



ЦЕНТАР ЗА ПРАВНИ
ИСТРАЖУВАЊА И АНАЛИЗИ ■
CENTER FOR LEGAL RESEARCH AND ANALYSIS

GAPS AND SHORTCOMINGS
ANALYSIS –
CHALLENGES AND OPPORTUNITIES
IN THE INSTITUTIONAL AND
LEGAL FRAMEWORK
OF THE ENVIRONMENT

Gaps and Shortcomings Analysis
- Challenges and Opportunities in the Institutional and Legal Framework of the Environment

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 - IMPLEMENTATION AND ENFORCEMENT OF DECISIONS REGARDING ENVIRONMENTAL ENDANGERING

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List of abbreviations

EU – European Union

LAAQ - Law on Ambient Air Quality

IPC - Integrated Pollution Control

MoEPP - Ministry of Environment and Physical Planning

EIA - Environmental Impact Assessment

UN – United Nations

RNM – Republic of North Macedonia

SEIA - Strategic Environmental Impact Assessment

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The Center expresses its special gratitude to the British Embassy in Skopje for the given trust, long-term cooperation and continuous support.

EXECUTIVE SUMMARY

The Gaps and Shortcomings Analysis on the Institutional and Legal Framework of the Environment is a comprehensive overview of the legally planned versus the performed functions and competencies of the authorized stakeholders in the field of environment. Recognizing the gaps and shortcomings in the legal framework regulating the environment is the initial assumption before pointing out the reasons for the specific constraints that impede the efficient, effective and cost-effective implementation of the goals and priorities in the field of environment.

The environment implies creation of policies of importance for the public interest, and the mechanisms for protection and promotion of the environment should become a determinant in the harmonization of social and economic interests in the wider context of the country. The analysis covers topics from five key areas: **environment, nature protection, water, waste management and ambient air quality**. For each of the areas, the legal framework and competencies, the bylaws arising from it and the strategic documents as basic instruments for the functionality of the legal framework will be presented. The shortcomings and mechanisms are identified through specific conclusions for interventions in the environmental laws and bylaws. In order to give a realistic assessment of the capacities for law enforcement, this analysis also refers to the institutional framework where special focus is given to the existing capacities and the manner of internal organization of the Ministry of Environment and Physical Planning, as well as the State Environmental Inspectorate. The resulting conclusions are communicated in order to improve the implementation of the legal framework by identifying the missing acts, which are necessary for the effective implementation of the laws in the field of environment.

From the performed normative and legislative analysis arises that despite the volume of legal regulations and the complexity of the issues that regulate most of them, **most of the acts related to nature protection and management have been adopted, the functions of the competent stakeholders have been determined, as well as the contents that directly or indirectly regulate the environment**. The implementation of many of the envisaged systems and strategic documents for the individual areas has been established and harmonized with the legal provisions and international standards, but the environmental policy needs to be amended with new priorities, goals and directions of action that will address the current environmental problems. In some areas it has been noticed that the basic strategic documents are inconsistent and lack systematics in the legal environmental framework, as well as in the individual areas in order to have uniformity when acting as required by the environmental objectives. The Ministry of Environment and Physical Planning coordinates the

activities arising from the legal framework for the environment, the individual technical sectors, and it is noted that its functioning is difficult from the aspect of the organization of the envisaged sectors, which largely perform activities related to functioning and to a lesser extent in creating policies and goals. This is especially important given that according to the analysis one of the main reasons for the **difficult communication between institutions is the non-compliance of some laws** (for example the Law on Nature Protection with the Law on Forests and the Law on Hunting), but also the **lack of expert bodies and commissions that need to be formed in order to establish communication between the authorities and to recognize the opportunities offered by the legal framework by providing scientifically sound solutions for overcoming the challenges**. The mechanisms for stakeholder involvement are set by the Law on Environment, and the mechanisms for monitoring and reporting on environmental activities and conditions are regulated in special regulations for different environmental areas. However, in order for the competent institutions to react accordingly and to supervise the implementation of the laws, it is necessary to establish a comprehensive and continuous inspection that will cover all separate monitoring systems in the field of environment.

The analysis points out the **positive aspects and opportunities in the overall legal framework which are the starting point for determining the limitations and shortcomings in the relevant technical and financial needs** for the environment. Implementation of good part of the envisaged systems (environmental information system, management system for ozone depleting substances, systems containing hazardous substances, system for inventory of greenhouse gas emissions) is still a slow progress, and emphasizes the need for better communication and coordination with municipalities on various grounds (implementation and reporting on LEAP, reports, B IPPC permits, cadastres and registers, monitoring and environmental quality procedures for proclaiming protected areas.). The analysis evidently shows the need for greater investments in the field of environment, because the analysis indicates a tendency to **increase budgets from year to year, but there is a consistently high rate of reduction of the basic budget with the rebalance** from one third to one half of the adopted basic budget. This indicates the need for priority investments and proper planning of the basic budget in accordance with the recognized needs, for which the Government of RNM and the Assembly while creating budget funds, should emphasize the protection and improvement of the environment as one of the priorities of the Republic of North Macedonia.

The assessment of the implementation and enforcement of decisions regarding the environmental protection can be reviewed from several aspects. According to the existing regulations of environmental inspection, **there is no uniform system at central and local level, both in terms of planning the inspection and monitoring its implementation**. It is inevitable to conclude that supervision of the implementation of environmental laws should follow the long-term goals and priorities set out in the strategic documents in the field of environment. Although the institutional set-up is adequate, insufficient administrative

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capacity at central and local level cannot ensure effective implementation of relevant environmental legislation. One of the reasons is that the **State Inspectorate, as the only body for inspection of the application of environmental laws, is responsible for supervision over a dozen laws and more than 250 bylaws, and operates with a shortage of more than 50% of the estimated number of inspectors.**

Improving the environment through a scientific-professional approach is one of the goals of the project "*Establishing Efficient and Effective Environmental Justice*" implemented by the Center for Legal Research and Analysis - CLRA funded by UK aid through the Government of the United Kingdom. From that aspect, the implementation of this project is of great importance, because it is a rare opportunity to create a new policy for effective supervision and implementation of environmental regulations, which will strengthen the implementation of international environmental standards. For this purpose, a **Platform for Environmental Justice** has been established within the project, which will enable inter-sectoral cooperation and scientific-professional approach among all concerned and interested parties, professional and expert individuals, organizations and institutions and it represents a starting point for developing alternative policies for effective supervision and implementing environmental policies and regulations. The **Gap Analysis in the Institutional and Legislative Framework for the Environment** is the initial step towards establishing guidelines to support policy makers when planning the best national measures and activities in order to establish a model for achieving environmental justice.

INTRODUCTION

The legal framework from which the priorities in the field of environmental protection and sustainable use of natural resources arise, derives from the Constitution of the Republic of North Macedonia dated 1991. The protection and improvement of the environment are determined as fundamental values of the country, and Article 43 regulates the right to a healthy environment of every citizen who is obliged to promote and protect it. This provision forms the basis of the entire environmental legislation and policy because it determines the obligation of the Republic to provide all the conditions for exercising the right of the citizens to a healthy environment.

There are numerous laws and regulations in the Republic of North Macedonia that cover almost all aspects of the environment, although some of them are assessed as outdated and inappropriate for the current situation in the country. Another general weakness of the environmental legal framework is the lack of its implementation as a result of the institutional division of the state bodies responsible for implementation, insufficient staff and technical resources in the administration and inspection services at the local level. All environmental legislation is currently being revised. New laws or amendments to existing laws in specific areas of environmental protection are planned.

On the other hand, the rights and obligations set out in the environmental legislation include a number of stakeholders, starting from the MoEPP, inspectorates, civil society organizations, the business sector, local self-government and other parties that have an interest in ensuring a healthy environment.

By identifying legal gaps and constraints in the implementation of the legislation, the analysis raises important questions and draws conclusions for future action in key areas and strategic goals and policies, timeliness in the adoption of bylaws governing aspects of the environment, funding, information on the state of the environment and public participation, waste management, air quality control, water management, industry and spatial planning. The situation corresponds to Chapter 27 of the latest report from the European Commission, which highlights the lack of implementation of the prescribed measures and the need for greater public participation in decision-making processes, requires a greater degree of awareness and more efficient use of mechanisms for access to environmental justice.

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In order to determine the effectiveness of the legal and institutional competencies, it is necessary to specify the objectives for improving the environmental audit and the implementation of the environmental regulatory framework through recommendations given in a broad consultative process.

The analysis of the gaps in the existing environmental policies and the possibilities for dealing with the legal and institutional challenges in the environmental legislation will serve to develop a model that proposes alternatives to the risk management policies in the field of environment and the existing resources of the country.

METHODOLOGY

The main research tool of the **Gaps and Shortcomings Analysis - Challenges and Opportunities in the Institutional and Legal Framework of the Environment** is the broad legislation that regulates the basic aspects of the environment. Each of the areas covered addresses specific aspects of the environment.

The methodological approach that was applied in the preparation of this analysis was in order to assess the effect of the implementation of the **legislation, the strategic documents and bylaws arising from the laws**. The manner of their application in practice was assessed through the analysis of the legally planned versus the implemented functions and competencies of the authorized stakeholders in the field of environment. Through the application of this approach, an assessment was made of the bylaws and legal provisions that arise, thus analyzing the timeliness in the adoption, the functions of the competent entities and the capacities for implementation of the strategic documents in the field of environment. In doing so, their compliance with international standards and national strategic policies is analyzed.

In this way, the analysis sets the reference basis according to which the reasons that limit the effective application of the laws in the field of environment are determined. The review provided by this analysis can be used over a longer period of time in order to monitor progress in overcoming identified gaps and shortcomings.

The laws that are the subject of the analysis are the following:

1. Law on Environment (“Official Gazette of the Republic of Macedonia“ no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 and 99/2018)
2. Law on Nature Protection (“Official Gazette of the Republic of Macedonia“ no. 67/2004; 14/2006; 84/2007; 35/2010; 47/2011; 148/2011; 59/2012; 13/2013; 163/2013; 41/2014; 146/2015; 39/2016; 63/2016 and 113/2018).
3. Law on Water (“Official Gazette of the Republic of Macedonia“ no. 87/2008, 6/2009, 161/2009, 83/2010, 51/2011, 44/2012, 23/2013, 163/2013, 180/2014, 146/2015 and 52/2016)
4. Law on Waste Management (“Official Gazette of the Republic of Macedonia“ no. 68/2004; 71/2004; 107/2007; 102/2008; 143/2008; 124/2010; 51/2011; 123/2012; 147/2013; 163/2013; 51/2015; 146/2015; 156/2015; 192/2015; 39/2016 and 63/2016 and “Official Gazette of the Republic of North Macedonia“ no. 31/2020).

5. Law on Ambient Air Quality (“Official Gazette of the Republic of Macedonia“ no. 67/2004, 92/2007, 35/2010, 47/2011, 59/2012, 163/2013, 10/2015 and 146/2015).

Data from institutions

The first phase of the analysis consisted of an overview of the legal functions and competencies, during which the bylaws prescribing the detailed regulation were analyzed. In the second phase, interviews were conducted with stakeholders and experts in order to confirm the findings and shortcomings of the first phase in which the laws in field of environment were analyzed.

In order to make a comprehensive analysis of the situation that limits the legally planned and implemented functions and competencies of the entities in the field of environment, this analysis in a separate part deals with the internal organization, the manner of financing and the availability of resources and instruments of the MoEPP and the State Environmental Inspectorate. For that purpose, the data indicated in the annual reports and in the acts for systematization and internal organization of job positions were used.

The effectiveness of the institutional framework for protection and management of the environment is analyzed in terms of competencies and internal organization of the Ministry of Environment and Physical Planning through the following documents:

1. Rulebook on Internal Organization of the Ministry of Environment and Physical Planning no. 01-2371/1 dated 03.05.2017;
2. Rulebook on Systematization of Job Positions in the Ministry of Environment and Physical Planning no. 01-2372/1 dated 03.05.2017;

The analysis of the challenges related to the supervision over the implementation of the environmental legislation is based on the competencies and the internal organization of the State Environmental Inspectorate.

1. Rulebook on Systematization of Job Positions in the State Environmental Inspectorate dated 11.08.2019;

The institutional challenges in the legislation are addressed through three segments in order to form a whole and to evaluate the effectiveness in the implementation of the legal framework. Thereby, the financial instruments for the competent institutions - the Ministry of Environment and Physical Planning and the State Environmental Inspectorate - were analyzed. This is followed by the manner of human resource management and internal organization in accordance with the prescribed legal competencies. The analysis of the effectiveness of the supervision over the implementation and execution of the decisions regarding the environmental endangerment and damage is followed by those parts and shows the effectiveness in the work of the State Environmental Inspectorate.

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Within the project "Establishing Efficient and Effective Environmental Justice", the Center for Legal Research and Analysis established the **Platform for Environmental Justice** which aims to provide expert support and involvement of all key stakeholders who have the authority to take action in accordance with recognized environmental priorities, through creating legal formulations and solutions. Additionally, this analysis recognizes the gaps in the existing environmental policies and the opportunities to address the legal and institutional challenges in environmental legislation that will be the basis for the Platform to develop a model that creates policies in terms of recognized priorities and the needs for environmental crises management according to the existing resources of the country.

I. AREA ENVIRONMENT

LAW ON ENVIRONMENT

INTRODUCTION

The **Law on Environment** was adopted in 2005¹ as a result of the reform processes in the field of environment and the obligations arising from the directives of the European Union in this field².

The Law on Environment is a framework law that provides the legal basis for protection and promotion of the quality and condition of the environment, which are further elaborated in special laws and numerous bylaws. The Law prescribes the rights and responsibilities of the competent authorities, municipalities and natural and legal persons for exercising the right to a healthy environment, as well as measures and activities related to the protection and promotion of the quality and condition of the environmental media from harmful influences. To this end, the Law regulates the procedures and manners of environmental management that are common to all special laws governing certain environmental media. Thereby, the Law provides mechanisms for monitoring, prevention and limitation of negative impacts on the environment, protection and regulation of environmental areas, prevention of environmental risks and hazards, integrated approach to protection and sustainable development, establishes a system of protection planning, determines the manners of providing funds for financing the measures and activities, informs and involves the public and the institutions of the environmental condition. All aspects regulated by the Law arise from the manners of achieving its goals that are of importance to the public interest and prioritize the preservation, protection, restoration and promotion of the quality of the environment, protection of life and human health, protection of the biological diversity, rational and sustainable use of natural resources, as well as the implementation of planned measures to address regional and global environmental problems.

There are ongoing preparations for amendments to the existing Law on Environment which are expected to overcome certain shortcomings, such as identification and regulation of contaminated area and remediation of the environment, changes in the manner of conducting professional exams in the field of environment, amendments to the status of environmental impact assessment experts and strategic environmental assessment experts.

¹ Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 and 99/2018)

² The first legal regulation that regulated the system of environmental protection after the independence of the Republic of Macedonia was the Law on Protection and Promotion of the Environment and Nature and it represented a framework law on environmental protection.

At the same time, amendments have been announced in the part of financing i.e. the manner of calculation and collection of fees for import of hazardous substances, the amount of the fee for waste management and creation of non-hazardous industrial waste is regulated, as well as the determination of new amounts of fines for offenses committed by individuals and legal entities in accordance with the Law on Misdemeanors³.

1. STRUCTURE OF THE LAW ON ENVIRONMENT

The goal of the Law on Environment is to regulate the manners of achieving protection and improvement of the environment, whereby the provisions emphasize an integrated approach and cooperation between the institutions. This is particularly important, given that the segments of the environment regulated by the Law apply to the environmental media - soil, water and air, as well as to the areas of the environment: nature (including biodiversity and natural resources), waste, noise, vibration, ionizing and non-ionizing radiation, climate, ozone layer, odor and other elements that are an integral part of the environment.

Having all this in mind, the Law sets five clear objectives for environmental protection and promotion:

- i. Preservation, protection, restoration and improvement of the quality of the environment;
- ii. Protection of human life and health;
- iii. Biodiversity protection;
- iv. Rational and sustainable use of natural resources; and
- v. Implementation and promotion of the measures for addressing regional and global environmental problems.

The law also prescribes appropriate manners in which the intended goals can be achieved:

- 1) Predicting, monitoring, preventing, limiting and eliminating the negative impacts on the environment;
- 2) Protection and regulation of environmental areas;
- 3) Preservation of a clean environment and repair of damaged parts of the environment;
- 4) Prevention of risk and dangers for the environment;
- 5) Encouraging the use of renewable natural energy sources;
- 6) Encouraging the use of products and cleaner production and use of clean technologies that are most environmentally friendly;
- 7) Integrated approach to environmental protection and economic development;
- 8) Establishment of a system for planning protection, improvement and management of the environment;
- 9) Providing funds for financing the measures and activities for protection and improvement of the environment;

³ Law on Misdemeanors ("Official Gazette of the Republic of North Macedonia" no. 96/19)

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- 10) Control of activities that endanger the environment;
- 11) Developing awareness of the need for environmental protection in the educational process and promoting environmental protection;
- 12) Harmonization of economic and other interests with the requirements for protection and improvement of the environment;
- 13) Informing the public and the relevant institutions about the state of the environment and their involvement in its protection;
- 14) Connecting the system of environmental protection and the institutions of the Republic of Macedonia in the field of environmental protection with international institutions;
- 15) Stabilization of the concentrations of gases that cause the greenhouse effect in the atmosphere and
- 16) Dealing with desertification and mitigating the effects of drought

The Law on Environment is consisted of 24 chapters which regulate the general and special segments of importance for the protection and promotion of the environment:

- I. General provisions,
- II. Principles of environmental protection,
- III. General obligations,
- IV. Special obligations and measures,
- V. Monitoring of the environment,
- VI. National Environmental Information System,
- VII. Environmental research and education,
- VIII. Access to environmental information,
- IX. Environmental protection planning;
- X. Assessment of the impact of certain strategies, plans and programs on the environment,
- XI. Environmental impact assessment of certain projects;
- XII. Integrated environmental permits for installations that affect the environment;
- XIII. General environmental audit;
- XIV. Permits for compliance with operational plans;
- XV. Prevention and control of accidents with the presence of dangerous substances;
- XVI. Liability for damage to the environment;
- XVII. Environmental Administration;
- XVIII. Financing;

XIX. Sustainable development and global environmental issues;

XX. Supervision,

XXI. Manner and procedure for supervising the work of the bodies of the municipality, the City of Skopje and the municipalities in the City of Skopje,

XXII. Misdemeanor provisions,

XXIV. Transitional and final provisions.

Since its adoption in 2005 until 2018, 28 amendments have been made to the Law on Environment, of which the most significant changes to the Law relate to the procedure of strategic environmental impact assessment, the procedure and the manner of issuing integrated environmental permits, the manner of prevention and control of accidents with the presence of hazardous substances, the establishment of a national system for inventory of greenhouse gas emissions and the introduction of a new organization of the State Environmental Inspectorate, as well as the introduction of new priorities and policies for dealing with climate change. New amendments to the Law on Environment are being prepared, which will further harmonize the Law with the EU directives in the area of misdemeanor provisions and amendments to other environmental issues.

In order to achieve the goals set out in the law, a system of measures and activities is set up for long-term planning of environmental protection and improvement, the development of environmental protection and management is determined through strategic documents.

1.1. BYLAWS

In addition to the strategic documents, the Law on Environment envisages legal bases for additional regulating of the obligations arising from it, thus envisaging the adoption of 34 decrees, 104 rulebooks, three lists, three programs, four methodologies and five decisions.

The decrees, which adoption is responsibility of the Government of the RNM, regulate the actions and activities for which an elaborate on environmental impact assessment is prepared⁴, the strategic documents are determined for which a strategic environmental assessment procedure is implemented⁵, projects are determined for which an environmental impact assessment is carried out⁶, the activities are determined of the installations for which

⁴ Article 24 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁵ Article 65 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁶ Article 77 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

environmental permits are issued⁷, as well as the activities whose performance may cause damage to the environment are determined⁸.

Additionally, the Government by adopting decrees regulates the detailed conditions regarding the manner and procedure for determining, calculating and paying the fee for production of energy from fossil fuels, the manner of calculating the amount of fees paid during trade, import and export of substances that affect the environment, such as fees for motor vehicles and vessels, fees for waste management, for oil derivatives and for the production of energy from fossil fuels.

The law envisages inter-departmental cooperation for monitoring the activities for prevention and control of accidents with the presence of dangerous substances, for which the Government, upon the proposal of the Minister, by adopting a decision has established an inter-departmental body for prevention and control of accidents with the presence of dangerous substances consisting of 9 members of state bodies. The law additionally stipulates a duty for the Government to publish and maintain a list of entities that own or for which they own information related to the environment with a Decision.

1.2. STRATEGIC DOCUMENTS

National Environmental Action Plan (NEAP)⁹ is the highest strategic document for environmental management of the country. This strategic document determines the policy and directions of action, sets general priorities and goals for the period for which this document refers. NEAP presents the approach and response of the Government to the environmental problems of the Republic of Macedonia for the period of validity of the document (six years).

Local environmental action plans¹⁰ are the highest strategic documents for environmental management at the local level and are adopted by municipal councils.

In order to harmonize the economic development and environmental protection at the national level, the Law provides an opportunity for the Government of the Republic of North Macedonia to prepare a **National Strategy for Sustainable Development**¹¹ which before adopting, is submitted for consideration to the Assembly of the Republic of North Macedonia.

⁷ Article 95 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁸ Article 157 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁹ Article 61 paragraph 1 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

¹⁰ Article 61 paragraph 5 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

¹¹ Article 186 paragraph 1 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

Consequently, at local level, the Law provides for the preparation of a Local Agenda 21¹², which the municipalities adopt as a local, strategic, planning and programming document for sustainable development.

The law prescribes the establishment of an environmental monitoring system through which monitoring, examination and assessment of pollution and the state of the media and environmental areas as a whole will be conducted, as well as identification and registration of sources of pollution. For that purpose, the Law envisages an **Environmental Monitoring Strategy**¹³, an Environmental Monitoring Program¹⁴ and a National Book of Environmental Parameters adopted by the Minister of Environment based on a methodology, form and content prescribed by the Government.

In addition to these documents, the Law lays down the groundwork for strategic climate change management at the national level by providing a duty for the Government to adopt a **National Climate Change Plan**¹⁵ for a period of 6 years, together with an **Action Plan for preventing the causes and mitigating the negative effects from climate change**.

In the area of planning documents, the Law on Environment envisages the preparation of a **National Plan for Dealing with Desertification and Mitigation of the Effects of Droughts**¹⁶, together with an **Action Program for Dealing with Desertification and Mitigation of the Effects of Droughts** adopted by the Government and contains institutional and legal measures, preventive measures and activities to anticipate, prevent and minimize the causes of desertification, as well as preventive measures for lands that have not yet been degraded.

Pursuant to the Law, the Ministry of Environment prepares an **Environmental Investment Program**¹⁷ on an annual basis in accordance with the National Action Plan for Environmental Protection, the Spatial Plan of the Republic of Macedonia, other strategies, programs and acts in the field of environment. The program contains environmental research activities and conservation and development projects¹⁸.

¹² Article 186 paragraph 5 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

¹³ Article 32 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

¹⁴ Article 32 paragraph 4 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

¹⁵ Article 187 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

¹⁶ Article 191 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

¹⁷ Article 172 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

¹⁸ Article 172 paragraph 7 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

a. Rulebooks and other bylaws

According to the Law, the Ministry of Environment is authorized to adopt 104 rulebooks that additionally regulate the manners of providing protection and improvement of the environment for various aspects, actions and procedures prescribed by law.

The law prescribes grounds for establishing and maintaining various **lists**:

- List of scientific and professional organizations that can monitor certain environmental media and areas¹⁹,
- List of authorized legal entities for preparation of cadaster and register²⁰,
- List of entities that own or for which they own information related to the environment²¹,
- List of experts for strategic environmental impact assessment²²,
- List of experts for environmental projects impact assessment²³,
- List of experts in the field of environment, economics, technical and legal sciences²³.

The law prescribes grounds for establishing and maintaining various **registries**:

- Registry on issued, revoked and extended licenses, as well as licenses that have ceased to be valid²⁴ (associated with the management system on treatment with ozone depleting substances),
- Registry on approved elaborates²⁵,
- Registry on release and transfer of pollutants²⁶ (Registry on pollutants),
- Environmental Cadaster²⁷,
- Registry on A-integrated environmental permits²⁸,
- Registry on B-integrated environmental permits²⁹,
- Registry on permits for compliance with operational plans³⁰,
- Registry on systems where hazardous substances are present³¹.

The law prescribes grounds for preparation and submission of reports on various grounds, by the MoEPP to higher institutions and from other institutions to the MoEPP.

¹⁹ Article 38 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²⁰ Article 43 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²¹ Article 52 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²² Article 85 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²³ Article 144 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²⁴ Article 22-h of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²⁵ Article 24 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²⁶ Article 41 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²⁷ Article 42 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²⁸ Article 109 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

²⁹ Article 126 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

³⁰ Article 140 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

³¹ Article 152 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

- ❖ Types and grounds for submitting reports from the MoEPP to the Government of Republic of North Macedonia:
 - Environmental indicator report³¹.
 - Report on the state of the environment in Republic North Macedonia²⁹.
 - Report on the implementation of the National Environmental Action Plan and submits it to the Government of the Republic of Macedonia³².
 - Annual report on the implementation of the environmental investment program.
 - Report on the implementation of the National Climate Change Plan³³.
 - Report on the implementation of the National Plan against Desertification³⁴.
 - Annual report on the performed inspection for the implementation of the environmental protection measures for the previous year³⁵.

- ❖ Types and grounds for submitting reports to the MoEPP:
 - Report for the previous year on imported and/or exported ozone depleting substances and/or products containing ozone depleting substances³⁶.
 - Report on the state of the environment on municipality level³¹. (not mandatory)
 - Audit report on the realization of the funds determined by the contract, as well as a report on the achieved environmental effects with the realization³⁷ (related to the realization of funds from the environmental investment program).
 - Report on the implementation of the measures and activities determined by the National Climate Change Plan³⁸. (at least once a year)
 - Report on the implementation of the measures and activities determined by the National Plan against Desertification³⁹. (at least once a year)
 - Report on security measures⁴⁰ (for systems where hazardous substances are present in quantities determined by regulation).

Regarding the supervision over the implementation of the obligations from the Law on Environment, the state inspector and the authorized inspector prepare a quarterly report on supervisions and inspections performed on the legal entities and natural persons (with the obligation to publish them online).

³² Article 62 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

³³ Article 187 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

³⁴ Article 193 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

³⁵ Article 209 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

³⁶ Article 22-a of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

³⁷ Article 178 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

³⁸ Article 190 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

³⁹ Article 193 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁴⁰ Article 148 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

The law prescribes grounds for the establishment of bodies and commissions on various grounds:

- Coordination body composed of representatives of bodies, organizations and institutions that own data in the field of environment for preparation of a report on the state of the environment in the Republic of Macedonia every four years⁴¹.
- Inter-departmental body for prevention and control of accidents with the presence of dangerous substances⁴².
- Eco-label Commission⁴³.
- Awards and recognitions Commission⁴⁴.
- Scientific and Technical Commission for the best available techniques⁴⁵.
- Commission for deciding on misdemeanors (Misdemeanor Commission)⁴⁶.
- A body that will monitor the implementation of the LEAPs and will propose changes in them, for which it reports once a year to the body of the state administration responsible for the affairs of the environment⁴⁷.

The law prescribes grounds for establishing and maintaining systems:

- **National Environmental Information System**⁴⁸ - in order to manage the data on the state of the environment on the territory of R.N. Macedonia, the MoEPP / MEIC establishes, develops, manages and coordinates such a system.
- **National system for inventory of greenhouse gas emissions**⁴⁹ - in order to manage the data on anthropogenic greenhouse gas emissions by sources and abyssees in the atmosphere on the territory of R.N. Macedonia, the MoEPP establishes, develops, leads and coordinates such a system.

2. ANALYSIS

The Law on Environment is a framework law that lays the foundations for the creation of policies and measures for environmental protection and provides for several strategic and planning documents.

Since the adoption of the law in 2005 to 2020, the highest strategic document for environmental management of the country has been prepared and adopted twice, of which

⁴¹ Article 45 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁴² Article 146-a of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁴³ Article 29 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁴⁴ Article 49 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁴⁵ Article 104 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁴⁶ Article 212-a of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁴⁷ Article 60 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁴⁸ Article 40 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

⁴⁹ Article 188-a of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, ... and 99/2018)

the second NEAP was adopted in 2006 and referred to the period until 2011. Since then, an updated environmental policy with new priorities and goals has not been adopted.

Regarding the adoption of local action plans for the environment, not all municipalities in the country have adopted LEAP, nor have all those that have LEAP updated it in accordance with the prescribed periods of validity.

An environmental monitoring strategy was developed back in 2004, although there is no information on whether it was officially adopted. Preparation of a new National Environmental Monitoring Strategy and Action Plan, based on which a National Environmental Monitoring Program will be prepared will be developed within the current project⁵⁰.

In terms of strategic climate change documents, three national climate change plans have been developed so far along with action plans (2003, 2008, 2014). A Law on Climate Action and a long-term climate action strategy are being prepared within an IPA project⁵¹ in order to fully transpose European legislation in the field of climate change.

A National plan for dealing with desertification and mitigation of the effects of drought has not yet been adopted, although a working version has been prepared and is being finalized in terms of deadlines for its implementation and certain other issues related to new initiatives related to the topic.

An Environmental investment program is adopted and implemented annually. Pursuant to Article 172 (2), the program should primarily be prepared in accordance with the National Action Plan for Environmental Protection, and yet it has not been updated since 2011.

The National Strategy for Sustainable Development in R.N. Macedonia has been prepared and adopted for the period 2010-2030.

Regarding the bylaws that regulate the obligations of the Law, a total of 99 acts were adopted: decrees, rulebooks, decisions, orders.

⁵⁰ Financed by EU within IPA 2014-2020

⁵¹ <https://climateaction-ipaproject.mk/>

Gaps and Shortcomings Analysis

- Challenges and Opportunities in the Institutional and Legal Framework of the Environment

Regarding the lists, the following lists have been established and are being maintained⁵², while for the other lists there are no announcements on the website of the MoEPP:

- List of entities that own or for which they own information related to the environment,
- List of experts for strategic environmental impact assessment,
- List of experts for environmental projects impact assessment.

In terms of registries, the following registries have been established and maintained:

- Registry on issued, revoked and extended licenses, as well as licenses that have ceased to be valid (associated with the management system on treatment with ozone depleting substances) – is kept by the Sector for Industrial Pollution and Risk Management, Department of Chemicals and Industrial Accidents. The registry has not been established yet, it is waiting for the amendments to the law to be adopted.
- Registry on approved elaborates – is kept by the Department of Environment at the MoEPP; Environmental Impact Assessment Unit,
- Environmental Cadastre and Registry on release and transfer of pollutants (Registry on pollutants) - kept by the Macedonian Environmental Information Center at the national level,
- Registry of A-integrated environmental permits and Registry of A-permits for compliance with operational plans - Sector for Industrial Pollution and Risk Management, Unit for Integrated Pollution Prevention and Control,
- Registry of systems containing hazardous substances - kept by the Sector of Industrial Pollution and Risk Management, Department of Chemicals and Industrial Accidents. A preliminary version of the Registry has been defined, an establishment of an official electronic version is planned after the adoption of the amendments to the law.

The system of A IPPC permits has not been updated with the new EU regulations for industrial emissions. A draft Law on Industrial Emissions has been drafted, but has not yet been adopted.

The registries of B-integrated environmental permits and the Registry of B permits for compliance with operational plans are the responsibility of each municipality and the City of Skopje individually (city registries), while the MoEPP keeps a registry of (total) issued B-integrated environmental permits.

Environmental Cadastre and Registry on pollutants are kept at local level by some of the municipalities in the country, in accordance with the possibility (but not the obligation) given in the law⁵³.

⁵² https://www.moep.gov.mk/?page_id=1074

⁵³ Article 41 and 42 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no. 53/2005, . . . and 99/2018)

Regarding the reports submitted by the MoEPP, the MoEPP / MEIC regularly prepares annual reports on the quality of the environment in R.N. Macedonia and they are published on the website⁵⁴ (reports for the period 2003 - 2019 are available, while for 2019 a special thematic air report is available). In 2020, a Report on the state of the environment was prepared with an indicator approach which is a combination of the three reports that the Ministry is obliged to prepare in accordance with the provisions of the Law on Environment, and it contains data as of 2019. Environmental indicator reports are prepared every two years and so far reports for the period 2008 - 2020 have been published⁵⁵. Regarding the report on the state of the environment in R.N. Macedonia, which is prepared every four years, the MoEPP has so far prepared such reports for 2000, 2013 and 2020⁵⁶.

3. THE EFFICIENCY OF IMPLEMENTATION OF THE LAW, BYLAWS AND THE COMPETENCIES

No information on the implementation of the Environmental Investment Program can be found on the website of the MoEPP⁵⁷. Given that there is no new NEAP or adopted National Plan against Desertification, it is assumed that there is no reporting on its implementation.

Information on the implementation of the National Climate Change Plan can be found on a specialized website/portal (www.klimatskipromeni.mk), prepared with technical and financial support from the United Nations Development Program (UNDP) and the Global Environment Facility (GEF), and the public relations department of the Ministry of Environment and Physical Planning is the body responsible for maintaining the portal and generally for communicating on climate change. In order to monitor the level of implementation of the strategic documents and measures in the field of climate change, the preparation of a system for monitoring, reporting and verification is underway⁵⁸.

Considering that there is no legal obligation to publish the reports that are submitted to the MoEPP on various grounds from different institutions, there is no such information on www.moepp.gov.mk. The Environmental Indicator Report for 2020 in the area of environmental policy reports of the absence of full information by the municipalities (to the MoEPP) on waste management⁵⁹, and the same could be assumed on other grounds for reporting (eg. realization of LEAPs).

The municipalities, the municipalities in the City of Skopje and the City of Skopje may (but are not obliged to) prepare a report on the state of the environment in their area, and they should

⁵⁴ https://www.moepp.gov.mk/?page_id=2338

⁵⁵ https://www.moepp.gov.mk/?page_id=746

⁵⁶ http://www.moepp.gov.mk/?page_id=5170

⁵⁷ There is no clear obligation to publish such reports

⁵⁸ Sustainable system for collecting necessary greenhouse gas data

⁵⁹ Only 30% of the municipalities submit such reports

submit it to the MoEPP for approval and make it public. However, there is no information on such submitted reports, approval status, nor can they be found on the websites of the municipalities (the City of Skopje regularly publishes the annual environmental programs⁶⁰).

Reports on the state of the environment are prepared by the MoEPP/MEIC. They do not contain information on the method of preparation, i.e. on the established coordination body composed of representatives of bodies, organizations and institutions that own data in the field of environment and working groups for preparation of parts of the report, although probably their preparation is based on data from several sources (institutions) that submit information to the MoEPP/MEIC.

An inter-departmental body for prevention and control of accidents with the presence of dangerous substances has not been established in accordance with Article 146-a.

The Scientific and Technical Commission for the best available techniques was established on two occasions, 2010 and 2014. The Commission prepares and proposes (to the MoEPP) national reference documents for the best available techniques, which are guidelines for the application of the best available techniques in the A-integrated environmental permits for each industrial sector separately. So far, 6 technical sectoral guidelines for BAT have been prepared and published by the BAT commission⁶¹. The last meeting of the commission was in 2015.

The mandate of the Eco-label Commission that was established has expired and it is necessary to establish a new commission. Existing regulations in that area need to be revised. So far, no one has applied for an eco-label.

There is no information about establishing a Commission for awards and recognitions.

According to the obligations from the Law, the council of the municipality, the city of Skopje and the municipalities in the city of Skopje should form a body, headed by the mayor, which will monitor the implementation of the local environmental action plan and will propose changes in the local environmental action plan, and shall inform the MoEPP about that once a year. Within the MoEPP there is a special Sector for cooperation with local self-government and administrative supervision. No information is available on the implementation of this

⁶⁰ <https://zivotnasredina.skopje.gov.mk/oblast/zivotna-sredina/>

⁶¹ Ministry of Environment and Physical Planning: Documents in the field of financing: https://www.moep.gov.mk/?page_id=944

obligation, on the existence of such bodies in the municipalities and on the frequency of reporting on the implementation of LEAPs.

A National Environmental Information System for managing the data on the state of the environment on the territory of R.N. Macedonia is not fully established⁶², although parts of it in terms of Air Quality Information Systems and water management, cadastres, registries and collection methods data are placed and managed by a special department at the MoEPP - Macedonian Environmental Information Center. An EU-funded project under IPA 2014-2020 is underway to develop (improve) an environmental monitoring information system aimed at:

- Establishment of a National Environmental Information System,
- Preparation of a strategy for development of a national network for environmental monitoring to meet national and international reporting requirements,
- Strengthening the administrative capacity for implementation and maintenance of a National Environmental Information System and a National Environmental Monitoring Network,
- Increasing the transparency of public institutions by facilitating access to information and developing a coordinated approach to informing the public sector.

A National system for inventory of greenhouse gas emissions in some form already exists given that R.N. Macedonia has so far prepared three national plans (reports) on climate change and three biennial audited reports under which greenhouse gas inventories are prepared. All these documents and activities are prepared with the help of funds of international organizations implemented in the country by UNDP, as a support to the country, and with the help of external organizations and consultants. In the long run, and in terms of sustainability, the preparation and maintenance of this system should be within the Macedonian Environmental Information Center. In this context, a law on climate action is being prepared by which the provisions related to climate change would be transposed into this law.

4. ANALYSIS

Here follows a brief analysis of the existing Law on Environment with all its amendments so far in terms of adopted bylaws and other prescribed forms and provisions and its implementation.

Article 23 of the Law prescribes the possibility for accreditation of a legal entity and a natural person for assessment of the technology, technological line, products, semi-finished products or raw materials, if there is certain knowledge about their negative impacts on the

⁶² Finding of the Final Report of the State Auditor (No. 16-209/8 dated 02.04.2018)

environment. There is no information on the existence of an appropriate bylaw (rulebook) that prescribes the conditions in terms of technical conditions and means, equipment and premises in details, that must be met by legal entities and natural persons to be accredited to perform the work, as well as the procedure for election of an accredited legal entity and natural person that will evaluate the technology, technological line, products, semi-finished products or raw materials.

Article 27 of the Law prescribes an obligation to introduce a label which, in accordance with the law, indicates the possibility of pollution or possible harmful impact of products, semi-finished products, raw materials and chemicals, as well as their packaging on the environment and on life and health of the people, so that products, semi-finished products, raw materials and chemicals, as well as their packaging, can be placed on the market. There is no information on the existence of an appropriate bylaw (rulebook)⁶³ which prescribes the manner of labeling the product and the packaging of the product, semi-finished products, raw materials and chemicals, the type of label and their content in terms of the impact of the packaging on the environment and the manner of handling the packaging and certain used products, semi-finished products and raw materials.

Article 27 of the Law prescribes a basis for proclaiming ecologically clean areas. Acts have not yet been adopted to prescribe the manner and procedure for proclaiming an ecologically clean area, as well as the manner of keeping and the content of the records of the declared ecologically clean areas. This part of the law needs to be revised, according to information from the MoEPP.

Article 27 of the Law prescribes the possibility for the bodies and organizations representing certain interests, groups of operators and individual operators, to be able to conclude voluntary agreements with the MoEPP, in order to achieve a higher degree of protection in certain environmental media than that provided by this Law and by special laws. There is no information on the existence of an act prescribing the procedure on voluntary concluding of agreements.

Article 31 of the Law prescribes the possibility for legal and natural persons performing economic or other activity, scientific and educational organizations and institutions, as well as state authorities, to organize their environmental protection according to the European scheme for environmental management and auditing. There is no act prescribing the Environmental Management and Audit Schemes (EMAS).

⁶³ The act is prescribed by the MoEPP together with the Minister who manages the body of the state administration responsible for the affairs in the field of economy

Availability of resources and instruments

Pursuant to Article 92 of the Law, costs for implementation of the procedure for assessment of the impact of the project on the environment, prescribed by a special act, are to be reimbursement by the project investor. So far, these costs have not been reimbursed by project investors.

Fees related to IPPC permitting procedures are reimbursed by IPPC installation operators, although there are identified shortcomings regarding that⁶⁴.

Chapter XVI Liability for damage to the environment transposes the obligations of the EU Directive on liability for damages to the environment. Article 15 of this Directive obliges Member States to take measures to encourage the development of instruments and markets for financial security by appropriate economic and financial operators, including financial mechanisms in the event of insolvency, in order to enable operators to use financial guarantees to cover their responsibilities under this Directive. This obligation of the directive is not transposed to the mentioned chapter of the existing Law on Environment.

Every year, the MoEPP supervises a number of municipalities (not all) and reports are prepared which contain data on LEAPs, issued elaborates, B IPPC permits, etc.

Information on the budget of the ministry is published on the website of the MoEPP, for 2017, 2018, 2019 and 2020⁶⁵. On the same page, in the part of Adopted reports for realization of the Budget, there is no information about them. The environmental monitoring budget for this and last year has increased significantly.

The Law on Environment, as well as other laws in the field of environment, set different bases for collecting fees on different grounds, but there is still no information on the level of payment of these fees on an annual basis, the amount of collected fees and their use for purposes of the environment.

⁶⁴ Finding of the Final Report of the State Auditor (No. 16-209/8 dated 02.04.2018)

⁶⁵ Ministry of Environment and Physical Planning - Documents in the field of financing:
https://www.moepp.gov.mk/?page_id=13453

5. CONCLUSIONS

Implementation of a good part of the envisaged systems (environmental information system, management system for ozone depleting substances and refrigerants, systems containing hazardous substances, system for inventory of greenhouse gas emissions) and other provisions, depends on the adoption of the envisaged amendments to the law and the adoption of bylaws that have not yet been adopted.

An updated environmental policy (NEAP) is not adopted, with new priorities, goals and directions for action, which will address current environmental problems. The absence of an updated NEAP affects the preparation of annual environmental investment programs.

There is a lack of human and technical capacities at national and local level in order to fully, efficiently and timely implement the set legal obligations and environmental goals.

There is a lack of better inter-sectoral cooperation, better communication and coordination with municipalities on various grounds (implementation and reporting on LEAP, elaborates, B IPPC permits, cadastres and registries, monitoring and quality of the environment, etc.).

II. AREA – NATURE PROTECTION

LAW ON NATURE PROTECTION

INTRODUCTION

The Law on Nature Protection⁶⁶ regulates the protection of nature through the preservation of the biological and landscape diversity and the protection of the natural heritage inside and outside the protected areas, as well as the protection of natural rarities. In 2013, the Assembly of the Republic of Macedonia adopted the Law on Amendments to the Law on Nature Protection (Official Gazette of the Republic of Macedonia no.13/13), which further transposed the provisions of the Directive on the Conservation of Wild Birds (2009/147/EC) and the Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora (92/43/EEC).

1. STRUCTURE OF THE LAW ON NATURE PROTECTION

The following main elements are covered in the Law on Nature Protection:

- II. General provisions, general restrictions or prohibitions for the purpose of nature protection;
- III. Nature protection, general measures, nature impact assessment, species protection, habitat and ecosystem protection, protected areas, landscape protection, minerals and fossils;
- IV. Nature protection organization;
- V. Keeping records in the field of nature protection;
- VI. following;
- VII. National Strategy for Nature Protection;
- VIII. Financing;
- IX. Penal provisions; and
- X. Transitional and final provisions.

⁶⁶ Law on Nature Protection (Official Gazette of the Republic of Macedonia no. 67/04 , 14/06, 84/07, 35/10, 47/11, 148/11 and 59/12, 13/13, 163/13 and 41/14)

1.1. BYLAWS

Within the Law on Nature Protection, 58 bylaws are envisaged, out of which 34 and two national strategies have been adopted. The Government of the Republic of North Macedonia has adopted three decrees:

- Decree on determining the projects and the criteria on the basis of which the need for conducting the procedure for environmental impact assessment is determined;
- Decree on the manner and procedure for issuing the permit or certificate, as well as the type of permit or certificate and determination of the border crossings through which the trade with affected and protected wild species of plants, fungi, animals and their parts can be performed; and
- Decree on the manner of handling trade with affected and protected wild plants, fungi, animals and their parts by the customs authorities, other competent authorities and services at the border crossings and scientific and professional institutions, as well as authorized depositors of confiscated specimens of illicit trade.

In addition to the decrees, the Government of RNM has adopted programs for nature protection on an annual basis, including 2020, as well as decisions for proclaiming protected areas as well as for establishing public institutions for management and protection of the National Park Galicica, the National Park Mavrovo, the National Park Pelister and the establishment of a public enterprise for management and protection of the multipurpose area "Jasen" - Skopje.

The Ministry of Environment and Physical Planning adopted 13 rulebooks, Lists for determining strictly protected and protected wild species, Guidelines on the manner of conducting field observation, inventory and monitoring of biodiversity and habitats, Decision on establishing the National Council for Nature Protection (2009). Studies for valorization have also been prepared: Shar Mountain, Osogovo Mountains, Vodno, Jasen, Belasica, Maleshevski Mountains, Vlaina and Studenchishko blato, studies for revaluation of the areas Pelister, Matka Canyon, Tikvesh and Mavrovo, as well as red lists for amphibians, reptiles and plants.

1.2. STRATEGIC DOCUMENTS

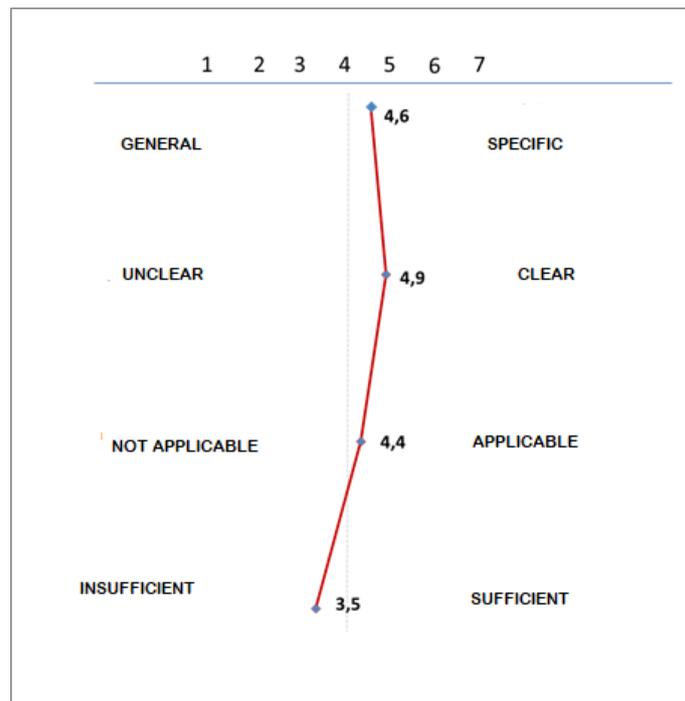
According to the law, in 2018, the Government of the Republic of North Macedonia adopted the National Strategy for Nature Protection, with an action plan 2017-2027 with certain indicators and a National Strategy for Biodiversity, with an action plan for 2018-2023.

Both documents contain solid analyzes of the state of nature in our country, point out the challenges for its protection and the necessary measures to be taken to overcome such challenges.

2. ANALYSIS

For the needs of this analysis, information from the conducted focus group were used with representatives of the Ministry of Environment and Physical Planning (MoEPP), the Ministry of Agriculture, Forestry and Water Economy (MAFWE), Macedonian Ecological Society (MES), CNVP-Organization for Connecting Natural Values and People, UNDP - United Nations Development Program, Pharmachem and Eco-Awareness / World Wide Fund for Nature (WWF Adria) where the legal framework for nature protection was discussed.

The graph below shows the average scores that the participants gave for the legal framework for nature protection in relation to these 4 characteristics.



The analysis of the answers shows that in terms of the characteristic *Specific-General*, the legal framework was evaluated with an average score of 4.6. Regarding the characteristic *Clear-Unclear*, the participants in the discussion evaluated the legal framework with an average score of 4.9, while regarding the characteristic *Applicable-Not applicable* with 4.4. The legal framework for nature protection received the lowest average score for the characteristic *Sufficient-Insufficient* 3.5. It is evident that the average scores for all characteristics are around the middle of the scale, which indicates that according to the

perception of the participants there is enough space for further development and improvement of the Legal Framework in relation to each of these 4 characteristics.

During the discussion regarding the legal framework for nature protection, special focus was placed on the *Law on Nature Protection* adopted in 2004. Some of the participants evaluate it as comprehensive, especially in relation to the topics at the level of protection, habitats, permitted and prohibited activities, protection of species and manners of management. Although it was adopted more than 10 years ago, some participants point out that **it is not outdated, on the contrary it covers many important segments and it is in line with the EU requirements and directives.**

Representatives of the Ministry of Environment and Physical Planning (MoEPP) said that the **new Law on Nature will be adopted soon, which has been finalized and should be submitted into the parliamentary procedure.**

The legal framework regarding the characteristic *Clear-Unclear* was assessed with a higher average score compared to all other characteristics (4.9). However, some participants point out that the current framework **requires further explanation of some directives**, such as the Habitats and Birds Directives set out by the European Union.

It was further emphasized that in the new law it is important **to specify and distinguish the permitted and prohibited activities in relation to different categories of protected areas**, because in the current law they are the same for all protected areas, regardless of the category of protection.

The legal framework for nature protection was assessed with the lowest score in terms of the characteristics *Sufficient/Insufficient*. The legal framework for nature protection includes several laws and the discussion emphasized **the need for their mutual harmonization so that they could be implemented in practice**. Non-compliance between the laws leads to problematic communication between state institutions and causes a number of difficulties in the implementation of the laws in practice. Hence the legal framework for nature protection also received a lower average score in terms of the characteristic *Applicable/Not applicable*.

3. THE EFFECT OF THE EXISTING LEGISLATION ON THE EFFICIENCY AND EFFECTIVENESS OF THE INSTITUTIONAL FRAMEWORK OF THE ENVIRONMENT

A. Proclamation of protected areas

Pursuant to Article 187 of the Law on Nature Protection, the MoEPP has obligations to revalue the protected areas protected before the day of application of this Law and to prepare new acts. At the same time, the Law on Nature Protection prescribes that the protected areas, protected before the day of entry into force of this Law (2005) as natural rarities, continue to enjoy the protection of protected areas in accordance with the provisions of this Law.

For these reasons, the protected area system is in a transitional state and includes areas:

- declared according to the old categorization in accordance with the Law on Protection of Natural Rarities and
- declared according to a new categorization in accordance with the Law on Nature Protection (re-declared areas, newly declared areas and areas in the phase of proclamation and re-proclamation).

The system of protected areas includes 86 areas, which cover an area of 278890 ha or about 10.8% of the territory of the Republic of North Macedonia. The study for protection of the natural heritage (1999), prepared for the needs of the spatial plan of the Republic of Macedonia⁶⁷ includes 193 areas proposed for protection, distributed according to the old categories of protection. According to the Sector Study for protection of the natural heritage for the period until 2020, it is planned to increase the percentage of protected areas to about 11.5% of the territory of the Republic of North Macedonia. According to Aichi Global Objective 11 of the Convention on Biological Diversity, the territory of the protected areas is expected to increase to 15% of the total land area.

Currently, two of the three national parks have been re-declared in accordance with the amendments to the Law on Nature Protection, the NP Pelister and the NP Galicica and new acts for re-proclamation have been adopted for them. The National Park Mavrovo has not completed the re-proclamation procedure, although in 2015 a draft law was prepared for which a public debate was organized.

Regarding the management plans, which are the basic document that prescribes the measures and activities for protection of the areas, the National Park Pelister adopted a new management plan while the NP Galicica is in the final phase of this procedure. There is still no new management plan for the NP Mavrovo. Draft management plans have been made for the natural monuments Markovi Kuli and Lake Prespa. The preparation of draft plans for the management of Lake Dojran is in the first phase. The draft plans for the management of Shar Mountain and Lake Ohrid are also being prepared.

In 2020, the Government adopted a Decision to proclaim part of the Osogovo Mountains a protected area in category V - protected area, due to the diversity and richness of biodiversity, geodiversity, hydrological characteristics, landscapes, area and other values, natural beauty, as well as for conservation of the specific interaction of the people and the nature. The total area of the protected area - Osogovo Mountains is 48807.16 hectares, and it will be managed by the Public Enterprise for State Forest Management "National Forests". At the same session, the Government adopted a decision on the acceptability of the proposal for proclaiming the site Studenchishko blato a protected area in the category of nature park and a Decision on the acceptability of the proposal for proclaiming part of Vodno a protected area in the

⁶⁷ The spatial plan of the Republic of Macedonia (Official Gazette of no.39/04)

category of protected area, thereby the MoEPP shall initiate proclamation procedures in accordance with legal procedures.

In other protected areas of another category there is a partial implementation of this provision in the law. Due to non-implementation of the re-proclamation procedure, management plans have not yet been adopted for many of the protected areas.

In addition, the effective management of protected areas is a major challenge. The main obstacles for achieving the goals of the areas more efficiently, are the insufficient capacities of the entities in charge of the management of these areas, the non-existent management structures and untrained staff for the implementation of the legal provisions. So far, the only functional management bodies are the public institutions of the three national parks and to some extent the Public Enterprise for Management of the Multipurpose Area "Jasen". Currently, the municipality of Resen (nominated for management of the natural monument "Prespa Lake" and the nature park "Ezerani" is making every effort to strengthen its management capacity through support from international projects (UNDP/SDC Prespa Lake Project). Other municipalities that are in charge as entities for management of protected areas (eg. Municipality of Vevchani for management of the natural monument "Vevchanski Izvori", the municipality of Novo Selo for management of the natural monument "Smolar Waterfalls", the municipality of Dojran for management of the natural monument "Dojran Lake") have not established an appropriate management body and are facing real problems in terms of implementing the legislation on nature protection. In the case of the Municipality of Vevchani, where for the needs of protected area management, a new systematization of the municipality is needed, which would enable the creation of a new structure (department and guard service), but due to the capacities and the budget of the municipality itself, the procedure is slow and the department is not established even after one year from the adoption of the management plan.

B. Protection of species

In addition to the general measures for protection of species and prohibited activities set out in Article 21, special measures for protection of species are prescribed for the protection of species which include: adoption of a red list of species according to their degree of protection, declaration of strictly protected and protected wild species, measures for the protection of internationally protected species, control of the collection and trade of affected and protected wild plant species, fungi and animals, keeping and breeding of wild animal species in captivity, introduction and re-introduction of species in the nature.

In 2017, red lists were made for plants, reptiles and amphibians. They are publicly available on a dedicated website updated by the Ministry of Environment and Physical Planning⁶⁸.

In 2020, the feasibility study for the establishment of a care center for injured and seized wild animals in the Republic of North Macedonia began, which will meet the requirements of the CITES convention and EU regulations.

C. Strictly-protected and protected wild species

In 2011, the Lists for establishing strictly protected (a total of 194 species, of which 9 species of fungi, 51 plants and 134 species of animals) and protected wild species of plants, fungi and animals⁶⁹ (a total of 820 species, of which 75 fungi, 151 plants and 594 animals), but without prior categorization of the species based on their endangered status.

Unfortunately, the mentioned lists do not contain the criteria according to which the strictly protected and protected species are determined. They include many inaccuracies, a number of typographical, nomenclature and taxonomic errors, synonyms and others. The lists also include a large number of species that do not have special significance in terms of endangerment, endemism or distribution, population status, etc. These shortcomings impose the need to develop national red lists of species based on research and relevant expert assessments.

Prohibited activities are prescribed for the strictly protected species (destruction, cutting, shooting, harassment, etc.) while for the protected wild species no measures and activities for their protection and manner of use have been prescribed yet⁷⁰.

D. Protection of economically important species

Lists of endangered and protected wild species of plants, fungi and animals and their parts⁷¹ are adopted in 2012 and they include:

- all species stated in the attachments to CITES (List 1);
- the species from the attachments to the EU regulation for protection of the wild species of flora and fauna by regulating their trade (338/97/EC) (List 2);

⁶⁸ Ministry of Environment and Physical Planning - National Red List of the Republic of North Macedonia; Available at: <http://redlist.moep.gov.mk/za-nas/>

⁶⁹ Lists for determining strictly protected and protected wild species of plants, fungi and animals (Official Gazette of the Republic of Macedonia no. 139/2011)

⁷⁰ National Biodiversity Strategy, page 97

⁷¹ List of endangered and protected wild species of plants, fungi and animals and their parts (Official Gazette of the Republic of Macedonia no. 15/12)

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- the List 3 includes the national list of plants, fungi and animals whose trade is regulated by issuing permit (D4 or CITES).

Quarry

The quarry is regulated by the Law on Hunting and there are a total of 133 species out of which 110 are birds and 23 primates. There is a discrepancy between the Law on Nature Protection and the Law on Hunting. For example, an analysis of species designated as quarry and species designated as strictly-protected and protected (according to the List of Strictly Protected and Protected Wild Plants, Fungi and Animals) determines that six mammal species were designated as strictly protected species and two species were protected - out of 5 strictly protected species 2 protected species are considered quarry under permanent protection according to the Law on Hunting. Hence, it is necessary to harmonize the two laws and eliminate conflicts and overlaps in the laws in order to properly implement the regulations.

E. Protection of habitats and ecosystems

Forest

The provisions for the protection of forests in protected areas (Article 54) where forest management is prohibited and the conservation of biodiversity is achieved through the protection of forests through the Forest Habitat Management Program, overlap and intersect with the Law on Forests which regulates the issues related to forest planning, management, use and protection. Its provisions apply to all forests and forest land regardless of ownership and purpose (Article 1).

Therefore, the implementation of both laws regarding the protection and use of forests is difficult, especially since it is difficult to find ways to overcome the conflict situation. As an example, in the protected area Monument of Nature "Vevchanski izvori", after the forest fire, the manager of the protected area was asked to treat the forest in accordance with the Law on Forests, by the regional unit of PE Makedonski Shumi. A fine was issued to the manager due to non-compliance with the Law on Forests and following the Law on Nature Protection. The existence of ambiguities in the area of competencies is more than obvious and the procedures related to these two laws need to be harmonized.

Water

General provisions for water protection and protection of biological and landscape diversity in aquatic habitats are provided in the Law on Nature Protection (Articles 55-59) and include a ban on watercourse segregation in a way that contributes to habitat degradation, reducing the amount of water below the biological minimum, drying, burying of springs, swamps and other aquatic habitats, taking measures and activities to prevent pollution of the alleged habitats and waters flowing into the aquatic habitats, banning the construction of facilities or management with natural resources near natural springs, along the shores of natural watercourses, the shores of natural or artificial lakes, as well as the blue plains of watercourses that have specific vegetation and rich biodiversity. In addition, the Law on Waters aims to provide: protection, conservation and continuous improvement of available water resources, improvement of the state of coastal land, aquatic ecosystems and water-dependent ecosystems, protection and improvement of the aquatic environment through rational and sustainable use water, as well as progressive reduction of harmful discharges and gradual elimination of emissions of hazardous substances and substances in water. These regulations are insufficiently implemented in practice, and as an example can be pointed out the construction of small hydropower plants (and the granted concessions for their construction) in protected areas. Field research shows visible changes in the ecosystem, loss of biodiversity and degradation of the coast, as well as non-compliance with the set biological minimum⁷². The damage from such facilities is much clearer in areas with high environmental status, such as protected areas.

Pastures

The protection of the biological and landscape diversity of the habitats with pastures and grasslands is assured through their traditional use, as prescribed by Article 60 of the Law on Nature Protection. The manner of use and the protection of important or endangered habitat types with pastures should be prescribed by a bylaw by the two relevant ministries (MoEPP and MAFWE).

In addition, pasture protection measures should be prescribed in accordance with the Law on Pasture Management, but the existing law (adopted in 1998) does not regulate the modern trends / needs in the area and is not harmonized with other relevant laws, so their complete revision is necessary⁷³.

⁷² Ecological integrity assessment of four rivers in Macedonia, <https://bankwatch.org/wp-content/uploads/2017/12/ecological-integrity-hydropower-Macedonia.pdf>

⁷³ National Biodiversity Strategy, page 99. Available at: <https://www.moep.gov.mk/wp-content/uploads/2015/01/Nacrt-NBSAP-20.01.2015-za-MZSPP-so-tabela-2.pdf>

F. Internationally protected and declared areas

Ramsar areas

The Ramsar areas network aims to protect water ecosystems that are rich in biodiversity, but are sometimes significantly affected worldwide, and therefore play a critical role in protecting waterfowl migratory trails. Two areas from the Republic of Macedonia are included on the world Ramsar list of water habitats of international importance - Lake Prespa in 1995 and Lake Dojran in 2007. For the member states of the Ramsar Convention, it is an obligation to prepare and implement a Plan for the conservation of water habitats with measures for their protection, sustainable use and revitalization, but such Plan has not been developed. Certain measures are included in the protected area management plans.

In 2020, a study for valorization of Studenchishko blato was prepared, and the Government adopted a Decision on the acceptability of the proposal for declaring the site Studenchishko blato a protected area in the category of nature park and reviewed and accepted the application file for nomination of Lake Ohrid as Ramsar place on the World Ramsar List.

UNESCO areas

Lake Ohrid was included in the World Heritage List in 1979, according to the criteria of nature, and later (in 1980) it was expanded to include the cultural-historical area, according to the criteria of culture, so that the area covers an area of 83,350 ha. A draft Law on the management of world cultural and natural heritage in the Ohrid region has been drafted, and although it was prepared in 2019, it was withdrawn for completion and has not yet been adopted.

Two other areas with exceptional natural values - the cave Slatinski Izvor and the rocky area Markovi Kuli are included in the UNESCO waiting list.

In 2014, the first biosphere reserve "Ohrid-Prespa" was declared according to the criteria of the UNESCO program "Man and the Biosphere". In 2020, a Dossier for nomination of the site Dlaboka Reka for the old beech forests in the NP Mavrovo was prepared on the UNESCO Preliminary List.

Significant Plant Areas (SPA)

These areas with significant plant biodiversity are accepted at European and world level as a mechanism for the protection of plant species. In Macedonia, 42 SPAs have been identified, which occupy about 459,425 ha, i.e. almost 18% of the territory of the country. The protection of these areas at the national level is insufficient - only 13 SPAs (fully or partially) are protected at the national level.

Significant Bird Areas (SBA)

Represent areas that are important for the protection of globally affected bird species and species of European conservation interest. In Macedonia, 24 SBAs have been identified, covering an area of 6709 km² or 26.9% of the country's territory. The protection of these areas at the national level is insufficient - only a few areas are fully protected (Lake Prespa, Lake Tikvesh, Demir Kapija and the Radika river basin), and most are without any protection measures. The network of SBAs overlaps with the network of protected areas only about 10%, which is insufficient to preserve the priority bird species.

Significant Butterflies Areas

These areas are identified on the basis of the target species of butterflies, their global significance, their distribution as well as the presence of the species on the Annex II of the Berne Convention / Habitats Directive. There are five target species of butterflies in Macedonia, and thus eight significant butterflies' areas have been identified. Three of the eight areas already have certain protection at national level (part of the Baba mountain, Galicica and the gorge of the river Radika are within the existing national parks).

Emerald Network and Natura 2000

The Emerald Network of Protected Areas of European Significance is established on the territory of the signatory countries of the Bern Convention and serves as a contribution to the establishment of the European Network of Protected Areas Natura 2000.

A total of 35 areas are included in the national Emerald network that cover a total area of 752,223 ha, which represents about 29% of the territory of the Republic of Macedonia. Twelve Emerald Areas are fully protected and two others are partially protected at national

level within existing protected areas, while the rest are outside the network of protected areas.

According to the Methodology for evaluation, sorting and storage of data for their use for future construction of Natura 2000 areas in Macedonia are detected:

- 9 locations proposed as potential Natura 2000.
- 4 locations with a scenario "potential for a larger location".
- 2 areas with high potential for Natura 2000.

Of these, three are proposed as potential Special Protection Areas (SPAs), in accordance with the Birds Directive. Six areas have been proposed as significant community areas (SCIs) under the Housing Directive.

G. Environmental monitoring

In practice, specific monitoring activities of the biodiversity components are carried out only within different projects, implemented by different organizations. Since 2010, the Public Institution National Park "Galichica" regularly implements activities from the Program for long-term monitoring in the park. Biodiversity monitoring needs to involve protected area managers, and expert assistance should be provided by faculties, institutes and museums. Often, the entities responsible for biodiversity monitoring have a smaller capacity than necessary, this is not only human but also technical capacity. Additionally, a national database, which in an integrated way provides the collected data on biodiversity is partially prepared, and it requires hardware and software upgrades, adoption of the necessary bylaws and training of appropriate staff for its maintenance. In 2020, activities were started for the development of a software application for the collection of field data on species and habitats of national and EU significance for the national information system for natural heritage.

The competencies provided by law belong to:

Entities managing a protected area (including Public Institutions - National Park)

The entities in charge of the management of the protected area, integrally manage the whole protected area. In order to achieve the integrated management, the entities in charge of the management of the protected area conclude agreements for regulation of mutual rights and obligations with the entities that perform activity or activities in the protected area, to which the Government of the Republic of Macedonia gives consent.

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For the purpose of efficient management of the protected area, the entity in charge of the management of the protected area, within three months from its appointment, shall form:

- stakeholder council; and
- scientific council, as consultative bodies of the entity.

The entity in charge of the management of the protected area is obliged to convene the councils at least once a year.

More specifically, the competencies of the entities that manage the protected areas are given below:

- issues a general ban on movement of motor vehicles through nature;
- adopts a Protected Area Management Plan;
- prepares and adopts the Annual Program for operation of the protected area;
- manages a protected area;
- prepares an annual report on the implementation of the annual program;
- audits the management plan;
- establishes a guard service in the protected area;
- provide immediate protection of the area through the guard service;
- they are obliged to train staff for performing activities for informing the public about nature protection.

1. Ministry of Environment and Physical Planning

The institution of the state administration responsible for performing the activities in the field of nature protection, in accordance with the provisions of this Law, performs the activities related to: conducting and creating the policy of nature protection, protection of the biological and landscape diversity and protection of the natural heritage, management of biological and landscape diversity and natural heritage and control and supervision over the implementation of the provisions of this Law.

The competent body for performing professional activities in the field of nature protection, in accordance with the provisions of this Law, performs the activities related to: keeping cadastre of protected areas, natural heritage register and records for trade and other activities with protected species, monitoring the conditions in nature and performs other activities in accordance with the provisions of this Law.

According to the Law on Nature Protection, the Ministry of Environment and Physical Planning has a very wide range of competencies, such as adopting rulebooks for simpler application of the Law, monitoring the situation, issuing restrictions on nature protection, adopting decisions for proclaiming protected areas and adopting plans and programs for nature protection.

Namely, the Ministry adopts rulebooks that regulate the conditions, manner and content for operationalization of the legal provisions, as well as records of data for nature protection; issues permits for conducting activities, scientific research, import and export related to nature protection, introduction and reintroduction, etc.; prescribes measures and activities for the purpose of nature protection; monitors the conditions in the field of nature; imposes restrictions in order to protect the nature; prepares lists for protection of certain species and red lists for endangered species; adopts plans and programs for nature protection; supervises the implementation of the Law on Nature Protection, and performs other activities related to nature protection.

2. National Council for Nature Protection

In order to monitor, achieve and promote the protection of nature and the use of natural resources, the National Council for Nature Protection is established as an advisory body to the Minister who manages the body of the state administration responsible for performing the activities in the field of nature protection.

The National Council for Nature Protection considers and gives its opinion on the following issues, namely:

1. The Law on Nature Protection and the acts with which the proclamation of protected areas is conducted;
2. the adoption of the list of endangered species (red list) and the measures for improvement of the condition of the endangered species (red book);
3. the proclamation of strictly protected and protected wild species;
4. adoption of strategic documents regarding nature protection;
5. the establishment of the national ecological network;
6. the acceptability of the proposal for proclaiming a protected area; and
7. the adoption of the National Strategy for Nature Protection.

3. Other institutions with competencies according to the Law on Nature Protection

The Government of the Republic of North Macedonia:

- establishes a list of wild species of plants, fungi, animals and their parts whose circulation is regulated by a license, i.e. certificate for trade with affected and protected wild plants, fungi, animals and their parts;
- determines the border crossings through which the trade with affected and protected wild species of plants and animals can be conducted;
- prescribes the conditions for keeping wild animal species in captivity;
- adopts a red list of wild species;
- prescribes the conditions, the manner and the procedure for taking and using genetic and biological material from the nature;
- determines the proposal of the ecologically significant areas for the European Union Natura 2000 and the conservation objectives, the manner of their management on the territory of the Republic of Macedonia, monitoring and other rules necessary for their protection;
- adopts a national ecological network, as well as measures for protection of the areas from the ecological network;
- decides on the nomination for acquisition of a protected area or natural rarity with internationally recognized natural heritage status in accordance with the international agreements ratified by the Republic of Macedonia;
- proclaims protected areas and multipurpose areas as protected areas by a decision
- reviews and adopts the proposal for proclamation of a protected area and decides on the proclamation, i.e. on the further action on the proposal;
- adopts a National Strategy for Nature Protection

Ministry of Agriculture, Forestry and Water Economy:

- Adopts a ban on the use of plant protection products due to nature protection;
- issues a permit for shooting wild animals.

4. ANALYSIS

1. *Entities managing protected areas*

The Law on Nature Protection envisages the competence of existing entities or the establishment of new entities for the management of protected areas. In practice, with the exception of national parks where public institutions are established, management is usually delegated to the municipality on whose territory the protected area is located. Given the limited capacity of municipalities in general to deal with environmental issues and the

additional shortage of nature conservation professionals, the difficult and slow procedures for establishing new departments or management structures, as well as the limited budget, it presents a serious challenge in the management of protected areas.

The procedures for adopting management plans, forming stakeholder councils and scientific councils, as well as adopting annual programs and implementing activities that do not only mean monitoring the situation in the area but also taking protection measures, are left to the capabilities, the will and the knowledge of the local self-government units which gives a small opportunity to the Ministry of Environment and Physical Planning to intervene in the direction of more effective implementation of the law.

2. National Council for Nature Protection

Additionally, according to the Law, it is necessary to establish a National Council for Nature Protection, with a mandate of 4 years. Although the mandate of the old composition of the Council has expired, a new composition has not been adopted yet and accordingly, this body is not functional. The non-existence of the Council, especially in this period when intensive decisions are made regarding the proclamation and protection of areas and species, may have a negative impact on the ongoing processes.

3. Conflicts with nature protection

A general conflict with providing nature protection is the neglect of natural values in the decision-making process for the implementation of infrastructure projects. This as a practice is noticed in a number of procedures, such as when issuing concessions, preparation of studies and environmental elaborates, as well as due to the lack of coordination between institutions on issues related to nature protection.

As nature protection is not an absolute priority in our country, it is considered that all other activities for economic and infrastructural development have an "advantage", and the existing laws in the country do not provide a principle of precaution and a hierarchy of decision-making that would first take into account to protect and then to develop. Hence, numerous examples indicate poor effectiveness of the law on nature protection, due to prioritization of other activities and activities for economic and infrastructural development.

In addition, the Law on Nature Protection is in conflict with the Law on Hunting and the Law on Forests, for which a revision is planned in the near future. Needs for harmonization of the

laws with each other have been identified in order to eliminate vagueness, ambiguities and duplications in their implementation, and thus to contribute to their better implementation.

An important part is the application of protection measures prescribed in the elaborates and studies for environmental impact assessment. Namely, when it comes to infrastructure projects, these studies (and elaborates) envisage measures for nature protection during construction, as well as during the operation of the project. However, their use in most cases is not appropriate, sufficient, and sometimes it is completely absent. As a result, there is a serious loss of habitats and species that can be irreversible in areas with high ecological status. In this case, it is evident that there is a lack of sufficient control in the phase of approval of these studies and elaborates (and their protection measures), as well as in the phase of their field implementation (i.e. inspection).

Availability of resources and instruments

The Budget of the Republic of North Macedonia and the budgets of the local self-government units provide funds for nature protection. At the proposal of the Minister who manages the state institution responsible for performing the activities in the field of nature protection, the Government of the Republic of North Macedonia adopts an annual program for nature protection. The funds are used for the realization of the goals defined in the National Strategy for Nature Protection, for the preparation and implementation of nature protection plans and programs, plans for the management of protected areas, preparation and updating of the red list of wild species and the red book, as well as other plans and programs adopted on the basis of Law on Nature Protection.

For the implementation of the Nature Protection Program for 2020, funds in the amount of 234,786,693.00 denars were provided, as follows:

- The Budget of the Republic of North Macedonia for 2020 in the amount of 500,000.00 denars;
- Part of the funds will be provided from donors from current multi-year projects of the Ministry of Environment and Physical Planning in the amount of 234,286,693.00 denars, as follows:
 1. GEF/UNEP Project "Achieving Biodiversity Protection through the Creation and Efficient Management of Protected Areas and Integrating Biodiversity into Land Use Planning" in the amount of 197,949,713.00 denars;
 2. SDC "Program for nature conservation of Macedonia, phase II" in the amount of 32,000,000.00 denars;
 3. Ohrid-Prespa Nature Fund (PONT) in the amount of 12,300,000.00 denars;

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4. GIZ Open regional fund for biodiversity in the amount of 1,230,000.00 denars; and
5. Project of the European Bank for Reconstruction and Development: "Capacity building for biodiversity in the amount of 1,876,980.00 denars.

According to the above, 0.2% of the total amount of funds needed for the realization of the Nature Protection Program have been allocated from the State Budget for 2020. The Nature Protection Strategy states that a detailed financial plan will be developed in a five-year plan for implementation of the Strategy by the MoEPP, but such document is not publicly available.

The foreign donors remain main financial instruments in the nature sector, both for capacity building in the competent institutions and for the implementation of measures and activities in this sector. In the last few years, increased activities in the nature sector and accelerated dynamics of the implemented projects have been noted, with the appearance of several key donors who provided funds for their realization.

Regarding the collection obligations listed above (from 3-12), there is an increase in the collected funds, but these mechanisms are neither sufficiently developed nor properly put into operation. Accordingly, the national parks mainly raise funds from commercial logging (in the case of NP Pelister up to 75% of the total budget of the Public Institution NP), and some smaller protected areas are without significant revenue, and thus without adequate mechanisms for protection of the areas.

NP Galicica in 2020 showed a positive trend by increasing the price for entrance and parking in the park and announced a complete cessation of commercial logging. A large part of this decision of the park is the access to donor funds that were provided through the Prespa-Ohrid Nature Trust, which plans long-term support of the protected area.

During 2018 and 2019, through the support of the EU and the project for nature protection implemented in favour of the Ministry of Environment and Physical Planning by UNDP, 25 protected areas were supported with various measures and activities to enable sustainability of protection and funding. However, many protected areas in the country still face funding problems, as there is no budget and municipal support, and mechanisms to ensure sustainable financing are not functioning.

5. CONCLUSIONS

The implementation of many of the envisaged systems and strategic documents that regulate nature protection are established and harmonized with the legal provisions and the international standards.

The legal framework for nature protection is generally assessed as comprehensive and relatively clear, but it is necessary to adopt a new Law on Nature, which is prepared but still unfinished. Additionally, it is necessary to urgently adopt the bylaws provided by the last NPAA from 2019.

Additional harmonization of the Law on Forests and the Law on Hunting with the Law on Nature is needed.

A functional National Council for Nature Protection is needed, as well as the adoption of a new General Management Plan within the Law on Forests.

Continuous monitoring of the implementation of the laws is necessary, in order to undertake the necessary steps in a timely manner so that the institutions responsible for law enforcement could be guided and could react accordingly.

Due to the non-compliance of the laws, there are different and opposing views of the institutions regarding the process of declaring a protected area, granting concessions, hunting permits, etc.

It is necessary to establish an Institute for Nature Protection, as well as an expert inter-departmental commission for cooperation between institutions.

In the process of declaring a protected area, in the preparation of valorization studies it is necessary to timely and transparently identify and involve all stakeholders, both institutions and all entities living and working in the territory of the protected area.

It is necessary for the country to allocate funds from the budget for financing the protected areas, as determined by the Law on Nature.

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There is a need for employing professional staff (biologists) in the management structure of protected areas, whose expert opinion in the monitoring of natural values is irreplaceable.

Experts with many years of work experience in the field of nature protection should be appointed to the leading positions in the management structure of the protected areas.

One of the main reasons for the disagreement and the difficult communication between the institutions is the non-compliance and insufficient clarity of the laws.

There is a need for involvement of the civil sector in order to improve and facilitate communication between state institutions, but also in the processes of adoption of laws and strategies, which will improve the transparency and accountability of institutions.

It is necessary to have open, transparent and as frequent communication as possible between all involved parties, as well as the existence of will for cooperation and willingness to compromise in the implementation of the strategic plans.

III. AREA - WATER

LAW ON WATER

INTRODUCTION

The Law on Water was adopted in 2008⁷⁴, and after two amendments⁷⁵, its implementation started in 2011. The Law on Water regulates water management as an activity of public interest, primarily drinking water and water for food production, but also for the needs of agriculture, industry, hydropower needs, the needs of parks and other public areas, tourism, navigation and other. The application of this Law must not, directly or indirectly, cause an increase in environmental pollution or cause a decrease in the existing water quality⁷⁶. The law regulates issues related to surface water, including permanent watercourses or watercourses in which water occasionally flows, lakes, reservoirs and springs, groundwater, coastal land and aquatic habitats, and their management, including water distribution, protection and water conservation, as well as protection from the harmful effects of water; water management facilities and services; the organizational set-up and financing of water management, as well as the conditions, manner and procedures under which water can be used or discharged⁷⁷.

The main objectives of the Law are to provide access to a sufficient amount of quality water, protection, conservation and continuous improvement of available water resources, improving the condition of coastal land, aquatic ecosystems and water-dependent ecosystems, protection and improvement of the aquatic environment through rational and sustainable use of water, as well as progressive reduction of harmful discharges and gradual elimination of emissions of hazardous substances into the water; mitigation of the consequences of the harmful effects of water and water scarcity and the protection and promotion of the environment and nature, aquatic ecosystems and biodiversity and, ultimately, the protection of human health.⁷⁸ The provisions of the Law on General Administrative Procedure are subsequently applied for the procedures determined by the Law on Water, and the provisions of the Law on Environment⁷⁹ are applied for the issues related to the water management within the environment, thus providing long-term protection and sustainable water use and management.

⁷⁴ Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08 dated 15.07.2008).

⁷⁵ The first amendment dated 30.12.2009 amends the originally scheduled date for start of application on January 1, 2014 (Official Gazette of RM, no.161/09). The second amendment dated 23.06.2010 again amends the date for start of application of the law on January 1, 2011 (Official Gazette of RM, no.83/2010).

⁷⁶ Article 3 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁷⁷ Article 1 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁷⁸ Article 2 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁷⁹ Article 1 paragraph 2 and paragraph 3 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

1. STRUCTURE OF THE LAW ON WATER

The need to integrate aspects of water management and protection, given their relevance, has necessitated the improvement of the legal framework for the regulation of water resources and the adoption of a modern approach that will enable rational and efficient use of water. Therefore, the Law on Water has been significantly changed since 1998, and a new, modern law has been adopted that covers the three key segments: proper and rational use of water, protection and control of water pollution and protection from harmful effects of water. Additionally, in addition to the Helsinki Convention for the Protection and Use of Transboundary Watercourses and International Lakes (UNECE Water Convention)⁸⁰ and the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo EIA Convention)⁸¹, the Law implements all important guidelines of the international regulations and directives.⁸²

The Law on Water is divided into 14 chapters, as follows:

- I. General provisions
- II. Water use
- III. Planning
- IV. Water protection
- V. Protection from harmful effects of water
- VI. Water monitoring
- VII. Information system
- VIII. Water management facilities and services
- IX. State of emergency and deviations
- X. Material basis and financing of water management and development
- XI. Organization in water management
- XII. Surveillance
- XIII. Misdemeanor provisions
- XIV. Transitional and final provisions

Since its adoption in 2016, the Law on Water has been amended 10 times⁸³, by amending 63 Articles, deleting four Articles and adding 10 new Articles.

⁸⁰ Helsinki Convention (Convention on the Protection and Use of Transboundary Watercourses and International Lake, <https://unece.org/fileadmin/DAM/env/water/pdf/watercon.pdf>.

⁸¹ Convention on Environmental Impact Assessment in a Transboundary Context - ESPO, 1991), <https://unece.org/fileadmin/DAM/env/eia/eia.htm>.

⁸² The Law on Water contains guidelines from the more important directives and regulations. Implementation of other EU directives is needed available on: <https://eur-lex.europa.eu/>.

⁸³ Law on amendments and additions to the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08, 6/09, 161/09, 83/10, 51/11, 44/12, 23/13, 163/13, 180/14, 146/15 and 52/16).

1.1. BYLAWS

The Law on Water envisages the adoption of several bylaws, including rulebooks, decrees, decisions, certificates, a program, list of pollutants and substances and three strategic documents. Chapter IX of the Law regulates the manner and deadlines for adoption and start of application of the bylaws.

1.2. STRATEGIC DOCUMENTS

The Law on Water envisages the adoption of three basic documents for planning and development of water management, namely:

1. National Water Strategy;
2. Water Resources Management Basis of the Republic of Macedonia; and
3. River basin management plans.

The National Water Strategy⁸⁴ is the most important strategic document in the field of water and healthy environment, with defined practical long-term steps that imply sustainable development of water resources to meet the needs of all areas and users with quality water in sufficient quantities. Legally determined bodies are competent for the preparation of the Strategy⁸⁵. The strategy is adopted by the Assembly of RNM, at the proposal of the Government for a period of 30 years.

The assessment of the impact of the basic documents for planning and development of water management in RNM is performed by the Ministry of Environment, which should provide an assessment of the impact of strategies, plans and programs for planning and development of water management in the Republic of North Macedonia. The strategic impact assessment, as an important document, should monitor the adoption and implementation of planning documents and to be realized in parallel with their passing, development and adoption by the competent structures, in order to overcome or mitigate any negative repercussions and degrading processes on the environment.

For the purpose of integrated planning and implementation of programs and measures for water development in accordance with the goals of the national sustainable development and harmonization of economic development, social progress and environmental protection, as well as implementation of the National Water Strategy, the Water Resources Management Basis of the Republic of Macedonia is adopted.⁸⁶ The Water Resources Management Basis is adopted by the Assembly of RNM at the proposal of the Government, for a period of 20 years and is valid throughout the whole territory of the country.

The Ministry of Environment is responsible for preparing of such Basis. The detailed content,

⁸⁴ Article 62 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁸⁵ The bodies and listed in Article 61 paragraph 4 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁸⁶ Article 63-65 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

the manner and the procedure for the preparation, revision and updating of the Water Resources Management Basis are determined by the Methodology⁸⁷ prescribed by the Minister of Environment. Informing and consulting the public is regulated in Article 64 of the Law on Water.

The Water Resources Management Basis will be adopted no later than four years from the date of entry into force of the law.⁸⁸ Until then, the existing Water Resources Management Basis, studies and other documentation related to the integral development of the Vardar River Basin, which have been adopted by the competent authorities, as well as the cadastre of natural resources, the cadastre of wells and pumps and the elaborate on groundwater and water resources management bases adopted from the municipalities and the city of Skopje. The Government is authorized to ensure harmonization between the Water Resources Management Basis and the Spatial Plan of the Republic of Macedonia. The right of access to the information contained in the National Water Strategy and the Water Resources Management Basis, which refer to the environment, is exercised under conditions and in a manner determined by the Law on Environment.

The territory of the Republic of North Macedonia consists of four areas of river basins, namely the areas of the river basins of the rivers Vardar, Crn Drim, Strumica and Juzna Morava.⁸⁹ The government determines the boundaries of the river basin areas on the proposal of the Minister of Environment.⁹⁰ According to the Law, water management means undertaking measures and activities for rational and efficient use of water, sustainable development of water resources, protection of water and protection from the harmful effects of water is determined at the level of river basin, as a basic hydrographic unit.

A river basin management plan is prepared for each river basin⁹¹, for the preparation of which the Ministry of Environment is responsible through its organizational units - river basin departments, namely the Vardar river basin management department, the Crn Drim river basin management department and Strumica river basin management department, established within the Water Sector.

The river basin management plans shall be adopted within six years from the date of entry into force of the Law on Waters. Until the adoption of the river basin management plans, the existing Water Resources Management Basis of the Republic of Macedonia is applied. The river basin management plan is revised, amended and supplemented at least every six years, and earlier if necessary.

⁸⁷ Article 63 paragraph 7 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁸⁸ Article 251 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁸⁹ Article 7 paragraph 2 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁹⁰ Article 7 paragraph 3 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁹¹ Article 66-71 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

Surface water classification

One of the main goals of the Ministry of Environment is to prescribe the surface water classification. The classification prescribes:

- definitions for classification of the ecological condition of the surface water which can be high, good, moderate, insufficient and bad;
- characteristics and the minimum standards for determining the good chemical condition of surface water bodies;
- characteristics and the minimum standards for determining the good ecological condition of surface water bodies;
- the characteristics and the minimum standards for determining the good chemical condition and good ecological potential of the strongly modified and artificial surface water bodies;
- the substances, the standards for ecological quality and the manner of determining the class of the chemical condition of the surface water bodies;
- the standards for ecological quality, indexes for ecological quality and other limit values, as well as the manner of determining the class of the ecological condition/potential of the surface water bodies and
- the manner of classification of the condition of the surface water bodies.

a. RULEBOOKS AND OTHER BYLAWS

In order to further regulate the subject of the Law on Water, in addition to the strategic and related planning documents, the adoption of 66 rulebooks, two lists, five programs, two operational plans, five methodologies and one cadastre of water pollutants is envisaged.

The List of pollutants and substances⁹² is adopted by the Minister of Environment in cooperation with the Minister of Health. The same ministries are responsible for reviewing the list at regular intervals, not longer than four years from their adoption. The Law also provides for the competence of the Minister of Environment in cooperation with the Minister of Health to determine and maintain the List of Sensitive Water Bodies⁹³.

The Ministry of Environment is obliged to adopt four programs and to participate in the process of adopting one program. First of all, the Ministry is obliged to adopt a Program of measures to achieve environmental goals.⁹⁴ In order to protect against the harmful effects of water, the Ministry of Environment together with the Ministry of Agriculture is obliged to develop a Program for protection from harmful effects of water within the appropriate river basin.⁹⁵ The Ministry of Environment is obliged to adopt a Program for water monitoring⁹⁶ for

⁹² Article 107 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁹³ Article 103 paragraph 2 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁹⁴ Article 73 paragraph 1 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁹⁵ Article 124 paragraph 1 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁹⁶ Article 145 paragraph 6 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

smooth functioning of the state hydrological network for monitoring of water bodies. During the management and development of water resources and reimbursement of the operating costs of the state administration bodies and the bodies and organizations that have appropriate competencies in the water management, i.e. when performing certain activities related to water, funds are needed that are determined every year on the basis of the Water Management Program⁹⁷ adopted by the Government of the Republic of North Macedonia. Finally, the Minister of Health should participate in the adoption of the Program of measures for improving the quality of bathing water⁹⁸.

In order to implement the Program for protection from harmful effects of water within the respective river basin, the Ministry in cooperation with the municipal council, the municipalities in the city of Skopje and the city of Skopje, as well as the water management, adopt Operational plans for flood protection and defense for endangered areas.⁹⁹ The Minister of Environment is in charge of adopting of an Operational Plan for protection of water from pollution caused by nitrates from agricultural sources¹⁰⁰.

In addition to the rulebooks, programs and operational plans, the Law provides for a Methodology for determining the minimum acceptable water flow and groundwater level¹⁰¹ and 4 special methodologies within the monitoring of the quantity and quality of water bodies¹⁰².

In order to determine the level of pollution of industrial wastewater, atmospheric and urban waters, landfill water, as well as their harmful impact on water quality in the recipient and to determine other sources of water pollution in the basin area, a cadastre of water pollutants is established and maintained as part of the Cadastre of pollutants determined in accordance with the Law on Environment¹⁰³.

2. ANALYSIS

The conducted normative and legislative analysis of the Law on Water confirms the fact that it is a comprehensive law that sets the legal framework for rational water management in RNM. The first amendments after the adoption of the Law refer to the start of its implementation. Although in 2008 it was planned to start with implementation on January 1, 2009, the same year the originally planned date is amended and postponed for 5 years, i.e. to start with implementation on January 1, 2014. It is assumed that the conditions for its implementation were met earlier than expected, so in 2010 the law is amended again, but now the start date was expected to be January 1, 2011.

⁹⁷ Article 218 paragraph 1 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁹⁸ Article 104 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

⁹⁹ Article 126 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

¹⁰⁰ Article 102 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

¹⁰¹ Article 120 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

¹⁰² Article 147 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

¹⁰³ Article 161 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/08).

It is interesting to note that the Constitutional Court of the Republic of North Macedonia refers to the Law on Water as a *lex specialis* when adopting a Decision of 8 May 2018 to repeal Article 33 paragraph 1 and paragraph 4 of the Law on Drinking Water Supply and Urban Waste Water Drainage.

The National Water Strategy 2012 - 2042¹⁰⁴ was adopted in October 2012. The Water Strategy, as the main strategic document, was adopted with a delay of 10 months from the legally prescribed deadline. In order to timely perceive the possible negative impacts on the environment and human health, as well as the socio-economic aspects of the implementation of the Strategy, a Strategic Environmental Assessment was prepared for the Water Strategy of the Republic of Macedonia¹⁰⁵ in accordance with the Law on Environment¹⁰⁶ and the bylaws. Additionally, the MoEPP adopted a Decision for implementation of the strategic assessment which explains the reasons for the implementation of the Strategy¹⁰⁷.

The Water Resources Management Basis is the second important strategic document. Although the Law on Water stipulates that the Basis should be adopted no later than four years from the day the law enters into force, the legal provision for adopting a new Water Resources Management Basis of the Republic of North Macedonia has not been complied with, but the existing, outdated Water Resources Management Basis has been amended twice.

Pursuant to Article 64 of the Law on Water, on December 30, 2013, the Assembly of the Republic of Macedonia adopted the Amendment of the Water Resources Management Basis of the Republic of Macedonia dated 1968 for the accumulation Buchin¹⁰⁸, after a previously held public debate in relation with the Draft Version for amendment of the Water Resources Management Basis organized by the MoEPP¹⁰⁹. Furthermore, an Amendment of the Water Resources Management Basis of the Republic of Macedonia was adopted for the accumulation Jagmular on the river Bregalnica¹¹⁰ dated February 12, 2016. The reasons for the adoption of this document are the increased hydrological period which has a significant impact on the water resources management opportunities of the accumulation, the changed needs of water users and the new views in the urban-planning design of the region around the hydro system. The introductory part of the proposed amendment explains *"..the need for updating or*

¹⁰⁴ National Water Strategy (2012 - 2042), Off. Gazette of the Republic of Macedonia no.122/2012 dated 01.10.2012. Link: <http://www.slvesnik.com.mk/issues/B4D3EB5A8F678A4B92A9A4938BB2A3AE.pdf#page=2>.

¹⁰⁵ The subject of the Strategic Assessment are certain strategies, plans and programs in the field of agriculture, forestry, fisheries, energy, industry, mining, transport, regional development, telecommunications, waste and water management, tourism, spatial and urban planning and land use, which are considered to have a significant impact on the environment and human health. Available at: <https://www.moep.gov.mk/wp-content/uploads/2014/12/Izvestaj-za-strategiska-ocena-na-ziv.sred.-na-Strategijata-za-vodi-za-RM-Води.pdf>.

¹⁰⁶ Article 65 paragraph 2 of the Law on Environment ("Official Gazette of the Republic of Macedonia" no.148/09, 53/05, 81/05, 24/07, 159/08 and 80/09).

¹⁰⁷ According to Article 65 paragraph 6 of the Law on Environment, a Decision was passed to implement a strategic assessment of the Water Strategy, available at: <https://www.moep.gov.mk/wp-content/uploads/2014/12/Odluka-za-sproveduvanje-na-strategiska-ocena.pdf>.

¹⁰⁸ "Official Gazette of the Republic of Macedonia" no.188/2013.

¹⁰⁹ The basic document for preparation of this water resources management basis is the Draft prepared by GI Makedonija AD Skopje from 2013 and NI project - Study with a proposal to amend the Water Resources Management Basis of the Republic of Macedonia from 1968 by changing the parameters of HS BUCHIN in order to improve the development of the municipality Demir Hisar, drafted by the Institute for Water Economy of the Republic of Macedonia in Skopje, 2007.

¹¹⁰ "Official Gazette of the Republic of Macedonia" no.28/2016.

revision of the already obsolete Water Resources Management Basis, which is valid even after more than 40 years from its adoption”.

It remains unclear why a new Water Resources Management Basis has not been adopted, even though the Rulebook on the methodology for the content, manner and procedure for preparation, revision and updating of the Water Resources Management Basis of the Republic of Macedonia was adopted since November 2009.

The four river basin areas on the rivers Vardar, Crn Drim, Strumica and Juzna Morava are determined by a Decision on determining the boundaries of the river basin areas adopted in August 2012¹¹¹. They, by their hydrographic integrity, are qualified as international river basin areas, given that they are more or less located on the territory of RNM and on the territory of a neighboring country. In order to timely prepare the basins management plans, in 2009 the Ministry has adopted 4 Rulebooks¹¹² within the legally established deadlines.

The timely adoption of these bylaws has not accelerated the adoption of the necessary River Basin Management Plans, although the deadline for their adoption is six years from the date of entry into force of the Law, i.e. no later than 2017. Only the Management and Risk and Flood Protection Plan of the Lepenec River Basin in September 2018¹¹³ and the Management and Risk and Flood Protection Plan of the Treska River Basin in the form of a final report, were adopted in November 2018¹¹⁴.

The consultative processes for the management plan of Lake Ohrid in 2020 have been completed and it has been adopted in the Drin Core group (all countries that share the Crn Drim Basin area), as well as the Bilateral Committee (MK-AL) for the protection of Lake Ohrid.

For the activities related to the preparation of the Plans, an IPA project was implemented for the preparation of the Vardar River Basin Management Plan dated April 2019¹¹⁵ in accordance with the requirements of the EU Water Framework Directive (WFD) and other documents in the field of protection, monitoring and water management permit. This Plan has not been officially adopted by the Government of RNM.

In August 2016, a Management Plan for the Bregalnica River Basin was prepared with the support of the Secretariat for Economic Affairs of Switzerland¹¹⁶ but this Plan, although presented, has not been adopted by the Government.

In July 2015, a Management Plan for the Strumica River Basin was prepared with the support of UNDP and SECO, but this Plan also has not been adopted by the Government of RNM.

¹¹¹ Decision on determining the boundaries of the river basin areas, ("Official Gazette of the Republic of Macedonia" no. 107/12 dated 27.8.2012).

¹¹²"Official Gazette of the Republic of Macedonia" no.148/09.

¹¹³ Link: http://www.moep.gov.mk/wp-content/uploads/2015/01/PURS_LEPENEC.pdf.

¹¹⁴ Link: <http://www.moep.gov.mk/wp-content/uploads/2015/01/План-за-управување-со-рискот-од-поплави-во-сливот-на-р.Треска.pdf>.

¹¹⁵ Source: https://www.moep.gov.mk/wp-content/uploads/2015/01/MK_13_IPA_EN_01_16_Final_Report_20190425.pdf.

¹¹⁶ Source: https://www.moep.gov.mk/wp-content/uploads/2015/01/RBMP_Bregalnica_Final.pdf.

In the next period, the Crn Drim River Management Plan is expected to be completed as part of the GEF project. In this phase, a Water Management Plan for Lake Prespa has been prepared, which has been adopted by the municipality of Resen, and activities are currently being implemented for the period 2016-2021 and a draft Water Management Plan for Lake Ohrid that during 2021 should be placed at a public hearing for its adoption.

At the proposal of the Minister of Environment, in May 2016, the Government adopted a Decree on the classification of surface waters¹¹⁷ and two amendments¹¹⁸ to extend the date of commencement of application. The decree should start with implementation on January 1, 2022.

The Law on Water stipulates the competence of the Government to adopt 15 Decisions. Nine of them were adopted. Also, from 2009 onwards, 30 Decisions for selection and award of a concession have been adopted.

The review of the envisaged and adopted Rulebooks by the MoEPP is interesting. Namely, the Law envisages the adoption of 66 Rulebooks. Of these, 33 Rulebooks have been adopted, which means that half of the envisaged ones have not been adopted yet, despite the set legal deadlines.

The list of pollutants and substances was adopted in September 2011 and published in the Official Gazette No.122 dated September 7, 2011¹¹⁹. Although since its adoption until today, it should have been revised twice, i.e. in 2015 and 2019, the Ministry of Environment and Physical Planning and the Ministry of Health have not done it even once.

The second List is determined in Article 103 paragraph 2 of the Law on Water. In 2011, a Rulebook on the criteria for determining the zones sensitive to urban wastewater discharge was adopted, but the List of Sensitive Water was not adopted.

The analysis shows that the envisaged environmental goals set by the river basin plans are not being achieved. A Rulebook on the content and the manner of preparation of a program was adopted in December 2009, but not a specific Program of measures for achieving the environmental goals in accordance with Article 73 paragraph 4 of the Law on Water. Additionally, the following documents are not yet adopted:

- Program and rulebook for protection from harmful effects of the water within the respective river basin referred to in Article 124 of the Law.
- Program and rulebooks for water monitoring referred to in Article 145 of the Law.
- Program of measures in order to improve the quality of bathing water referred to in Article 104 of the Law, along with other state administration bodies.

¹¹⁷ "Official Gazette of the Republic of Macedonia" no. 99/2016.

¹¹⁸ The first amendment from December 2018 was published in the "Official Gazette of the Republic of Macedonia" no.246/2018. The second amendment from December 2019 was published in the "Official Gazette of the Republic of Macedonia" no.276/2019.

¹¹⁹ The list is in line with Directive 2008/105/EC of the European Parliament and of the Council on environmental quality standards in the field of water (Celex no.32008L0105).

Only the Water Management Program for 2020 has been adopted, which is adopted annually within the realization of the funds from fees, because the provided funds are used for the needs of the Ministry in accordance with Article 212 of the Law on Water.

There is no information on adopted Operational Plans at the level of the MoEPP provided in Article 102 and Article 126 of the Law on Water.

The methodology for determining the minimum acceptable water flow and groundwater level was adopted in December 2018¹²⁰. It regulates more closely:

- the seasonal flow of surface waters, i.e. groundwater level;
- the water quality goals determined in accordance with this Law;
- the environmental goals determined by this Law and the provisions for water use in accordance with this Law.

Article 148 of the Law on Water envisages the adoption of 4 special methodologies for monitoring of the quantity and quality of water bodies, but we have no information about them, because they are an integral part of the river basin management plans, for which the analysis showed that they are prepared but not yet adopted by the Government of RNM.

From the conducted analysis of the Law we can determine that the Cadastre of Water Polluters that should be established, prepared and maintained by the Ministry has not been adopted.

3. THE EFFECT OF THE EXISTING LEGISLATION ON THE EFFICIENCY AND EFFECTIVENESS OF THE INSTITUTIONAL FRAMEWORK OF THE ENVIRONMENT

1. Water sector

Within the Ministry of Environment and Physical Planning there is a ***Water Sector***. This sector is organizationally divided depending on the area in which it operates. Thus, the ***Department for Water Planning and Development*** is responsible for the preparation of the National Water Strategy, the Water Resources Management Basis according to the agreed plans, its supplementation and management of the Water Resources Management Basis, integration of the various annexes of the Water Resources Management Basis into a uniform system. Furthermore, this department monitors the preparation of water development plans and programs, organizes, prepares and monitors the implementation of the Water Management Program. It is responsible for cooperation and coordination with other organizational forms in the ministry, with state bodies, with scientific and professional institutions and with non-governmental organizations from the country and abroad and coordinates the activities in the part of preparation of scientific-professional studies and elaborates.¹²¹

¹²⁰ The methodology is available at: <https://www.moepp.gov.mk/wp-content/uploads/2015/01/Metodologija-za-minimalen-protok.pdf>.

¹²¹ Source: www.moepp.gov.mk.

The Department for Concessions and Inter-Departmental Cooperation is responsible for the preparation and implementation of the procedure for granting concessions, and for coordination between the competent bodies of state administration to which the provisions of the Law on Water and the Law on Concessions and other types of public-private partnership refer. This department is responsible for preparing the bylaws related to the procedure for issuing water rights and granting concessions for water use. It coordinates the procedure for issuing permits related to the concession procedure.¹²²

The Water Rights Department is responsible for the preparation of the bylaws related to the procedure for issuing water rights and concessions and conducts the procedure for issuing permits for water use¹²³, water discharge¹²⁴, extraction of sand, gravel and stone and for issuing water management consents.

Three separate departments have been established within the Water Sector, as follows:

- *Department for management of the river basin area of the river Vardar,*
- *Department for management of the river basin area of the river Crn Drim and*
- *Department for management of the river basin area of the river Strumica.*

All departments are responsible for the implementation of works and coordination with the bodies of the river basin and the bodies of the river basin.

2. National Water Council

The organization in water management is performed by the **National Water Council**, whose composition, mandate and manner of establishment are determined in Article 219 of the Law on Water. The Council is listed as an advisory body and is established to review the water management issues, harmonization and coordination of the different needs and interests, as well as to propose various measures for conservation, protection and continuous improvement of the water regime in the territory of the Republic of North Macedonia. The National Water Council is composed of nine members, including the President, all appointed by the Government of the RNM.

The members of the National Water Council are elected from the ranks of prominent scientists and experts in the field of water management and related fields and from the association of water users. The term of office of the President and the members of the National Water Council shall be elected for a term of three years without the right to be re-elected, except for the representative of the non-governmental sector whose term of office shall be one year.

The Law also defines the functions¹²⁵ of the members of the Council for giving opinions, determining views and proposals, proposing regulations and taking measures. The transitional

¹²² Source: www.moep.gov.mk.

¹²³ Water use permit application form, available at:
https://www.moep.gov.mk/?page_id=3967.

¹²⁴ Water discharge permit application form, available at:
https://www.moep.gov.mk/?page_id=3967.

¹²⁵ Article 220 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/2008).

and final provisions of the Law envisage the establishment of the National Council within three months from the day of start of the application of the Law¹²⁶.

The members of the National Water Council are entitled to compensation for their work in the council¹²⁷, the amount of which is determined by the Government on the proposal of the Minister of Environment.

3. State administration body responsible for performing professional activities in the field of environment

The professional work and undertaking of measures and activities of significance for water management, determined by the Law on Water in the area of each river basin, is performed by the Environmental Directorate established in accordance with the Law on Environment. The Environmental Directorate in the management of river basins performs activities listed in the Law¹²⁸.

4. River Basin Area Management Council

The Government of RNM, upon a proposal of the Minister of Environment for each river basin area, establishes a Council for management of the river basin area. The purpose of establishing such a Council is to prepare and monitor the implementation of the River Basin Management Plan.

The composition and the manner of participation, the manner of nomination of the representatives in the Council and the council for management of parts of the river basin area, as well as the manner of operation, are determined by the Government upon a proposal of the Minister of Environment.¹²⁹

5. Dam Commission

The Ministry of Environment and Physical Planning establishes a Dam Commission¹³⁰ for issues related to the design, construction and management of dams and accumulations. The Minister of Environment determines the amount of the compensation due to each member of the Commission, depending on the scope and complexity of the work they perform. The professional and administrative-technical work required for the operation of the Dam Commission is performed by the Environmental Directorate.

¹²⁶ Article 260 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/2008).

¹²⁷ Article 221 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/2008).

¹²⁸ Article 222 paragraph 2 item 1-21 of the Law on Water ("Official Gazette of the Republic of Macedonia" no. 87/2008).

¹³⁰ Art.197 of the Law on Water ("Official Gazette of the Republic of Macedonia" no.87/08,06/09,161/09, 83/10 , 51/11 and 44/12).

4. ANALYSIS

The only decision for establishing a National Water Council was adopted at a session of the Government of the Republic of Macedonia held on 17.12.2009 and published in Official Gazette of RM no.149/2009 dated 15.12.2009. This Decision establishes the Council as an advisory body, in order to review the issues of water management, harmonization and coordination of different needs and interests, as well as proposing various measures for preservation, protection and continuous improvement of the water regime on the territory of the Republic of Macedonia.

The mandate of the established composition of the National Water Council from 2009 ended in December 2012. Since then, no new compositions of the Council have been formed in December 2012, December 2015 or December 2018. The mandate of the representative of the non-governmental organization that acts in the protection of water at the proposal of non-governmental organizations working in this area, ended in 2010. There is no information about a new election in the last 10 years.

Given that the procedure for election of a new composition of the National Water Council has not been implemented in the last 8 years, it can be concluded that this body is not in function and does not implement the envisaged legal functions in practice.

The non-payment of the financial means provided in Article 221, i.e. the lack of funds for compensation and operating expenses of the members of the council, was stated as the main reason for the non-functioning of the National Water Council.

With the adoption of Decisions on the establishment of the Vardar River Basin Management Council, the Crn Drim River Basin Management Council and the Strumica River Basin Management Council in 2020, it can be said that river basin management is finally reviving, ten years after the implementation of the Law. In order to act in accordance with the legal provisions, the MoEPP in the past period submitted draft requests to all relevant institutions and bodies to nominate their members that will participate in the work of the Councils per river basin, individually for the Vardar river basin, Crn Drim river basin and the Strumica river basin.

The Water Sector at the MoEPP shared information that the draft decisions for establishment of Councils per river basins have been reviewed and adopted by the Government of RNM.

With a Decision of the Minister of Environment and Physical Planning in 2012¹³¹, a Dam Commission was established. The Decision also regulates the obligations of the members for the adoption of Rules of Procedure, the financial compensation and the provision of official telephones for their work was established. Two years later, a Decision on amendment of the members of the Dam Commission was adopted, which replaces three former members.

¹³¹ Decision on the establishment of the Dam Commission dated 19.12.2012.

6. CONCLUSIONS

No new Water Resources Management Basis of the Republic of North Macedonia has been adopted, but the existing Water Resources Management Basis has been amended twice, which is assessed by the experts as obsolete.

No river basin management plans on the rivers Vardar, Crn Drim, Strumica have been adopted, while the draft decisions for establishing Councils per river basins have been reviewed and adopted by the Government of RNM in 2020.

The Law on Water entered into force in 2011, but the MoEPP has not adopted 33 of the envisaged Rulebooks, despite the established legal deadlines.

The effectiveness and efficiency of the institutional framework regarding water management needs to be improved.

There is a need for re-election of the National Water Council and putting this advisory body into operation.

IV. AREA – WASTE MANAGEMENT

LAW ON WASTE MANAGEMENT

INTRODUCTION

The Law on Waste Management was adopted in 2004¹³². The period for preparation and adoption of the Law on Waste Management lasted two years and several national and European experts participated in it.

The Law on Waste Management established the general approach, i.e. the area of waste management to be regulated by a general law. Hence, the Law on Waste Management regulates the waste management, waste management plans and programs, the rights and obligations of legal entities and individuals in relation to waste management, the manner and conditions under which collection, transportation, treatment, processing, storage and disposal of waste, import, export and transit of waste, monitoring, as well as information system and financing can be performed¹³³. The law envisages several goals in terms of waste management: avoiding and, as far as possible, reducing the amount of generated waste, utilization of usable components of waste, sustainable development, through preservation and conservation of natural resources, prevention of negative impacts of the waste on the environment, the life and health of people, disposal of waste in a manner that is acceptable to the environment and a high degree of protection of the environment, life and health of the people¹³⁴. Starting from the goals, but also from the mutual connection of the segment of waste management within the field of environment, the Law envisages subsidiary application of the Law on Environment¹³⁵. The Law itself provides for a special status of activities related to waste management by defining the waste management as a public activity.

Since 2009, segmentation of waste management legislation has been resumed through the adoption of three laws on the management of specific types of waste. Namely, in 2009 the Law on Management of Packaging and Packaging Waste was adopted, the Law on Management of Batteries and Accumulators and Batteries and Accumulators Waste was adopted in 2010 while in 2012 the Law on Management of Electrical and Electronic Equipment and Electrical and Electronic Equipment Waste was adopted.

¹³² Law on Waste Management (“Official Gazette of the Republic of Macedonia” no. 68/2004 dated 05.10.2004)

¹³³ Article 1 of the Law on Waste Management (“Official Gazette of the Republic of Macedonia” no. 68/2004 dated 05.10.2004)

¹³⁴ Article 2 of the Law on Waste Management (“Official Gazette of the Republic of Macedonia” no. 68/2004 dated 05.10.2004)

¹³⁵ Article 5 of the Law on Waste Management (“Official Gazette of the Republic of Macedonia” no. 68/2004 dated 05.10.2004)

In this analysis we will refer only to the general law, i.e. the Law on Waste Management because it provides the principles, mechanisms and procedures for waste management, which refer to the three special laws on waste management.

1. STRUCTURE OF THE LAW ON WASTE MANAGEMENT

Starting from the fact that the idea of enacting this law was to regulate all segments of waste management in the Republic of Macedonia, from a legislative point of view it can be said that this law is a *lex generalis* regarding waste management. Therefore, this law attempts to cover the treatment of all types of waste with some exceptions¹³⁶.

The Law on Waste Management is composed of 14 chapters: I. General provisions, II. Waste management strategy, plans and programs, III. Waste treatment, IV. Treatment of non-hazardous waste, V. Treatment of hazardous waste, VI. Landfills, VII. Combustion or incineration of waste, VIII. Import, export and transit of waste through the territory of the Republic of Macedonia, IX. Monitoring, X. Information System, XI. Financing, XII. Supervision and competent authorities, XIII. Penalty provisions, XIV. Transitional and final provisions. This structure of the Law has not been changed from the original version of the Law from 2004, which means that it was properly defined in accordance with the past and the current conditions regulated by the law. However, the Law has undergone 16 amendments¹³⁷ that harmonize the law with the needs arising in the field of waste management.

1.1. BYLAWS

Starting from the fact that the Law aims to regulate all processes, procedures and relations in the field of waste management, it also provides for the adoption of a number of bylaws. Pursuant to the latest amendments to the Law on Waste Management published in the Official Gazette of the Republic of North Macedonia, it is envisaged to further regulate the legal provisions with 55 bylaws and two strategic documents, Waste Management Strategy and National Waste Management Plan.

¹³⁶ Article 2 of the Law on Waste Management ("Official Gazette of the Republic of Macedonia" no. 68/2004 dated 05.10.2004)

¹³⁷ Laws on amendments and additions of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004; 71/2004; 107/2007; 102/2008; 143/2008; 124/2010; 51/2011; 123/2012; 147/2013; 163/2013; 51/2015; 146/2015; 156/2015; 192/2015; 39/2016 and 63/2016 and „Official Gazette of the Republic of North Macedonia“ no. 31/2020

1.2. STRATEGIC DOCUMENTS

The Law on Waste Management envisages the adoption of strategic documents on waste management, the Waste Management Strategy and the National Waste Management Plan.

The Waste Management Strategy¹³⁸ is envisaged to be adopted by the Government of the Republic of North Macedonia upon a proposal of the Ministry of Environment and Physical Planning and it determines:

- 1) basic guidelines for management of all types of waste;
- 2) improvement of the general situation in waste management;
- 3) the necessary legal measures for realization of the waste management plan;
- 4) the long-term needs of the Republic of Macedonia in the field of waste management;
- 5) strategic approach to the development of public awareness and education related to waste management and
- 6) other issues of significance for the development of waste management.

Pursuant to the Law, the Government of the Republic of Macedonia adopts the Waste Management Strategy for a period of 12 years.

The law also envisages the adoption of a Waste Management Plan which aims to implement the Waste Management Strategy in practice. The plan, unlike the Strategy, is adopted every 10 years¹³⁹ and it is adopted by the Ministry of Environment and Physical Planning. Regarding the Waste Management Plan, the Law stipulates that it should contain the following mandatory elements:

- 1) description and assessment of the current situation regarding waste management;
- 2) forecasts of future conditions related to waste management;
- 3) guidelines and goals related to waste management, including the time schedule for their implementation;
- 4) realization of the measures, activities and the manner of achieving the goals for treatment of special types of waste, the time schedule and the scope of their execution;
- 5) incentive measures for realization of the activities for avoidance and reduction of the quantity of the generated waste, as well as reuse, recycling and use of the waste as energy source;
- 6) manners of disposing waste that cannot be avoided and recycled;
- 7) determination of the type and quantity of waste according to which the obligation for the legal entities and individuals to develop waste management programs is determined;
- 8) realization of the monitoring system in waste management;

¹³⁸ Article 16 of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004

¹³⁹ Article 16 of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004

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- 9) specific measures and activities for reduction of biodegradable components in the waste intended for disposal and the time schedule and scope of their realization;
- 10) determining the needs of the Republic of Macedonia for construction of facilities and installations for processing and disposal of waste, including the measures and the deadlines for realization;
- 11) locations and installations for waste disposal;
- 12) data on the integrated national network for waste disposal and waste processing installations;
- 13) technical and other conditions to be met during waste management;
- 14) measures for rehabilitation of illegal landfills and polluted areas;
- 15) activities undertaken by the local self-government units, in relation to waste management;
- 16) determining the waste management regions;
- 17) measures for education and raising public awareness on waste management;
- 18) cost estimate for waste processing and disposal operations; and
- 19) financial instruments for implementation of the waste management plan.

In addition to the Strategy and the Waste Management Plan, the Law also envisages Waste Management Plans at local level, i.e. plans to be adopted by the City of Skopje and the municipalities¹⁴⁰ in order to implement the Waste Management Plan at the local level. According to the Law, these plans are adopted for a period not shorter than 3 and not longer than 6 years. In addition to these plans of the local self-government, the Law with the amendments from 2010 envisages regional waste management plans that aim at regional waste management¹⁴¹ by the waste management regions defined by the Waste Management Plan. The regional plans are adopted for a period of 10 years and they must be approved by the Ministry of Environment and Physical Planning before their adoption.

In addition to the plans, the Law envisages waste management programs¹⁴² adopted by the Ministry of Environment, the council of the municipalities and the City of Skopje, upon the proposal of the Mayors of the municipalities and the City of Skopje and the legal entities and individuals that manage waste, determined in accordance with this law and other regulations, for a period of 3 years. These programs implement the Waste Management Plan, and they should be harmonized with the Waste Management Plan and the plans adopted by the City of Skopje and the municipalities.

¹⁴⁰ Article 18 of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004

¹⁴¹ Article 1 of the Law on amendments and additions of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 124/2010

¹⁴² Article 19 of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004

a. Rulebooks and other bylaws

In addition to the strategic documents, the law envisages legal bases for further regulation of the relations arising from it, i.e. envisages the adoption of 52 rulebooks, one list, one program, one methodology and one decision.

As a basic bylaw, the Law provides the List of waste¹⁴³ which regulates the categories of waste, but also a special manner in which the waste should be marked, which, according to its characteristics, belong to the category of hazardous waste. The Minister of Environment and Physical Planning is responsible for adopting the List of waste.

In addition to the List of waste, the Law provides for the Methodology¹⁴⁴ which is used for calculation of the price for collection, transportation and disposal of waste as a separate bylaw, which is adopted by the Minister of Environment and Physical Planning.

The law also provides for a Waste Manager Exam Program¹⁴⁵ adopted by the Minister of Environment and Physical Planning.

Unlike the previously mentioned bylaws adopted by the Minister of Environment and Physical Planning, the Law provides for the competence of the Government to adopt a Decision on approval of the Tariff¹⁴⁶ for disposal of hazardous waste.

Pursuant to the Law on Waste Management, the Minister of Environment and Physical Planning has the authority to adopt 52 rulebooks for bylaw regulation of the legal norms that regulate waste management. These rulebooks are provided primarily for determining the form of the forms and their content, for minimum technical conditions, content of documents, manner of action, etc.

4. ANALYSIS

From the performed legislative and normative analysis of the Law on Waste Management, we can see that from 2004 to 2020 the two strategic documents were adopted, the Waste Management Strategy and the National Waste Management Plan and 46 bylaws were

¹⁴³ Article 25 of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004

¹⁴⁴ Article 121 paragraph 9 of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004 . . . no. 31/2020

¹⁴⁵ Article 38-b of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004; . . . no. 31/2020

¹⁴⁶ Article 90 of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004; . . . no. 31/2020

adopted by the Ministry of Environment and Physical Planning, of which 42 rulebooks and one list, one program, one decision and one methodology.

Despite the fact that during the enactment of the Law on Waste Management from 2004 in Article 143 paragraph 1 Transitional and Final Provisions it was envisaged that the Waste Management Strategy will be adopted within two years from the day this Law enters into force. Also, in the same article in paragraph 2 it was envisaged that the Waste Management Plan of the Republic of Macedonia will be adopted within two years from the day this Law enters into force.

Instead of 2 years after the adoption of the Law, the Waste Management Strategy was adopted after three and a half years, i.e. in March 2008, while the Waste Management Plan was adopted after four and a half years.

The Waste Management Strategy of the Republic of Macedonia 2008-2020 was adopted for a period determined by the Law, i.e. for a period of 12 years. Unlike the Strategy, the Waste Management Plan of the Republic of Macedonia 2009-2015 was adopted for a period of 6 years in accordance with the basic Law on Waste Management. The Waste Management Plan has never been revised in accordance with the possibility provided by the Law for revision for a period of 2 years.

In terms of rulebooks, the Minister has adopted 42 rulebooks instead of 52 as provided by the Law. However, this number is seemingly much lower, which in practice is not the case, because the Minister of Environment and Physical Planning has regulated 47 legal bases provided by the Law with 42 rulebooks. However, the fact remains that in the period 2004-2020 no more than 1/10 of the rulebooks have been adopted, i.e. 4 rulebooks have not been adopted. The Minister of Environment and Physical Planning has not adopted the following rulebooks:

- 1) Rulebook on the manner and procedure for registration of data in the Cadastre of waste generators;
- 2) Rulebook on the manner, form and transmission of data and information from the monitoring of the situation in waste management;
- 3) Rulebook on the manner of determining the amount of the financial guarantee and the amount and type of insurance based on the types and quantities of waste managed by the legal entity or individual and the type of waste treatment, the amount of the financial guarantee or the insurance in accordance with certain types of waste and quantities that are managed and the type of treatment, duration, as well as the manner of their collection;

4) Rulebook on the form and content of the misdemeanor payment order.

We would also like to point out that the Ministry has adopted the rulebooks in accordance with Article 146 of the Law on Waste Management ("Official Gazette of the Republic of Macedonia" no. 68/2004), which stipulates that closer regulations for the implementation of this law will be adopted within two years from the date of entry into force of this law.

In the period 2005-2020, out of 42 rulebooks, 9 were amended once with the Rulebook on amendments and additions, 3 rulebooks were amended twice while 1 rulebook was amended 3 times. The Rulebook on the form and content of the application for obtaining a permit, as well as the form and content of the permit for a landfill operator (Official Gazette of the Republic of Macedonia no.140/2007) was subject to review of its constitutionality by the Constitutional Court of the Republic of Macedonia two times, which on both occasions has repealed the provisions of the Rulebook with Decision U.no.171/2008 and U.no.132/2008.

It is interesting to mention that the Rulebook on the amount of costs when the inspection was performed at the request of a legal entity and an individual and the manner of their collection was published twice, once in the Official Gazette of the Republic of Macedonia no. 85/2009 and in the Official Gazette of the Republic of Macedonia no. 101/2009.

5. THE EFFECT OF THE EXISTING LEGISLATION ON THE EFFICIENCY AND EFFECTIVENESS OF THE INSTITUTIONAL FRAMEWORK OF THE ENVIRONMENT

1. Waste Management Sector

The Law on Waste Management envisages two competent bodies regarding its implementation, the first body is the Ministry of Environment which is the institutional bearer of waste management policies and the Environmental Directorate as an expert body in law enforcement within the Ministry. Within the Ministry of Environment and Physical Planning, there is no special body that in its scope of work has a special focus on creating waste management policies. Unlike the Ministry, the Environmental Directorate as a professional body has fully dedicated one part of its scope of work to waste management through the Waste Management Sector. This sector consists of two departments: Department for Waste Management, Import, Export of waste and for registration and records of waste managers and handlers and for management of special waste streams and a Department for Development of policies, plans and programs for waste management, and it envisages 14 employees in accordance with the Rulebook on job systematization, but it employs only 5 employees or 36% of the envisaged jobs capacity.

The establishment of this Sector, i.e. the transformation from a waste management department into a Waste Management Sector is envisaged as one of the tasks envisaged by the Waste Management Strategy in the Republic of Macedonia 2008-2020 and the National Waste Management Plan 2009-2015.

However, despite the fact that the Ministry recognized the need to establish a Management Sector within the Environmental Directorate, it has been assigned two competencies within its scope of work, which as a rule should be separated. Namely, evidently from the name of the Department for development of policies, plans and programs for waste management, the Sector is competent to develop policies and at the same time to develop plans and programs for waste management.

Due to the low level of filling out of the positions and due to the large number of competencies, the Waste Management Sector faces difficulties in applying the laws in the field of waste management. This is evident from the fact that the Ministry of Environment and Physical Planning has not prepared a draft Strategy for Waste Management, despite the fact that on 31.12.2020 the validity of the previous Strategy had expired, and to submit it to the Government, as well as to prepare and adopt a National Plan for waste management, especially due to the fact that the validity of the National Plan expired on 31.12.2015.

2. Regional Waste Management Boards

Starting from the fact that the Law on Waste Management from 2005 envisages competencies in waste management at national and local level, the amendments to the Law in 2010 also provided for regional waste management. In accordance with the Waste Management Strategy 2008-2020 and the Waste Management Plan 2009-2015, they provide for regional waste management through the establishment of waste management regions and regional waste management plans¹⁴⁷. According to the Strategy and the National Waste Management Plan, 8 regions for waste management have been established, as follows: Pelagonija region, Skopje region, Southwest region, Southeast region, Vardar region, East region, Northeast region and Polog region, and within them, inter-municipal waste management boards have been established. Also, in order to establish a regional waste management system, 8 regional waste management plans have been prepared and approved by the Ministry of Environment, but these regional plans have not been adopted by all councils of the municipalities and the City of Skopje¹⁴⁸. But despite all the legal and institutional activity, the establishment of regional waste management centers¹⁴⁹ has not been approached as provided by the Law on Waste Management. Inter-municipal boards function with a very low level of activity or do not function at all due to lack of capacities to implement the tasks within their scope of work¹⁵⁰.

The Waste Management Strategy 2008-2020 envisages the regional waste management to be implemented through a network of regional landfills for municipal waste built, equipped and which will operate according to EU standards for waste disposal¹⁵¹. Since the adoption of the Waste Management Strategy in 2008 and the amendments to the Law envisaging regional waste management in 2012, three joint public enterprises have been established in order to

¹⁴⁷ Article 1 of the Law on amendments and additions of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 124/2010

¹⁴⁸ https://www.moep.gov.mk/?page_id=3194

¹⁴⁹ Article 23-d of the Law on Waste Management „Official Gazette of the Republic of Macedonia “ no. 68/2004; ... no. 31/2020

¹⁵⁰ Article 23-v of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004; ... no. 31/2020

¹⁵¹ Waste Management Strategy 2008-2020, page 61

operate with the regional waste management landfills in the Polog, East and the Northeast region.

3. Local self-government

Regarding the obligation to prepare strategic documents, strategies and plans, the Law on Waste Management, in addition to providing a Strategy and Plan for implementation of the strategy, also regulates that plans that must be adopted by the municipalities and the City of Skopje in order to implement the Strategy and the Waste Management Plan at the local level. Hence, the plans of the municipalities and the City of Skopje should be compliant with the Strategy and the Waste Management Plan. Exactly this compliance is subject to approval by the Ministry of Environment and Physical Planning before the plan is adopted by the municipal council or the City of Skopje on the proposal of the mayor¹⁵². However, not all municipalities meet the obligation to adopt a waste management plan. In practice, a small number of municipalities adopt waste management plans timely with a duration provided by the Law, i.e. with a validity period of 3 to 6 years. Exactly the non-application of these provisions of the Law on Waste Management is an anomaly in the waste management system because regardless of the adoption of the Strategy and the Waste Management Plan at the national level, there is no further policy development at the local level. In addition to the waste management plans, the municipalities and the City of Skopje are obliged to adopt programs for implementation of the Waste Management Plan of the Republic of North Macedonia and the waste management plan at the municipal level. Having in mind that the municipalities are not up to date in fulfilling the obligation to adopt waste management plans, consequently they do not adopt any programs. The non-adoption of the programs by the municipalities is a special problem because they determine the sources of financing of the measures and activities as well as the instruments for implementation of the waste management programs.

6. ANALYSIS

Within the scope of work of the Ministry of Environment and Physical Planning in the area of waste management, there are several parts of the Law on Waste Management that are not implemented in practice or have a low level of implementation. Namely, if we take into account that in the Republic of North Macedonia there is no Waste Management Plan since 2015, the question should be asked how the Waste Management Strategy 2008-2020 is implemented and according to which plan the plans and programs for waste management of the municipalities and the City of Skopje have to be compliant. In order to achieve the goal of the Law on Waste Management, it is necessary to adopt all strategic documents in a timely manner and to be adequately financially supported, as well as to be decentralized from national to local level.

The Law on Waste Management, although it provides for the establishment of a regional waste management system, it does not provide for support given that from 2012 until today the regional system has not been fully revived. There are attempts and efforts to maintain regional cooperation in waste management in some regions but this is not enough to establish

¹⁵² Article 18 of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004; . . . no. 31/2020

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a solid foundation for the establishment of a regional waste management system. Perhaps this situation is due to the fact that at the central and local level finances are provided within the competent authorities, i.e. the Ministry and the municipalities, while the regional waste management system, the municipalities should financially support it from their budgets. Despite all this, the regional waste management system is perhaps the most important part of the national waste management system because North Macedonia is a country with a small territory and a small number of inhabitants in order for a municipal waste management system to function and to be economically viable.

Hence, priority should be given to the regional waste management system in financing in the envisaged capacities, regional centers and regional enterprises, as well as in the network of regional landfills for municipal waste.

The regional approach is also important in the area of the local self-government through the establishment of joint administrative bodies for waste management instead of requiring each municipality to meet the same conditions as the municipalities in the City of Skopje, regardless of its capacity and income. Therefore, the regional approach should be strengthened to create an efficient, effective and economically viable decentralized waste management system.

7. CONCLUSIONS

1. The legal framework for waste management is quality and comprehensive, but still due to lack of institutional capacity, human resources and finances, the legal framework is not fully implemented in practice.
2. There is an inconsistency in the strategic waste management in the Republic of North Macedonia due to the fact that a national waste management strategy has not been prepared which would be a continuation of the Waste Management Strategy 2008-2012 and the National Waste Management Plan has not been adopted since 2016.
3. From an institutional and financial point of view, the Waste Management Sector within the Environmental Directorate as the only part of the Ministry of Environment and Physical Planning is completely marginalized unlike other sectors.
4. There is a need to separate the competence for policy making in the field of waste management and implementation of laws and other waste management documents.
5. Regional waste management is not functional due to the fact that there is a need for institutional, financial and personnel support to create an efficient, effective and economical regional waste management system.
6. There is a need to redefine the competencies for waste management at local level and transfer some of the competencies to regional level.

V. AREA – AMBIENT AIR

LAW ON AMBIENT AIR QUALITY

INTRODUCTION

The Law on Ambient Air Quality was adopted in 2004 ("Official Gazette of the Republic of Macedonia" no. 67/04) and aims to "avoid, prevent and reduce harmful effects on human health and the environment as a whole, including and biodiversity, natural resources and historical and cultural heritage, providing appropriate information on ambient air quality, preventing and reducing of pollution that causes climate change, and maintaining the ambient air quality where it is good and its improving in other cases¹⁵³."

In December 2020, the Government of the Republic of North Macedonia submitted to the Assembly the amendments to the Law on Ambient Air Quality with a European flag. The main goal of the amendments, according to the legal explanation, is to establish a clear way of preparing air quality plans and short-term action plans, as well as effective implementation of measures to improve air quality. An additional goal is to harmonize the misdemeanor and inspection policy and to enable the measurement and imposition of fines.

1. STRUCTURE OF THE LAW ON AMBIENT AIR QUALITY

The Law on Ambient Air Quality is consisted of 12 chapters: I. General provisions, II. Principles of ambient air quality management and emission sources, III. Sources of pollution, IV. Unique limit and target values, V. Ambient air quality management, VI. Ambient air quality monitoring and emission sources, VII. Information System, VIII. Ambient air protection from pollution, IX. Financing, X. Supervision and Competent Authorities, XI. Misdemeanor provisions, XII. Transitional and final provisions.

This structure of the Law has not been changed since the original version of the Law from 2004, which means that it was properly defined in accordance with the past and the conditions regulated by the law until today. However, the Law itself has undergone 7 amendments¹⁵⁴ that harmonize the law with the needs arising in the field of ambient air quality.

¹⁵³ Article 3 of the Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia" no. 67/04).

¹⁵⁴ Laws on amendments and additions of the Law on Waste Management „Official Gazette of the Republic of Macedonia“ no. 68/2004; 71/2004; 107/2007; 102/2008; 143/2008; 124/2010; 51/2011; 123/2012; 147/2013; 163/2013; 51/2015; 146/2015; 156/2015; 192/2015; 39/2016 and 63/2016 and „Official Gazette of the Republic of North Macedonia“ no. 31/2020

1.1. BYLAWS

The Law on Ambient Air envisages the adoption of 30 bylaws and four basic planning documents through which it will regulate the manner of measuring air quality, establishing limit and target values for certain pollutants, assessing air quality and the manner of informing the public about the state of air quality.

1.2. STRATEGIC DOCUMENTS

The Law envisages the adoption of four basic planning documents:

1. National Plan for Ambient Air Protection,
2. Plan for improvement of the ambient air quality,
3. Short-term action plan for ambient air protection and
4. National Emission Reduction Program.

The National Plan for Ambient Air Protection¹⁵⁵ is adopted by the Government of the Republic of North Macedonia, for a period of at least five years. The National Plan regulates:

- maintenance of the ambient air quality in the zones where the quality limit values are not exceeded;
- improving the ambient air quality in the zones where the quality limit values are exceeded;
- taking measures to reduce emissions from certain stationary sources of pollution;
- adoption of necessary measures for minimization and complete elimination of the negative effects on the ambient air quality;
- adoption of necessary measures for minimization and complete elimination of the negative effects on the ambient air quality in a cross-border context;
- fulfillment of the obligations undertaken with the international agreements ratified or acceded to by the Republic of Macedonia;
- determination of zones and agglomerations of priority importance depending on the degree of exceeding the quality limit values and depending on the danger to human health, as well as activities to be undertaken by the municipalities and the City of Skopje;
- taking measures to reduce emissions from combustion of fuels from mobile sources; and
- taking measures for protection from emissions caused by natural causes.

The content of the National Plan and the manner of preparation are determined jointly by the three Ministries of Environment, Health and Economy, but the MoEPP is obliged to implement it. The Ministry should inform the Government of the RNM about its work and the realization of the Plan every two years.

¹⁵⁵ Article 25 of the Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia" no. 67/04).

The second planning document is the plan for improvement of the ambient air quality¹⁵⁶. This plan is prepared if the ambient air quality is assessed negatively due to the levels of pollutants in the ambient air. The mayor of the municipality and the mayor of the City of Skopje, in cooperation with the MoEPP, are responsible for the preparation of these plans, for a period of five years.

Short-term action plans for ambient air protection¹⁵⁷ are developed for the zones and the agglomerations where pollutant levels are at risk of exceeding one or more of the alert thresholds. Such plans are prepared by the mayor of the municipality and the mayor of the City of Skopje, in cooperation with the Ministry of Environment and Health, which are obliged to prepare the detailed content and the manner of their preparation.

A National Emission Reduction Program¹⁵⁸ is prepared to progressively reduce national annual emissions of certain pollutants into the ambient air. This Program is adopted by the Government and may be revised when necessary, within the period for which it was adopted.

a. Rulebooks and other bylaws

In addition to the four planning documents, the Law envisages the adoption of 30 bylaws, of which 22 Rulebooks, five decrees, one program and two lists. Two methodologies are also provided, one for assessment and one for monitoring and criteria for selection of measuring points for all sources of pollution.

The Ambient Air Quality Monitoring Program¹⁵⁹ is used for the operation of the state network¹⁶⁰ and is adopted by an expert body within the MoEPP. It is obliged to submit a report on his work once a year to the Minister of Environment.

In addition to the monitoring program, it is planned to adopt a List¹⁶¹ of zones and agglomerations for ambient air quality, which performs the classification of zones and agglomerations. The List should be revised every five years at least, and if necessary it can be revised sooner. Additionally, the Minister is obliged to publish a List of scientific and professional organizations for monitoring the source of emissions and control of the ambient air quality. In that way, Monitoring of the ambient air quality and the emission sources from certain individual stationary sources is carried out¹⁶².

¹⁵⁶ Article 26 of the Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia" no. 67/04 ... 146/15).

¹⁵⁷ Article 27-a of the Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia" no. 67/04 ... 146/15).

¹⁵⁸ Article 27-b of the Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia" no. 67/04 ... 146/15).

¹⁵⁹ Article 38 paragraph 1 of the Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia" no. 67/04 ... 146/15).

¹⁶⁰ Article 37 of the Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia" no. 67/04 ... 146/15).

¹⁶¹ Article 22 of the Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia" no. 67/04 ... 146/15).

¹⁶² Article 47 of the Law on Ambient Air Quality ("Official Gazette of the Republic of Macedonia" no. 67/04 ... 146/15).

2. ANALYSIS

Regarding the rulebooks, the Minister has adopted 16 rulebooks out of the envisaged 22. Of these, 6 rulebooks have undergone appropriate amendments and the rulebook on liquid fuel quality has been amended 8 times. 4 rulebooks have not been adopted yet.

The Minister of Environment and Physical Planning has not adopted the following rulebooks:

1. Rulebook for zones and agglomerations for which the plan will be prepared, as well as the pollutants that will be included in the plans for quality air,
2. Rulebook on the manner and measures for prevention of ambient air pollution from buildings and installations for which the issuance of integrated environmental permits is not envisaged,
3. Rulebook for restriction or prohibition of traffic in certain places in urban and/or rural areas for a certain duration, if the concentration of pollutants in the ambient air exceeds the alert thresholds and
4. Rulebook on the quality of solid fuels.

Combustion of fuels is one of the key sources of air pollution and therefore the adoption of a Rulebook on quality of solid fuels will be of great importance. Given the fact that the quality of fuels is the responsibility of the Ministry of Economy, and the legal basis for its adoption is the Law on Ambient Air Quality, the Ministry of Environment has failed to impose the need to adopt such a Rulebook.

At the proposal of the Ministry of Environment, the Ministry of Economy is expected to renew the List of mandatory standards with 8 standards for biofuels, which would fully cover this area. At the same time, donor aid was requested for the preparation of a Rulebook that will fully publish solid fuels, as there is a lack of technical expertise for the area within the Ministry of Environment and Physical Planning.

Ambient air quality criteria are prescribed by Decree of the Government from 2005¹⁶³, which was later amended in 2013¹⁶⁴ and in 2017¹⁶⁵. The Minister has also adopted Guidelines¹⁶⁶ for the implementation of the Decree.

In 2011, the Government adopted a Decree on the determination of combustion capacities that should take measures to protect the ambient air from pollution¹⁶⁷. No bylaws have been adopted for stricter limit and target values for quality for certain areas on the proposal of the municipal council or the Council of the City of Skopje, for deviations from limit and target values and for priority zones and agglomerations.

¹⁶³ Official Gazette of the Republic of Macedonia, no. 50/2005.

¹⁶⁴ Official Gazette of the Republic of Macedonia no. 4/13.

¹⁶⁵ Official Gazette of the Republic of Macedonia no. 183/17.

¹⁶⁶ Guidelines on the application of the Decree on limit values for levels and types of pollutants in the ambient air and alert thresholds, deadlines for reaching the limit values, tolerance margins for the limit value, target values and long-term goals Available at: http://www.moep.gov.mk/wp-content/uploads/2014/09/Upatstvo_za_uredbata_za_granicni_vrednosti-vozduh.pdf.

¹⁶⁷ Official Gazette of the Republic of Macedonia no.112/2011.

Air quality assessment reports are regularly updated and published by the Ministry of Environment¹⁶⁸.

3. THE EFFECT OF THE EXISTING LEGISLATION ON THE EFFICIENCY AND EFFECTIVENESS OF THE INSTITUTIONAL FRAMEWORK OF THE ENVIRONMENT

Starting from the Law on Ambient Air Quality (LAAQ), the analysis shows that the competencies of the Ministry of Environment and Physical Planning determined in the LAAQ are not fully implemented and in practice they are not performed smoothly and without certain deviations.

First of all, the air quality assessment as a competence of the Ministry of Environment and Physical Planning is not carried out comprehensively, as current circumstances make such an assessment impossible. Namely, air quality assessment for all pollutants cannot be performed because there is no monitoring in accordance with the criteria prescribed in the national legislation of:

- heavy metals;
- polycyclic hydrocarbons; and
- volatile organic compounds.

Hence, as a complete air quality assessment cannot be performed, no zones and agglomerations can be defined for these pollutants.

The analyzes on the degree or scope of implementation of the National Plan for Ambient Air Protection, which is the competence of the Ministry of Environment and Physical Planning, are not fully conducted. Taking measures to improve air quality is the responsibility of various public bodies as relevant institutions in the country. However, the Ministry lacks staff responsible for the preparation and continuous monitoring of the implementation of these measures, hence the analysis of the implementation of the National Plan for Ambient Air Protection is partial and incomplete.

For similar reasons, the legal obligation of the Ministry of Environment to inform the Government about the implementation of the National Plan at least once every two years, is also not realized.

The Ministry of Environment has established an information system for ambient air quality, but it does not contain all the data determined by the provisions of the LAAQ, i.e. some of the data are not integrated in the information system.

The Ministry of Environment and Physical Planning is preparing an Operational Program for the work of the State Automatic Monitoring System for Ambient Air Quality. However, although the Ministry has a legal obligation to prepare an Annual Monitoring Program, this has not been done, i.e. such a Program has not been prepared. The reason for this non-implementation of the legally determined competence is the absence of adequate

¹⁶⁸ Available at: <https://air.moepp.gov.mk/>.

professional staff and equipment in the Ministry. Namely, the Annual Program should include pollutants that require laboratory analyzes, and the Central Environmental Laboratory at the Ministry of Environment and Physical Planning does not have a sufficient number of professional staff, standards and functional equipment.

The Ministry of Environment and Physical Planning has not prepared planning documents in cooperation with the competent authorities of the neighboring country. According to the answers of the experts in the Ministry, the need for preparation of this type of planning documents has not been determined yet.

4. ANALYSIS

Activities of other entities in the field of air quality

The analysis shows that the Ministry of Environment and Physical Planning does not have information on the level of implementation and financing of emission reduction measures set out in the planning documents of Article 23 of the Law on Ambient Air Quality, by legal and natural persons - owners, i.e. users of installations that are sources of ambient air pollution.

The units of the local self-government have the opportunity to establish local networks, but this opportunity is not a legal obligation, i.e. it is not mandatory. One measuring instrument was installed a few years ago by the city of Skopje, and the other municipalities have not established local networks.

Although they have a legal obligation, the mayors of the municipalities and the city of Skopje do not submit annual reports on the implementation of the planning documents prescribed in Articles 26 and 27-a of the Law on Ambient Air Quality. Report on the implementation of measures to improve air quality is submitted by the local self-government units at the request of the Ministry of Environment.

The Ministry of Environment does not have information on whether regular controls are performed on the compliance of the levels of emissions from mobile sources with the prescribed limit and target values for emissions from this type of sources, which are mandatory during the technical inspection and registration of mobile sources of pollution. Vehicle technical inspection stations are authorized (and obliged) to perform such inspections, but given the fact that data on the performed inspections are not submitted to the Ministry of Environment and the practice that can be ascertained during a technical inspection of a vehicle in all authorized entities, it can be concluded that despite the legal obligation, such controls are not performed.

Public authorities implement air protection measures defined in national and local planning documents, as well as in their own programs. Such is the case with the Ministry of Economy, which implements programs to increase energy efficiency. However, there is a lack of coordination of the undertaken measures and timely submission of information to the Ministry of Environment and Physical Planning. Information on the implementation of the competencies of the relevant public bodies is obtained ad hoc, at the meetings of the inter-ministerial groups, instead of being done continuously and on a regular level. The Law on

Ambient Air Quality does not establish mechanisms for monitoring the implementation of the competencies of these public bodies in the field of air and according to the views of the experts in the Ministry of Environment, it does not have complete information on the situation with the implementation of these competencies.

Capacities for implementation of strategic documents

Strategic documents that represent a kind of "soft law" do not contain penalty provisions or mechanisms for their enforcement, but only guidelines or directions for action of the relevant institutions or entities covered by these documents. The National Air Quality Plan adopted by the Government, prepared by the Ministry of Environment and Physical Planning in accordance with the Ministry of Health and the Ministry of Economy, does not contain mechanisms for control over the execution of the activities of the mentioned bodies and all other called public bodies for fulfillment of the measures determined in the Plan, although it is their competence. The definition and monitoring of the measures in our country is performed by the Inter-Sectoral Working Group (IRG) for air, which was established in 2012 at the request of the Ministry of Environment, and then in an expanded composition is established by the General Secretariat of the Government in 2017. Although IRG holds several meetings per year, they are still held if necessary, and are not sufficient to monitor the status of the measures defined in the strategic documents.

In order to effectively monitor the implementation of strategic documents in the field of air quality, it is necessary to provide a legal basis for establishing an inter-ministerial body with specific powers and competencies whose work would be continuous and binding, as opposed to the current ad hoc convening and operation.

LAAQ stipulates that the implementation of the National Plan for Ambient Air Protection in the Republic of North Macedonia, Ambient Air Quality Monitoring Program and other measures taken on the basis of the Law are provided from the budget of the Republic of North Macedonia and other sources of funds determined by law. This provision is too general and the funds provided from the budget are insufficient for the implementation of the envisaged measures. At the same time, the limited number of capacities in the individual institutions that implement the air measures is another obstacle for proper and full implementation of the strategic documents.

The general assessment is that resources are lacking in all areas of air management, such as: air quality data monitoring, chemical analysis of samples taken, collection, processing of quality data and air emissions, inventory preparation and preparation of national inventory of emissions and fulfillment of all obligations arising from international agreements. Resources for preparation, monitoring of the level of realization of the measures / activities from the air planning documents, as well as support of the local self-government units in preparing the Air Quality Improvement Plans and short-term action plans are largely lacking.

The current act on systematization of job positions does not regulate job positions for these activities which are of great importance for defining measures for improving air quality and monitoring their implementation. It is of particular importance to provide places in the systematization of monitoring of planning documents at national and local level, because the

monitoring of planning documents is currently done occasionally and discontinuously, only at the request of the EU or requests submitted by the media or civil society.

Functionality of legally established mechanisms for ambient air quality

The biggest improvement in recent years has been the air quality monitoring mechanism, which still cannot be said to work flawlessly, due to the lack of funds to be provided from the budget or other ways of financing, although in this area are already beginning to provide significant both budgetary and donor funds.

The reporting mechanism to international institutions such as the European Agency is also functional, but reporting is done at the level of a candidate country and the Republic of North Macedonia is not obliged to report on all grounds on which Member States report.

The reporting mechanism by the installations does not operate completely due to the limited capacities at the local and central level that collect and process the data, the burden of the operators by sending data on different recurring bases, as well as due to the low fines. It is expected that the percentage of reporting by operators will increase with the implementation of the new Law on Misdemeanors, due to increased fines and the implementation of the National Information System for reporting in 2021 which would facilitate the manner of reporting operators electronically and would avoid multiple reporting in accordance with national bylaws and international agreements. For this purpose, among other things, it is necessary to harmonize LAAQ with the Law on Misdemeanors.

In terms of public reporting, air quality data is available in real time. The mechanism for preparing daily, monthly and annual reports is functional and they are available to the public through the air quality portal. Sometimes the annual reports are published late due to the limited human resources working in the Ministry of Environment in the field of air. A mechanism for informing the public in case of alarming air pollution is envisaged, which is defined in detail in the amendments to the Law on Ambient Air Quality, which are currently in the parliamentary procedure.

The mechanisms for preparing local planning documents, such as Air Quality Plans and short-term action plans are the least functional, due to the limited capacities that work on the issue of air in the local self-government units. The experts in the Ministry of Environment and Physical Planning expect improvement of the functionality of this mechanism by adopting the amendments to the Law on Air Quality which are in parliamentary procedure.

The Air Department in the Ministry of Environment and Physical Planning does not have information on the mechanism for implementation of misdemeanor provisions on various grounds of the LAAQ, such as misdemeanors for exceeding emission limit values, non-fulfillment of monitoring obligations and reporting under the jurisdiction of the State Environmental Inspectorate as a body that supervises the application of the provisions of LAAQ and the authorized environmental inspectors in the units of local self-government. The current Rulebook on systematization of job positions stipulates that the Monitoring Unit monitors, the Analysis and Reporting Unit collects and processes data on air emissions and no internal organizational unit of the MoEPP has an obligation to collect data from the State

Environmental Inspectorate, which it is certainly a reason for a serious revision of the Rulebook on systematization of job positions.

5. CONCLUSIONS

The competencies of the Ministry of Environment and Physical Planning set out in the Law on Ambient Air Quality are not fully implemented and are not implemented consistently. The main reason for that is the lack of professional staff, closely specialized in various aspects in the field of protection and quality assurance of the ambient air. This condition is the main cause of:

- The air quality assessment by the MoEPP is not fully implemented and continuous monitoring of all pollutants is not performed, which, in turn, prevents the MoEPP from defining zones and agglomerations for pollutants;
- The analysis of the degree and scope of implementation of the National Plan for Ambient Air Protection of the MoEPP should not be performed properly, because it cannot monitor the implementation of all necessary measures for the implementation of the National Plan;
- Inability of the MoEPP to inform the Government about the implementation of the National Plan, at least once every two years;
- Failure to prepare an Annual Ambient Air Quality Monitoring Program;
- Failure to prepare the two strategic documents for ambient air quality: National Plan for Ambient Air Protection and National Program for gradual reduction of emissions of certain pollutants at a country level.

VI. AVAILABILITY OF RESOURCES AND INSTRUMENTS IN THE INSTITUTIONAL ENVIRONMENTAL FRAMEWORK

INTRODUCTION

The Ministry of Environment and Physical Planning as part of the state administration is a budget user of the Budget of the Republic of North Macedonia. Within the scope of its work, the Ministry together with the constituent bodies, the Environmental Directorate and the Service for Spatial Information System, as well as the project units are financed from one budget, i.e. the budget of the Ministry of Environment. The State Inspectorate, despite the fact that it is a constituent body, has its own independent budget from the budget of the Ministry of Environment and Physical Planning.

1. Ministry of Environment and Physical Planning

Starting from the projected budget of the Ministry, we would like to refer to the period 2017-2020, i.e. the budgets for 2017, 2018, 2019 and 2020, following the basic budgets and the rebalanced budgets.

In 2017, for the budget of the Ministry were provided 438,960,000.00 denars, of which 102,960,000.00 denars for salaries of employees, 253,800,000.00 denars for implementation of policies of the Ministry, 80,000,000.00 denars services and 2,200,000.00 denars or 23.45% were provided for salaries, while 57.81% were provided for financing the implementation of environmental policies, 18.22% were provided for services and 0.52% for other transfers. The budget of the Ministry after the re-balanced budget in 2017 **was reduced by 34%** in the amount of 327,600,000.00 denars, of which 100,000,000.00 denars for salaries of employees, 145,626,000.00 denars for the implementation of policies of the Ministry, 77,869.000,00 denars services and 4,105,000.00 denars or **30.05% were provided for salaries while 44.45% were provided for financing the implementation of environmental policies, 23.77% were provided for services and 1.73% for other transfers.**

In 2018, for the budget of the Ministry were provided 671,300,000.00 denars, of which 100,000,000.00 denars for salaries of employees, 431,560,000.00 denars for implementation of policies of the Ministry, 119,540,000.00 denars services and 20,200,000.00 denars i.e. 14.90% were provided for salaries while 64.29% were provided for financing the implementation of environmental policies, 17.80% were provided for services and 3% for other transfers. The budget of the Ministry after the rebalanced budget in 2018 was **reduced by 28.42%** and amounted to 522,750,000,000 denars, of which 100,000,000.00 denars for salaries of employees, 307,650,000.00 denars for implementing policies of the Ministry, 113,000,000.00 denars for services and 2,200,000.00 denars **or 19.13% were provided for salaries, while 58.85% were provided for financing the implementation of environmental policies, 21.61% were provided for services and 0.41% for other transfers.**

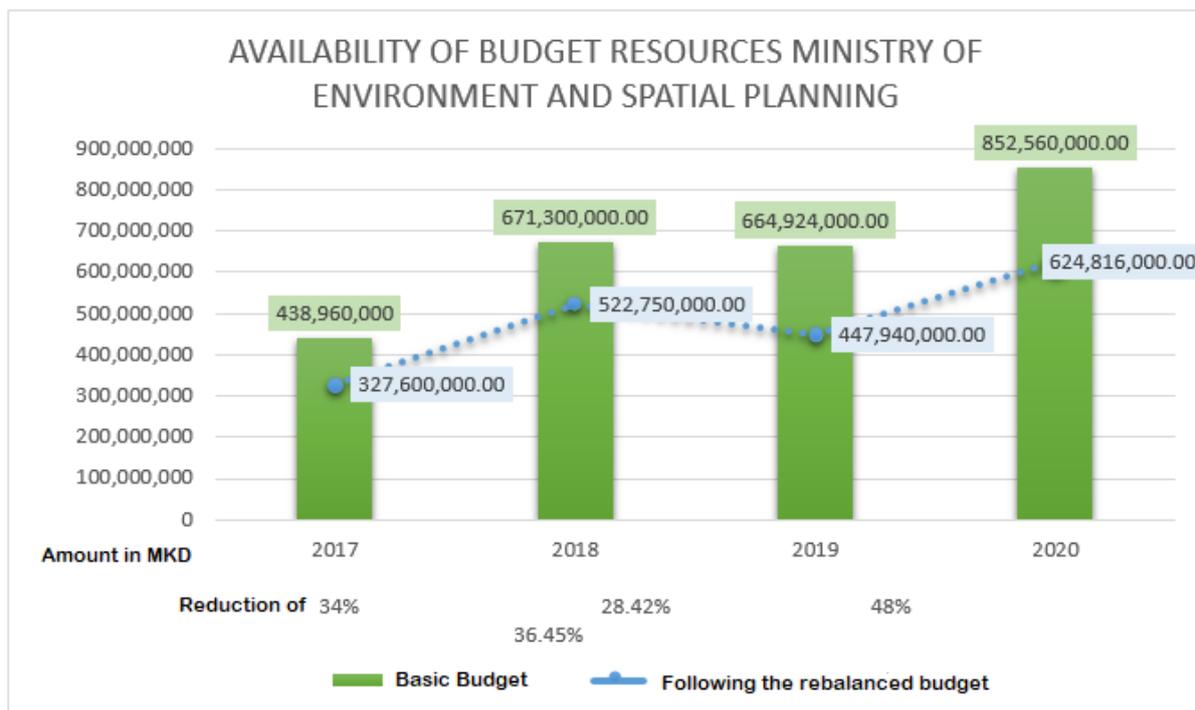
In 2019, 664,924,000.00 denars were provided for the budget of the Ministry, of which 99,289,000.00 denars for salaries of employees, 403,980,000.00 denars for implementation

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of policies of the Ministry, 139,475,000.00 denars for services and MKD 2,200,000.00, i.e. 14.93% were provided for salaries, while 60.75% were provided for financing the implementation of environmental policies, 21% were provided for services, 0.33% for other transfers. Following the rebalance of the budget of the Ministry in 2019 **was reduced by 48.44%** and amounted to 447,940,000 denars, of which 102,005,000.00 denars for salaries of employees, 251,180,000.00 denars for implementing policies of the Ministry, 93,888. 000.00 denars services and 467.000,00 denars or **22.77% were provided for salaries while 56.07% were provided for financing the implementation of environmental policies, 20.96% were provided for services and 0.2% for other transfers.**

In 2020, for the budget of the Ministry were provided 852,560,000.00 denars, of which 99,289,000.00 denars for salaries of employees, 573,000,000.00 denars for implementation of policies of the Ministry, 161,091,000.00 denars services and 19,200,000.00 denars, i.e. 11.64% were provided for salaries, while 67.20% were provided for financing the implementation of environmental policies, 18.90% were provided for services and 2.25% for other transfers. The budget of the Ministry following the rebalance of budget in 2020 was reduced by 36.45% and amounted to 624,816,000, denars of which 102,005,000.00 denars for salaries of employees, 409,950,000.00 denars for implementation of policies of the Ministry, 113,394,000.00 denars for services and 17,467,000.00 denars or **16.32% were provided for salaries while 65.61% were provided for financing the implementation of environmental policies, 18.15% were provided for services and 2.80% for other transfers.**



2. State Environmental Inspectorate

The State Environmental Inspectorate as a body within the Ministry is the only one that has a separate budget, and for that reason we will refer to the budget of the State Inspectorate similarly to the Ministry by monitoring the basic budgets and the rebalance budgets.

In 2017, for the budget of the State Inspectorate were provided 15,137,000.00 denars, of which 12,642,000.00 denars for salaries of employees 2,495,000.00 denars for goods and services, i.e. 83.50% were provided for salaries while 16.50% were determined for goods and services. The budget of the State Inspectorate after the rebalanced in 2017 amounted to 15,411,000.00 denars, of which the funds for salaries of employees remained the same, i.e. 12,642,000.00 denars, while for goods and services were provided 2,693,000.00 denars or there was an **increase of 198,000.00 denars i.e. 8%**.

In 2018, for the budget of the State Inspectorate were provided 24,700,000.00 denars, of which 14,000,000.00 denars for salaries of employees, 10,700,000.00 denars for goods and services, i.e. **56.70% were provided for salaries while 43.30% were provided for goods and services**. The budget of the State Inspectorate after the rebalance in 2018 was **reduced by 22.26%** and amounted to 20,202,000.00 denars, of which the funds for salaries of employees amounted to 12,000,000.00 denars, while for goods and services were provided 6,428,000.00 denars, and two budget items were added, one for **subsidies and transfers in the amount of 62,000.00 denars** and the second for **capital expenditures in the amount of 1,712,000.00 denars**.

In 2019, for the budget of the State Inspectorate were provided 29,925,000.00 denars, of which 19,175,000.00 denars for salaries of employees, 10,050,000.00 denars for goods and services, 100,000.00 for subsidies and transfers and 600,000.00 denars for capital expenditures, i.e. 64.07% were provided for salaries, 33.60% were provided for goods and services, 0.33% for subsidies and transfers and 2% for capital expenditures. The budget of the State Inspectorate after the rebalance in 2019 was 26,002,000 denars, i.e. there was **decrease of 15.08% from the basic budget**, of which the funds for salaries of employees amounted to 12,175,000.00 denars, i.e. there were **reduction of 36.50% of the item for salaries from the basic budget, for goods and services were provided 12,225,000.00 denars, i.e. increase of 21.64%** from the basic budget, for subsidies and other transfers were provided 172,000.00 denars, i.e. there was an **increase of 72% of the item for subsidies and other transfers** from the basic budget, while for capital expenditures were provided MKD 1,430,000.00 or **increase of 238% of the item for capital expenditures** from the basic budget.

In 2020, for the budget of the State Inspectorate were provided 27,395,000.00 denars, of which 14,480,000.00 denars for salaries of employees, 9,715,000.00 denars for goods and services, 50,000.00 for subsidies and transfers and 3,150,000.00 denars for capital expenditures, i.e. 52.85% were provided for salaries, 34.46% were provided for goods and services, 0.18% for subsidies and transfers and 11.50% for capital expenditures. The budget of the State Inspectorate following the rebalance in 2020 amounted to 37,637,000 denars, i.e. it **was increased by 37.40% from the basic budget**, of which the funds for salaries of employees remained in the same amount of 14,480,000.00 denars, for goods and services

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were provided 15,437,000.00 denars, i.e. **59.90% increase of the item goods and services** from the basic budget, for subsidies and other transfers the amount remained the same 50,000.00 denars, i.e. while for capital expenditures were provided 7,670,000.00 denars or an **increase of 243.50% of the item for capital expenditures from the basic budget**.

	BASIC BUDGET	REBALANCE OF BASIC BUDGET	SALARIES OF THE EMPLOYEES	GOODS AND SERVICES	SUBSIDIES AND TRANSFERS	CAPITAL EXPENDITURES	DIFFERENCE IN BUDGET AFTER REBALANCE (%)	
2017	15,137,000.00	15,411,000.00	83,50%	16,50%				8%
2018	24,700,000.00	20,202,000.00	56,70%	43,30%				22,26%
2019	29,925,000.00	26,002,000.00	64,07%	33,60%	0,33%	2%		15,08%
2020	27,395,000.00	37,637,000.00	52,85%	34,46%	0,18%	11,50%		37,40%

3. ANALYSIS

Ministry of Environment and Physical Planning

Starting from the above mentioned budgets of the Ministry, it is obvious that starting from 2017 there is a **partial upward trend due to the fact that in 2019 there is a reduction of the basic budget**.

If we take as a starting point the basic budget in 2017 which amounted to 438,960,000.00 denars, in 2018 there is an increase in the basic budget of 52.93% and it amounted to 671,300,000.00 denars. In 2019, the basic budget, unlike 2018, was reduced by 0.5% and it amounted to 664,924,000.00 denars, while in 2020 the basic budget was increased by 28.22% compared to the basic budget for 2019 and amounted to 852,560,000.00 denars. Hence, if we take the initial and final year of monitoring, the increase of the basic budget from 2017 in relation to 2020 increases by 94.22%, or the basic budget from 2020 is almost doubled compared to the basic budget for 2017.

If we take into account the budget after the rebalance for the same years and take as a starting point the budget after the rebalance in 2017 which amounted to 327,600,000.00 denars, in 2018 there is an increase of the basic budget of 59.57% and it amounted to 522,750,000.00 denars. In 2019, the budget after the rebalance, unlike in 2018 is decreased by 14.3% and it amounted to 447,940,000.00 denars, while in 2020, the budget after the

rebalance was increased by 43.50% compared to the budget after the rebalance for 2019 and amounted to 642,816,000.00 denars. Therefore, if we take into account the **starting and the final point of monitoring, the increase of the budget following the rebalance in 2017 compared to 2020 increases for 96.22%**, or budget after the rebalance from 2020 is almost doubled compared to the budget after the rebalance for 2017 similar to the basic budgets

Following the budget items, the trend of forecasting more than 60% of the budget for the implementation of policies for improvement and protection of the environment is very positive. However, there are **environmental sectors that are completely neglected compared to others, such as the case of the waste management sector**, which on no grounds should be neglected, especially financially or doctrinairely in the implementation of policies by the Ministry.

The tendency for **increase of the budgets during the years is positive, but there is a constant high rate of reduction of the basic budget with the rebalance**, which indicates two reasons for that. The first reason is the inadequate planning of the basic budget and because of that there is a drastic reduction of the basic budget from one third to one half of the adopted basic budget. The second reason is the lack of interest in the realization of the budget funds provided by the Government and the Assembly, which raises the question of whether the protection and improvement of the environment is one of the priorities of the Republic of North Macedonia.

State Environmental Inspectorate

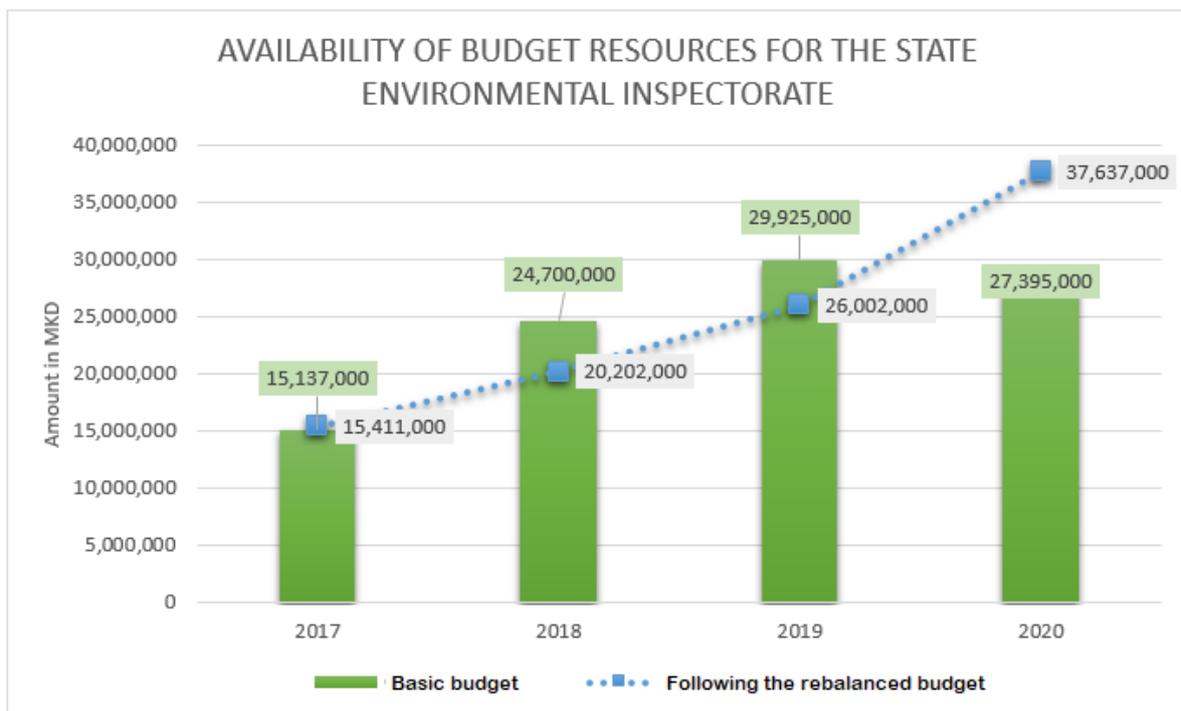
In the part of the budget of the State Inspectorate as a starting point, similar to the Ministry, we took the basic budget in 2017 which amounted to 15,137,000.00 denars, in 2018 there is an increase of the basic budget of 63.18% and it amounted to 24,700,000.00 denars. In 2019, the basic budget, unlike 2018, increased by 21.15% and it amounted to 29,925,000.00 denars, while in 2020 the basic budget was reduced by 8.45% compared to the basic budget for 2019 and amounted to 27,395,000.00 denars. Hence, if we take the initial and final year of monitoring, the increase of the basic budget from 2017 in relation to 2020 records an increase of 80.10%.

If we take into account the budget after the rebalance for the same years and take as a starting point the budget after the rebalance in 2017 which amounted to 15,411,000.00 denars, in 2018 there is an increase of the basic budget of 31.09% and it amounted to 20,202,000.00 denars. In 2019, the budget after the rebalance, unlike in 2018, decreased by 28.71% and it amounted to 26,002,000.00 denars, while in 2020, the budget after the rebalance was increased by 44.75% compared to the budget after the rebalance for 2019 and amounted to 37,637,000.00 denars. Hence, if we take the initial and final year of monitoring, the increase of the budget after the rebalance from 2017 in relation to 2020 increases by 244.22%, or the budget after the rebalance from 2020 increased by almost two and a half times in relation to the budget after the rebalance for 2017.

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Following the budget items, **the trend of increasing goods and services and capital investments is very positive, which enables increase of the technical capacities for performing inspection supervision** by the State Inspectorate. Although with the exception of the budget for 2020, most of the funds are intended for salaries, and a smaller part for capital expenditures and goods and services. The initial conclusion is not that the funds for salaries should be reduced, but the increase of the budget funds for capital expenditures, goods and services, following the example of the budget after the rebalance for 2020, should continue in order to enable conditions for the State Inspectorate to implement its competencies and scope of work in a more efficient and effective manner.



CONCLUSIONS

1. When preparing the budget of the Ministry of Environment and Physical Planning, it is necessary to maintain the growing trend of the basic budget and to avoid reductions in its eventual rebalance because they limit the Ministry to properly perform the prescribed functions in accordance with the laws.
2. A systematic approach and full political commitment is necessary in order to prioritize the environment department in other sectors as well, thus it is a priority need to provide the necessary resources and capacities of the Ministry of Environment and Physical Planning to implement activities in accordance with the adopted strategic goals and needs for promotion and protection of the environment.
3. The functionality of the State Environmental Inspectorate will be improved by providing the necessary staff of technical and human resources, which is necessary to maintain the growth trend of the basic budget and to avoid its reductions in the event of a rebalance of the state budget.

VII. HUMAN RESOURCES MANAGEMENT AND ORGANIZATIONAL MANAGEMENT IN THE INSTITUTIONAL FRAMEWORK FOR THE ENVIRONMENT

INTRODUCTION

The Ministry of Environment and Physical Planning has adopted a Rulebook on internal organization¹⁶⁹ of the Ministry of Environment and Physical Planning and Rulebook on systematization of job positions¹⁷⁰ of the Ministry of Environment and Physical Planning in accordance with the Law on Organization and Operation of the State Administration Institutions¹⁷¹ and the Law on Employees in the Public Sector¹⁷².

These two bylaws of the Ministry fully regulated the organizational set-up and the scope of competencies and operation of the Ministry of Environment and Physical Planning, as well as its constituent bodies. It is important to note that despite the fact that according to the Law on Organization and Operation of the State Administration Institutions the State Environmental Inspectorate is a body within the Ministry, it still has its own organization and systematization which we will refer to in the analysis below.

The last Rulebooks for internal organization and systematization of job positions were adopted in 2017 and they are fully harmonized.

1. RULEBOOK ON INTERNAL ORGANIZATION OF THE MINISTRY OF ENVIRONMENT AND PHYSICAL PLANNING

With the Rulebook for internal organization from 2017, the Ministry of Environment and Physical Planning is organized through three types of organizational units - sectors, departments and project units. In accordance with the Rulebook on Internal Organization, the Ministry has two (professional) constituent bodies: the Environmental Directorate and the Service for Spatial-Information System.

1.1. Ministry of Environment and Physical Planning

According to the Rulebook on Internal Organization, the Ministry has 8 sectors and 30 departments, as well as 2 project units.

The departments in the Ministry are within the sectors, but there are also departments that are not within the sectors but are under the competence of the Minister and the State Secretary. Namely, the Internal Audit Department is directly under the competence of Minister, while the Strategic Planning Department and the Human Resources Department are under the State Secretary of the Ministry of Environment and Physical Planning.

¹⁶⁹<https://www.moep.gov.mk/wp-content/uploads/2017/12/Pravilnik%20za%20vnatresna%20organizacija%20na%20MZSPP.pdf>

¹⁷⁰ <https://www.moep.gov.mk/wp-content/uploads/2017/12/Pravilnik%20za%20sistemizacija%20na%20rabotnite%20mesta%20vo%20MZSPP.pdf>

¹⁷¹ Article 55 paragraph of the Law on Organization and Operation of the State Administration Institutions (Official Gazette of the Republic of Macedonia" no. 58/2000, 44/2002, 82/2008, 167/2010, 51/2011, 96/2019, 110/2019)

¹⁷² Article 17 paragraph 7 of the Law on Employees in the Public Sector (Official Gazette of the Republic of Macedonia" no. 27/2014, 199/2014, 27/2016 and 35/2018)

Within the frameworks of the Ministry, the following sectors and departments are organized:

1. Sector of General Affairs

- Department for normative, legal and administrative affairs
- Department for appeals and proposals
- Department for general affairs

2. Sector for cooperation with local self-government and administrative-supervision affairs

- Department for cooperation with local self-government
- Department for administrative-supervisory affairs

3. Sector for European Union

- Department for harmonization
- Department for standards
- Department for coordination and technical implementation of the instrument for pre-accession assistance (IPA)
- Department for programming and monitoring of the implementation of the instrument for pre-accession assistance (IPA)

4. Sector for Sustainable development and investments

- Department for project preparation and sustainable development
- Department for investments
- Department for Climate Change Policy

5. Department for Spatial Planning

- Department for Planning and Spatial Policy
- Department for implementation of spatial plans
- Department for Strategic Environmental Impact Assessment

6. Macedonian Environmental Information Center

- Department for Air monitoring
- Department for Analytics and Reporting
- Department for cadastres and modelling
- Department for Information Technology

7. Sector for coordination of the work of the Minister

- Department for coordination of the activities of the Minister
- Department of Public Relations and Education
- Department for International Cooperation
- Department for protocol, organizational affairs and language editing

8. Sector for financial Affairs

- Department for Budget Coordination
- Department for budget control
- Department of Accounting and Payments

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- Department of Public Procurement

In addition to the sectors and departments, project units are envisaged within the internal structure of the Ministry of Environment and Physical Planning. The Rulebook on Internal Organization envisages the following 2 project units:

- Project Unit for Implementation of the Project Reconstruction and Expansion of the Sewerage Network and Construction of a Wastewater Treatment Plant in Prilep.
- Project Unit for Implementation of the Project Reconstruction and Expansion of the Sewerage Network and Construction of a Wastewater Treatment Plant.

These project units are established for the implementation of infrastructure projects as part of the IPA pre-accession assistance instrument and they perform coordination, technical implementation, monitoring and reporting as well as risk detection during the implementation of the Projects.

1.2. Constituent Bodies - Environmental Directorate and the Spatial Information System Service

Departments and divisions are also envisaged within the bodies within the Ministry. The Environmental Directorate envisages 5 sectors within which 17 departments operate. Namely, the Environmental Directorate has the following sectors:

1. Nature Sector

- Department of Natural Heritage and Nature 2000
- Department of Biodiversity and GMOs
- Department for arranging the space in protected areas

2. Sector for Industrial Pollution and Risk Management

- Department for integrated pollution prevention and control
- Department for Chemicals and Industrial Accidents
- Department for Air Pollution and Volatile Organic Substances (VOC)

3. Water Sector

- Department for water planning and development
- Department for management of the river basin of the Vardar river
- Department for management of the river basin of the Crn Drim river
- Department for management and maintenance of the hydro system Gjavato-Dojran and management of the river basin of the Strumica river
- Department of water rights
- Department for concessions and inter-ministerial cooperation

4. Sector for Environment

- Department for environmental impact assessment and soil protection
- Department of environmental noise protection
- Department for laboratory and field measurements

5. Sector for Waste Management

- Department for management, import, export of waste and for registration and records of waste managers and handlers and for management of special waste streams
- Department for development of waste management policies, plans and programs.

In addition to the Directorate of Environment, another professional body is envisaged within the Ministry, the Spatial Information System Service, which consists of one department, the Department of Cartography and Remote Detection.

2. RULEBOOK ON SYSTEMATIZATION OF JOB POSITIONS

The Ministry of Environment and Physical Planning, within the organization of its scope of competencies, simultaneously with the Rulebook on internal organization, adopted the Rulebook on job systematization.

The Rulebook for systematization envisages 311 jobs in the Ministry, without, as mentioned above, the vacancies provided by the Rulebook for systematization of the State Inspectorate of Environment.

2. Ministry of environment and Physical Planning

According to the Rulebook for systematization of the Ministry of Environment, a total of 207 executors are envisaged, out of which 18 executors in the Ministry who are part under the Minister and part under the State Secretary, i.e. 1 State Secretary and 5 state advisors, while the other executors are within the Department for Strategic Planning - 2 executors, the Department of Human Resources Management - 5 executors and the Department of Internal Audit - 5 executors.

Within the sectors of the Ministry, 172 enforcement agents are envisaged, out of which 23 enforcement agents in the Sector for General and Legal Affairs, 14 enforcement agents in the Sector for Cooperation with Local Self-Government and Professional Supervision, 29 enforcement agents in the Sector for European Union, 18 enforcement agents in the Sector for sustainable development and investments, 18 executors in the Sector for Physical Planning, 27 executors in the Macedonian Environmental Information Center, 27 executors in the Sector for coordination of the work of the Minister and 16 executors in the Sector for Financial Affairs¹⁷³. In the part of the project units of the Ministry, 17 executors are envisaged,

¹⁷³ <https://www.moepp.gov.mk/wp-content/uploads/2017/12/Pravilnik%20za%20sistemizacija%20na%20rabotnite%20mesta%20vo%20MZSP.pdf>

out of which 6 executors in the Project Unit for implementation of the Project Reconstruction and expansion of sewerage network and construction of wastewater treatment plant in Prilep and 11 executors in the Project Unit for implementation of the Project Reconstruction expansion of the sewerage network and construction of a wastewater treatment plant.

According to the Rulebook on systematization, one Secretary of State, 6 state advisors, 44 managers, 40 advisors, 6 senior associates, 11 associates, 39 junior associates, 11 independent officers, 1 officer, 14 junior officers, 2 coffee makers and 1 driver are provided in the Sectors of the Ministry. In the departments under the Minister and the State Secretary of the Ministry, there are 3 managers, 1 advisor, 1 associate, 2 independent officers, 3 junior associates and 2 internal auditors. The project units of the Ministry provide 2 managers, 11 advisors, 1 independent officer, 2 project assistants and 1 administrative officer, or a total of 194 executors.

2.2. Environmental Directorate and the Spatial Information System Service

Within the Ministry, in accordance with the Rulebook on systematization, 149 enforcement agents are envisaged, out of which 143 enforcement agents in the Environmental Directorate and 6 enforcement agents in the Service for Spatial Information System. Namely, up to the total number of executors in the Sector for Nature are provided 23 executors, in the Sector for Industrial Pollution and Risk Management 19 executors are provided, in the Sector for Water are provided 47 executors, in the Sector for Environment are provided 40 executors and in The Waste Management Sector provides 14 executors. There are 6 executors in the Spatial Information System Service.

In the part of the constituent bodies, the Rulebook for systematization of job positions in the part of the Environmental Directorate envisages 27 managers, 41 advisors, 4 senior associates, 3 associates, 27 junior associates, 7 independent officers, 5 officers, 8 junior officers, 2 senior officers and 8 workers. The Service for Spatial Information System provides one manager, one senior associate, 2 associates, one junior associate and one independent officer, or a total of 139 executors.

3. ANALYSIS

The internal organization of the Ministry of Environment and Physical Planning envisages division of the scope of work into two parts. The first part envisages departments that **perform activities related to the functioning of the Ministry and to a lesser extent in creating policies and strategic documents**. For example, if we take into account the Sector for General and Legal Affairs, Sector for Coordination of the work of the Minister, Sector for Financial Affairs, it is obvious that most of their work is directed to the service of the Ministry.

Unlike these three sectors, the Sector for Cooperation with the Local Self-Government and Administrative-Supervision Affairs has competencies in order to monitor the work of the municipalities in the field of environment, adoption of regulations, administrative supervision etc. The competences of the Macedonian Environmental Information Center are related to the establishment of a database of systematized and standardized data and information on the conditions and changes in the environment and makes it available to the public.

According to the Rulebook on Internal Coordination, **the Sector for Physical Planning and the Sector for Sustainable Development and Investments are the only sectors within the Ministry that have placed the focus of their scope of work on developing policies in the field of environment**, which should be in fact the basic function of the Ministry of Environment and Physical Planning. The Sector for Sustainable Development and Investments within its scope of work takes care of establishing sustainable development and integration of environmental policies in other sectoral policies and for coordinating the process of adopting strategic and planning documents in the field of environment and performs analysis of sources of investment in the environment. This sector is especially important in terms of developing and creating policies in the field of climate change. The Sector for Spatial Planning in its focus has the implementation of the national policy of sustainable spatial development through the implementation of the envisaged conceptions for spatial development of the country. This sector, unlike the Sector for Sustainable Development and Investments, which is mainly focused on policy making, is responsible for creating a sub-national policy in the implementation of the spatial development strategy and the implementation of the European spatial development policy, i.e. policy making on the manner of implementation of strategic documents for spatial planning.

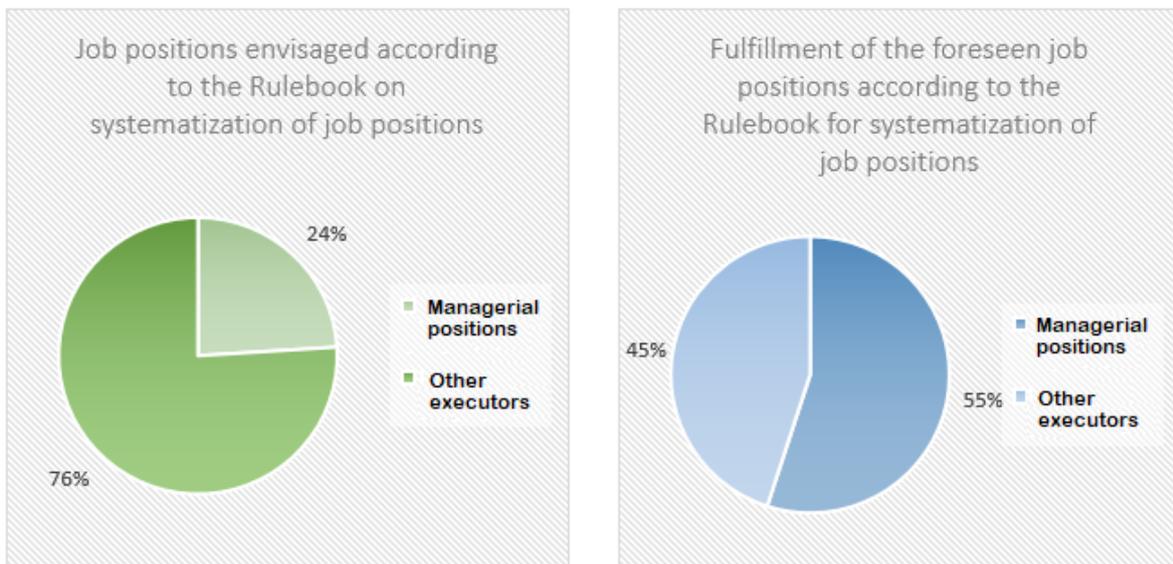
Hence, if we analyze internal organization it may be easily seen that **there are no bodies within the Ministry that are responsible for creating sectoral environmental policies, but it is provided in part for certain areas through some of the sectors.**

The Rulebook on Internal Organization in the part of constituent bodies, the Environmental Directorate and the Spatial Information System Service of the Ministry of Environment and Physical Planning defines the bodies as expert bodies that implement the policies for environmental protection and spatial planning.

Namely, the organization of the Environmental Directorate clearly reflects the concept provided in the Rulebook on internal organization, because the organization provides specialized sectors as opposed to the sectors within the Ministry. For each area that is under the competence of the Ministry, a special sector is provided in which experts are appointed who provide professional assistance to both the Ministry and other competent bodies. However, if an analysis is made in the area of the competencies and the work of the

departments **within the Directorate of Environment, it will be seen that in addition to the professional work, the departments are competent to create policies and strategic documents, and to implement them.** Namely, according to the Rulebook on Internal Organization, all sectors are mainly competent to implement the sectoral laws, but also to prepare legal solutions and strategic documents.

The Rulebook for systematization of job positions envisages a larger number of job positions in the part of the Ministry than in the professional bodies, i.e. the constituent bodies. Given the above statistics, most job positions are reserved for managers, followed by advisors and junior managers. This statistic is appropriate if we take into account the internal organization



but still the percentage of managers is very high compared to the number of other executors in the Ministry, i.e. 24% are managerial positions and 76% other executors.

The fulfillment of the Rulebook for systematization in the part of the Ministry is 55% or 45% of the foreseen positions for executors are unfilled, which is a serious reason for performing the scope of work of the Ministry.

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Within the Environmental Directorate and the Spatial Information Service, the percentage of filled job positions is much higher than the Ministry, i.e. 72% of the planned job positions are filled while 28% are still open. The very structure of executors is different because despite the fact that, as in the Ministry, the first three positions of managers, advisors and junior associates are the most numerous, their schedule is completely different. Namely, the number of advisors is drastically higher than the number of managers, 41 vs. 28 or 29.5% vs. 20%, while the number of junior associates is the same as the number of managers, 28 junior associates vs. 28 managers. This structure appears to be due to the fact that these are professional bodies in which the basis of the work processes are experts from the areas covered by the Environmental Directorate and the Spatial Information System Service.

If we take into account the structure of the systematization, it is obvious that there is an inadequacy in the foreseen managerial positions compared to the other positions, but there is also a low level of filled positions for executors, which calls into question the degree of functionality of the institution in performing its competencies and affairs within its scope.

CONCLUSIONS

1. There is no adequate internal organization of the sectors in terms of division of competencies i.e. creating environmental policies and their implementation because there are sectors that create and implement policies.
2. Considering the function and expertise of the Environmental Directorate, the need for its institutional redefining, i.e. granting the status of an independent body in the form of an agency or directorate with its own budget, structure and organization is emphasized.
3. The systematization of job positions of the Ministry of Environment and Physical Planning is fulfilled only by 55% which indicates a very low level of fulfillment and insufficient capacities for implementation of the legal competence of the institution.
4. According to the systematization, there is an unequal ratio between managerial and executive job positions.
5. It is necessary to amend the act for systematization of job positions in the Ministry in accordance with the degree of competencies provided in the legal framework and then to undertake all necessary activities for a higher degree of filling the open job positions.

VIII. IMPLEMENTATION AND ENFORCEMENT OF DECISIONS REGARDING ENVIRONMENTAL ENDANGERING

All laws in the field of environment, the Law on Environment, the Law on Nature Protection, the Law on Ambient Air Quality, the Law on Waste Management, the Law on Waters stipulate that the Ministry of Environment and Physical Planning is responsible for supervising the implementation of these laws, while the implementation of the inspection is in the competence of the **State Environmental Inspectorate** through the state environmental inspectors, the inspectors for nature protection and the water management inspectors.¹⁷⁴

According to the Law on Environment, the State Environmental Inspectorate has the capacity of a legal entity with a special budget line from the first line, but according to the Law on Organization and Work of State Administration Bodies, it is a body in scope of the Ministry of Environment and Physical Planning.¹⁷⁵

The State Environmental Inspectorate is managed by a Director appointed by the Government of the Republic of North Macedonia on the basis of a public competition in accordance with the provisions prescribed in the Law on Environment.¹⁷⁶ Currently the State Inspectorate is managed by an acting director.

The conditions that must be met for a person to be able to be working as a state environmental inspector, inspector for nature protection, i.e. inspector for water management are provided in the Law on Environment, the Law on Nature Protection and the Law on Waters which are harmonized with the provisions from the Law on Inspection, i.e. the Law on Administrative Officials.

1. ORGANIZATION AND SYSTEMATIZATION OF THE STATE ENVIRONMENTAL INSPECTORATE

Although the State Inspectorate is a body within the Ministry of Environment and Physical Planning, it regulates its work and organization independently with special internal acts. The State Inspectorate has adopted a Rulebook for systematization of job positions of the State

¹⁷⁴ Article 194 of the Law on Environment („Official Gazette of the Republic of Macedonia“ no. 53/2005; 81/2005; 24/2007; 159/2008; 83/2009; 48/2010; 124/2010; 51/2011; 123/2012; 93/2013; 187/2013; 42/2014; 44/2015; 129/2015; 192/2015; 39/2016 and 99/2018)

¹⁷⁵ Article 28 of the Law on the Organization and Work of the State Administration Bodies (Official Gazette of the Republic of Macedonia“ no. 58/2000, 44/2002, 82/2008, 167/2010, 51/2011) and (Official Gazette of the Republic of North Macedonia“ no. 96/2019 and 110/2019)

¹⁷⁶ Article 194-a of the Law on Environment („Official Gazette of the Republic of Macedonia“ no. 53/2005, . . . 99/2018)

Environmental Inspectorate¹⁷⁷ dated 10.12.2019 and amended on 10.12.2020, which is approved by the Ministry of Information Society and Administration. Besides this Rulebook, the State Inspectorate has adopted a Rulebook¹⁷⁸ on Internal Organization of the State Environmental Inspectorate dated 10.12.2020.

According to the Rulebook on Internal Organization, the State Environmental Inspectorate should have a Director of the State Environmental Inspectorate, three sectors - Sector for Inspection in Environment and Nature, Sector for Water Management Inspection and Sector for Coordination, General and Legal Affairs and procurement, with eleven departments.

There are 6 departments in the Sector for Inspection of Environment and Nature:

- Regional Department for Environmental Inspection for Skopje Region - registered seat in Skopje;
- Regional Department for Environmental Inspection for the Polog region-registered seat in Tetovo;
- Regional Department for Environmental Inspection for the Northeast and East region - registered seat in Probistip;
- Regional Department for Environmental Inspection for Pelagonija and Southwest Region - registered seat in Bitola
- Regional Department for Environmental Inspection for Vardar and Southeast Region - registered seat in Strumica and
- Regional Department for Inspection in Nature - registered seat in Skopje.

There are two departments in the Sector for Water Management Inspection:

- Regional Department for Water Management Inspection – West - registered seat in Skopje
- Regional Department for Water Management Inspection – East - registered seat in Skopje

There are also two departments in the Sector for Coordination, General and Legal Affairs and Procurement:

- Unit for General and Legal Affairs and Procurement
- Unit for support, analytics and international cooperation of the Inspectorate

In addition to these departments, another department is envisaged within the State Inspectorate:

¹⁷⁷ <http://www.sei.gov.mk/uploads/SISTEMATIZACIJA-DIZS%202019%20AKTUELNA.pdf>

¹⁷⁸ <http://www.sei.gov.mk/uploads/SEI%20-%20Org%20Chart.pdf>

- Unit for Financial Affairs

Within this internal organization, the Rulebook on systematization of job positions of the State Environmental Inspectorate envisages 50 job positions of which 22 have been filled, or the fulfillment is only 44% of the total number of systematized job positions.

According to the existing systematization within the State Inspectorate, 43 inspectors are envisaged, as follows: 1 General Inspector, 2 Chief Inspectors, 8 Senior Inspectors, 23 Inspectors and 9 Junior Inspectors. The State Inspectorate currently has 19 inspectors out of which 2 Chief Inspectors, 2 Senior Inspectors, 14 Inspectors Advisors and one junior inspector or the completeness of the systematization in the part of the inspection staff is 44.2%.

2. INSPECTION

Within its scope of work, the State Inspectorate acts according to the following laws:

1. Law on Environment
2. Law on Waste Management
3. Law on Management with Packaging and Packaging Waste
4. Law on Management of Electrical and Electronic Equipment and Electrical and Electronic Equipment Waste
5. Law on Management of Batteries and Accumulators and Batteries and Accumulators Waste
6. Law on Ambient Air Quality
7. Law on Waters
8. Law on Nature Protection
9. Law on Environmental Noise Protection

In addition to these laws in the field of environment, the State Inspectorate, within its legal competencies, acts in accordance with the Law on Mineral Resources, the Law on Chemicals, the Law on Control of Emissions of Volatile Organic Compounds when Using Gasoline, the Law on Pricing of Water Services, Law on Genetically Modified Organisms, Law on Acting upon Complaints and Proposals, Law on Prohibition and Prevention of Unregistered Business Activities, Law on Consumer Protection and other laws - in total 25, but also 250 bylaws arising from and related to all of the above listed laws.

Starting from the fact that this Difference Analysis focuses on the Law on Environment, the Law on Waste Management, the Law on Ambient Air Quality, the Law on Water and the Law on Nature Protection, we want to emphasize that **only in these five laws about 266 competencies are provided for the State Inspectorate, i.e. the state inspectors.**

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The State Inspectorate within its work in accordance with Article 33 is obliged to prepare an annual plan every year, i.e. two reports, a six-month and an annual report on the work in accordance with Article 35 of the Law on Inspection.

Pursuant to the Rulebook on Internal Organization, the State Environmental Inspectorate conducts the inspection through the regional departments of the Sector for Inspection of Environment and Nature and the Sector for Water Management Inspection. Within the Sector for Inspection of Environment and Nature, **no specialized units have been identified, nor inspectors with specialization in areas and media** who would act in accordance with the areas / media that are within the competence of the Ministry of Environment and Physical Planning, but there is only a division of environment and nature.

	Year ¹⁷⁹											
	2019			2018			2017			2016		
Type of inspection	R	C	E	R	C	E	R	C	E	R	C	E
Number of planned inspections	1.75 7	127	38	1.98 2	151	26	1.97 1	109	32	2.07 5	111	10
Number of Minutes for performed inspections	1.53 3	300	564	1.74 0	295	415	1.72 5	275	451	1.62 9	345	413
Average fulfillment	87%	236 %	1484 %	88%	195 %	1596 %	87%	252 %	1409 %	78%	310 %	4130%

From the table above showing the number of planned-regular and extraordinary inspections and the number of realized ones, it can be seen that the State Inspectorate acts on **average more often in the extraordinary than in the regular inspections**. In the area of regular inspections, the State Inspectorate failed to completely implement the work plan in the analyzed years. Contrary to this, in the area of extraordinary inspections, the State Inspectorate annually exceeds the planned number of extraordinary inspections by at least ten times, which indicates the fact that the non-fulfillment of the planned regular inspections is due exclusively to the high number of conducted extraordinary inspections during the year.

¹⁷⁹ Annual report on the work of the State Environmental Inspectorate for 2019
[http://www.sei.gov.mk/uploads/Godisen%20Izvestaj%20za%20DIZS-2019%20godina\(1\).pdf](http://www.sei.gov.mk/uploads/Godisen%20Izvestaj%20za%20DIZS-2019%20godina(1).pdf)

Gaps and Shortcomings Analysis
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	2019	2018	2017	2016	Total
Number of imposed inspection measures	259	399	346	319	1,323
Number of conducted educations	0	23	5	4	32
Number of mandatory fines imposed	2	3	6	0	11
Number of issued payment orders	46	22	6	18	92
Number of misdemeanor charges	47	23	24	23	117
Number of criminal charges	6	1	1	0	8

As part of the inspection for 2016-2019, the State Inspectorate issued a total of 1,323 inspection measures, of which 92 payment orders and filed 117 misdemeanor charges. The State Inspectorate for the same period filed 8 criminal charges and imposed 11 mandatory fines and conducted 32 educations.

According to the statistics in the annual reports, the State Inspectorate for 2016 imposed inspection measures in 13.4% of the conducted inspections, in 1% it submitted misdemeanor charges and in 0.75% it issued a payment order. In 2017, it imposed inspection measures in 14.1% of the conducted inspections, in 1% it filed misdemeanor charges and in 0.2% it issued a payment order. In 2018, it imposed inspections measures in 16.3% of the conducted inspections, in 1% it submitted misdemeanor charges and in 1% it issued a payment order, while in 2019 it imposed inspection measures in 10.8% of the conducted inspections, in 2% it submitted misdemeanor charges and in 2% issued a payment order.

According to the areas that are part of this analysis, the table below presents the laws and the number of inspections performed by laws in the period 2016 to 2019.

		Number of performed inspections ¹⁸⁰			
		2016	2017	2018	2019
1.	Law on Environment	729	879	962	937

¹⁸⁰ Annual report on the work of the State Environmental Inspectorate for 2017 and 2019
[http://www.sei.gov.mk/uploads/Godisen%20Izvestaj%20za%20DIZS-2019%20godina\(1\).pdf](http://www.sei.gov.mk/uploads/Godisen%20Izvestaj%20za%20DIZS-2019%20godina(1).pdf)

Gaps and Shortcomings Analysis
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2.	Law on Nature Protection	118	106	182	200
3.	Law on Waste Management	835	735	628	649
4.	Law on Management with Packaging and Packaging Waste	443	388	372	253
5.	Law on Management of Electrical and Electronic Equipment and Electrical and Electronic Equipment Waste	17	13	37	18
6.	Law on Management of Batteries and Accumulators and Batteries and Accumulators Waste	23	14	31	30
7.	Law on Waters	214	289	230	278
8.	Law on Ambient Air Quality	5	18	0	23
9.	Law on Environmental Noise Protection	2	8	5	0
10.	Law on Mineral Resources	1	0	3	9
11.	Law on Control of Emissions of Volatile Organic Compounds when Using Gasoline	0	1	0	0
	Total number performed inspection by laws	2,387	2,451	2,450	2,397

In 2016, the State Inspectorate performed 2,387 inspections, of which 30.54% upon the Law on Environment, 4.94% upon the Law on Nature Protection, 55.24% upon the laws on waste management, i.e. 35% upon the Law on Waste Management, 18.65% upon the Law on Packaging and Packaging Waste, 0.71% upon the Law on Management of Electrical and Electronic Waste Equipment and 0.97% upon the Law on Management of Batteries and Accumulators and Waste from Batteries and Accumulators, 9% upon the Law on Waters, 0.2% upon the Law on Ambient Air Quality and 0.08% upon other laws.

In 2017, the State Inspectorate performed 2,451 inspections, of which 35.86% upon the Law on Environment, 4.32% upon the Law on Nature Protection, 46.93% upon the laws on waste management, i.e. 30% upon the Law on Waste Management, 15.83% upon the Law on Packaging and Packaging Waste Management, 0.53% upon the Law on Management of

Electrical and Electronic Waste Equipment and 0.57% upon the Law on Management of Batteries and Accumulators and Waste from Batteries and Accumulators, 11.80% upon the Law on Waters, 0.73% upon the Law on Ambient Air Quality and 0.36% upon other laws.

In 2018, the State Inspectorate performed 2,450 inspections, of which 39.26% upon the Law on Environment, 7.43% upon the Law on Nature Protection, 43.58% upon the laws on waste management, i.e. 25.63% upon the Law on Waste Management, 15.18% upon the Law on Packaging and Packaging Waste Management, 1.51% upon the Law on Management of Electrical and Electronic Waste Equipment and 1.26% upon the Law on Management of Batteries and Accumulators and Battery Waste and batteries, 9.39% upon the Law on Waters, 0% upon the Law on Ambient Air Quality and 0.34% upon other laws.

In 2019, the State Inspectorate performed 2,397 inspections, of which 39.09% upon the Law on Environment, 8.43% upon the Law on Nature Protection, 39.62% upon the Law on Waste Management, i.e. 27.07% upon the Law on Waste Management, 10.55% upon the Law on Packaging and Packaging Waste 0.75% upon the Law on Management of Electrical and Electronic Waste Equipment and 1.25% upon the Law on Management of Batteries and Accumulators and Battery Waste and batteries, 11.60% upon the Law on Waters, 0.96% upon the Law on Ambient Air Quality and 0.33% upon other laws.

3. ANALYSIS

The State Environmental Inspectorate as a body in scope of the Ministry of Environment and Physical Planning has an appropriate institutional set-up according to its scope of work. Despite the fact that it is a constituent body, the State Inspectorate has the capacity of a legal entity, unlike the Environmental Directorate and the Service for Spatial Information System, which gives it independence in creating the internal organization and systematization of job positions, as well as in the organization of its administrative and financial work. The State Inspectorate also has its independence in the part of its financing because it has its own first-line budget which it independently manages.

However, despite the good institutional set-up, **the State Inspectorate as the only body for inspection of the implementation of environmental laws in accordance with the positive legislation is directly responsible for performing inspections upon 25 laws and more than 250 bylaws.**

According to the Act on Internal Organization, the State Inspectorate has a good structure that is appropriately distributed in order to cover the entire territory of the Republic of North

Macedonia. However, if we take into account the implementation of the Rulebook on systematization of job positions, it can be easily concluded that despite the good institutional set-up and territorial organization, the State Inspectorate faces a lack of human capacity. This arises from the fact that the filling of vacancies within the State Inspectorate is 44% in total while that of the inspection staff is 44.2%. However, from the annual reports it may be concluded that despite the lack of human resources, the State Inspectorate still manages to implement its annual work plan in the area of regular inspections with a high degree of about 85-90%, while for other types of inspections the State Inspectorate exceeds the planned number of inspections by several times.

According to the area, i.e. the laws it acts upon, the State Inspectorate conducts the largest number of inspections in the field of waste management, i.e. in accordance with the Law on Waste Management, the Law on Packaging and Packaging Waste, the Law on Management of Electrical and Electronic Waste Equipment and Law on Management of Batteries and Accumulators and Batteries and Accumulators Waste, then in the part of the environment upon the Law on Environment. **Inspections are mostly performed in the part of the Law on Waters and the Law on Nature Protection, and in the lowest part in accordance with the Law on Ambient Air Quality.** From 2016 to 2019 there is a trend of decreasing inspections by the State Inspectorate in the field of waste management for the purposes of increasing inspections in the field of environment and nature protection which have increased by almost 30% for the environment and almost for 90% in the part of the Law on Nature Protection.

In the part of the identified irregularities during the performed inspections, as seen from the annual reports, the number of imposed inspection measures is relatively low and it ranges from 10-16% while the number of imposed misdemeanors is between 5-20% of the cases in which inspection measures were imposed. Regarding the filed criminal charges due to suspicion that a crime has been committed in the field of environment, the trend that can be seen from the annual reports of the State Inspectorate in the last four years is particularly interesting, according to which the number of criminal charges in 2019 versus 2016, 2017, 2018 has increased by 600%. However, despite the upward trend, the increase still refers to a small number of cases, for example in 2017 and 2018, the State Inspectorate filed one criminal charge each, while in 2019 it filed 6 criminal charges. This segment in the work of the State Inspectorate is especially **important for the increasing environmental justice, especially through the establishment of inter-institutional cooperation between the expert bodies in the field of environment, the bodies conducting inspections and the bodies conducting investigations**, the Ministry of Interior and the Public Prosecutor's Office, because the State Environmental Inspectorate and the Environmental Directorate are the only bodies that can indicate a violation of environmental laws.

CONCLUSIONS

1. A serious gap for the performance of the legal competencies by the State Environmental Inspectorate is the lack of human resources of only 50% of the envisaged systematization of job positions and insufficient technical staff and means for work.
2. Urgent need to provide technical capacity to conduct inspections in accordance with the competencies in the legal framework and to ensure interoperability with other competent institutions to ensure effectiveness in the implementation of the decisions.
3. There is a need to establish a model of cooperation and joint teams to perform control and inspection between the State Inspectorate and the investigative bodies, with a mechanism for detection and prevention of crimes related to the environment.
4. Strengthening the capacities of the investigative bodies (public prosecutors, police and other bodies), as well as the judges for implementation of the laws in the field of environment, for detection and prosecution of crimes related to the environment.
5. Amendment of the criminal and misdemeanor legal framework in order to introduce stricter sanctions for acts related to environmental damage.
6. Strengthening the capacities of the judges in court proceedings where the protection of the environment is a public interest, according to the principle of urgency, prevention and responsibility of the subjects for damage to the environment.
7. Establishing criteria in the legal framework for access to environmental justice in front of courts for all entities in order to enable effective application of environmental laws and protection from violations arising from decisions, general acts or omissions of public bodies and other entities that affect the environment.
8. Establishment of cooperation and continuous education of the investigative bodies and judges in the field of environment.



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