

Second Report on the Operation of the State Commission for Prevention of Corruption

(October - December 2019)

Author: Martina Ilievska

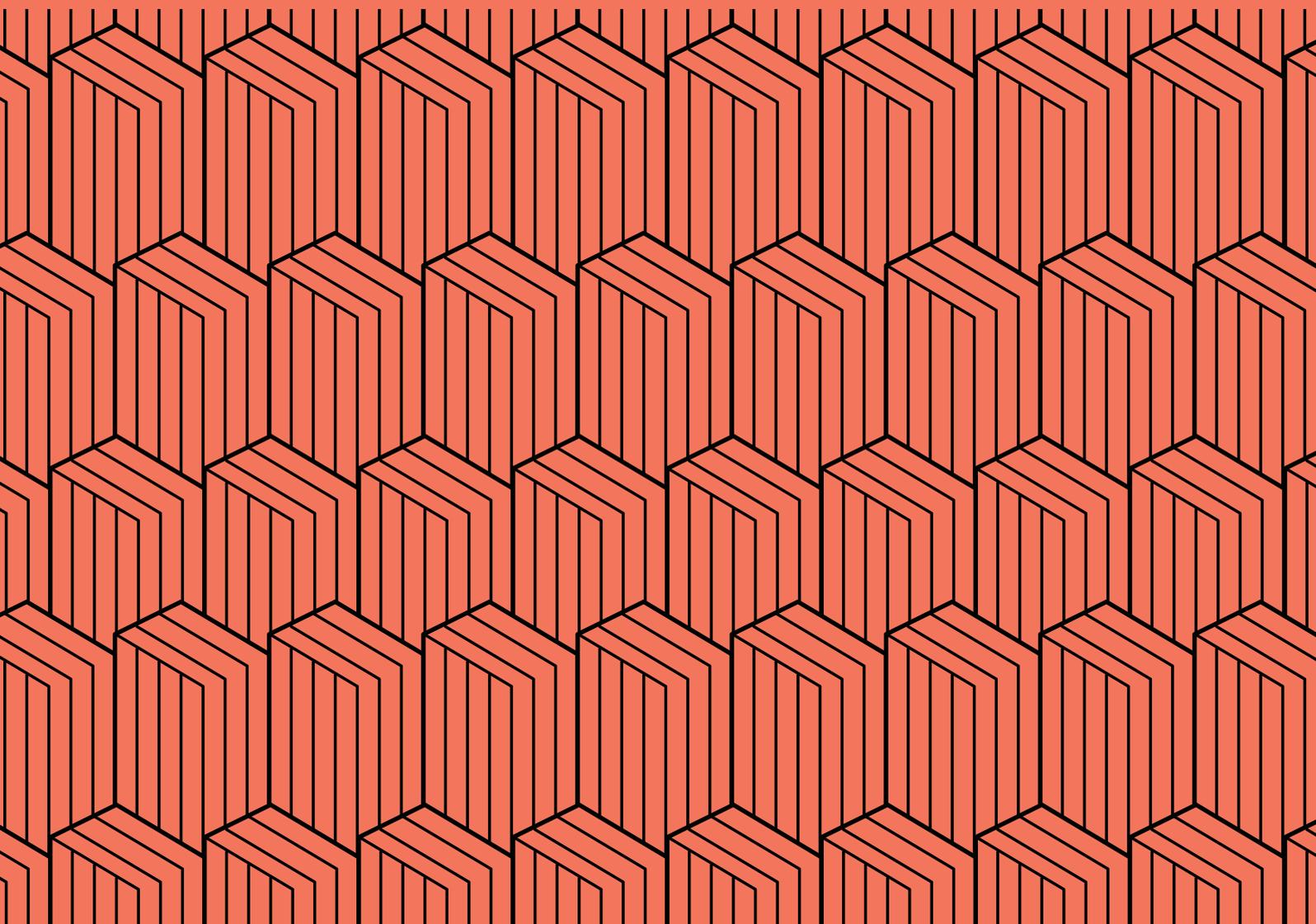


Table of Contents

Summary	1
Procedures conducted by the Commission in the course of 2019 involving suspicion of corruption and conflict of interest	3
Analysis of results	5
Monitoring the electoral process	17
Actions and decisions in cases of the State Commission for Prevention of Corruption	19
Methodological approach	21
Variable description	22
Brief summary	26
Bibliography	27

Impressum

Title: Second Report on the Operation of the State
Commission for Prevention of Corruption

Publisher: Institute for Democracy
„Societas Civilis“ – Skopje

Author: Martina Ilievska

Translation: Jana Dimitrovska

Design: Dejan Kuzmanovski

This publication is available at:

<http://www.idscs.org.mk>

The project “Monitoring the success of the work of the State Commission for Prevention of Corruption” which was made possible with the financial support of the Foundation Open Society- Macedonia.

“The content is the sole responsibility of the authors and the grantee and can in no way be considered to reflect the views and opinions of the Foundation Open Society- Macedonia.”

CIP - Каталогизација во публикација

Национална и универзитетска библиотека "Св. Климент Охридски", Скопје

35.072.2:343.352(497.7)"2019*10/*12"(047.31)

ILIEVSKA, Martina

Second report on the operation of the State commission for prevention of corruption : (October - December 2019) / Martina Ilievska.

- Skopje : Institute for democracy Societas Civilis, 2020. - 27 стр. : граф. прикази, табели ; 30 см

Фусноти кон текстот. - Библиографија: стр. 27

ISBN 978-608-4775-70-6

а) Државна комисија за спречување корупција - Транспарентност - Македонија - 2019*10/*12 - Истражувања

COBISS.MK-ID 112476426

Summary

The main purpose of the monitoring is to follow the decisions adopted at public sessions of the State Commission for Prevention of Corruption (SCPC), which is a preventive body and has the function of preventing corruption. The process of monitoring SCPC within the project "Monitoring the success of the work of the State Commission for Prevention of Corruption" is conducted in two stages. The first stage covers the period from the start of the operation of the Commission's new composition, i.e. following the adoption of the first decisions in March 2019 to September 2019, whereas the second stage covers the period until the end of 2019, i.e. the remaining three months not covered by the first report from October to December 2019. The data that this report is based on are gathered from the website of the State Commission for Prevention of Corruption, as well as on information obtained by submitting requests to SCPC for access to public information.

This report analyses the last three months of 2019, during which SCPC held two sessions and reached **96 decisions**.

Over a period of almost one year, the Commission has opened 1165 cases

In the course of 2019, the Commission opened a total of 1165 cases, 710 of which were opened on suspicion of corruption, while 455 on suspicion of conflict of interest. Over the year, 100 cases on suspicion of corruption and 199 cases on suspicion of conflict of interest were resolved.

Most of the decisions taken over this time period are in the field of health care

26% of the decisions adopted are based on suspicion of illicit activities in institutions providing health services and/or being a part of the health care system. Most of the cases in the field of health care refer to employment procedures and to the regular inspection conducted by SCPC of assets lists about property owned by holders of functions. A lesser part of the decisions adopted are in the field of **public services - 13%** and in the field of **law enforcement agencies - 15%**.

Employment and control of interest and property in the focus of SCPC during the last months of 2019

At the last two sessions of 2019, the Commission adopted the largest number of decisions in procedures related with corruption or conflict of interest during the employment process, which amount to almost one half, i.e. 46% of the total number of decisions.

One determined violation of law and one public warning

Violation of law was determined in one of the cases in which a decision was taken in the period of analysis, and in 26% of cases the suspicions of corruption or conflict of interest were not confirmed. The State Commission, as pursuant to

the Law on Prevention of Corruption and Conflict of Interest, may impose a public warning measure on a person elected in direct elections, thus, it adopted one decision on imposing a public warning measure over the period October 2019 to January 2020.

One case out of 96 decisions launched upon own initiative

Data published on SCPC's website for the time frame October to December 2019 show that a large part of the decisions does not contain any information on who had launched the initiative (familiar complainant, anonymous, unknown, own initiative, etc.). In 38% of the decisions, the information about the party filing the initiative to SCPC was left out. Almost one third of the decisions was adopted regarding initiatives launched by a familiar complainant - 27%, whereas only 1% of the decisions was adopted upon the Commission's own initiative and following findings of the media.

Five and a half months were required for the Commission to complete the procedures it had reached decision on at the last sessions of 2019

The duration of the procedure from filing an initiative to making a decision at the last two sessions of SCPC in 2019 is 5 months and 14 days, whereby the minimum number of days for a complete procedure amounted to 42 days, while the maximum duration observed over the monitored period is 273 days. SCPC may impose measures that are within its power, and during the monitored period SCPC imposed a misdemeanour's measure and a misdemeanour's payment order in 24% of the decisions.

Procedures conducted by the Commission in the course of 2019 involving suspicion of corruption and conflict of interest

The operation of the State Commission is based on the Law on Prevention of Corruption and Conflict of Interest which stipulates provisions for selection of members of the Commission, its scope of operation and internal functioning.

For the purposes of summarizing the annual operation of the Commission, information was requested by means of requests for access to public information, to all of which the institution responded within the legally stipulated deadline.

Cases of suspicion of corruption

According to the data, the Commission, within its legal competences, **opened 710 cases** in the course of 2019 on the grounds of suspicion of corruption, 687 of which were opened upon a complaint filed, while 23 cases upon own initiative. In 2020, 23 cases were opened on suspicion of corruption, 22 of which upon a complaint filed, whereas one case upon own initiative.

100 cases of suspicion of corruption **were resolved** of the cases opened in 2019, and the Commission initiated a procedure before other competent authorities in 15 of the cases, of which 6 initiatives to commence a criminal prosecution procedure and nine initiatives on determination of responsibility.

The Commission has no legal obligation to categorize cases by degree of infringement, i.e. low, medium, or high-level corruption - analogously to legal provisions, the Commission does not keep records of categorization of opened cases and resolved cases.

Cases of suspicion of conflict of interest

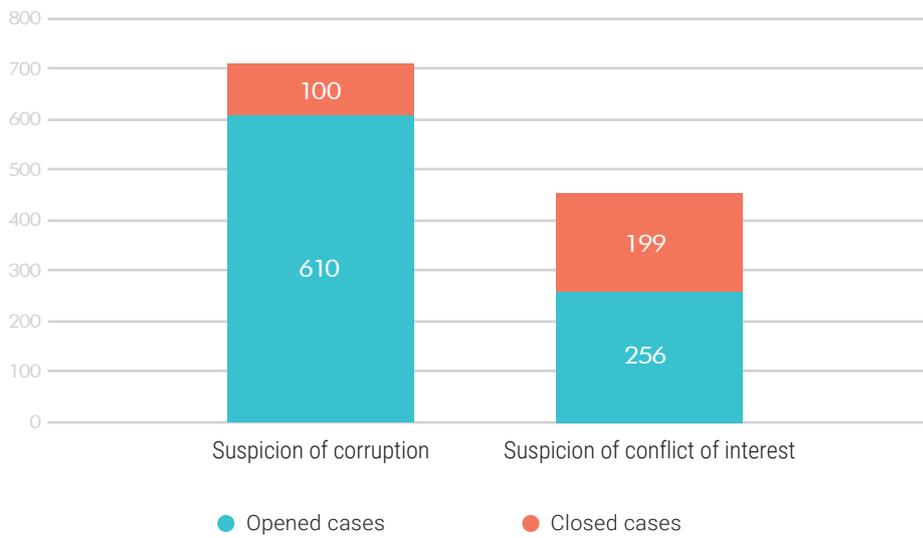
During the first nine months since the operation of the new composition of the Anti-Corruption Commission, i.e. until the end of 2019, **455 cases were opened** on the grounds of suspicion of conflict of interest, **199 of which were closed**, whereas the remaining once are still in procedure. During the first month of 2020, 17 cases were opened on suspicion of conflict of interest, upon complaints filed, requests for opinion, and one case upon own initiative, and all cases are in procedure. In 2019, 66 cases of suspicion of conflict of interest were opened upon own initiative, 29 of which are still in procedure, whereas 37 are closed. 364 cases were opened upon complaints and requests for opinions submitted by citizens, 221 of which are in procedure, and 143 are closed. In the course of 2019, there were 25 regular procedures to check the statements of interest, 6 of them are still in procedure and 19 are closed.

In 15 of the procedures processed in 2019, the Commission continued the procedure before another competent institution and raised initiatives before competent institutions to commence a procedure on determination of

responsibility of an official person.

A detailed overview of the procedures of suspicion of corruption and conflict of interest for 2019 is given in Graph 1.

Graph 1. Field of decisions taken by SCPC



Analysis of results

Most of the decisions taken are in the field of health care

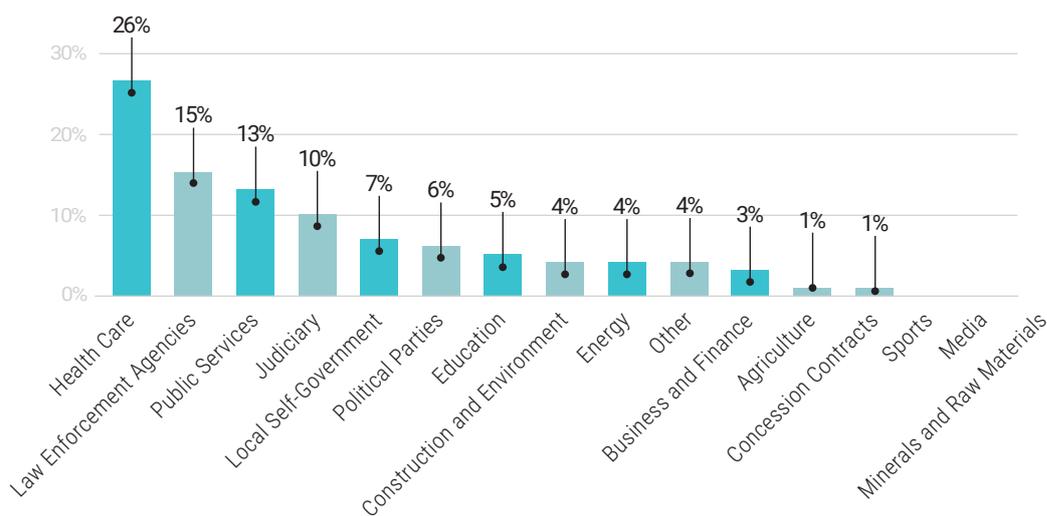
During the last three months of 2019, most of the decisions that SCPC adopted were in the field of health care -26%, that is, they were initiated on the grounds of suspicion that violation of law had been committed in institutions providing health services and/or being a part of the health care system. Most of the cases in the field of health care refer to employment procedures and to the regular inspection conducted by SCPC of assets lists about property owned by holders of functions. The average duration of a procedure - from the start of the procedure to closing the procedure in the field of health care - a field with the largest number of decisions taken, is 2 months.

A lesser part of the decisions adopted are in the field of public services - 13% and in the field of law enforcement agencies - 15%.

In the analysed last three months of 2019, not a single one of the adopted decisions of SCPC refers to the following fields: Business and Finance; Sports; Media; Agriculture; or Minerals and Raw Materials.

A detailed overview by field of the decisions adopted by SCPC that are subject to analysis is given in Graph 2.

Graph 2. Field of decisions taken by SCPC



Nearly one half of the decisions adopted refer to procedures relating to employment or labour relations

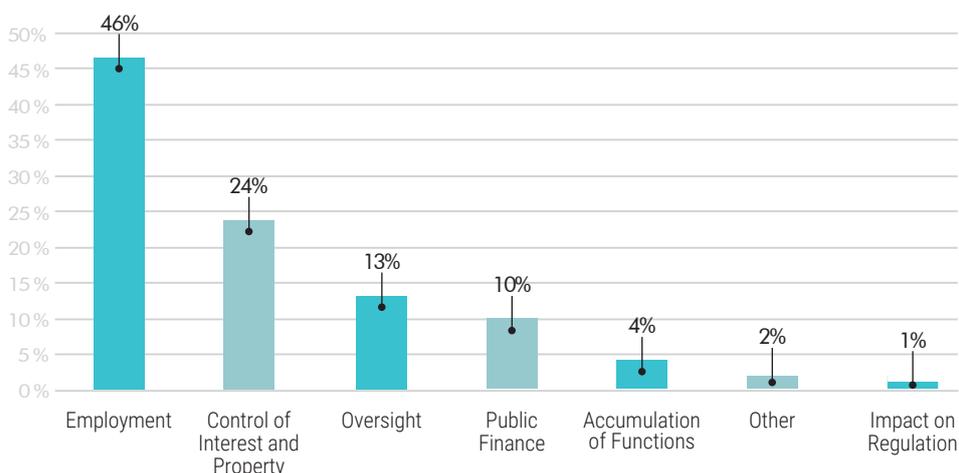
At the last two sessions of 2019, the Commission adopted the largest number of decisions in procedures related with corruption or conflict of interest during the employment process, which amount to almost one half, i.e. **46%** of the total number of decisions.

During the same time frame, **24%** of the decisions refer to executed controls of interest and property,

a procedure where the Commission checks whether certain elected or appointed persons have adequately filled out their assets lists and statements of interest. At the same time, SCPC also checks the credibility of data.

A detailed overview by type of infringement in decisions adopted by SCPC that are subject to analysis is given in Graph 3.

Graph 3. Overview of decisions taken by SCPC by type of infringement



The State Commission determined irregularities and violation of law in only one case

The Commission takes a series of “steps” from raising an initiative on the grounds of suspicion of violation of law to initiating a procedure and adopting a final decision.

The initiative received is allocated to a responsible person of the Commission who starts a preparatory procedure. Upon completion of the

preparatory procedure, the member to whom the complaint has been allocated undertakes all processing actions that are at his/her disposal, determining thereafter if there are any elements present to initiate a procedure.

Nearly one fourth - **22%** of cases were closed precisely during the preparatory procedure,

because it was determined that there were not sufficient elements and data at hand to initiate the procedure.

After finishing the processing actions, gathering the necessary data and initiating a procedure, the member of the Commission in charge of the case determines the state of facts and develops and submits a draft decision with accompanying documentation to the president of the Commission, after which the case is put on the agenda.

Most of the decisions adopted by the Commission during the analysed time period refer to cases which are unfounded, that is, cases where the suspicion of corruption or conflict of interest was not confirmed, i.e. 26% of cases. In the analysed time period, the Commission concluded that it had no jurisdiction in 19% of the decisions taken, whereas in one case it determined violation of law.

The case in which the Commission detected irregularities and violation of law refers to suspicion of irregularity and corruption during the process of employment in one municipality. The decision in this case reads: *“to request from the State Administrative Inspectorate to raise an Initiative to commence a procedure on determination of responsibility of the Mayor of the municipality on the grounds of suspicion of violation of the Labour Law provisions”*.

The State Commission for Prevention of Corruption is a preventive body and by law it has limited competences to implement measures in case of violation of law. Pursuant to the legal provisions,¹

the Commission may impose a misdemeanour's measure, issue a misdemeanour's payment order or initiate a settlement procedure. Such measures were imposed in **24%** of the decisions and they refer to irregularities when providing data in assets lists on the property owned by holders of functions.

The Commission was active in cases of non-fulfilment of the legal obligation to submit an assets list, as pursuant to Article 114 paragraph 3 of the Law on Prevention of Corruption and Conflict of Interest throughout the whole year. Cumulatively speaking, in the period from February 2019 to January 2020, **75** misdemeanour's payment orders were issued for an offence committed due to failure to meet the obligation for filling out and submitting an assets list. During the period stated afore, as pursuant to the Law on Prevention of Corruption and Conflict of Interest and the Law on Misdemeanours, the Commission submitted a total of **11 requests** for commencement of a misdemeanour's procedure for an offence committed due to failure to meet the legal obligation.

The State Commission, as pursuant to the Law on Prevention of Corruption and Conflict of Interest,² Article 77, may impose a public warning measure on a person elected in direct elections. In the period October 2019 to January 2020, the Commission adopted one decision on imposing a public warning measure³; however, this decision is not published as a decision adopted in session. According to the data obtained in the first report on the operation of SCPC, stating that in the period February 2019 to October 2019 also one public warning measure had

¹ Law on Prevention of Corruption and Conflict of Interest, Official Gazette No.: 12/2019

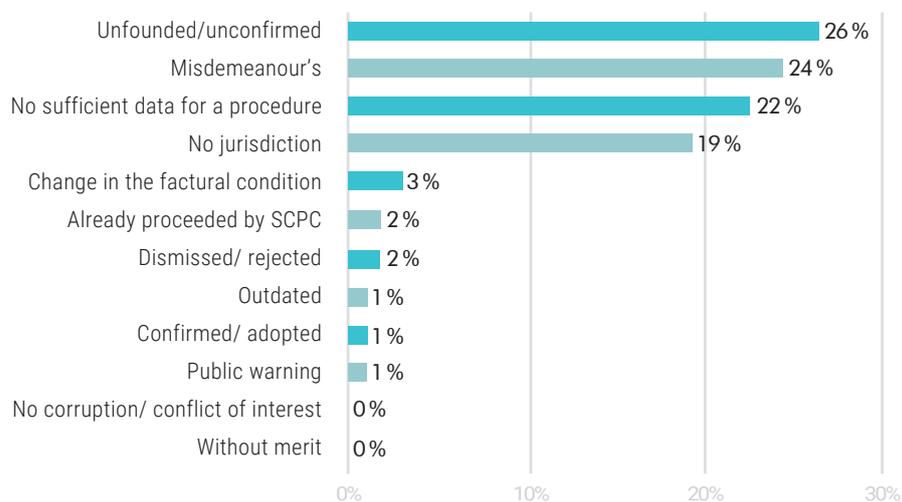
² Law on Prevention of Corruption and Conflict of Interest, Number of Official Gazette of the Republic of North Macedonia: 12/2019 (Article 77)

³ Data obtained following a submitted request for access to public information

been imposed, it may be observed that in almost one year, only two persons elected in direct elections have been imposed such a measure.

A detailed overview by status of the decision made in decisions taken by SCPC that are subject to analysis is given in Graph 4.

Graph 4. Overview by status of the decision made in decisions taken by SCPC



The Commission issued 21 misdemeanour's payment orders in procedures in the field of health care

Most of the decisions adopted in the field of health care are completed, whereby in its decisions SCPC had issued misdemeanour's payment orders - 84% (21 decisions).

When adopting a decision in the field of law enforcement agencies, SCPC most often declared itself as an institution with no jurisdiction for

further procedure - 11 of the cases for which a decision was reached.

A detailed overview by number of decisions, comparison reflecting the field and the status of decisions adopted by SCPC that are subject to analysis is given in Table 1.

		DECISION BY FIELD AND TYPE - NUMBER OF CASES								
		INSUFFICIENT DATA ABOUT THE PROCEDURE	DISMISSED/ REJECTED	CONFIRMED/ ADOPTED	CHANGE IN THE FACTUAL CONDITION	NO JURISDICTION	UNFOUNDED/ UNCONFIRMED	MISDEMEANOUR	OUTDATED	ALREADY PROCESSED BY SCPC
FIELD	Political parties	4	1				1			
	Judiciary	2				1	6		1	
	Health Care	2					2	21		
	Construction and environment	1				1	2			
	Business and Finance	1					1	1		
	Law Enforcement Agencies		1			11	2			
	Energy	1				2	1			
	Education				1		4			
	Concession Contracts						1			
	Agriculture						1			
	Public Services	4		1		2	3	1		1
	Local Self-Government	4			2					1
	Other	2				1	1			
	Media									
	Minerals and Raw Materials									
	Sports									

Assets lists were mostly checked in the field of health care

Pursuant to the Law on Prevention of Corruption and Conflict of Interest⁴, Article 85, the State Commission maintains a registry of elected and appointed persons, managing persons in public enterprises, public institutions, and other legal entities disposing of state capital. SCPC, during the last months of 2019 and the first month of 2020, received a total of 285 assets lists by elected or appointed persons and by managing persons in public enterprises, public institutions, and other legal entities disposing of state capital. If data collected in the first and second report from the monitoring of the Commission are cumulatively analysed, it may be observed that in less than a year the Commission received more than 800 assets lists⁵.

If the type and field of the adopted decisions are

compared, it may be observed that in the field of health care, 22 out of 25 decisions refer to inspection of assets lists, whereas three decisions are related with suspicion of corruption or conflict of interest in the employment process.

On the other hand, between October and December, when SCPC decided in cases connected to employment, they worked the most on cases pertaining to law enforcement agencies, 14 out of a total of 44 decisions adopted in the type employment.

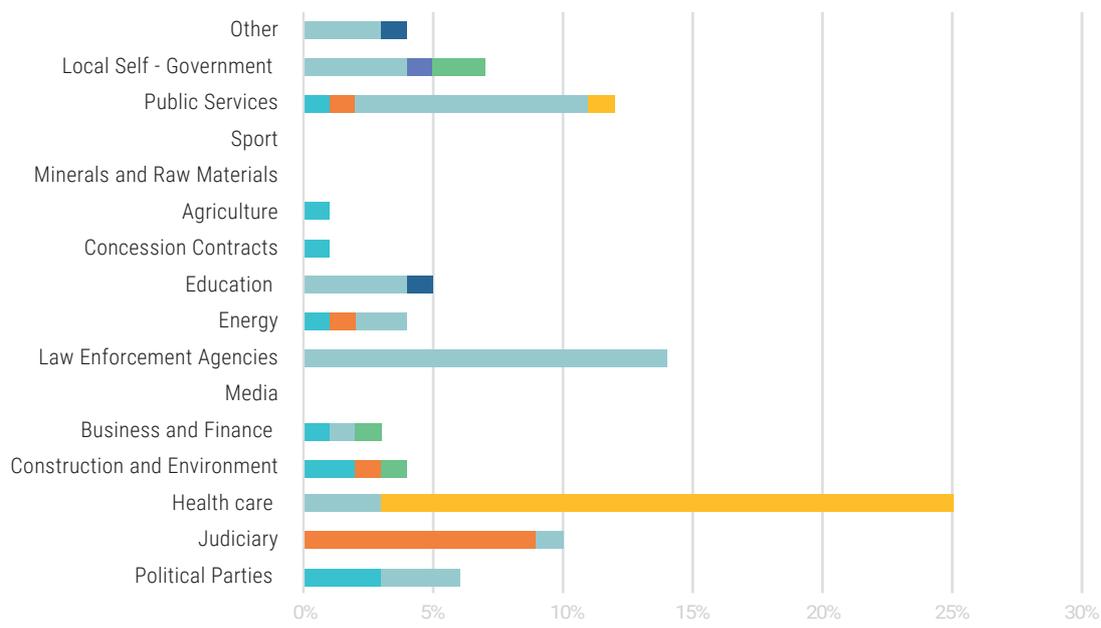
A detailed overview by number of decisions, comparison reflecting the field and the type of infringement, of decisions adopted by SCPC, is given in Table 2.

⁴ Law on Prevention of Corruption and Conflict of Interest, Official Gazette No.: 12/2019 (Article 120)

⁵ Data obtained following a submitted request for access to public information

Table 2. Type of infringement Field		DECISIONS BY FIELD AND TYPE OF INFRINGEMENT - NUMBER OF CASES							
		Public Finance	Oversight	Employment	Control of interest and property	Impact on regulations	Accumulation of functions	Other	Total
TYPE OF INFRINGEMENT FIELD	Political parties	3		3				6	
	Judiciary		9	1				10	
	Health Care			3	22			25	
	Construction and environment	2	1				1	4	
	Business and Finance	1		1			1	3	
	Media							0	
	Law Enforcement Agencies			14				14	
	Energy	1	1	2				4	
	Education			4				1	5
	Concession Contracts	1							1
	Agriculture	1							1
	Minerals and Raw Materials								0
	Sports								0
	Public Services	1	1	9	1				12
	Local Self-Government			4		1	2		7
	Other			3				1	4
	TOTAL	10	12	44	23	1	4	2	96

Graph 5. Comparison between the types of infringement in the fields



- Public Finances
- Oversight
- Employment
- Other
- Control of Interest
- Impact on Regulations
- Accumulation of Functions

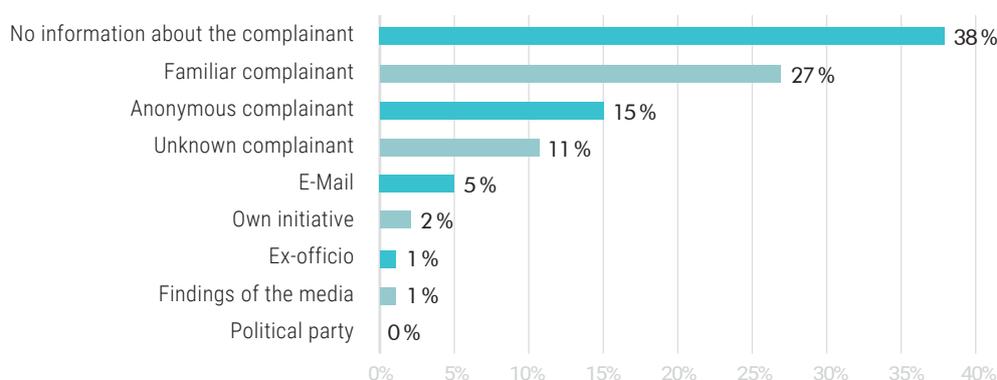
SCPC adopted only one decision in a case opened upon its own initiative

Decisions adopted by SCPC should contain information on who had raised the initiative (own initiative, (un)known complainant, anonymous complaint, etc.) on commencement of a procedure on suspicion of a certain violation of the law. Nevertheless, data published on SCPC's website for the time frame October to December 2019 show that a large part of the decisions does not contain any information on who had launched the initiative (familiar complainant, anonymous, unknown, own initiative, etc.). In **38%** of the decisions, the information about the party filing the initiative to SCPC was left out.

More than one fourth of the decisions (27%) was adopted relating to initiatives launched by a familiar complainant, whereas 11% upon initiative of an unknown complainant. In 15% of the decisions, it is stated that the complainant wanted to remain anonymous. A small part of the adopted decisions (1%) was launched upon the Commission's own initiative and following findings of the media.

A detailed overview by initiator of SCPC's procedures that are subject to analysis is given in Graph 6.

Graph 6. Overview by initiator of SCPC's procedures



Five and a half months were required from the start of a procedure to adoption of a decision at the last SCPC's sessions of 2019

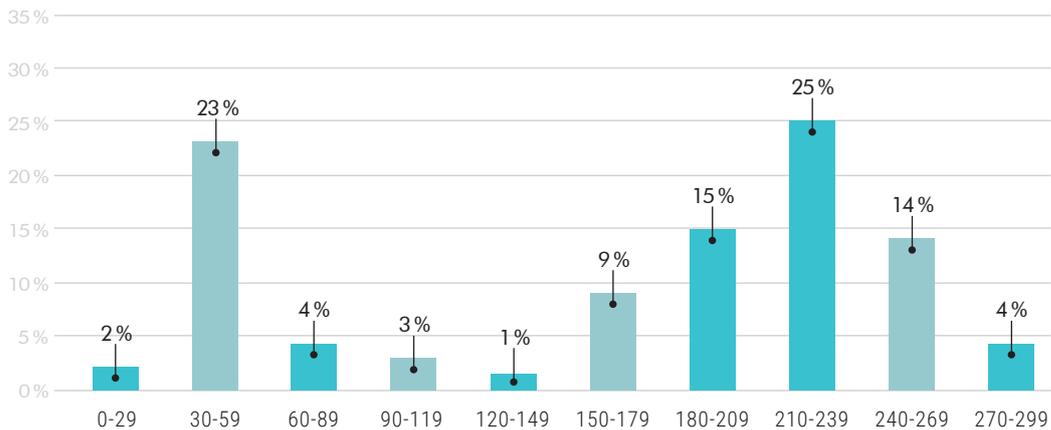
The average duration of a procedure - from submission of the initiative to adopting a decision at the last two sessions of SCPC in 2019 is **5 months and 14 days**. The minimum number of days for a complete procedure amounted to 42 days, while the maximum duration observed over the monitored period is 273 days.

This period encompasses a preparatory procedure

to determine whether there were any elements for the implementation of a procedure present, processing actions during the procedure for determination of the state of facts, and adoption of a decision at a public session of SCPC.

A detailed overview of the days needed to reach decisions by SCPC that are subject to analysis is given in Graph 7.

Graph 7. Overview of days to reach decisions by SCPC



Efficiency in decision-making

We can analyse the efficiency of SCPC on several levels. The first level of efficiency is the number of opened and closed cases. Of the data provided by the institution, out of a total of 1165 opened cases, 299 have been closed, which shows an efficiency of 26%. Briefly put, out of every fourth case, somewhat more than one is closed. This clearly points out the need for an increase in the number of employees of SCPC so that the number of closed cases could mark an increase.

Of course, the area where SCPC is active is not necessarily an area where speed is of crucial relevance, so it is understandable that not all cases are closed. However, if taking into consideration the data by outcome of the decision,

then it can be seen that in SCPC the cases in which no infringement is determined in the end last the longest. The most problematic is the situation where, on average, the cases which are stopped in the end due to not having enough data last for 115 days between the session when the case was opened and when it was closed. A similar situation is marked with cases where in the end it is determined that SCPC has no jurisdiction, which lasted for 150 days or 216 for two cases that it was determined that SCPC had already acted upon.

A detailed overview of the number of days spent for a decision by outcome / status of decision is given in Table 3.

Table 3. Comparison between days spent for a decision by outcome / status of decision

Decision Status	Average number of days
Insufficient data	115
Dismissed/ rejected	65
Confirmed/ adopted	76
Change in the factual condition	113
No jurisdiction	150
No corruption/ conflict of interest	51
Unfounded/ unconfirmed	162
Misdemeanour	74
Public warning	147
Outdatedness	33
There is indication of change in the factual condition	140
There are indications, but SCPC has no jurisdiction	63
Already proceeded by SCPC	216

This clearly points out the need for optimization of the working process so that these cases would last shorter. SCPC has to close the cases over which it has no jurisdiction administratively and very quickly and needs to quickly identify cases it had already acted upon. This way the working process of neither the members of the Commission nor of the specialized service will be burdened. This would make a compensation for the inefficiency caused by the lack of staff that SCPC has at its disposal.

All of this would help at improving the most important dynamics of efficiency, that is, at

determining the percentage of determined infringements out of the total number of closed cases. According to the monitoring records, in 115 out of 299 cases an infringement was determined - regardless of whether it was of a misdemeanour's (77) or criminal nature, and a request for determination of responsibility (38). SCPC cannot control this volume (38% of the cases it completed) because it is obliged to work upon complaints. However, by performing triage of non-existing cases through irrelevant complaints, SCPC will leave space for itself for more work upon its own initiative.

Monitoring the electoral process

The Commission has a series of competences at the time of elections, arising from the Law on Prevention of Corruption and Conflict⁶ of Interest, but also from the Electoral Code⁷. The Commission monitors the electoral process and, pursuant to legal provisions, acts upon suspicion of violation of laws. During elections, the Commission monitors several segments which are the most susceptible to corrupt activities during an electoral process. In accordance with the possibilities provided by law, the Commission has the power to monitor the lawfulness of disposing of budget funds and to monitor the lawfulness of financing election campaigns, to monitor potential bribery during elections and during the vote, it additionally monitors public procurement procedures, as well as potential pressure exerted by a political party during selection or appointment, or during dismissal of a person on an official, managing or other position or duty. In the event of suspicion of violation of a law, the Commission initiates a procedure for determination of the state of facts, and provided it

determines that the suspicion was founded, it shall be obliged to initiate a procedure for determination of responsibility before the competent authorities.

The Commission also collects information during the whole electoral process, and after completion of the elections, it prepares a special report on the conditions identified. The Commission submits the report to the Parliament of the Republic of North Macedonia and publishes it on its website.

According to the response of SCPC to a submitted request for access to public information, the Commission has not adopted a Methodology on monitoring the conditions in terms of financing the election campaign during the early parliamentary elections. As opposed to this data, SCPC in 2020 had the obligation by law to monitor the early parliamentary elections and the financing of the election campaign.⁸

⁶ Law on Prevention of Corruption and Conflict of Interest, Number of Official Gazette of the Republic of North Macedonia: 12/2019 (Article 32)

⁷ Electoral Code, Number of Official Gazette of the Republic of North Macedonia 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19, and 42/20) (Article 74)

⁸ Data obtained by means of a request for access to public information

Actions and decisions in cases of the State Commission for Prevention of Corruption

Pursuant to its Rules of Procedure, the Commission acts upon a complaint filed or upon its own initiative. The complaint may be filed in the form of an objection, proposal, request, or else.

The cases per filed complaint are allocated to the members of the Commission in alphabetical order of the surnames, and after every third allocation of cases to the members there is allocation of cases performed to the president of the State Commission.

A case is opened upon the Commission's own initiative based on a conclusion made at a session of the Commission - such cases are allocated in the same way as the cases based on complaints of citizens.

Cases opened on the basis of a complaint filed by a whistle-blower that has not been dismissed in an earlier procedure is documented as a case opened upon its own initiative.

Start of a procedure:

The procedure initiated upon own initiative is considered commenced by undertaking the first processing action by a member or the president of the Commission, whereas the procedure initiated by a complaint of citizens is subject to a preparatory procedure.

The preparatory procedure is a process where the

member to whom the case has been allocated checks whether SCPC has jurisdiction to act on the allegations in the complaint, whether the complaint is comprehensible and whether it contains sufficient elements and data to initiate a procedure. In the course of the preparatory procedure, the necessary data from the complainant is gathered within a reasonable time frame. If determined that SCPC does not have jurisdiction to act in the respective case or if it is concluded that the complaint does not contain the necessary information and allegations to initiate a procedure, SCPC adopts a decision to dismiss the complaint.

Initiation and course of a procedure based on a complaint:

Upon completion of the preparatory procedure, the member to whom the complaint has been allocated undertakes all processing actions that are at his/her disposal (requests for information and data from competent institutions and natural persons, inspection of the documentation, summoning of witnesses and taking statements by the person referred to in the complaint, summoning expert witnesses, etc.), with a view to determining the state of facts and reaching an adequate decision. The member of the Commission manages the procedure together with an official person from the Secretariat.

In the course of the whole procedure, the member

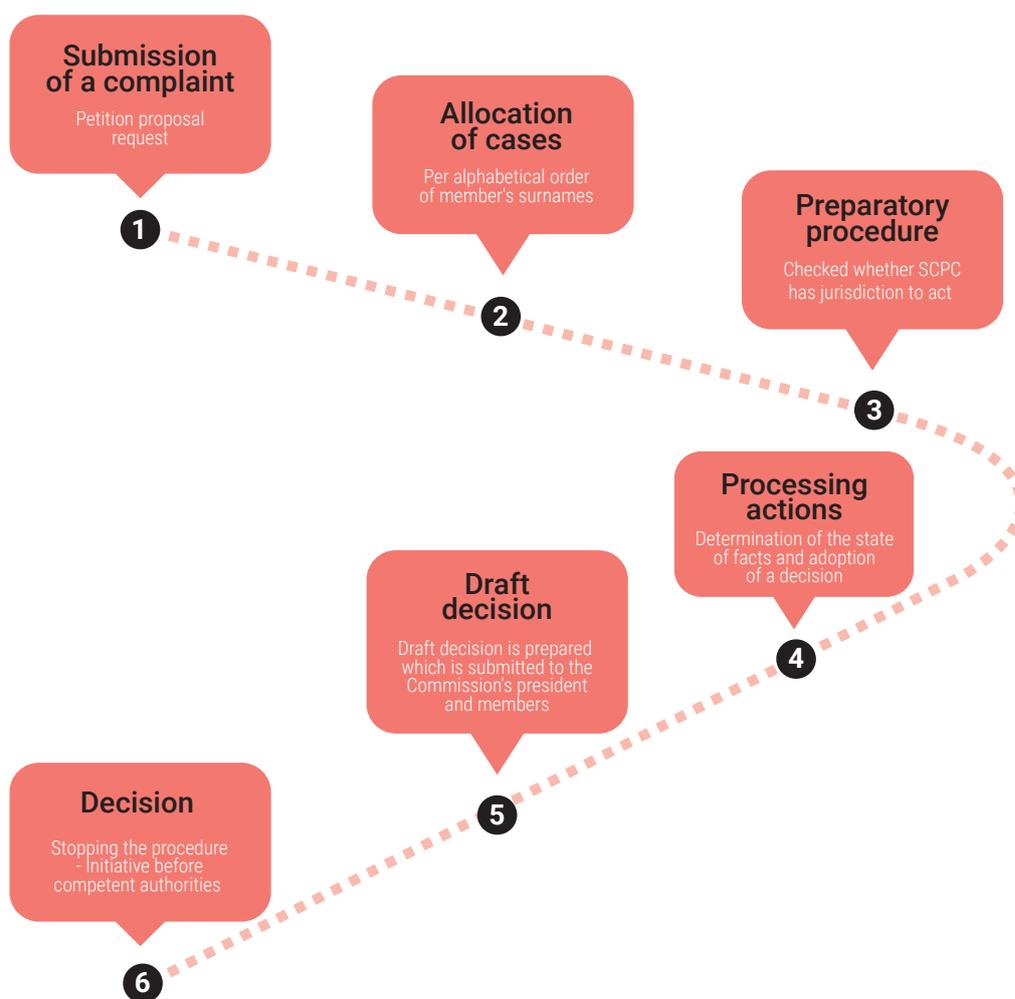
of the Commission in charge of the procedure informs the president and the remaining members of the college about the situation and the results of the processing actions.

Upon completion of the procedure in the case, the member in charge together with the official person prepare a draft decision which is submitted to the president and the remaining members of the Commission. The draft decision with accompanying documentation of the case is put on the agenda at a session of the State Commission.

Decision:

Upon completion of the procedure, the Commission adopts a decision at an open session. Provided that no violation of law is identified in the procedure, SCPC shall adopt a decision to stop the procedure and shall inform the complainant (if known). If a violation of legal provisions is determined and the Commission has jurisdiction over their application, it shall adopt a decision imposing a measure which is within its powers or shall raise an initiative before the competent authorities to undertake measures within their powers.

Graph 8. Course of SCPC procedure



Methodological approach

The main competences of the State Commission for Prevention of Corruption (SCPC) include it being a preventive body, having the function of preventing corruption, but also the power to initiate procedures before other institutions in the anti-corruption system. The new composition of the Commission is operational since 8 February 2019.

Decisions adopted by the State Commission for Prevention of Corruption are the basis for monitoring its operation. The process of monitoring SCPC within the project is conducted in two time stages. The first stage covers the period from the start of the operation of the Commission's new composition and the adoption of the first decisions in March 2019 to September 2019, whereas the second stage covers the period until the end of 2019, i.e. the remaining three months not covered by the first report from October to December 2019.

The methodology of monitoring the activities of SCPC and the responses of institutions that it has opened cases against, or the institutions where these cases were referred, was developed during a two-day workshop which was attended by representatives of the organisations which are part of the Platform for Fight against Corruption.

The data that this report is based on are gathered

from the website of the State Commission for Prevention of Corruption and are publicly available information and information obtained by submitting requests to SCPC for access to public information. The decisions adopted by SCPC at 2 sessions held over the period October to December 2019 were analysed. Responses provided by SCPC were also received to requests for access to public information sent in January 2020.

Analysis sample description:

Subject of analysis are the decisions adopted by the State Commission for Prevention of Corruption over the period October 2019 to December 2019, as well as the requests submitted to SCPC for access to public information. The total number of analysed decisions of the State Commission for Prevention of Corruption amounts to N=96. 21 requests were sent to the State Commission for Prevention of Corruption for access to public information in the course of January 2020, to all of which the institution responded within the legally stipulated deadline and these were a subject to analysis.

Variable description

Decisions were analysed by the field where intentions had been present for corruption or conflict of interest, by type of infringement, status of the procedure (what was decided by SCPC),

who had initiated the procedure before SCPC, and the duration of the whole procedure. A detailed overview of variables subject to analysis is given in table 3 through to table 6.

Table 4.	Field of decisions taken by SCPC
Judiciary	Courts, judicial authorities, public prosecutor's office, ombudsman, public ombudsman's office.
Health Care	Health care institutions, clinical centres, Republic Institute for Health Protection, Health Fund, etc.
Construction and environment	Civil engineering companies, environment management, impact on the environment, waste and landfill management, etc., infrastructural projects
Business and Finance	Private companies, banks, insurance
Media	Traditional and on-line media
Law Enforcement Agencies	Police, customs, financial police, etc.
Energy	Public enterprises and private companies operating in production, distribution and supply with electricity and heat energy
Education	Kindergartens, primary schools, secondary schools, higher education institutions
Concession Contracts	Contracts on the use of state/municipal land and/or property
Agriculture	Subsidies, Ministry of Agriculture
Minerals and Raw Materials	Mines, enterprises exploiting raw materials
Sports	Sports federations, sports organisations, youth and sports agencies
Other public Services	Public enterprises, public services providers
Local Self-Government	Municipalities, municipal councils, mayors, Association of the Units of Local Self-Government
Other	Decisions that cannot be categorized in any of the fields

Analysis sample description:

Table 5.	Type of infringement determined according to the decisions taken by SCPC
Impact on regulations	Cases involving impact on the creation of rules, policies, or standards with a view to meeting a private interest.
Public Finance	This means cases where with the purpose of meeting a private interest, public money is abused through public procurement, subsidies, purchase, etc.
Employment	This means cases where private interest is met through employment, as for instance cases of clientelism, nepotism and patronage.
Oversight	This means cases where private interest is met through exerting pressure on oversight structures or their systemic abuse, weakening, or abolishing.
Accumulation of functions	This means cases where one person executes or is appointed on two or several positions.
Control of interest and property	Assets lists, failure to submit, incompleteness
Other	Type of infringements that have not been previously encompassed by the categorization

Table 6.	Adopted Decision Status
Insufficient data	Нема доволно податоци и елементи за покренување постапка пред други органи
Dismissed/ rejected	Отфрлени и/или одбиени постапки
Confirmed, adopted, further procedure	Има потврда за прекршување на законот, предметот е во натамошна постапка
Change in the factual condition	Во текот на постапката се променила фактичката состојба, постапката е затворена
No jurisdiction	ДКСК нема надлежност за да преземе мерки
No corruption/ conflict of interest	Утврдено е дека нема корупција или судир на интерес
Неосновани, непотврдени	Неосновани или непотврдени се индициите кои се наведени во поднесената пријава
Unfounded, unconfirmed	Изречена е мерка, прекршочна пријава и платен налог
Misdemeanour	Случајот е отфрлен од страна на ДКСК
Dismissed	Постапката е ништовна
Null	The procedure is null
Public warning	A public warning measure is imposed
Without merit	It is determined that the procedure is without merit
Outdatedness	The case is closed due to case outdatedness
There are indications of corruption, but the factual condition has changed	There are indications of corruption/ conflict of interest, but the procedure is stopped due to a change in the factual condition during the procedure
Already proceeded by SCPC	The Commission has previously acted upon the case

Table 7.	Initiating a procedure
Own initiative	The procedure is raised upon SCPC's initiative
Anonymous complainant	The complaint is submitted by an anonymous complainant
Familiar complainant	The complaint is submitted by a familiar complainant
Findings of the media	The procedure is initiated following word of mouth from findings of the media
E-Mail	The complaint is received by e-mail
Ex-officio	The procedure is initiated by SCPC ex-officio
Unknown complainant	The complaint is submitted by an unknown complainant
Political party	The complaint is submitted by an unknown complainant
No information	No information in decisions how the procedure was initiated

Brief summary

The data that this report is based on are publicly available data from the website of the State Commission for Prevention of Corruption as well as information obtained by submitting requests to SCPC for access to public information.

This report analyses the last three months of 2019, during which SCPC held two sessions and reached **96 decisions**.

Most of the decisions are in the field of **health care -26%**, that is, they were initiated on the grounds of suspicion of unlawful activities in institutions providing health services and/or being a part of the health care system.

Data published on SCPC's website for the time frame October to December 2019 show that a large part of decisions do not contain any information on when the initiative had been launched and this information is not present in 38%. Nearly one third

of the decisions was adopted regarding initiatives launched by a **familiar complainant - 27%**, whereas only 1% of the decisions was adopted upon the Commission's own initiative and following word of mouth from findings of the media.

The duration of the procedure from filing an initiative to making a decision in the last two sessions of SCPC in 2019 is **5 months and 14 days**, whereby the minimum number of days for a complete procedure amounted to 42 days, while the maximum duration observed over the monitored period is 273 days.

SCPC may impose measures that are within its power, and during the monitored period SCPC imposed a misdemeanour's payment order in 24% of the decisions, but in not a single one of the decisions taken did the Commission impose a public warning measure on a person elected in direct elections.

Bibliography

The decisions of the State Commission for Prevention of Corruption are available at the following link:

<https://www.dksk.mk/index.php?id=113>

Law on Prevention of Corruption and Conflict of Interest, "Official Gazette of the Republic of North Macedonia": 12/2019

Rules of Procedure of the State Commission for Prevention of Corruption, adopted at the 20th session held on 05.08.2019. The document is available at the following link:

https://www.dksk.mk/fileadmin/user_upload/2019-3794-1.pdf

Electoral Code, "Official Gazette of the Republic of North Macedonia" No. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, and "Official Gazette of the Republic of North Macedonia" No. 98/19.

Ilievska, I. (2019). "First Report on the Operation of the State Commission for Prevention of Corruption". Institute for Democracy "Societas Civilis" - Skopje.

<https://idscs.org.mk>

Kocevski, G. (2019). „Towards accountable and transparent public administration by means of functional oversight institutions“. Foundation Open Society – Macedonia.

