supreme audit institution for doing state audit, independent in its work.</li> </ul>	<ul style="list-style-type: none"> <li>1) Court of audit – separate statute (does not fall into any of the three branches of power- legislature, executive, the judiciary) guaranteed with the Constitution and the</li> </ul>	<p>State Audit Office</p> <ul style="list-style-type: none"> <li>1) Independent in its work (Law on the State audit office).</li> <li>2) Financed from the state budget.</li> </ul>



	3) Financed from the state budget, approved by the Parliament.	<p>laws. Complete independence in its work. The highest organ for supervision of the state budget and the other state accounts and public spending.</p> <p>2) Members appointed by the National Assembly, on the proposal of the president of the Assembly.</p> <p>3) Self-sufficient and independent financing- the financial plan is approved by the National Assembly.</p>	
<p>Accountability</p> <p>5) Financial statements</p> <p>6) Audit reports</p>	<p>1) Published:</p> <ul style="list-style-type: none"> <li>- Annual reports for the work for 2001-2013 (for 2008-2013 also in English).</li> </ul>	1) Available on the Court's website – audit reports of the court, opinions regarding specific audit issues.	<p>1) The annual financial statements are published (also published is the report for 2013 compared with 2012).</p> <p>2) Annual audit reports (for 2007-2014).</p>
Transparency	<p>1) There is an archive of completed revisions on the webpage, according to the program 2012-2014.</p> <p>2) Published annual work programs from 2004-2015.</p> <p>3) Publicly available laws, rulebooks, codex, resolutions, standards, development strategies.</p> <p>4) No tenders or public procurements announced.</p> <p>5) Free access to public information.</p> <p>6) No separate contact point for the media.</p>	<p>1) The Court's website contains useful information on the everyday work of the Court and the completed audits.</p> <p>2) The Court publishes an annual report which it submits to the National Assembly, and which is debated in a separate Commission whose sessions are open to the media.</p> <p>3) The Court organizes press conferences on various issues.</p>	<p>1) The strategic and annual plans, the annual audit reports (period of 2007-2014) are available. The reports also contain a financial statement for the previous year with projections about the next one.</p> <p>2) The plans and the reports for public procurement as well information on ones that are in progress (most of the information is in Croatian, especially in the reports and annual work plans).</p>

			3) The contact for public information of DZR and the decision of why it is chosen is available (with which the communication of the interested parties with the DZR is lessened).
<b>Commission for the prevention of competition</b>			
Independence	<ol style="list-style-type: none"> <li>1) Independent state body with the characteristic of a legal entity, independent in its working.</li> <li>2) Implementation of art 201/102 of TFEU for ban on Cartel association and abuse of dominant position.</li> </ol>	<ol style="list-style-type: none"> <li>1) Independent and autonomous institution founded by the Government of the Republic of Slovenia.</li> <li>2) Its members will not be influenced or instructed in their work by the state or other authorities.</li> <li>3) Implementation of Art 101/102 of TFEU.</li> <li>4) Once a year it submits opinions to the National assembly and the Government.</li> </ol>	<p>Competition Agency</p> <ol style="list-style-type: none"> <li>1) Public institution, founded by the Croatian Parliament.</li> <li>2) Independent in its work and accountable to the Parliament.</li> <li>3) Application of the EU legislation in the area of competition (Art. 101 and 102 of TFEU).</li> </ol>
<p>Accountability</p> <ol style="list-style-type: none"> <li>7) Financial statements</li> <li>8) Audit reports</li> </ol>	<ol style="list-style-type: none"> <li>1) Published annual reports- from 2008-2013 ( a report on the budget incomes and expenditures only available for 2012 and 2013).</li> </ol>	<p>On the website:</p> <ol style="list-style-type: none"> <li>1) Reports on the work only for 2006 (in English).</li> <li>2) Reports with a record of implemented cases – from 2000-2009 (without 2004,2005,2006,2007).</li> </ol>	<p>Publicly available on the website, in a downloadable version:</p> <ol style="list-style-type: none"> <li>1) The annual reports of the creation of the Competition Agency and for State Aid, with an archive of reports for 1998-2014</li> <li>2) The annual budget of the Agency- from 2013, with projections for the following years</li> </ol>
Transparency	<p>Publicly available:</p> <ol style="list-style-type: none"> <li>1) Laws and Directives.</li> <li>2) Reports on concentrations.</li> </ol>	<p>Publicly available:</p> <ol style="list-style-type: none"> <li>1) Tables with an overview of the Commission's activities – from 2000-2010.</li> </ol>	<p>Publicly available on the website, in a downloadable version:</p>

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	<p>3) Public announcements/ no separate contact point for the media.</p>	<p>2) Laws and other legal acts.</p> <p>3) Media announcements relating to certain cases and Decisions of the commission are published on the website.</p> <p>4) Names and contact information of employees working on the particular subject-area publicly available on the website.</p>	<p>1) Programs for the work of the Competition Agency – from 2006-2016 (in Croatian).</p> <p>2) Two year strategic plan for the work for the periods 2011-2013 and 2015-2017.</p> <p>3) Action plan for implementation of an anticorruption program.</p> <p>4) Plans for public procurement – for 2013 and 2014.</p> <p>5) Overview of signed contracts for public procurement and their implementation.</p> <p>6) European and national legislature and Internal Acts.</p> <p>7) Communication strategy of the Agency.</p> <p>8) Public announcements available on the website.</p> <p>9) News archive.</p>
<b>Energy market operator</b>			
<b>Independence</b>	<p><b>MEPSO</b></p> <p>1) It operatively organizes the electricity market in <i>Macedonia</i>.</p> <p>2) Licensed by ERC, works under AD MEPSO.</p>	<p><b>Borzen</b></p> <p>1) Public service, since 2007 in direct ownership of the Government of Slovenia.</p> <p>2) Promotes the development of the Slovenian electricity market in accordance with EU regulation.</p>	<p><b>HROTE</b></p> <p>1) Public service that performs activities for organizing the electricity and natural gas market, under the supervision of the Croatian Regulatory Agency HERA.</p>
<p>Accountability</p> <p>9) Financial statements</p> <p>10) Audit reports</p>	<p>1) Publicly available financial statements.</p> <p>2) No audit reports published.</p>	<p>Published on the website:</p> <p>1) Annual reports for sustainable development- 2009-2013- contain financial statements and audit reports.</p>	<p>Published on the website:</p> <p>1) Laws and secondary legislation on energy.</p>

			2) EU Directives and regulations on the electricity and gas market.
Transparency	<p>Limited access to the information on the website (under MEPSO's website)</p> <ol style="list-style-type: none"> <li>1) Information on the organization of the electricity market- for authorized producers and providers</li> <li>- Tables with the balance of the electricity market for 2012.</li> <li>2) No contact point for the media and announcements published.</li> </ol>	<p>Publishing of:</p> <ol style="list-style-type: none"> <li>1) Data of the market (prices of electricity).</li> <li>2) Brochures.</li> <li>3) Data on maintaining the balance.</li> <li>4) Legal acts and rule-books on the functioning of the electricity market.</li> <li>5) Raising public awareness- through- Names and contact information of people working in specific area publicly available on the internet pages</li> <li>Contact for questions by the citizens.</li> <li>6) Contact for cooperation with the media.</li> </ol>	<p>Available on the website, in a downloadable form (in Slovenian):</p> <ol style="list-style-type: none"> <li>1) Law on public procurement.</li> <li>2) Plan for public procurement.</li> <li>3) Register of public procurement contracts.</li> <li>4) Electronic form for contacting the operator with questions.</li> </ol>

#### ELEM AND MEPSO – how the two state companies operate

### ELEM

Makedonski Elektrani, or in short ELEM, is the largest producer of electricity in state ownership. From its facilities ELEM provides about 96% of the total domestic electricity generation. From the thermal power plants with an installed capacity of 825 MW there are 5.000 GWh of electricity produced per year, while the hydro power plants with an installed capacity of 538 MW, produce 1.200 GWh of electricity annually. Just REK Bitola and Oslomej produce about 80% of the total electricity, while the hydro power plants owned by AD ELEM produce about 16% of the total electricity from domestic facilities.<sup>75</sup> Precisely because of this important role of the company, it is vital to make an analysis of how transparent the company's management is and if there are some drawbacks they must be identified after what appropriate solutions to overcome them can be offered.

What can be concluded at first glance is that the company's website is orderly and reports are readily available. Again one needs to note on the fact that the last available report is that of 2012, while the one of 2013 was not yet published, as was the case with almost all stakeholders analyzed in the report. Furthermore there are, again, noted inconsistencies in the presentation of results. While some reports as the ones for 2009, 2012 can be downloaded and shared, the reports for 2010 and 2011 are so-called multimedia reports and can be viewed exclusively online, which of course limits the freedom of the one who wants to read and/or analyze them. What is positive about the financial statements, it is that they are quite detailed, with narrative explanations, easy to download and share. Of course the criticism remains that at the time of writing this report the report for 2013 was not

<sup>75</sup> ELEM's official website

[http://www.elem.com.mk/index.php?option=com\\_content&view=article&id=67&Itemid=98&lang=mk](http://www.elem.com.mk/index.php?option=com_content&view=article&id=67&Itemid=98&lang=mk)

published. Hence, from what has been published, can be concluded that for example, if we take only the item on profit, before tax, that the company had the largest gains in 2010 and the lowest in 2012<sup>76</sup>:

Table 1

Revenue prior to tax AD ELEM	2012	2011	2010	2009
	142.794.184,00 denars	164.260.408, 00 denars	528.156.038,00 denars	314.402.809,00 denars

In Table 2, the balance sheet of the company over the years is shown. Here on the other hand, the situation is different, and the company balance is best in 2012, where there are the largest amounts of current and non-current assets.<sup>77</sup>

Table 2

Balance sheet ELEM	2012		2011		2010		2009	
	2012	12/31/2011	2011	12/31/2010	12/31/2010	12/31/2009	12/31/2009	12/31/2008
Total current and non-current assets ( in thousands denars '000 )	49,019,814	46,231,773	46,231,773	44,031,539	44,031,539	45,028,343	45,028,343	46,082,014

There are no documents in what is labeled as an annual plan, while there is a document titled Investment Plan 2012-2017. That is the only plan publicly available. It lists all energy projects the company plans (planned) to build in that period, as follows: MINES (1 Surface mine Podinska Jaglenova Serija - Suvodol 2. Coal deposit Mariovo 3. Coal deposit Zivojno 4. Coal deposit Popovjani); THERMAL POWER PLANTS (5 Modernization and Revitalization of TPP Bitola 6. TE Mariovo 7. Revitalization of TE Oslomej 8. Heating of Bitola, Mogila and Novaci 9. Combined Gas Power Plant Energy); HYDROPOWER PLANTS (10. HPP St. Petka 11. Revitalization of HPP – Phase Two 12. Revitalization of HPP – Phase three and upgrade of HPP Spilje 13. HPP Boškov Most 14. Bridge Dam Lukovo Pole and pipeline of Korab's waters 15. System on the 'Crna' River); RENEWABLE ENERGY SOURCES AND ENERGY EFFICIENCY (16 Park of the Veterans electricity plants- Bogdanci 17. Solar power plant). For each project there is a separate amount of costs listed, where the funds would come from, as well as the dynamics of investment for

Financial reports of ELEM, 2009, 2010, 2011, 2012

[http://www.elem.com.mk/index.php?option=com\\_content&view=article&id=362&Itemid=166&lang=mk](http://www.elem.com.mk/index.php?option=com_content&view=article&id=362&Itemid=166&lang=mk)

<sup>77</sup> Ibid.,

every year<sup>78</sup>. The only remark here is that there is no report of what has been accomplished from the investment plan, with which there would have been insight into how the company accomplishes the plan annually and at what pace, as well as what problems it faces in its realization. For illustration, at the beginning of 2015 some of these projects have not yet been realized, nor initiated, such as TE Mariovo, Heating of Bitola, Mogila and Novaci, as well as the controversial hydro power plants Boškov Most and Lukovo Pole, and also the system of Crna River. Also, other than in the Investment Plan, no other information for the Solar Plant exists. Still, some of these projects can be found through the annual reports of the company about what has specifically been accomplished in that year. Furthermore, what is positive is that regarding the part of Development and investments<sup>79</sup>, the investments for each year are individually re-listed, even though this part should be more comprehensive with detailed overview of the steps taken, in what stage every project is at, the tenders that have been awarded, the conducted procurement and how much it all costs.

The main remark in the review of the transparency of ELEM is that there is no summary of all the tenders the company has published or awarded, nor is there a summary analysis of the public procurement done, especially if we take into account that according to the report from the monitoring of public procurements for 2012, the largest public procurement contract for 2012 was concluded by the State company for production of electricity ELEM, and it was worth 53.3 million euros.

**The report states:** *"The object of this procurement is a service for mining of coal and intermediate layer slag in the coal site of "Brod - Gneotino", REK Bitola, with discontinuous technology and orientation amount of 11.000.000 m3. In the negotiation procedure with the prior publication of an advertisement, ELEM received four offers from the economic operators and concluded the contract with the Company for Construction and Services "Pelister" - Bitola LLC. The contract was signed in May 2012, for a period of 24 months. With the signed contract for 19.2 million in January the previous year, ELEM have positioned themselves on the third place on the list of the 10 largest public procurement contracts for 2012. In the negotiation procedure with prior publication of an advertisement for mining slag and coal from the landslide on Microlocation - 3 in the Suvodol mine - REK Bitola, with a coal supply to TPP Bitola with discontinuous technology under an additional mining project. ELEM received six offers on this tender, and it concluded the contract with 5Trans Matt DOO Skopje, with duration of 36 months. ELEM explains the justification for the choice of the negotiation procedure with prior publication of an advertisement with the legal basis that if no reasonable offers were received on the previous tender, the procedure must be annulled."*<sup>80</sup>

Knowing this, if the company wants to be a model in the country for transparent and accountable governance, it is desirable to also publish the summary lists of all the tenders and public procurements for each year.

<sup>78</sup> Source: ELEM, Investment Plan 2012-2017,  
[http://www.elem.com.mk/images/stories/Investiciski\\_plan\\_2012\\_2017.pdf](http://www.elem.com.mk/images/stories/Investiciski_plan_2012_2017.pdf)

<sup>79</sup> Source: ELEM, Development and Investments  
[http://www.elem.com.mk/index.php?option=com\\_content&view=category&layout=blog&id=64&Itemid=128&lang=mk](http://www.elem.com.mk/index.php?option=com_content&view=category&layout=blog&id=64&Itemid=128&lang=mk)

<sup>80</sup> Report on the monitoring of public procurement, 4/2012, Report no.16, Center for Civil Communications, Skopje, May 2013.



Another issue identified is one that was also mentioned as a note in *Macedonia's* latest progress report by the European Commission in 2014, which stated that "there are a large number of policy instruments through which the government increasingly has more impact on the economy - and on the competitiveness of the different sectors and the companies in those sectors - such as ... public guarantees for loans to state-owned enterprises."<sup>81</sup> Thus upon a hearing in the Committee for Financing and Budget in the Parliament on the Draft law on guarantees of the Republic of *Macedonia* under the loan agreement for the project "Modernization of block 1 in TPP Bitola" between Deutsche Bank and ELEM, the main objections were the following:

- The Ministry of Finance has not calculated any risk of failure of the debtor to repay the credit,
- The information about the debtor for which the state should give a guarantee are not specified,
- The Ministry of Finance has not stated a rationale for the bank fees of significant amounts,
- The credit that ELEM will take is with a fluctuating interest rate that is least favorable to the debtor,
- Lack of scientifically based, published studies on the need for interventions,
- The law was adopted under a shortened procedure.<sup>82</sup>

The response from authorities generally comes down to the fact that the state and the company have the capacity to realize the project and that the fact that an international bank agrees to provide the credit and signs the contract with the company, is a sufficient signal of the company's financial capacity and solvency. There was no explanation on why such important legislation which hits the taxpayers with new credits is adopted in a shortend procedure.

### *Findings of the State audit office*

Regarding the audits carries out; this document presents the findings of SAO for the work of ELEM in 2006 and the conducted public procurements in 2011. The state auditor refrained from giving an opinion on the veracity and objectivity of the financial statements of AD ELEM for 2006 and expressed a negative opinion on the legal and purposeful spending.<sup>83</sup>

In relation to the regularity of the method and procedures for awarding public procurement contracts of AD ELEM in the period of 2011, SAO stated a reserved opinion on the compliance with regulations, guidelines and established policies. The audit includes procedures for the award of public procurement contracts for goods, services and works carried out in the period from 2008 to 2011 that have realization in the reporting period of 2011. The regularity of public procurement in 2011 is the responsibility of the leadership of Vladimir Chingovski - General Director of AD ELEM<sup>84</sup>.

The audit in 2011 found that:

- The procurement plans do not contain all the data specified by the laws and regulations;
- There are irregularities in the manner and procedure of awarding the contracts for certain public procurements and implementation of the signed contracts.

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<sup>81</sup> *Macedonia* Progress Report 2014 [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-strategy-paper\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-strategy-paper_en.pdf)

<sup>82</sup> Committee for Financing and Budget, Statement of eighty -third session of the Committee 11.04.2013

<sup>83</sup> Final Report of the authorized state auditor, number 13-313 / 6 of AD *Makedonski* Elektrani in state ownership, Skopje , 29.03.2013

<sup>84</sup> Ibid.,

Comments on the draft report by the state auditor were received, reviewed, and constitute a report on the measures taken following the recommendations of the auditor.

With the insight into the way public procurement is planned, the audit found that in terms of compliance with the regulations:

- the general procurement glossary is not being used as a reference in procedures for the award of public procurements;
- that the individual plans submitted by the subsidiaries are not unified;
- that the individual plans submitted do not contain data on the type of procedures for award of contracts.

The stated condition is not in accordance with Article 26 of the Law Public Procurement, the Rules on the form and content of the annual procurement plan and the Directive for the general glossary of public procurement. ELEM informed that the new procurement plan for 2012 and 2013 is in accordance with the legislation (with the exception of the application of the general glossary, which is expected to be fixed with the introduction of the new electronic system).

Regarding the use of funds in accordance with the legal regulations, the following was found:

- The subsidiary of REK Oslomej has established a practice of continuous engagement of labor from external entities by signing framework agreements on previously conducted public procurement procedure, rather than going through the temporary employment agency. The prepared tender documentation in this regard is not in accordance with the Rules of the contents of the tender documentation and distorts competition between the economic operators, which is not in accordance with Article 2 of the Law on Public Procurement.

With the audit of the signed contracts and invoices arising from obligations, SAO determined that there is a difference between what is agreed and what is invoiced. In the remarks, the legal representative submitted a Decision to form a commission for examining the whole documentation on public procurement, and to act upon returning the unfounded amount on the basis of its conclusion.

Recommendation:

- The provision of additional labor to be performed according to the Law on temporary employment agencies;
- To establish internal controls in order to ensure the verification of invoices for contracts before their processing in accounting records;
- The Procurement committee to undertake activities which will provide for the tender documentation to be prepared in accordance with the Rules of the content of tender documents and the provisions in the contracts signed to contain elements of the offer submitted in accordance with the tender documentation;

With insight into the tender documentation for procurement of round bearings in ELEM, SAO determined that the announcement for the contract was not published in the Official journal of the EU nor in the appropriate

business publication, even though the assessed value exceeds EUR 500.000, which is contrary to Article 54 of the Law on Public Procurement.

With insight into the accounting records and in the manner of implementation of the framework agreements signed with economic operators, the audit found that the said condition indicates violation of several provisions of the contracts signed with economic operators.

The persons of authority in ELEM have made annexes to the contracts with which the price of the bearings increased by 40% (not in accordance with Article 198 of the LPP). The total increased amount is exceeded by 627.000 denars. In ELEM's notes it is stated that there is an internal program made that automatically generates orders and chooses first preference suppliers in order not to exceed the value frame.

For the needs of REK Bitola and REK Oslomej, ELEM engaged auxiliary construction machinery, and the value of the signed framework contracts is 1.0207 million denars (861.400 for REK Bitola, 159.300 for REK Oslomej). After insight into the accounts, the audit is not assured in the reality of part of the recorded obligations. The audit observed that for a certain period the GPS system has not been implemented. In the period when the invoices are of lesser value, the audit has no recommendation since this condition is outdone.

Total effects of the findings:

- The prepared procurement plan for 2011 does not contain all the information specified by the laws and regulations;
- Irregularities in the manner and procedure for awarding certain public procurement contracts, implementation of the contracts signed for hiring labor from external entities, purchasing circular bearings and engaging auxiliary construction machinery.

Except these mentioned problems, the financial transactions, signed contracts and their implementation, are in all material aspects in accordance with the relevant legislation, guidelines and established policies.

Questions of uncertainty:

The audit reveals conditions which, according to their materiality, belong in the part of registered and paid duties in 2011. In February 2006, following the conducting of public procurement in 2005, there was a contract signed between ELEM and a legal entity from Slovenia for construction of HPP Sveta Petka. The parties did not reach an agreement regarding the request for recovery of damages by ELEM, after which they referred to the Commission for arbitration of disputes, which was formed with their consent, and that brought five decisions, the fifth of which was final and based on it there is an Agreement between ELEM and the contractor signed. Finally, after ELEM's overtaking of the building, the audit has not been presented with a document from which it can be seen that the competent institution preformed a technical inspection of the building and an approval for operation of the building has not been issued. Furthermore, in April 2010 the contracting authority has entered into a public contract with a legal entity from Germany for supply of the installation of the main transport system with tracks in Brod Gneotino. With the done insight into the documentation, it can be seen that the contracting authority prepared a delayed Conditional minutes for the handover of completed activities as was part of the agreement.

By the date of completion of the audit, there are no Minutes prepared for the complete handover of equipment.<sup>85</sup>

From the submitted extensive audit, it can be concluded that there are deficiencies found in the work of ELEM, especially in the area of public procurement and contracting with third parties. The main problem here is that, in all of the cases where the audit found shortcomings in the performance of state entities, there are no reports on what actions and within which timeframe have been taken to overcome those deficiencies. Another note here is that, even though these audit reports are publicly available, neither ELEM, or any other entity that is subject to this analysis has mentioned, published, or listed the audits in their annual or any other type of reports. This is certainly not legally required, but taking responsibility and publicly presenting the shortcomings and the way they are or will be solved goes in favor of the transparency and the accountable spending of money. Otherwise, any analysis remains incomplete since it is impossible to find publicly available information on what has happened after the findings of mismanagement.

## MEPSO

The Electricity Transmission System Operator of *Macedonia*, or MEPSO, is a public company that was formed in 2005 with the then transformation of the former *Macedonian* Electric Power Company. The main activity of MEPSO is the undisturbed electricity transmission via the high voltage network, electric power system control and regular and timely electricity flow to its clients, the direct consumers as well as the low voltage grid of EVN *Macedonia*. As for the financial operations of the company, most of its revenue comes from the sold electricity.<sup>86</sup> When you open the company's website, you can easily find the financial statements and annual reports of the work that are divided into several chapters such as Financial Statement, Transmission Grids Operator, Power System Operator and Electricity Market Operator. Publicly available are also the reports from 2008 to 2012, where again, as is the case with almost all stakeholders, the report for 2013 is still missing. The reports describe the company's activities for each of the above chapters, as well as the overall state of the electricity system in *Macedonia*. An important part in what the company plans to invest in, are the sub-chapters Strategic Planning Department<sup>87</sup> and Revitalization Department<sup>88</sup>, where the MEPSO projects are listed.

The main observation here is that there is no planned - accomplished comparison, so from what is in the reports, one cannot know what percentage of the projects are realized, what percentage are underway, and what percentage are not, and this is mostly in the projects under the Department for strategic planning, unlike the Department of revitalization, where one can see planned and realized projects, but only for the year of 2010. This good practice unfortunately cannot be seen in the reports from other years. So the information is not consistently presented throughout the years, which was also noted in the reports of other stakeholders in the energy sector. With this the type of available information that varies from year to year, makes the comparison of planned-realized difficult<sup>89</sup>. Furthermore the fact that the reports are not available for download but can only be viewed on the website of MEPSO further complicates the review and research process.

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<sup>85</sup> The overall analysis is taken from the audit report of the State Audit Office , Final Report of the authorized state auditor , number 13-313 / 6

<sup>86</sup> AD MEPSO official webpage <http://www.mepso.com.mk/Details.aspx?categoryID=1>

<sup>87</sup> Example from the annual report for 2012

[http://www.mepso.com.mk/Content\\_Data/mepso2012/sektor\\_za\\_stratesko\\_planiranje.html](http://www.mepso.com.mk/Content_Data/mepso2012/sektor_za_stratesko_planiranje.html)

<sup>88</sup> Example for the annual reports from 2012 [http://www.mepso.com.mk/Content\\_Data/cd2010/main.html](http://www.mepso.com.mk/Content_Data/cd2010/main.html)

<sup>89</sup> All of MEPSO's reports are available on the following link: <http://mepso.com.mk/Details.aspx?categoryID=232>

Under the section of Financial Statements, there are two types of sub-reports - balance sheet and income statement (Item 7 and 8). The remark here is that the reports are not informative enough for the interested parties outside the company. If on this we add the fact that one cannot make a more detailed comparison between the numbers and what has been achieved and is contained in the narrative reports, these financial statements as presented are of no greater use. All that can be done is to compare the company's standing over the years (Table 2), with which again it is still difficult to analyze why 2010 was the weakest of the four years shown, and why there is a maximum increase in 2012. Another problem is that there are no audit reports published in order to show good faith by the company of accountable and transparent operation.

Table 2

Balans sheet MEPSO	2012		2011		2010		2009	
	2012	12/31/2011	2011	12/31/2010	2010	12/31/2009	2009	12/31/2008
Total current and non-current assets	9,157,482,000.00	8,458,376,000.00	8,460,879,000.00*	7,708,103,000.00	7,708,103,000.00	8,164,608,000.00	8,164,606,229.00	8,285,625,786.00
In euros	148,179,320	136,866,925	136,907,427	124,726,585	124,726,585	132,113,398	132,113,398	134,071,614

\*40 502 EUR difference between what is shown in the report of 2011 and the report of 2012, where a comparison of the financial situation in 2011 and 2012 is done. The report from 2012 shows a shortage 40 502 EUR. From the presented above, weakest year for MESPSO was in 2010, while the highest growth was experienced in 2012.

## Items 7 and 8

### Биланс на состојба (Извештај за финансиската состојба)

	Белешки	(000 МКД) на 31 декември 2012	2011
<b>Нетековни средства</b>			
Недвижности, постројки и опрема	6	6,751,976	5,765,402
Нематеријални средства	7	23,738	5,820
Вложувања во неконсолидирани подружници	8	2,469	159
Финансиски средства, расположливи за продажба	9	6,345	6,345
Финансиски средства, чувани до доспевање	10	248,611	367,497
Финансиски побарувања	11	1,055	1,005
		<b>7,034,194</b>	<b>6,146,228</b>
<b>Тековни средства</b>			
Залики	12	87,151	81,850
Финансиски побарувања	11	30,000	101,500
Побарувања од купувачи и останати побарувања	13	1,204,246	1,384,231
Парични средства и парични еквиваленти	14	801,891	744,567
		<b>2,123,288</b>	<b>2,312,148</b>
<b>Вкупно средства</b>		<b>9,157,482</b>	<b>8,458,376</b>
<b>Капитал и резерви</b>			
Акционерски капитал		3,059,393	3,059,393
Резерви		297,858	63,307
Останат капитал		296,913	296,913
Нераспределена добивка/Акумулирана (загуба)		483,464	357,551
<b>Вкупно капитал и резерви</b>	15	<b>4,137,628</b>	<b>3,777,164</b>
<b>Нетековни обврски</b>			
Обврски по кредити	16	2,573,303	2,682,749
Донации	17	521,558	3,072
		<b>3,094,861</b>	<b>2,685,821</b>
<b>Тековни обврски</b>			
Обврски по кредити	16	184,327	188,145
Обврски кон добавувачи и останати тековни обврски	18	1,740,666	1,807,246
		<b>1,924,993</b>	<b>1,995,391</b>
<b>Вкупно обврски</b>		<b>5,019,854</b>	<b>4,681,212</b>
<b>Вкупно капитал и резерви и обврски</b>		<b>9,157,482</b>	<b>8,458,376</b>

### Биланс на успех (Извештај за сеопфатната добивка)

	Белешки	(000 МКД) Година што завршува на 31 декември 2012	2011
<b>Приходи од продажба електрична енергија</b>	19	3,346,319	2,810,671
<b>Останати оперативни приходи</b>	20	83,636	74,257
		<b>3,429,955</b>	<b>2,884,928</b>
<b>Намалено за:</b>			
Набавна вредност на продадена електрична енергија	21	153,919	77,732
Потрошени материјали	22	50,198	45,318
Трошоци за вработени	23	298,916	290,000
Амортизација и депресијација	6,7	309,406	282,389
Останати оперативни расходи	24	2,145,278	1,305,188
<b>Оперативна добивка</b>		<b>472,238</b>	<b>884,301</b>
<b>Приходи од финансирање</b>	25	70,638	29,827
<b>(Расходи) од финансирање</b>	25	(55,219)	(71,434)
		<b>15,419</b>	<b>(41,607)</b>
<b>Добивка/предоданочување</b>		<b>487,657</b>	<b>842,694</b>
<b>Даночна добивка</b>	26	(4,193)	(1,296)
<b>Добивка за финансиската година</b>		<b>483,464</b>	<b>841,398</b>
<b>Останата сеопфатна добивка/загуба</b>		-	-
<b>Вкупна сеопфатна добивка за годината</b>		<b>483,464</b>	<b>841,398</b>



The accountable and transparent work is particularly important since it concerns one of the largest companies in *Macedonia*, which is state owned, and on whose operation the reliable power supply to all parties in *Macedonia* depends on. This is also important because in their work the state companies are often under criticism for uneconomically spending taxpayers' money, as for example is the discussion in the Committee for Financing and Budget, on item: The draft law on MEPSO borrowing a loan from the European Bank for Reconstruction and Development under the loan agreement on the project "Rehabilitation and modernization of the transmission grid and power system" without state guarantee<sup>90</sup>. The first obvious problem is that the law is adopted by shortened procedure. Although there is nothing illegal here, since it is a loan that will have to be paid back by the taxpayers, it is of interest for it to be adopted through the standard procedure, where multiple stakeholders can participate in the debate. This practice of adopting laws in shortened procedures when it comes to taking up credits/loans etc. is observed in other cases as well, which shows lack of transparency on the side of the authorities when it comes to including other stakeholders in the debate, even if those are only the MPs in a plenary session. The *Macedonian* Parliament, for which the analysis showed that it has a very limited role in the creation of the energy policies of *Macedonia*, could at least, in the area in which is most responsible, adopting the laws, have a greater role in discussions regarding the draft laws and impose on the government to respect that.

The discussion about the above-mentioned Law on loan applies to a requested EBRD loan of EUR 40.5 million which consists of the following components:

1. Rehabilitation of 110kV transmission lines older than 40 years;
2. Remote monitoring, video surveillance, management and customization of substations;
3. Functional closing of the optical network within the transmission grid and development of a model for maximum utilization;
4. Rehabilitation of substations.<sup>91</sup>

Generally the remarks of the debate moved towards the fact that MEPSO is spending money uneconomically where for example, there will be a feasibility study for building of a hotel complex on the mountain of Jablanica in the amount of 250,000 Euros funded from the company's budget; there will also be snowboard trail built on Ponikva in the amount of 1 million Euros as well as a Baroque facade done on the administrative building of MEPSO. If these projects are to be funded by MEPSO, while on the other hand it is indebting the state by 25 million EUR credit, a doubt is being cast on the justification of such loans. Since the core business of MEPSO is to provide quality transmission of electricity, the question arises why the company would engage in the above-mentioned projects<sup>92</sup>. The justification was in the direction that the company is doing projects that are of public interest and in the interest of all citizens, although it is unclear how a facade may be of interest to the taxpayers, especially as there are no published estimates of how worthwhile and how energy efficient the whole reconstruction is. Another objection is that such projects that fall outside the scope of work of the company cannot be

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<sup>90</sup> Report of the Committee on Finance and Budget, the eighty -seventh session held on November 28, 2013, issued on 30.11.2013 .

<sup>91</sup> This project will be implemented by means of a loan from the EBRD for which the *Republic of Macedonia* will not issue a state guarantee. The rights and obligations of MEPSO are defined in the Loan Agreement to be signed by MEPSO. The date of closure for the project is 4 years from the date of signing of the Loan Agreement. - Report of the Committee on Budget and Financing.

<sup>92</sup> Report of the Committee for Financing and Budget, 30.11.2013.

found in the annual reports, and which according to the principles of transparent and accountable work should be presented in a separate section.<sup>93</sup>

Nontransparent financial statements, inability of downloading and sharing reports which reduces their availability, no reports on planned-realized, as well as no internal or external audit reports. The last published report is from 2012 and there is nothing after that.

A further problem is the difficult access to certain information. In the abovementioned report from the Parliamentary Committee, the Director of AD MEPSO said: "Since 2009 until today, AD MEPSO has completed projects totaling 35 million, and its own investment in these projects is about 14 million. By the end of 2017, with its Action Plan, AD MEPSO plans to finance projects in total amount of 154.096 million Euros, in which its share will be 62.787 million Euros."<sup>94</sup> However when the fore mentioned Action Plan was requested using the Law on free access to public information for the purposes of this research, it was stated that MEPSO does not prepare any action plans. There may be confusion about what different stakeholders from different sectors understand under the term Action Plan, however it is a problem when there are doubts about it, and why is it mentioned somewhere and then again it does not exist as an official source. This is problematic primarily because it is difficult to get simple insight from interested parties outside the company into what the company plans to do, how it spends its money and on what projects, what has and what has not been accomplished, and what are the reasons for it, with which the elaboration of an independent expert analysis on the performance of the entire energy sector will always be incomplete.

Other problems related to MEPSO, which are not directly related to the spending of money, but are part of the transparent governance, are the problems reported by the Energy Community. In its latest report, the Energy Community, under the chapter of Open Infringement Cases<sup>95</sup> cited the case with the (non)adoption of a common coordinated method of managing slowdown as well as a procedure for market capacity allocation by MEPSO.

"On 20 January 2011, the Secretariat sent an Open Letter to, inter alia, *Macedonia* in the Case ECS-4/11. The Secretariat is concerned that MEPSO has not yet adopted a common coordinated congestion management method and procedure for the allocation of capacity to the market, according to their obligation pursuant to the Decision by the Ministerial Council of 2008. At the Athens Forum of June 2014, "the Forum express[ed] its concerns about lack of participation by the network operators of ... *Macedonia*..., as a fragmented solution undermines the effectiveness of the SEE CAO<sup>96</sup> project, contradicts Energy Community Treaty obligations and disregards the upcoming EU harmonisation of forward trading rules. The Forum invites the TSOs of *Macedonia* ... to present to the Secretariat by end July 2014 a roadmap with concrete actions and timelines for participation in any regional body performing long-term capacity allocation. Otherwise, the Forum invites the Secretariat to consider measures, including

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<sup>93</sup> Ibid.,

<sup>94</sup> Ibid.,

<sup>95</sup> Annual Implementation Report, 2013/2014, Energy Community Secretariat, page 106.

<sup>96</sup> SEE CEO or Coordinated Action Office of South East Europe is a network of auction trading of electricity in South Europe that *Macedonia* is not yet a part of. Link to the official website : <http://www.seecao.com/>

re-opening infringement procedures against ... *Macedonia* to achieve a forward trading mechanism encompassing SEE CAO by 1 December 2014 the latest.” The Secretariat is currently preparing for an elaborated opinion on the case.”<sup>97</sup>

Here it is unclear why the *Macedonian* public is not familiar with this case where MEPSO, for some reason, for 3 years does not join the SEE CAO project with the rest of the transmission systems operators in the region, especially since the obligation arises from the very membership in the Energy Community. Particularly problematic is the fact that the Energy Community Secretariat highlights this problem along with two other problems for which it considers an opinion to launch proceedings against *Macedonia*<sup>98</sup>, and if to this we add the fourth case of delaying the liberalization of the energy market, the situation becomes critical. The analysis done points out that *Macedonia* is regressing with its fulfillment of the obligations undertaken by the membership in the Energy Community which is very worrying especially as the energy authorities have always been declaratively for fully respecting those obligations. The situation on the ground shows something completely different, and AD MEPSO is just a part of that mosaic.

Although AD ELEM and MEPSO operate on the principle of charging for the services they offer, still the fact that they are the two most important state-owned companies in the energy sector makes them vulnerable to the negative impact if the laws are not clear enough or sufficiently enforceable. This particularly applies to the so called "hidden state aid" or assistance that is not granted completely in accordance to the regulations or by public and transparent procedures, which has already been indicated by the European Commission itself.<sup>99</sup> This certainly fits with the above-mentioned findings from the discussions on the two loans for MEPSO and ELEM and whether and how much economically does the state spend the money that it borrows from foreign sources, which later will have to be returned by the citizens of *Macedonia*.

## Positive experiences from Slovenia and Croatia

In Croatia and Slovenia, the state-owned energy companies are required to operate transparently and in accordance with the established legal norms to regularly inform the responsible state institutions and the public about their realized activities, their planned projects and financial performance. In this section are presented the companies for production and transmission of electricity from these two countries.

### Slovenia

**ELES (Electricity Transmission System Operator)** is the operator for transmission of electricity in Slovenia.<sup>100</sup> The founder and sole owner of the company is the Republic of Slovenia. The mission of ELES is to provide reliable,

<sup>97</sup>Annual Implementation Report, 2013/2014, Energy Community Secretariat, page 106.

<sup>98</sup>The other two cases are violations of the directive on sulfur in fuels, and the failure to adopt a National Action Plan for renewable sources. Source: Annual Implementation Report, 2013/2014, Energy Community Secretariat, by 106th

<sup>99</sup> EC's Progress Report on Macedonia 2014, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-strategy-paper\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-strategy-paper_en.pdf)

<sup>100</sup><http://www.eles.si/en/the-company.aspx>

uninterrupted and quality power transmission to end users in Slovenia and throughout Europe. In its work ELES applies implementation of technical solutions in parallel with the transfer of know-how in the management of complex systems, and all with the end goal of development of sustainable and advanced technologies. ELES is a partner in the European Network of Transmission System Operators (ENTSO-E).

ELES is a company that is socially responsible and that cares for the protection of the environment. The company invests and supports its employees (529 employees) by investing in their education and specialization.

### Transparency

#### *1. Annual reports<sup>101</sup>*

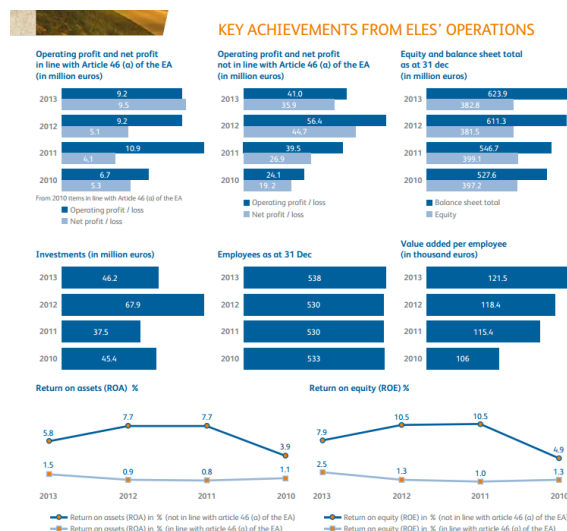
Transparency in the work ELES is ensured through regular publication of annual reports on the activities, results and budget parameters for the previous year. The website of ELES has published all annual reports from 1999 till today. Meanwhile, the reports are presented comparatively for the current and previous year (Item 1), and contain information and data on:

- Main activities for the current and goals for the following year;
- Technical data for the transmission of electricity, as well on the maintenance of the transmission grid and its further development;
- Calculation of risks, investments in research and development;
- Financial reports compared with the year before
  - o Balance sheet - changes in the value of long-term and short-term assets of the company, and obligations
  - o Income statement - operating revenues, operating expenses, and income
  - o Statement of cash flows - cash flows from the financial, operational, and capital investment activities
  - o Changes in the structure of the capital;
- Report of the independent auditor - on the reliability of the internal financial report of ELES - according to Slovenian accounting standards.

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<sup>101</sup> Examples of ELES's Annual Reports for 2013 and 2012, accordingly [http://www.eles.si/en/files/eles/userfiles/ANG/About ELES/Annual reports/Annual%20report%202013.pdf](http://www.eles.si/en/files/eles/userfiles/ANG/About%20ELES/Annual%20reports/Annual%20report%202013.pdf) and [http://www.eles.si/en/files/eles/userfiles/ANG/About ELES/Annual reports/Eles Letno porocilo 2012 ENG.pdf](http://www.eles.si/en/files/eles/userfiles/ANG/About%20ELES/Annual%20reports/Eles%20Letno%20porocilo%202012%20ENG.pdf).

## Item 1 - Summary of main achievements



## 2. Brochures

The brochures issued by ELES are short informative papers (20 pages), in which the data is presented in a comparative manner, represented in a simple and colorful way with tables and graphs. The data relates to the state of the energy balance, the installed capacity, annual, monthly and daily amount of produced and consumed electricity, periods of biggest daily, weekly and average consumption of electricity, technical data on the transfer grid (440 and 220 kV), the amount of electricity exchanged with the neighbors etc.<sup>102</sup>

## 3. Cooperation with the media

Since ELES performs services which are of public interest, it is rather important that the company is associated with the media and journalists. Due to this, the website of ELES contains a special section for cooperation with the media, which is being updated, and through which journalists are being informed about the activities of the company on regular basis.<sup>103</sup>

## 4. Cooperation with citizens

To make the work of ELES closer to the end users - citizens, the ELES website informs interested citizens about the characteristics of the existing transmission grid, about the transmission grid under construction, as well as about the new proposed route of the transmission grid. The measures taken to maintain the pylons and transformers are also published on the website, and ELES informs citizens about the measures and actions taken by the company to protect the environment.<sup>104</sup>

On the website of ELES, there is information available on the projects of common interest to the EU in which the company is included, as well as the European legislation concerning the development of European energy networks (Table 1).<sup>105</sup>

Table 1

<sup>102</sup> Examples of ELES's brochures: [http://www.eles.si/files/eles/userfiles/porocila/brochures/ELES-LP08\\_ang\\_kor5.pdf](http://www.eles.si/files/eles/userfiles/porocila/brochures/ELES-LP08_ang_kor5.pdf) and [http://www.eles.si/files/eles/userfiles/porocila/brochures/ELES-LP07\\_ang\\_kor5.pdf](http://www.eles.si/files/eles/userfiles/porocila/brochures/ELES-LP07_ang_kor5.pdf)

<sup>103</sup> Contact for media <http://www.eles.si/en/media/media-contacts.aspx>

<sup>104</sup> Website of ELES

[http://www.eles.si/files/eles/userfiles/ANG/About\\_ELES/Company\\_profile/2014/ELES\\_Company\\_profile\\_2013\\_Ang.pdf](http://www.eles.si/files/eles/userfiles/ANG/About_ELES/Company_profile/2014/ELES_Company_profile_2013_Ang.pdf).

<sup>105</sup> Website of ELES <http://www.eles.si/en/for-citizens/planned-transmission-infrastructure.aspx>.

Important planned projects for the development of transfer grid:

**2x400 kV Beričevo-Krško grid – trial commissioning**

**2x110 kV Gorica-Divača grid–reconstruction**

**2x110 kV Brestanica-Hudo grid – reconstruction**

**220 kV Šoštanj-Podlog grid– reconstruction**

According to the Energy Law and the Decree on the methods of implementation of public service operator for the distribution of electricity, ELES is obliged to prepare plans for the development of the transmission grid for the next decade, twice a year.<sup>106</sup>

#### 5. *Cooperation with the business community*

The business community is one of the main partners of ELES. On the website of ELES there are detailed and technical information available that are useful for companies operating in the market of distribution and production of electricity. With that ELES provides access to data on:

- Cross-border capacities for transmission of electricity;
- Operation of the transmission grid;
- Load on the network and generating electricity;
- Plans for the development of the transmission grid and about access to the network;
- Public auction to purchase electricity;
- Public tenders and procurement notices.<sup>107</sup>

In accordance with the law, ELES publishes the tender documents for all public tenders and procurement (scanned originals), taken from public procurement portal [www.enarocanje.si](http://www.enarocanje.si). With the publication of the tender documents online, ELES wants to attract a wider range of high quality and competitive offers, as well as to foster collaboration with new companies that have not previously applied for the tenders. All active and past tenders are published accordingly on the website.<sup>108</sup>

The Energy Company HSE (**Holding Slovenske Elektrarne d.o.o**) is the largest Slovenian company for production and trade of electricity on the energy market. The company is a group of hydro plants, thermal plants, and a nuclear power plant, which combined produce most of the electricity in Slovenia. At the same time HSE is an electricity supplier (reliability and quality) to domestic consumers, but also it increasingly imposes itself as a worthy competition in the European electricity market. HSE except in Slovenia are also present in foreign markets, has companies, subsidiaries and representative offices in Slovenia, Croatia, Serbia, *Macedonia*, Italy, Hungary, Romania and Slovakia.<sup>109</sup>

Specifically, the HSE Group is engaged in the following activities:

<sup>106</sup> Published “The Transmission Grid Development Plan in the Republic of Slovenia 2011-2020”, <http://www.eles.si/files/eles/userfiles/ANG/For%20Bussines%20Users/Network%20Development/Development%20strategy%20of%20the%20Electrical%20Power%20System%202011-2020.pdf>

<sup>107</sup> More on the website of ELES <http://www.eles.si/en/for-business-users.aspx>.

<sup>108</sup> Available at <http://www.eles.si/en/for-business-users/public-tenders-and-procurement.aspx>

<sup>109</sup> More information can be found on the official website of HSE <http://www.hse.si/en/company-profile/introduction>.



- Production of electricity and heat;
- Purchase of lignite;
- Sales and trading of electricity and thermal energy, delivers contracts for electricity, coupons for emission of CO<sub>2</sub>, RECS certificates, certificates of origin,
- Optimization of production of the HSE group;
- Provision of ancillary services necessary for the functioning of the energy system,
- Management and implementation of energy and environmental projects.

With the introduction of the "unified front" of marketing approach, a common HSE brand is under way to become a significant and reliable supplier of electricity to the Central European market. At the same time, this ensures the provision of safe and secure supply of electricity for domestic consumers, social security of employees working in subsidiary companies, as well as further development of the Slovenian economy.

### Transparency

#### *1. Annual Reports*

The HSE group publishes its annual reports regularly on their webpage.<sup>110</sup> Those contain the following:<sup>111</sup>

- Report on the work of the Supervisory Board
  - o opinion and oversight over the activities of the company and the management team;
  - o disclosure of the payments for the work of the Supervisory Board and auditors (payments for attendance, travel expenses, bonuses)
  - o allocation of realized profits
  - o information on the share's capital
  - o electricity production and trade within the HSE Group;
- Report on the business activities
  - o implementation of strategic and business policies
  - o management policies
  - o market conditions and the company's position in the energy market
  - o production of electrical and thermal energy from the companies in the HES group
  - o information about sales and customers
  - o the value of assets and the total capital, as well as operative results
  - o group companies in 2013
  - o new investments
  - o risk management
  - o investing in R&D (research and development);
- Report on the social responsibility of the company
  - o information on the structure and education of the employees – at home and abroad
  - o responsibility for protection of the environment;
- Financial statement of the HSE company and group

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<sup>110</sup> Website with the published reports <http://www.hse.si/en/publications/annual-reports>

<sup>111</sup> Example of an annual report <http://www.hse.si/en/files/default/letna-porocila/en/HSE2013-annual-report.pdf>

- report from an independent audit company
- report on the financial situation, comparatively with the previous year, which includes:
  - balance sheet - changes in the value of long-term and short-term assets of the company, and sources of capital
  - income statement - operating revenues, operating costs, income / loss
  - other comprehensive income
  - cash flow - cash flow from operating activities, investments and financing
  - changes in the structure of the capital.

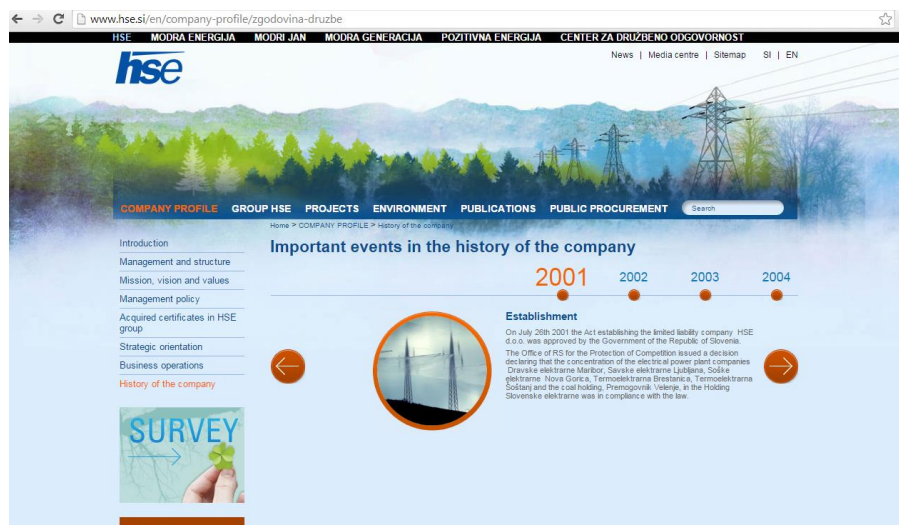
## 2. Public Procurement

Information and documentation on public procurement is published on a separate part on the website of HSE.<sup>112</sup>

### Closer to the citizens

For the sake of approximating the work of HSE closer to final consumers and citizens, the HSE's website, in an interactive manner (timeline), enables an introduction to the history of the company and the highlights from its development - <http://www.hse.si/en/company-profile/zgodovina-druzbe> (Item 2).

#### Item 2



In addition, the website makes available the information about the planned development activities and new projects (Table 2). The HSE Group, in accordance with the long-term strategy, performs a number of activities to support investment projects in the field of energy production - modernization of existing

thermal power plants and hydro power plants, and construction of new energy facilities. The execution of the development activities of the HSE is following the directives of the national and European energy policy, in accordance with the criteria for long-term development. Strengthening of the regional cooperation in the field of energy production is also of strategic importance for the HSE, which aims to expand towards markets in South East Europe as one of its strategic goals.

In accordance with the European energy policy, HSE follows these goals:

- Increasing the share of renewable energy sources,

<sup>112</sup>HES's website for publishing public procurements <http://www.hse.si/en/public-procurement>.

- Application of new technologies using fossil fuels,
- Reducing greenhouse gas emissions,
- Increasing energy efficiency,
- Long-lasting, environmentally friendly use of resources,
- Attracting foreign investments.

Table 2<sup>113</sup>

Project	Investor
Construction of a hydro power plant in the middle of Sava river	HSE d.o.o.
Construction of a hydro power plant in the lower part of the Sava river	HSE, HESS, DEM, SENG, TEB in GEN energy
Block 6	TEC Sostanj
Hydro power plant Kozjak	Dravska power plant Maribor
Modernization of extraction equipment	Coalmine Velenje
Station for coal transportation	TEC Trbovlje

A specificity of the Slovenian energy sector is the production of electricity from nuclear energy. **The Krsko nuclear power plant (NEK)** has been in operation for more than thirty years.<sup>114</sup>

Given the specificity of source of energy and its impact on the environment and human health, the company regularly informs the public of all technical and technological changes, the company's strategy and its daily activities. The company ensures a high level of nuclear safety, stability and competitiveness of electricity production compared with other sources of energy and seeks public acceptance of their work. They have formed a skilled team based on know-how, continuous training, safe operation and operational efficiency, fulfills the work plan and provides continuous and safe production of electricity.

Publicly available are the annual reports (since 2004 until today), which contain information on:<sup>115</sup>

- The impact of nuclear power on the environment
- Activities undertaken to maintain and improve the high level of nuclear safety
- Performance
- International cooperation

<sup>113</sup>List of projects available on the website <http://www.hse.si/en/projects>.

<sup>114</sup>Website of NEK <http://www.nek.si/en/>.

<sup>115</sup>Example of reports of NEK [http://www.nek.si/uploads/documents/LP\\_ANG\\_2013.pdf](http://www.nek.si/uploads/documents/LP_ANG_2013.pdf).

- Training and information for staff
- Overview of the financial condition - Report of an independent auditor (certificate), a report on the status of assets (current, long-term), changes and latest state of the shareholders' equity and liabilities, transfer of funds and financial results.

For the interested public, organized visits of the nuclear plant are allowed.

## Croatia

The **Croatian operator of the transmission system (HOPS)** is the only operator of the transmission of electricity in Croatia, responsible for the transmission of electricity produced in Croatia or imported from other countries intended for the Croatian consumers, as well as for transit of electricity through the Croatian grid. Alongside this, HOPS is responsible for maintaining the transmission grid (400 kV, 220kV and 110kV voltage networks), as well as for the development and construction of new transmission lines for electricity in the country and for cross-border transmission.<sup>116</sup>

HEP-OPS was formed in 2005, with the reforms of the Croatian energy sector and the separation (unbundling) of the generation, transmission and distribution of electricity, with which the Croatian energy company HEP (Hrvatska Elektroprivreda) was restructured and divided. Since 2013 HEP-OPS operates as a separate company and legal entity under a new name - HOPS. HOPS is independent from the energy activities of production and supply of electricity.

Hops performs 1) coordination between the electricity consumption and the production planning; 2) coordination between the import, export and other forms of exchange of electricity; 3) balancing of the extreme generation and transmission of electricity and coordinating the supply of electricity to the consumers. HOPS guarantees and secures systematic and additional services, prepares reports and data management system archives, and analyzes the performance of the Croatian energy system.

The Croatian operator of the transmission system works in accordance with the Croatian and European legislation and in accordance with the conditions for the opening and operation of the electricity market (Law on Energy and Law on Electricity). Access to and the use of the transmission grid is transparent, objective and non-discriminatory. The market is fully liberalized since July 1, 2008.

The business activity of HOPS for electricity transmission also includes (among others):

- security of energy supply by providing adequate transmission capacity and reliability of the transmission grid
- use of interconnectors with other networks based on criteria that are objective, publicly available and indiscriminately applied
- providing energy to cover the losses of transmission, as well as energy balancing, based on transparent, non-discriminatory and market principles
- management of network losses
- securing of non-discrimination to the transmission grid users, especially for companies within the framework of a vertically integrated company
- providing information to network users for their network access and efficient use

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<sup>116</sup>Website of HOPS <http://www.hops.hr/wps/portal/en/web/about>.

- continuity and reliability of the electricity supply system and proper coordination between production, transmission and distribution systems
- providing access to the transmission grid under regulated, transparent and non-discriminatory principles
- overtaking of the total amount of electricity produced by preferential generators
- maintaining the quality of electricity parameters
- allocation of cross-border transmission capacities.

## Transparency

According to the Law on the electricity market, HOPS work is based on the principles of transparency and non-discrimination. HOPS conducts transmission of electricity in a transparent, objective and non-discriminatory manner, ensuring equal conditions for all market participants. Meanwhile, HOPS is obliged to adopt a Program for application of these principles in its work, and for the implementation to submit a report to the Croatian Energy Regulatory Agency (HERA), which then publishes it on the website. HERA also exercises oversight of the business activities of HOPS, which is obliged to seek the consent of HERA for certain activities.

According to the Law on the electricity market, in its organization and decision making HOPS is independent from the distribution system operator and the companies within and outside of the HEP group performing activities of production and supply of electricity. Meanwhile through the publication of the reports and brochures on the activities, HOPS continuously provides timely information to market participants for all business activities, directly or on its website.<sup>117</sup>

- Key performance data – on technical level<sup>118</sup>

The website of HOPS publishes short papers of technical character or "Key performance data" (Basic preliminary data), in a comparative perspective - annual energy demand, system load, annual production of electricity in Croatia and according to the energy source, technical losses in the transmission grid, and the annual amount of cross-border exchanges in electricity.

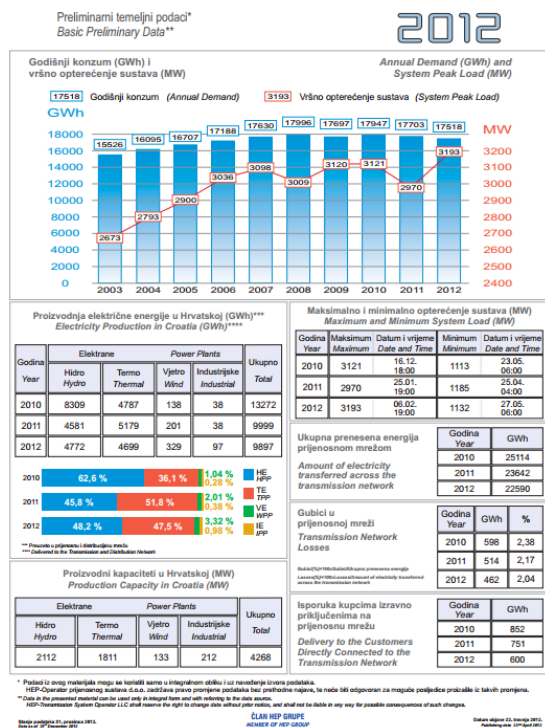
Despite the legitimate usefulness of this type of publications, HOPS has only published them for certain years (2009-2012).

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<sup>117</sup> Website of HOPS <http://www.hops.hr/wps/portal/en/web/about..>

<sup>118</sup> Example [http://www.hops.hr/wps/wcm/connect/64cd453e-fb99-4a49-8fe7-82976f6d244b/HEES\\_preliminarni\\_podaci\\_2012\\_v2.pdf?MOD=AJPERES](http://www.hops.hr/wps/wcm/connect/64cd453e-fb99-4a49-8fe7-82976f6d244b/HEES_preliminarni_podaci_2012_v2.pdf?MOD=AJPERES)

### Item 3



### Annual Report<sup>119</sup>

The annual reports on the work of HOPS contain: 1) Report of staffing, 2) Financial report for business activities - property, equity and liabilities, balance of profit and loss, 3) The condition of the electricity transmission system, 4) Data for the maintenance of the transmission system, 5) Development Projects for construction and reconstruction of the transmission grid, 6) Inter-institutional and international cooperation, 7) Support for the functioning of the electricity market, 8) Activities for Development of the transmission grid and the integration of the electricity produced from renewable energy sources into the grid 9) Protection of the environment.

On the website of HOPS there are only few reports available (for 2006, 2007 and 2008), and lacking the latest reports,

which calls into question the criteria of transparency in the work of HOPS.

### Public Procurement

On the website of HOPS, there is information published on the procedures for public procurement, which contain information on the manner of applying, the date of publishing of the tenders, and the necessary form for the tender documentation.<sup>120</sup>

Besides this, HOPS publishes a register of public procurement contracts<sup>121</sup> and a register of framework agreements<sup>122</sup> (from 2011 to 2014) in accordance with the Law on Public Procurement.<sup>123</sup>

The production of electricity in Croatia is under the auspices of the national company **HEP (Hrvatska Elektroprivreda)**. The HEP Group includes companies also dealing with the supply and distribution of electricity.<sup>124</sup>

The HEP group has 4000 MW installed capacity for production of electricity and 974 MW for production of heat. Within HEP Production there are 25 hydro plants and eight thermo power plants, which as a fuel use oil, natural

<sup>119</sup> Example of a published annual report by HOPS [http://www.hops.hr/wps/wcm/connect/1191f4ba-9073-4553-b0a4-52f20dda54de/GI\\_2008.pdf?MOD=AJPERES](http://www.hops.hr/wps/wcm/connect/1191f4ba-9073-4553-b0a4-52f20dda54de/GI_2008.pdf?MOD=AJPERES).

<sup>120</sup> Portal where the public procurements of HOPS are published <http://www.hops.hr/wps/portal/hr/web/nabava/postupci-javne-nabave>.

<sup>121</sup> Example of a register of public procurement contracts <http://www.hops.hr/wps/wcm/connect/bebc815e-6a9d-4028-ad07-590a22f88e98/Pregled+sklopljenih+ugovora+2011.pdf?MOD=AJPERES>.

<sup>122</sup> Example of an overview of framework agreements of HOPS for 2014 <http://www.hops.hr/wps/wcm/connect/1874647c-fa5e-4362-b74b-40e0a83aa7f9/Pregled+sklopljenih+OS+2014.pdf?MOD=AJPERES>

<sup>123</sup> Archive available at <http://www.hops.hr/wps/portal/hr/web/nabava/registar>.

<sup>124</sup> Archive available at <http://www.hops.hr/wps/portal/hr/web/nabava/registar>.

<sup>124</sup> <http://www.hep.hr/hep/grupa/shema.aspx>.

gas and coal. Some of them have a combined production of electricity and thermal energy (centralized heating system in Zagreb and Osijek).

Besides HEP Production, several other companies are engaged in production of electricity in the HEP Group, which are TCPlomin and TC RWE Power, HEP Renewable energy sources as well as nuclear power plant Krsko in Slovenia, in which HEP is a co-owner.

HEP supplies more than 2.3 million users. For the supply of the tariff consumers, in charge is the HEP operator of the distribution system, and the supply of eligible customers is done by the HEP supply company, which for that competes with other suppliers of electricity on the liberalized electricity market.

#### Other energy activities

**HEP Trade** performs purchase and sale of electricity, optimization of power plants and trading and mediation in domestic and foreign markets.

**HEP Heating** is engaged in the production, distribution and supply of heat, in the cities of Zagreb, Osijek and Sisak and in a part of the Zagreb Counties.

**HEP Gas** delivers natural gas to consumers.

**HEP ESCO** is a company that provides energy services, develops, implements and finances energy efficiency projects on the market.

#### Transparency

The HEP group is quite transparent in terms of their activities and publishes information on the website available to potential and future investors and the interested public.

- 1) Financial statements with a report from an independent auditor - published continuously since 2008, which include:
  - Responsibility for the consolidated financial statements
  - Consolidated statement of comprehensive income
  - Balance sheet / Consolidated Statement of Financial Position
  - Consolidated statement of changes in equity
  - Consolidated Statement of Cash Flows
  - Notes to the consolidated financial statements;
- 2) Power point presentations – with a summary of the financial condition;
- 3) HEP Journal of an informative nature – archive since 2000;<sup>125</sup>
- 4) Scientific journal “Energy” – archive since 2001;<sup>126</sup>
- 5) Annual reports on the work of the HEP Group, which include the consolidated financial report - archive since 2008;<sup>127</sup>
  - Mission, vision and core values

<sup>125</sup> Published archive of HEP publications <http://www.hep.hr/hep/publikacije/vjesnikArhiva.aspx>

<sup>126</sup> <http://www.hep.hr/hep/publikacije/energijaArhiva.aspx>.

<sup>127</sup> Example: HEP’s annual report for 2013 <http://www.hep.hr/hep/publikacije/godisnje/2013godisnje.pdf>.



- HEP Group
  - Legal framework
  - Development goals, projects in progress and projects planned
  - Membership in international organizations
  - Corporate Governance
  - Audit
  - Work in 2013 - parameters for electricity produced
  - Financial Results
  - The results from the activities
  - The financial situation
  - Investments
  - Basic principles in relations with the stakeholders
  - Anti-Corruption Program
  - Employees and customers
  - Donations
  - Sustainable development, policy and organization of the nature and environment
  - The most important achievements of the year.
- 6) Annual reports on sustainable development and environmental protection - Archive since 2003.<sup>128</sup>

## Public Procurement

HEP's website publishes notices of public procurement, reviews of contracts and their execution.<sup>129</sup>

Comparative table

	Transparency – accountability	Financial transparency	Public relations	Public procurement
<b>Electricity production</b>				
<b>Macedonia</b>	<b>YES</b> - Published annual reports from 2002-2012	<b>PARTIALLY</b> - Published financial reports from 2001-2012 - No audit reports published - Published narrative investments from 2009-2014	<b>PARTIALLY</b> - Separate part of the website for public relations/ press center - No separate contact point for media - There is a general form for remarks and comments	<b>NO</b> - No published tenders for public procurements in the website
<b>Slovenia</b>	<b>YES</b> - Published annual reports from 2002	<b>YES</b> - Published financial reports with an independent	<b>YES</b> - Separate Media Center part on the website	<b>YES</b> - Information and paperwork for public procurement are published on a

<sup>128</sup> Publications on environmental protection on HEP's website <http://www.hep.hr/hep/publikacije/okolis/default.aspx>.

<sup>129</sup> HEP's portal on which public procurement notices are published <http://www.hep.hr/hep/oglasj/nadmetanja.aspx>.

THE ROAD TO FINANCIAL TRANSPARENCY AND ACCOUNTABILITY OF THE INSTITUTIONS AND COMPANIES IN  
THE ENERGY SECTOR IN THE REPUBLIC OF MACEDONIA

	until date, comparative annually	audit report, from 2002 to date.	- Publicly available information for planned development activities and new projects	separate part of the website
<b>Croatia</b>	<b>YES</b> - Published annual reports for the work since 2008 to date. - Annual reports for sustainable development and protection of the environment (archive since 2003)	<b>YES</b> - Published financial reports with a report from an independent auditor (in continuity since 2008)	<b>YES</b> - Separate part for media on the website and a separate media contact point	<b>YES</b> - Published calls for public procurement, overview of concluded contracts and their implementation.
	<b>Transparency – Accountability</b>	<b>Financial transparency</b>	<b>Public relations</b>	<b>Public procurements</b>
<b>Electricity transmission</b>				
<b>Macedonia</b>	<b>PARTIALLY</b> - Published annual reports from 2008 till 2012 - Balance of the electricity system (only for 2012)	<b>PARTIALLY</b> - Published financial reports from 2008 till 2013 - no audit reports published	<b>NO</b> - no media contact published on the website	<b>PARTIALLY</b> - Archive of published tenders for public procurements for 2013 and 2014
<b>Slovenia</b>	<b>YES</b> - Published all annual reports since 1999 till date, in a comparative perspective	<b>YES</b> - Published financial and audit reports (independent auditor) from 1999 to date	<b>YES</b> - Separate part on the website for cooperation with the media - Information on the website for the citizens and the business community for the work of the system and planned projects	<b>YES</b> - Published tender documentation for all public tenders and procurements and all active and past tenders
<b>Croatia</b>	<b>PARTIALLY</b> - Published annual reports only for few years (2006, 2007 and 2008) - The obligation to publish the report submitted to HERA has not been fulfilled	<b>PARTIALLY</b> - Annual reports contain a financial reports for the business activities, but limited only for 2006, 2007 and 2008	<b>YES</b> - News archive for 2012, 2013 2014 - Separate media contact point	<b>YES</b> - Information about the procedure for applying, the date of publishing of the tender, the needed forms for the tender documentation  - Registry of contract for public procurements and framework agreements

**Problems with the financing and spending of public finances in the *Macedonian* energy sector**

There will be three case studies presented in this section from the energy sector in *Macedonia*, where findings on the observed wrongdoings will be elaborated, from which later recommendations will be given on how such behavior could be recognized and prevented in the future, or rather how effective measures against the perpetrators can be instigated.

*The findings of the SAO on concessions granted for the use of water for the production of electricity from small hydro power plants<sup>130</sup>*

This section will present the findings from the conclusion of the performed audit of success that relates to the activities associated with assessment of risks and opportunities for improvement of the efficiency in the execution of the works and services from the granted concessions for the use of water for production of electricity from small hydro plants. The period covered is 2007-2012, in which there have been 5 procedures realized through the ME, on the grounds of which there have been 70 concession contracts concluded with a total investment value of 108.25 million Euros. Defined objectives of the audit were to determine whether the deadlines proscribed in the signed contracts for water concession for the construction of small hydro power plants have been observed (whether their construction is being realized according to the envisaged dynamics, to be completed within three years as well as the dynamic plan for the construction which is an integral part of the contract) and whether the concessionaire has started commercial operation and production of electricity in accordance with the specified technical characteristics.

The audit concluded that:

- There are no conditions for the promotion of public private partnership because the Council for public-private partnership as prescribed in the Law on concessions and other types of public private partnership has not been formed;
- The procedures for granting concessions were realized without a study on a concession project;
- All concessions granted are without an estimated maximum value of the concession;
- Until December 2011, the keeping of a register of awarded concession contracts was an obligation of the Ministry of Finance and this has not been done until now. From January 2012 the keeping of the registry is the responsibility of the Ministry of Economy;
- Concessionaires have not applied the legal obligation for a first technical inspection of the equipment before commissioning the production of the small hydroelectric plants;
- There is a greater delay in commencement of construction of facilities within one year from the date of signing of the contracts since the concessionaires often fail to obtain all necessary approvals and permits for obtaining a building permit;
- Concessionaires face major problems in resolving property issues;
- Supervision of the monitoring committee for the manner of performing the concession activity is done formally only in the final stage when the facility is fully built.

An audit also reviewed that there is no sufficient and effective system of control over all of the phases of the construction of the small hydro power plants, especially in the municipalities. Furthermore, the issues covered

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<sup>130</sup> Final report by the state auditor, no. 17-149 / 1, 23.01.2013.

by this report were presented and discussed with the institutions concerned. Their remarks do not contain elements of amendments or additions to the report because those are the same ones that the auditor had in consideration during the audit.

Areas that showed risks during the preliminary studies are grouped by areas in:

- Legal and bylaw regulation:
  - The Law on concessions and other types of public-private partnership proscribes the establishment of the Council for concessions and PPP. It is concluded that the council has not been established, by which these activities are not realized and are a cause for lack of initiative in making the said strategy;
  - According to Article 27 of the Law on Concessions and other types of PPP, the proposal for starting the procedure for granting concession should also include a study analysis of a concession project (author's note: description of the study analysis and what it should include on page 18 of the report). The procedures for granting concessions for the construction of small hydro power plants were conducted without a study and as a cause, there has been a number of problems that have arisen on the location sites;
  - Despite the existence of a legal obligation (Article 30 - estimated value of the procurement), all the concessions were awarded without a maximum estimated value of the concession. The methodology for calculating the estimated value is adopted late and with that the legal obligation has not been fulfilled (author's note: description on how to calculate the maximum value according to the methodology on page 20-21 of the report);
  - The Ministries of Finance and Economy have not initiated the keeping of a register of assigned contracts for concessions, neither a registry of awarded contracts for PPP. This does not allow for a complete insight into all contracts;
  - The five built hydro power plants that are put into use are without an authorization for putting the technical equipment in use, as proscribed under the Law on technical inspection.
- Contracts for water concession for construction of small hydro power plants for electricity production:
  - There is a great deadlock in the implementation of the agreements. Disrespect of the deadline for the start of construction is mostly due to the complex process of obtaining permits, failure to comply with the deadlines on the side of the relevant institutions and amendments of the legislation after the conclusion of the contract. According to the Commission for oversight of the concession activity, most of the delays are not the fault of the concessionaire. The audit prepared a Viewbook containing the reasons for prolonging the terms for construction of small hydro power plants and, out the 70 signed contracts the level of objectives reached is the following:
    - With the first international invitation there were 16 concession contracts signed with 5 concessionaires, of which only 4 concessionaires started their work;
    - With the second invitation there were 14 contracts signed, with two concessionaires of which none of the hydro power plants have began its operations;
    - With the third invitation, there were 5 contracts signed with 3 concessionaires of which only one concessionaire commenced production of electricity;
    - With the fourth invitation there were 12 contracts signed with 5 concessionaires and all five are in the stage of getting a building permit;

- With the fifth invitation, there were a total of 23 signed contracts with 11 concessionaires and all are in the planning stage;
- In resolving property issues, the concessionaires face a lack of reliable data on land ownership, or unresolved property administration issues. The listed problems lead to a halt and this is reflected in deadline for construction of the SHPP;
- The grantor is required to supervise all phases, from construction to operation and exploitation of the facility. The ME has established a commission but the surveillance is performed only in the final stage, when the object is fully built. The audit found that the control by the Commission is only formal and based on the documents provided by the concessionaire.

Recommendations of the performed audit:

- The Government to undertake activities for establishing a PPP Council;
- The grantor to apply the Regulation on the contents of the feasibility study;
- ME to start keeping a Register of awarded PPP contracts;
- ME to make a Decision for putting the technical equipment in use, made by the State Technical Inspectorate;
- To simplify procedures for providing necessary documentation;
- The procedure for solving legal property matters to be resolved by a previously determined way of land use;
- The Grantor i.e. the Government to authorize the competent body that shall exercise constant supervision during all phases of the concession period.

Questions of uncertainty:

- The audit is required to indicate that the Grantor has not provided sufficient, comprehensive and effective system of control of all phases of the construction of small hydro power plants. The audit recommends that, in the program for work of the inspection services, particularly in the municipalities, to have regular inspections planned of all facilities that are under construction, to ensure full and effective control system. Municipalities that do not have enough staff should conclude an agreement on mutual municipal cooperation with larger municipalities.

There is no public information nor at the Ministry of Economy, or at any other institution as to whether and which of the above irregularities have already been repaired, if there is a repetition of some of them, and if there are any new problems in granting concessions. Once again, this shows a lack of transparency not only in recognition of deficiencies and irregularities but in their public display as well. A display of good practice would be the public disclosure of the steps undertaken based on the findings of SAO, with which the Ministry would indicate that it takes these analysis seriously. However even if there has been a reparation of the consequences, the public is obstructed from knowing about it.

*The case of REK Bitola*

In 2010, it was announced that the police filed criminal charges against then twelve former and at the time directors and managers in REK Bitola, suspected of signing invoices with companies-contractors for larger amounts than the ones in the contracts. In this way, there was money paid for a larger number of hired workers

for more working hours than the projected ones. Such actions were not in accordance with the internal acts passed in January and June 2008 in REK Bitola. The Directors signed 742 invoices higher than the contracts and with such transactions damaged the company for 7 million Euros.<sup>131</sup> Already at the beginning of 2011, there were some changes, and the media reported that for 12 of the directors of REK Bitola, suspected of abuse of power, there was still uncertainty whether they will be charged or not. “The result will have to be provided by the court expertise after revision of the subject that the Bitola Prosecution office has sent to the Bureau for Forensic Investigation in Skopje. The investigation is definite that 12 directors and managers in REK cannot be detained, because it comes to taking certain investigative actions, not a request for investigation. These procedures must not be equated ... Meanwhile the prosecution has temporarily rejected the anonymous complaint against Zoran Konjanovski, former director of the REK, and current defense minister, until the forensic investigation is over. Once it is over, the Bitola Prosecution office will have the final word. The public prosecutor, Petar Anevski said that the matter of twelve executives in Bitola and the former director Konjanovski, will be decided by one common public prosecutor's decision. According to the financial records, there is no doubt about the obtaining of property for self-interest for some suspects in a certain amount. It is about obtaining specific rights to certain companies to operate. If we suspect that there is a alleged obtaining of property, we will request an investigation, not a proposition for certain investigative actions” noted Anevski.<sup>132</sup>

However, later in September of 2011, the Bitola Public Prosecutor dismissed the criminal charges against the 12 executives, since it did not relate to crimes prosecuted ex officio. From the collected evidence and expert reports by forensic experts from the Bureau of Forensic Investigation, it was found that there has not been any economic damage made to REK Bitola. The justification of REK was that there was a breach, but the invoices were not fictional. Rather, the contractors have done the necessary work, with which the occurrence of major damages was prevented, and the financial overruns of the plan happened because during the repair of the blocks, the previously unforeseen defects also needed to be repaired.<sup>133</sup>

During the research when the requests for free access to public information were submitted to the Public Prosecutor and the Basic Court in Bitola for the latest information about the charges against 12 executives of REK and the charges against the ex-director of REK Konjanovski, the response from the Public Prosecutor's Office was that it rejects the request of Analytica because it was not possible to accurately determine who submitted the request and is not indicated for which period the information is being required<sup>134</sup>, while the Court declined to answer the

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<sup>131</sup> Source: Dnevnik, visited on 15 December 2014

<http://www.dnevnik.mk/?ItemID=11E5F5E4341BA34A9CEAD59982A8001C>

<sup>132</sup> Source: *Nova Makedonija*, visited on 15 december 2014

<http://www.utrinski.mk/default.asp?ItemID=97331556064E334F91ED877BC224808C>

<sup>133</sup> Source: Vecer, visited o 15 december 2014 <http://vecer.mk/veshtachenjeto-pokazhalo-ne-e-predizvikana-ekonska-shteta>

<sup>134</sup> Public Prosecutor's Office, Decision A, no. 369/14 02/12/2014 Bitola. This is a first such case; throughout the years, Analytica has submitted a huge number of requests for free access to public information and never had been refused on the grounds that it is not known who submitted the request. The full name of the organization is the Association for Policy Research Analytica - Gostivar, while the organization is based on street Dame Gruev 7/8-3 in Skopje. Analytica sends all requests with two stamps - a stamp and seal, a signature, and submits data about the requester. If an institution has a problem determining who the sender is, before they reject a request, they should address Analytica personally to obtain all necessary data and information about the organization. Due to the limited timeframe for the research, the author of this study decided not to appeal to the second instance – Commission for protecting the right of free access to public information, although it has that right, and reserves the right to publicly disclose what kind of response it received from the Public Prosecutor Bitola and publicly express why it does not agree with it.

request about the 12 managers because the request was not referring to the exact archive number of the case, which would have helped them to search the system, where there should have been a request for addition to the original request submitted. For reasons of physical inability, such a request was not submitted, which is where the communication with the Court ended.<sup>135</sup> However, in the case of Konjanovski, the Court provided information, which reads in full: In the case of the accused Zoran Konjanovski, former Director of REK Bitola, the Bitola Court has acted on the proposal of the Public Prosecutor's Office Bitola, KO Br. 840/10 of 30.12.2010, for undertaking certain investigative actions for the act of abuse of power and authority. Acting on this proposal, the case file OID no. 2/11 is formed, and after all the necessary actions were taken, the matter is resubmitted for proceedings before the Public Prosecutor's Office Bitola, to this day, there is no act of criminal charges against the person Zoran Konjanovski undertaken by them.<sup>136</sup>

The problem with this case is that there is a lack of independent research into whether truly the exceeding of 7 million Euros is really for repairs of defects in REK that were not observed or it is due to abuse of office and authority by the suspects. Nor is there any analysis on the decision of the Bureau for Forensic Investigation, with which eventually the doubts that the case has been dropped too fast would be dismissed, or there would have been established some inconsistency in the expert analysis. The question remains as to why there was a financial overrun in the first place and how to prevent it in the future, and whether there was someone who, internally in the company, took responsibility for the overlook in which even the judicial institutions were involved. The public has a right to know what REK Bitola does, in order to prevent such incidents in the future, or whether it learns from its mistakes. As the largest producer of electricity in the country, REK Bitola must be subject to rigorous oversight in its operations and such incidents should be the exception, not the rule because overall energy security of the country depends not only on whether it will produce electricity, but whether the company operates strictly in accordance with the laws. The negative consequences of improper working at the end will still be "paid" by the citizens of *Macedonia*, hence the need for external oversight over the operation of the energy sector.

#### *Electricity trade*

In the previous chapters it was discussed about what are the findings of the Energy Community about the regulatory bodies in *Macedonia* who should protect the competition and the free energy market in *Macedonia* as well which are the laws that regulate the electricity trade in *Macedonia* and abroad. This phenomenon is still new, and as country aspiring to join the EU, *Macedonia* is trying to stay in line with the rules of the Single energy market of the EU. The problems are inevitable, so after the previous research, as a case that raised dust in the energy field and for which the Energy Community reported is the case of the alleged cartel association in 2012.

#### *Case study – cartel association and tax evasion*

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<sup>135</sup> The problem here is the rigorous interpretation of the Law on Free Access to Public Information, where institutions often refuse to produce the information that is requested, and only respond to requests relating to existing documents. This happened on several occasions during this research, which complicates any analysis, because in many cases the needed information is not contained in a particular document or published on any web page, and the law is the only tool available for citizens in cases like that. Hence appears the dilemma of how to search for information in advance if not enough data is available to form a request for free access in a way that suits the state institutions, especially considering the fact that each institution has a discretion to decide how "narrowly" it will interpret the Law on Free Access to Public Information.

<sup>136</sup> Basic Court Bitola Subject: submission of data. Su 03 no. 1106/14, 11.25.2014.

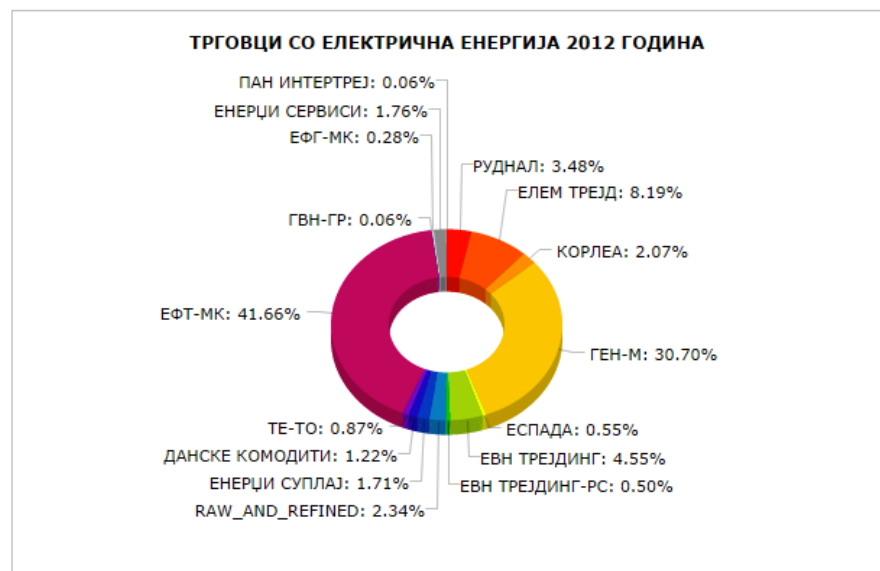


On March 27, 2012 the Antimonopoly Commission (meaning the CPC) of *Macedonia* filed misdemeanor charges against four electricity traders under suspicion that they broke the law by manipulating the price of imported electricity in the country, in an auction held in January 2012.

Four companies were involved in this case, "GEN – I", "Rudnap Group", "ESPADA" and "EFT" for which the CPC had a reasonable doubt that they formed a cartel association in order to dictate the price at the auction for import of electricity held in January 2012, which would have put them at an advantage ahead of other firms participating at the auction.

As far as how this discovery and the charges came about, it is important to know that the government decided in late January 2012 to point out to ELEM to submit for review all documentation for the last two bids for import of electricity in December 2011 and January 2012. ELEM made the complete documentation from the public auction available to the CPC, which later concluded that there is reasonable doubt that the four companies formed a cartel association with the aim of preventing other companies from winning the tender. The calls were published in December 2011 and January 2012 due to a lack of electricity in the country which occurred due to increased consumption (very low temperatures led many households to use electricity for heating).<sup>137</sup>

It is interesting to note that these were the only news related to this case. As to what is the percentage of the electricity market that these traders of electricity occupied in 2012, Item 9<sup>138</sup> clearly shows the size of their stake.



#### Item 9

Another occurrence immediately after the aforementioned problem was that the then Director of the CPC, Chedomir Kraljevski was discharged from his function in April 2012, just a month after the discovery of these cases<sup>139</sup>. Also, there were no publicly available information as to why the director was replaced, but the news was published along with the news that during that same month the government made a big "clearance" in the governmental and state bod-

ies, a process called "new wave". This change of staff was made in 22 institutions, agencies etc, while none of the ministers was replaced.<sup>140</sup>

<sup>137</sup> Links to the news related to this occurrence: <http://www.mkd.mk/22152/crna-hronika/uvoznj-struja-sud-karteli>; <http://bukvar.mk/news/utvrden-monopol-pri-uvoz-na-struja?newsid=OvIm>;

<sup>138</sup> Source: MEP SO's annual report for 2012 [http://www.mepso.com.mk/Content/Data/mepso2012/bilans\\_na\\_opee.html](http://www.mepso.com.mk/Content/Data/mepso2012/bilans_na_opee.html)

<sup>139</sup> Source: <http://www.kumanovonews.com/vesti/kraljevski-smenet-od-antimonopolska-uprava>

<sup>140</sup> Source: <http://www.dnevnik.mk/?ItemID=2D3DDB3AA2D27D4190E621C798F627F7>

Another case in that year after the alleged cartel formation which drew the attention of the public was that the Customs Office uncovered tax evasion in several companies that trade with electricity. This is a statement of the Customs in full<sup>141</sup>:

"In the past two months, after conducted supervision of electricity traders, the Customs Office discovered major irregularities in three companies - importers of electricity, for which there were decisions taken for subsequent collection of customs duties in the amount of about 113 million denars (1 8 million Euros).

As announced by the Customs office, in the first case, a company from Skopje evaded customs duties totaling approximately 79.4 million. Meanwhile it was found that for the purposes of the reported legal entity, during 2011 and 2012, through the electro - transmission system there was a total of 154.790 MWh electricity delivered. It was established that some of the imported electricity was illegally removed from customs' supervision without paying customs duties in the amount of 71.6 million denars. Also, there were annexes to the General Agreement on purchase of electricity found where the unit price per MWh per which the electricity was purchased was significantly higher compared with the unit price at which it was declared, and thus a payment of customs duties totaling 7.8.milioni denars was avoided.

In the latter case, the Office reports, it was found that a company from Skopje evaded paying customs duties totaling about 30 million denars, for which there were two decisions for subsequent collection of customs debt adopted, while in the third case, there were decisions for subsequent collection of customs debt amounting to 3.5 million denars, for electricity for which there were no submitted customs declarations for release in free circulation, and for which the fees were not paid. With additional control it was established that the goods were released for free circulation. The customs fraud was detected during inspection and comparison of quantities of taxed electricity in *Macedonia* with the data on the electricity quantities imported, exported and transited, for the period of 2010-2012."

The companies that are mentioned in both cases in the period since the discovery of the case up until the time their sentences were handed down on October 27, 2014, freely functioned and worked on the electricity market, which brings into question how much the reprimand, or fear of one, has a determining role knowing that they are not a hundred percent effective in cases like the above.

In relation to the sentences on the other hand, the CPC brought a decision on the case after 2 and a half years since the discovery and found guilty the five (author's note: originally four, the fifth company GEN-I Krsko Slovenia was added later) companies-electricity traders, with which there is a total fine of three million Euros for breach of competition. "The Commission found that the companies in several instances negotiated each other's prices and volumes of electricity sales, and delivered such offers at public tenders for the supply of electricity to tariff consumers, to the state's owned ELEM. The companies in question are EFT, EZPADA, RUDNAP, GEN-I Skopje and GEN-I Krsko, Slovenia. The aforementioned supplied offers for electricity sales with prices and quantities previously determined in a way that allowed them to share the amounts of electricity which should have been delivered to ELEM, Skopje and that directly by submitting bids and indirectly through mutual contracts for sale of electricity which was the subject of ELEM's procurement. This was with the aim to distort the competition through price fixing and sharing the market supply of electricity for tariff consumers, according to a statement

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<sup>141</sup> Source: <http://faktor.mk/archives/8399>; <http://grid.mk/read/news/102081911/1110346/krivichni-prijavi-za-nelegalen-uvoz-na-struja>; <http://grid.mk/read/news/102081911/1107851/uvezuvale-struja-ne-plakjale-carina>; <http://www.utrinski.mk/?ItemID=475EF7362BBFF64FB8CD75FDD7D5A08C>

from the Commission. The antimonopoly commission found that part of the companies, fixed each other's prices and quantities that was performed at the tender at 11 instances from October 2011 to February 2012, and another company in almost the same period has done this type of negotiation four times."<sup>142</sup>

It remains to be seen whether and in what way the sentences will affect the electricity market, topped with the postponed liberalization that will naturally have great impact over the traders of electricity as well.

## Conclusion

The extensive analysis in this document shows that there are many open questions in regards to the transparency and accountability of all stakeholders in the energy sector in *Macedonia*. Focus of the analysis were governmental institutions directly involved in the energy sector such as the Department for Energy at the Ministry of Economy and the Energy Agency, furthermore the independent body – Energy Regulatory Commission, the state companies for production and transmission of electricity AD ELEM and AD MEPSO, as well as the Parliament of Republic of *Macedonia*, most specifically the Committees for economic affairs and financing and budget. The rest of the analysis focused on three case studies, namely the Audit of SAO of the Concessions of small hydro power plants, the Case with REK Bitola and the alleged fictional invoices and the Case for cartel formations and tax evasion by electricity traders. Also, positive practices by the electro-energy sectors from Croatia and Slovenia were presented.

**Following this analysis, the study showed and confirmed the hypothesis that the state-owned institutions and companies are very closed off in terms of public relations, sharing of information and data. This is the case especially in the financial segment, where transparency and accountability are more the exception than the rule in their work.**

The main issues to be addressed by the institutions and state-owned companies, which require improvement according to this analysis, are:

- The lack of publications of annual programs with financial statements;
- The lack of publications of annual reports with detailed financial analysis of the spent budget in the previous year;
- The lack of publications of internal and external audit reports;
- Problems with the conduct of accountancy;
- The reports that exist are inconsistent throughout the years in their reporting both in the format, as well as the content of the reports;
- Imprecise laws especially referring to this sector, such as the Law on energy and the Law on state aid, public procurement, protection of competition;
- Problems with tenders and public procurement, i.e. non-compliance with the prescribed legal procedures;
- The lack of publication of given tenders as well as the actual procurements on their web pages;
- Imprecise budgets, which are also unclear to the general public;

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<sup>142</sup> Source: 24 News, 3 million euros fine for electricity traders, <http://24vesti.mk/globa-od-3-milioni-evra-za-trgovci-so-elektrichna-energija>

- The lack of reporting of detected flaws in the work – unclear information about what occurs with certain cases since they have been discovered and addressed at the responsible institutions such as the Ministry of Interior Affairs, the Public Prosecutor, etc.;
- Lengthy procedures after issues in the work have been identified;
- Small penalties for those who have committed offenses;
- Lack of a legal obligation to act upon the findings of the state auditor;
- The lack of transparency of state aid for state energy companies;
- The lack of reporting by the media especially for the cases where flaws in the work have been identified;
- Problematic (in)dependence of the Energy Regulatory Commission and the unclear position of the Energy Agency in the whole system;
- Insufficient involvement of the Parliament of Republic of *Macedonia* in the decision-making process regarding energy matters;
- The lack of transparency of the Department for energy at the Ministry of economy, without any data or information published on the website of the ministry;
- Found irregularities in the manner and procedures for the award of certain public procurement and implementation of the agreements signed with ELEM;
- The lack of financial transparency in the so-called projects of public interest by MEPSO and ELEM, doubts about justification, insufficient discussion about the benefits of their implementation, etc.;
- Weak human and financial capacity of those institutions that should perform some supervision such as the Commission for Protection of Competition and the State Commission for Prevention of Corruption;

## Recommendations

The analysis had the intention to give a general picture about transparency in the energy sector, which provides further opportunity to perform more concentrated analyzes on the identified problems. The final part of the study portrays the recommendations that state institutions should take into consideration in order to improve the transparency and accountability of the spending of tax-payers money in *Macedonia* in the energy sector. The recommendations are not final, but further additional analysis can be conducted on their basis or on the basis of each identified problem for each institution separately.

### Recommendations relating to the legislature:

- To consider the option of introducing independent oversight of the financial operations in the energy sector by bodies established with a special legislation granting them that role, as well as from the Parliament as the supreme representative of the citizens' will or with capacity building of the independent supervision bodies where there are ones.
- Electricity trading, because it is highly profitable, should be more strictly regulated, as well as the oversight of the energy traders.
- To regulate the work of ELEM and MEPSO by special laws or bylaws.
- To introduce specific chapters or articles in the Law on Control of State Aid and the Law on Protection of Competition, which will apply to energy issues, and would regulate state aid in this sector in detail (to define strictly under what conditions may be granted, to define penalties if awarded illegally etc.) and to protect the competition in the energy market which has become increasingly more developed and thus susceptible to irregularities if the legal basis is not sound enough.

- To provide mandatory publication of the annual planned budget, the annual work plan (or multi-annual, depending on the institution) and the annual financial report of all institutions and companies operating in the energy sector with clear deadlines and penalties provided if they are breached.
- Penalties should be directed to improving energy poverty and/or in the planned Energy Efficiency Fund, which would be returned back to the society and the institutions themselves.

### **Recommendations relating to the Parliament (including the budget of the Republic of *Macedonia*):**

- To give the Parliament a greater role in the drafting and preparation of strategic energy documents.
- To introduce the option to monitor the spending of money that would be carried out by the Committee for Economic Affairs in the Energy Department at the Ministry of Economy and at the Energy Agency, as well as over all projects where the state guarantees on loans to state companies such as ELEM and MEPSO.
- To introduce instructions in the Budget with which the meaning of all financial terms will be explained.
- To increase visibility of energy projects in the budget in order one to be able to compare how funds are predicted to be spent over the years. Particular emphasis should be placed on the anticipated loans in the energy sector and their public and clear display in the Budget.
- To introduce changes in the state budget of Republic of *Macedonia* that would require mandatory narrative explanation of how the funds are spent for the past year, in which this will apply to all sectors, not just energy.
- To provide training to members of the Committee for Financing and Budget and especially for the Committee for Economic Affairs on issues related to energy.
- To hold special hearings only for energy issues in order to have enough space for detailed and thorough argumentation on how taxpayers' money are spent on energy needs, especially because citizens also personally pay for energy bills, apart from paying taxes.

### **Recommendations relating to the Energy Agency:**

- The Energy Agency to finance itself through its own budget.
- The Energy Agency to publish audit reports on its website, as well as all programs and reports with the condition that they need to be readily available, can be downloaded and shared and to have a consistent form prescribed by Manual.
- EA to publish openly and transparently all public procurement that has been done during one fiscal year.
- EA to publish reports on the implementation of the findings of the auditors.
- To strengthen the professional capacities of the EA and to hire additional qualified personnel in accordance with the needs and responsibilities of the Agency.

### Recommendations concerning the Energy Regulatory Commission of the Republic of Macedonia:

- To strengthen the independence of the ERC, members to be elected by the means of competition, and only the President to be elected by the Parliament. President of the RCE cannot be elected for more than one term, which must be limited to a maximum of 5 years.
- ERC to publish audit reports on its website, as well as all programs and reports, in that they should be readily available, can be downloaded and shared and to have a consistent form prescribed by a Manual.
- ERC to publish reports on the implementation of the findings of the auditors.
- ERC to publish openly and transparently all public procurement that has been done during one fiscal year.
- ERC to establish better cooperation with the Energy Community and to propose changes to the legislation relating to its independence with the aim to strengthen it and lower the influence from the executive and legislative branch.

### Recommendations relating to the Energy Department at the Ministry of Economy:

- The Energy department and the entire Ministry to start posting all audit reports on its website, as well as all programs and annual reports, both narrative and financial, in that they should be readily available, can be downloaded and shared and to have a consistent form prescribed by a Manual.
- The Energy department to improve its communication with the public, to be visibly open about its employees, with published contact details.
- The Ministry of Economy and Energy Department, on its website to update lists of contracts from procurement and tenders awarded for the energy sector as well as for other sectors. For easier search, the lists should be divided in sectors depending on how many sectors are covered by such contracts.

### Recommendations concerning AD ELEM:

- ELEM to publish audit reports on its website, as well as annual programs and reports, both narrative and financial, in that they should be readily available, can be downloaded and shared and to have a consistent form prescribed by a Manual.
- To begin with practices of publishing reports on what has been improved and how problems have been resolved reflected in the audit reports, both external and internal.
- To begin with practices of publishing all concluded tenders and public procurements for each fiscal year.
- The data in the annual reports to be comparable with the previous year, with a narrative explanation of what has accomplished from the annual work plan.
- The financial plans and reports to start portraying the say so-called projects of public interest, or even to be separated into separate reports, but available on the company's website.

### Recommendations concerning AD MEPSO:

- MEPSO to begin publishing the full financial statements, which will contain detailed information about the financial performance of the company.

- To publish audit reports on its website, as well as annual programs and reports, both narrative and financial, in that they should be readily available, can be downloaded and shared and to have a consistent form prescribed by a Manual.
- To begin with practices of publishing reports on what has been improved and how problems have been resolved reflected in the audit reports, both external and internal.
- To begin with practices of publishing all concluded tenders and public procurements for each fiscal year.
- The data in the annual reports to be comparable with the previous year, with a narrative explanation of what has been accomplished from the annual work plan.
- The financial plans and reports to start portraying the say so-called projects of public interest, or even to be separated into separate reports, but available on the company's website.
- To have publicly available information on the company's site about how are the disputes with the Energy Community settled.

### Other recommendations:

- To strengthen the professional capacity and to increase the budget of the State Commission for Prevention of Corruption. The same should follow the cases for which it gave an opinion from beginning to end, with the aim to keep clear records and statistics regarding the cases and how they are solved.
- Strengthening of the independence and capacity of other institutions that deal with supervision of the work of the energy sector in some parts, such as the Commission for Protection of Competition, Customs Office, both with financial and human resources.
- The prosecutors and judges involved in cases related to the energy sector should undergo special training on how to deal with such cases because of their specific nature.
- Introduction of monetary penalties, as well as bans on market activities when violating the rules of the market i.e. the Law on Protection of Competition and also if the competition in the energy market is distorted, depending on the severity of the offense.
- Courts and public prosecutors regularly to submit reports to the public about the processes in which actors from the energy sector are involved.



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# THE ROAD TO FINANCIAL TRANSPARENCY AND ACCOUNTABILITY OF THE INSTITUTIONS AND COMPANIES IN THE ENERGY SECTOR IN THE REPUBLIC OF MACEDONIA

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