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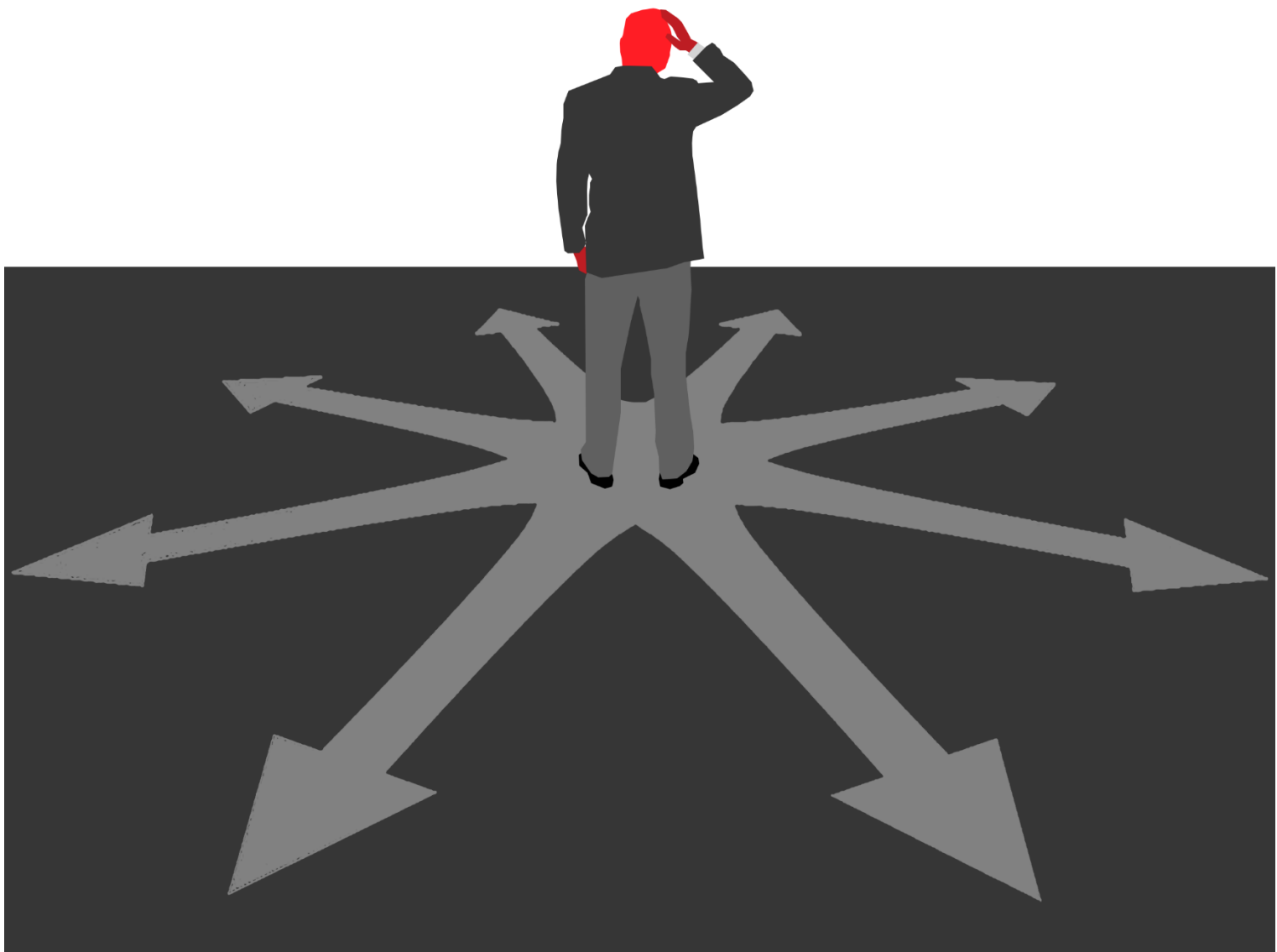
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# Analysis of The National Regulations That Regulate Issues Which are the Subject of The Code of Ethics for Members of Parliament in The Assembly of The Republic of North Macedonia



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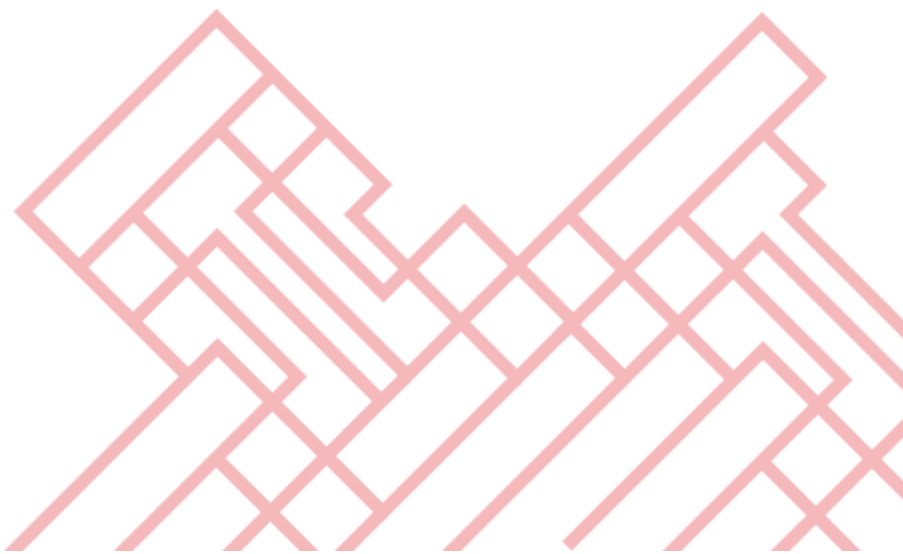
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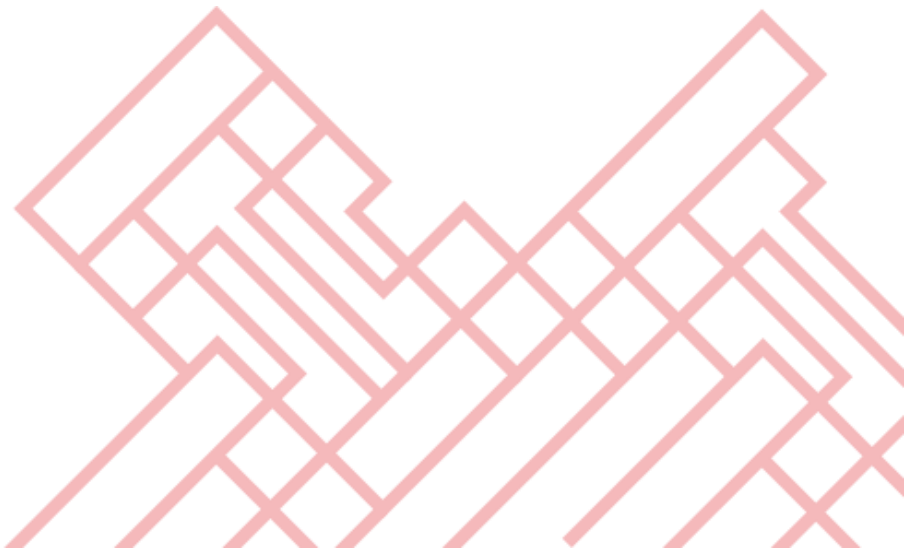


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# 1. Introduction

The work of the Parliament of the Republic of North Macedonia is regulated with:

- The Constitution of the Republic of North Macedonia,
- The Law on the Assembly of the Republic of North Macedonia ("Official Gazette of the Republic of Macedonia" No. 104/09 and "Official Gazette of the Republic of North Macedonia" No. 14/20) and
- The Rules of Procedure of the Assembly of the Republic of North Macedonia ("Official Gazette of the Republic of Macedonia" No. 91/08, 119/10 and 23/2013).

In order to establish ethical principles, rules and standards of behavior of the MPs, on the basis of Article 181 paragraph 4 of the Rules of Procedure, the Assembly of the Republic of Macedonia, at its session held on 11 June 2018, adopted a Code of Ethics for the Members of Parliament in the Assembly of the Republic of North Macedonia ("Official Gazette of the Republic of Macedonia" No. 109/18).

The purpose of the adoption of this Code is to preserve and promote the dignity of the MPs and of the Parliament as the highest representative house, which holds the legislative power in the country, and through the preservation and promotion of the reputation to contribute to increasing the trust of the citizens towards their representatives, to whom they transfer sovereignty and the right to make laws and other decisions on their behalf in the process of elections.

The adoption of the Code of Ethics of the Members of Parliament is the first attempt to regulate the matter that covers morality and ethics in the Assembly.

The historical overview of regulating ethics through codes shows that the Republic of North Macedonia does not have a rich tradition in adopting this type of acts. For example, the first code that was published in the "Official Gazette of the Republic of Macedonia" after its independence was the Code of Medical Deontology from 1995. The Code of Ethics for Civil Servants was adopted later, in 2001, whereas other codes followed, such as the ones for police officers, inspectors, and mostly professional organizations (lawyers, auditors, etc.).



In regard to the holders of public functions, with the exception of the Judicial Council, which has a code since 2010, the Parliament adopts such an act for the first time in 2018, after which in 2020, the Government of the Republic of North Macedonia also adopts a Code of Ethics for the Government members and the holders of public functions appointed by the Government.

The absence of tradition in the adoption of codes of ethics is understandable if we take into consideration that we belong to a classic continental legal system, in which laws and by-laws (decrees, rules and guidelines) are the basic type of general legal acts, which regulate all issues. From that aspect, there is no tradition to even adopt Rules of Procedure with a greater regulatory impact, so the Parliament is a pioneer in this matter, because the parliamentary Rules of Procedure are the most complete act of this kind.

This analysis will cover the regulations that are directly connected to the Code of Ethics of the Members of Parliament in the Assembly of the Republic of North Macedonia.

## 2. Analysis of the national regulation

The Code of Ethics of the Members of Parliament regulates the basic ethical principles, rules and standards of behavior of the MPs in the Assembly of the Republic of North Macedonia.

The analysis of the provisions in the Code points out to a direct connection of the Code with:

- Law on Prevention and Protection against Discrimination ("Official Gazette of the Republic of North Macedonia" No. 258/20);
- Law on Labor Relations ("Official Gazette of the Republic of Macedonia" No. 62/05, 106/08, 161/08, 114/09, 130/09, 50/10, 52/10, 124/10, 47/11, 11/12, 39/12, 13/13, 25/13, 170/13, 187/13, 113/14, 20/15, 33/15, 72/15, 129/15, 27/16, 120/18 and "Official Gazette of the Republic of North Macedonia" No. 110/19 and 267/20);
- Law on Protection against Harassment at the Workplace ("Official Gazette of the Republic of Macedonia" No. 79/13 and 147/15);
- Law on Free Access to Public Information ("Official Gazette of the Republic of North Macedonia" No. 101/19);
- Law on Civil Liability for Slander and Insult ("Official Gazette of the Republic of Macedonia" No. 143/12);



- Law on Prevention of Corruption and Conflict of Interests ("Official Gazette of the Republic of Macedonia" No. 12/19);
- Law on Lobbying ("Official Gazette of the Republic of Macedonia" No. 106/08 and 135/11);
- Law on Public Internal Financial Control ("Official Gazette of the Republic of Macedonia" No. 90/09, 188/13 and 192/15) and
- Law on the Use and Managing of State-Owned and Municipal-Owned Assets ("Official Gazette of the Republic of Macedonia" No. 78/15, 106/15, 153/15, 190/16, 21/18 and "Official Gazette of the Republic of North Macedonia" no. 101/19 and 275/19).

## 2.1 Law on Prevention and Protection against Discrimination

The MP performs the function without prejudice or discrimination in regard to gender, race, skin color, national and social origin, political and religious belief, economic standing and social position, respecting the freedoms and rights of the person and the citizen. This is stipulated in Article 4 of the Code of Ethics for the Members of Parliament. This means that the Code is directly correlated to the Law on Prevention and Protection against Discrimination, which was adopted in 2020, and which regulates the prevention and prohibition of discrimination, the forms and types of discrimination, the procedures for protection against discrimination, as well as the composition and work of the Commission for Prevention and Protection from Discrimination.

Considering the fact that in accordance with Article 3 paragraphs (1) and (2) of the Law, it is explicitly stated that the Law applies to all physical and legal entities, and it is implemented by all state bodies, the bodies of the local self-government units, legal entities with public competences and by all other legal and physical entities in the area of: work and labor relations; education, science and sports; social security, including the area of social protection, pension and disability insurance, health insurance and health care; judiciary and administration; housing; public information and media; access to goods and services; membership and activity in political parties, associations, foundations, trade unions or other organizations based on membership; culture and all other areas, which means that it also applies to the MPs in the Assembly of the Republic of North Macedonia.

According to the Law, MPs are obliged to refrain from calling on, inciting and instructing others to discriminate, as well as harass, that is, to behave improperly towards a person or a group of persons on discriminatory grounds that has the purpose of or brings about as a consequence violation of the dignity, or the creation of a threatening, hostile, humiliating or intimidating environment, approach or practice.



The law stipulates a procedure for protection against any form of discrimination, by submitting a petition to the Commission for Prevention and Protection from Discrimination, whose members are elected and dismissed by the Parliament of the Republic of North Macedonia. If the Commission concludes that there is discrimination, it recommends that it be removed, and the law also allows for judicial protection.

Taking into consideration Article 4 of the Code, the provisions of the Law on Prevention and Protection from Discrimination, and above all Article 64 paragraph 2 of the Constitution of the Republic of North Macedonia, as the highest legal act that cannot be derogated by law, which stipulates that "the MP cannot be held criminally responsible or be detained for expressing an opinion or for voting in the Parliament", it follows that the prohibition of discrimination has mostly a declaratory character, that is, it can apply to MPs only when they express opinions and take actions outside of the Parliament. Any attempt to limit the right to speech and voting of the MPs in the Assembly, even when directed at prevention of discrimination would be anti-constitutional.

## 2.2 Law on Labor Relations

Article 6 paragraph 4 of the Code, which stipulates obligation for the MP to respect the powers of other elected and appointed persons, civil servants and other employees of the Assembly Service, and not to exert pressure on them when they perform their working tasks, is related to the Articles 9 and 9-a from the Law on Labor Relations, which prohibit harassment on the workplace, sexual harassment and psychological harassment. However, it should be taken into consideration that the prohibition for harassment in accordance with the Law on Labor Relations is, above all, from the perspective of employer toward employee, so in the Assembly this obligation is primarily connected to the Secretary General, although it also covers the MPs.

Apart from harassment, from the perspective of the Law on Labor Relations, it is important to also take into account the prohibition of discrimination, stipulated in Article 6 of the Law, which in this case stipulates that the employer must not put the job seeker or the employee in an unequal position because of racial or ethnic origin, skin color, gender, age, health situation, i.e. disability, religious, political or other conviction, membership in trade unions, national or social origin, family status, property status, sexual orientation or for other personal circumstances. This obligation also applies primarily to the Secretary General, who is authorized to care for the implementation of the employment procedures as well as the procedures of the working relation with the employees.



## 2.3 Law on Protection against Harassment at the Workplace

The correlation of the Code of Ethics for the Members of Parliament with the Law on Protection against Harassment in the Workplace derives from Article 6 and Article 7 of the Code, which prohibit harm to the reputation of the other MPs and the reputation of the Parliament, and also prohibit insults, phrases, expressions or gesticulations that may offend or disparage other the other MPs or public office holders.

The MP is obliged to respect the rules of conduct for maintaining the order of the Parliament sessions, the working and other bodies of the Parliament, and especially to behave with attention and respect for the personality and reputation of each individual, as well as to take care not to harm the reputation of other MPs and the reputation of the Parliament, not to use words and expressions that will hurt or disparage other persons, the human dignity and cause hatred, intolerance and violence, not to interrupt the speaker or in any other way disrupt the course of the session.

All of these actions may fall under the definition of harassment which is found in the Law on Protection against Harassment at the Workplace. This Law regulates the rights, obligations and responsibilities of employers and employees in relation to the prevention of psychological and sexual harassment at place of work, the measures and procedure for protection against harassment at the workplace, as well as other issues related to the prevention and protection against harassment at the workplace.

Unlike the Law on Labor Relations, which refers only to the employer, this Law refers to everyone, that is, both to the employers and to the employees, candidates for employment, as well as persons engaged with contracts, who participate in the work of the employer.

The perpetrator who harasses someone at the workplace can be one or more persons with negative behavior regardless of their capacity - an employer in the capacity of a physical entity, a responsible person at an employer - a legal entity, an employee or a group of employees at an employer or a third party with whom the employee or the employer comes into contact while performing work at the workplace. This means that the Law applies to all MPs, as well as to all employees of the Parliament, who must not harass anyone in the workplace.

This Law prohibits any kind of harassment at the workplace, as well as abuse of the rights against harassment at the workplace.





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*Psychological harassment at the workplace*, in the context of this Law, is any negative behavior by an individual or a group, which is repeated, continually and systematically, which represents a harm to the dignity, integrity, reputation and honor of the employee, and causes a feeling of fear or creates discomfort, humiliation, whose final aim may be injury to the physical and mental health, compromising the professional future of the employee, termination of employment or leaving the workplace.

*Gender harassment*, in the context of this Law, is any verbal, non-verbal or physical behavior of gender nature, which aims at or represents a violation of the dignity of the candidate for employment or the employee, and which causes a feeling of fear or creates discomfort, humiliation.

In accordance with the law, the Parliament as an employer is obliged to familiarize the employees with the measures and procedures in regard to the protection against harassment in the workplace and with the rights, obligations and responsibilities of the employer and the employee during the process of employment as well as during the performance of work. A mediator is chosen in the function of protection against harassment, who is a neutral person that mediates between the sides in order to resolve their disputed relationship. The Assembly must have a list of mediators from among the employees.

Taking into consideration the fact that the Parliament has more than 50 employees, it is obliged to make a list of mediators who would mediate between the sides in case of workplace harassment. For damage caused to an employee of the Parliament as a result of workplace harassment, regardless of whether it is caused by an MP, an employee or a group of employees or a third party that comes into contact with the employee or employer while performing work at the workplace, each of these persons individually answers for the damage caused.

If the procedure for protection against discrimination is not successfully finished with mediation, then court protection is guaranteed.

All obligations from the Law on Protection against Harassment at the Workplace are also obligatory for the MPs, with the exception of expressed opinion in the Parliament, for which criminal liability is excluded according to Article 64 paragraph 2 from the Constitution.



## 2.4 Law on Free Access to Public Information

The MP performs his/her function conscientiously and responsibly, and in the course of performing his/her function he/she is open to the media regarding all issues, unless the issues in the jurisdiction of the Parliament are confidential or if the information is related to his/her private life or the private life of other persons. This is an obligation from Article 5 paragraph (2) of the Code of Ethics for the Members of Parliament.

The Law on Free Access to Public Information regulates the transparency in the work of the institutions and the free access to public information. This Law regulates the conditions, method and procedure for exercising the right to free access to information of public nature which are at the disposal of the state government bodies and other bodies and organizations determined by law, the municipal bodies, the city of Skopje and the municipalities in the city of Skopje, the institutions and public services, the public enterprises, legal and physical entities that have public powers established by law and activities of public interest, as well as the political parties in the area of income and expenditure. This Law also secures transparency and openness in the work of the information holders, and enables the physical and public persons to fulfill the right to free access to public information.

The definition of the holder of information of public nature entails that this refers to the institutions in the public sector, and not the holders of public functions. Hence, the transparency in the work, according to this Law, is an obligation of the Parliament of the Republic of North Macedonia, and not of each MP separately. Therefore, it is the obligation of the Parliament to fulfill the obligations of this Law, that is, to have an official appointed by an act of the Secretary General, who mediates the information of public nature that the Assembly has created or which the Assembly disposes of in accordance with its competences, and to enable access to all public information to the applicants. Thus, the obligation for transparency in the work of MPs, which derives from the Code, is not operationalized in practice, and it depends on the will of the MPs themselves, that is, it is reduced only to contact with the media, which, of course, is insufficient for full transparency in their work. On the other hand, neither is the obligation to be open to the media fully operationalized, that is, it is not possible to draw a clear conclusion as to what such an obligation means, and what the consequences for not respecting such an obligation are.



## 2.5 Law on Civil Liability for Slander and Insult

Article 6 and Article 7 from the Code of Ethics for the Members of Parliament, which were closely related to the Law on Protection against Harassment at the Workplace, are also related to the Law on Civil Liability for Slander and Insult. This Law regulates civil liability for harm caused to the honor and reputation of a physical or legal person by insult and slander. The Law guarantees freedom of expression and information as one of the significant foundations of a democratic society.

The restrictions on freedom of expression and information are legally regulated with determining strict conditions for civil accountability for insult and slander, in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 10) and the practice of the European Court of Human Rights. If, by applying the provisions of this Law, the Court cannot resolve a certain issue related to the determination of accountability for insult or slander, or considers that there is a legal loophole or conflict between the provisions of this Law and the European Convention for the Protection of Fundamental Human Rights, then the Court will apply the provisions of the European Convention for the Protection of Fundamental Human Rights and the positions of the European Court of Human Rights contained in its verdicts, on the basis of their precedence over domestic legislation.

The compensation for the damage to a physical or legal person, as well as the court procedure for compensation for the damage are based on the principle of legality, fairness and proportionality in determining the legal consequences of the established liability for insult or slander. The provisions of the Law on Obligation Relations, the Law on Civil Procedure and the Law on Enforcement shall apply in the procedure for determining liability for insult and slander, and compensation for damage, unless otherwise determined by this Law.

The following can be considered a holder of public office: an official, military, responsible person in a legal entity or a person who performs work of public interest, according to the meaning of those expressions determined by the Criminal Code. In accordance with the Criminal Code, an elected or appointed official in and by the Parliament of the Republic of Macedonia is additionally considered an official, that is, MPs are also included here, which means that they also have civil liability for slander and insult, according to the provisions of this Law.



The person who intentionally expresses demeaning opinion against another person in order to belittle him/her, with statement, behavior, publication or in any other way, harming his/her honor and reputation is held liable for insult. The accountability for insult exists even if such act belittles the reputation of a legal entity, a group of persons or a deceased person. According to Article 7 of the Law, however, there is no liability for insult, if the statement was given in the work of the Assembly of the Republic of North Macedonia, in the work of the councils of the municipalities and the city of Skopje, in the administrative or the judicial procedure or before the Ombudsman, unless the plaintiff proves that it was given maliciously or an opinion is conveyed which is contained in an official document of the Parliament of the Republic of North Macedonia, the Government of the Republic of North Macedonia, the administrative bodies, courts or other state bodies, an announcement or other documents of international organizations or conferences, an announcement or another document for public information issued by competent state bodies, institutions or other legal entities, an announcement or another official document from investigations for committed criminal acts or offenses. Here also, the exclusion of liability for slander follows from Article 64 of the Constitution.

On the other hand, a person will be held responsible for slander if he/she, intentionally in order to harm another person's honor and reputation, presents or conveys untrue facts for that other person with an established or obvious identity, which are harmful to his/her honor and reputation, to a third party, while knowing or being obliged to know or being able to know that they are untrue. Liability for defamation also exists if the untrue claim contains facts harmful to the reputation of a legal entity, a group of persons or a deceased person. Here, there is no exception, that is, this liability applies even to MPs.

## 2.6 Law on Prevention of Corruption and Conflict of Interests

The prevention of corruption and conflict of interests are a central topic of regulation of every ethical conduct code. Therefore, the Code of Ethics for the Members of Parliament contains provisions that refer to these issues.

The Code stipulates that, in his/her actions and activities, the MP is guided by the public interest, whereby he/she must not use his/her office to gain personal benefit or benefit for close people, or accept services, gifts or donations that would affect his/her activities and decisions in the work of the Parliament.



The MP is obliged to respect the rules that refer to the prevention of conflict of public and private interest.

In performing the function, the MP is obliged to respect the rules that refer to the prohibition of corruption, and to avoid any behavior which, according to domestic and international law, may be qualified as corruptive or as deviating from the rules of the Code.

The MP must not use his/her function to gain property or achieve other benefit for him/herself or others, must not seek and/or receive gifts and free services, and must not use his/her function or information received through his/her function for personal benefit or benefit for someone else.

All these issues are regulated in details in the Law on Prevention of Corruption and Conflict of Interests. This Law regulates the measures and activities for the prevention of corruption in exercising power, public competences, official duties and politics, the measures and activities for preventing conflict of interests, the measures and activities for preventing corruption in the course of performing work in the public interest of the legal entities related to the exercise of public powers.

Corruption, in the sense of this Law, means abuse of office, public power, official duty or position in order to achieve benefit, directly or through an intermediary, for oneself or for another. The term corruption, in the sense of this Law, also covers the terms:

- passive corruption - deliberate action of an official, who directly or through an intermediary, seeks or receives a benefit of any kind, for him/herself or for a third party, or accepts a promise for such a benefit, in order to act or refrain from acting in accordance with his/her obligations, or to exercise his/her powers contrary to official obligations and
- active corruption - intentional action of any person who, directly or through an intermediary, promises or provides benefits of any kind to an official, for him/her or for a third party, in order to act or refrain from acting in accordance with his/her obligations or to exercise his/her powers contrary to his/her official duties.

A conflict of interests refers to a situation in which an official person has a private interest that affects or may affect the impartial exercise of his/her public powers or official duties.

From the aspect of the Code, MPs must take into consideration Article 4 of the Law, which stipulates that *Everyone is obliged to act conscientiously, expertly, responsibly, honestly, efficiently and impartially in the performance of their function, public authority and official duty.*



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MPs, who at the same time are members and act on behalf of political parties, must also take into account Article 39 of the Law, according to which, a political party or a person acting on behalf of a political party must not exert pressure on a person in official, managerial or other function or duty during election or appointment, or dismissal, except in cases when the law determines that the President of the Republic, the Parliament and the Government of the Republic of Macedonia, or the bodies of the local self-government units are authorized to carry out election, appointment or give opinion or agreement. This is especially important if we take into consideration the competence of the Assembly to elect, appoint and dismiss officials.

In accordance with Article 40, a political party or a person acting on behalf of a political party must not exert pressure during employment, allocation and termination of an employment of an official.

In the course of the duration of his/her mandate, the Member of Parliament is obliged to respect the rules for the incompatibility of the office he/she performs with other functions or activities established in the Constitution and laws. The function of President of the Republic, President of the Government of the Republic of Macedonia, minister, MP, council member, mayor, judge, public prosecutor, public advocate, ombudsman and other functions elected or appointed by the Parliament of the Republic of Macedonia, the Government of the Republic of Macedonia or local self-government bodies are incompatible with each other.

A Member of Parliament cannot simultaneously perform the function of a manager or a member of a managerial body or a supervisory body in a public company, public institution or other legal entity that has state capital. A Member of Parliament cannot perform the function of a member of a management board or of another management body in a trading company or other legal entity that performs profit-making activity.

An MP, who, within three years from the day he/she stopped exercising public competences or duties, establishes a trading company or starts to engage in profit-making activity in the area in which he/she worked as an official, is obliged to notify the State Commission about this within 30 days.

The MP is obliged to report immediately, within ten days at the latest, to the State Commission any transaction with state property that enters into a legal relation with a legal entity founded by him/her or a member of his/her family or in which a member of his/her family is the responsible person.



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The MP is obliged to keep the state funds that are entrusted to him/her, and to dispose of them in the most economical way and for purposes determined in advance. It is forbidden to use the funds for private goals or to give them to other persons to use.

The MP must not influence the employment or promotion of a close person in the Parliament or in another state body or public enterprise, public institution or another legal entity that has state capita which is supervised by the Parliament.

The MP is obliged to notify the State Commission about any election, appointment or employment, promotion of a member of his/her family in a state body, local self-government body, public enterprise or another legal entity that has at its disposal state capital, within ten days from the day of the election, appointment, promotion or employment.

An MP must not illegally influence public procurement procedure, and must not receive gifts, except in the cases determined by the Law on the Use and Disposal of State-Owned Items and Municipally-Owned Items, referring to the amount and the manner.

In regard to performing public functions, powers and duties, an MP must not sign contract for sponsorship on his/her own behalf.

The MP is obliged to report any criminal offense related to corruption, as well as any violation of the provisions of this Law, which he/she has become aware of in the performance of his/her duty. The MP must not use his/her position by exerting influence on another person in a state body, public enterprise, public institution or another legal entity, in order for that person to make or not to make a certain decision, to do something, to omit or to endure something, for the purpose of having a benefit.

In his/her work, the MP is obliged to pay attention to a potential conflict of interests and to take measures to avoid it. In case of suspected conflict of interests, the MP is obliged to take all necessary measures to prevent the influence of his private interest or the private interest of another person on the performance of his powers and duties, and to inform his/her superior about it. In case of suspected conflict of interests, the MP is obliged to request an opinion from the State Commission.

When the MP learns about circumstances that indicate the existence of conflict of interests or potential conflict of interests, he/she is obliged to immediately demand to be exempted and to stop his activities. However, these provisions from the Law on Prevention of Corruption and Conflict of Interests, which refer to the prevention of conflict of interests, are not applicable to the MPs, because the Constitution of the Republic of North Macedonia does not allow that. This is understandable because, the Member of Parliament may have



some direct or indirect interest in every law that is being adopted by the Parliament, which would mean their constant exemption from voting on the laws.

The obligation from Article 82 of the Law on Prevention of Corruption and Conflict of Interests is also important for the MPs, according to which the MP is obliged to submit a declaration of assets and interests within 30 days at the latest from the day of election, that is, within 30 days to report any increase in his/her property, i.e. the property of a member of his/her family, if it has value that exceeds the amount of twenty average net salaries in the previous three-month period, as well as a change of interests.

## 2.7 Law on Lobbying

The Law on Lobbying is also related to the prohibition from Article 10 of the Code of Ethics for the Members of Parliament, which refers to receiving gifts. This Law regulates the principles of lobbying, the conditions for acquiring the status of a lobbyist, the registration of lobbyists, the maintenance of the Register of Lobbyists, the rights and duties of lobbyists, the activities that are not considered lobbying, the supervision of lobbying and the measures that can be imposed on the lobbyist for non-compliance with the provisions of this Law.

According to the definitions given in the Law, "lobbying" is an activity aimed at the legislative and executive authorities on central level, as well as at the local government, for the purpose of realizing certain interests in the process of adopting laws and other regulations. It is clear that lobbying has a direct relationship with the work of the MPs.

Lobbying is carried out voluntarily, on the basis of a written agreement between the lobbyist, that is, the legal entity where the lobbyist is employed and the person who ordered the lobbying, as sides in the lobbying process.

Lobbying is transparent and at any time the person who ordered the lobbying, as a side in the lobbying process, has the right to insight into the activities of the lobbyist, as well as into the work which are important for the lobbying.

The elected and the appointed persons, who professionally perform functions established by law in the legislative, executive and local government, must not carry out lobbying during their mandate. This means that the MPs cannot be lobbyists while they are MPs, and if they want to register as lobbyists within three years after the end of their mandate, they must accordingly notify the State Commission for the Prevention of Corruption.





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In accordance with the Law on Lobbying, the Register of Lobbyists is maintained by the Parliament of the Republic of North Macedonia, through the Secretary General.

## 2.8 Law on Public Internal Financial Control

Article 11 of the Code of Ethics for the MPs stipulates that the Member of Parliament, in performing his/her function, respects the budget and financial discipline with the purpose of properly managing the public funds, and shall not undertake actions for misappropriation of public funds. This is connected to the Law on Public Internal Financial Control, which regulates the system of public internal financial control, which covers financial management and control, internal audit and their harmonization, established in accordance with international standards for internal control and internal audit, as well as the conditions and the manner of conducting the procedure for passing the exam for authorized internal auditor in the public sector.

Nevertheless, in accordance with the provisions from the Law, the MPs should not have any jurisdiction in regard to the budget and financial discipline and managing public funds, because this is under the jurisdiction of the Parliament Speaker, the Secretary General and the administrative service in the Parliament, and above all the organizational unit for finances and the organizational unit for internal audit. Namely, these units are authorized for all matters related to financial management, as well as control, and the MPs should not have any influence on the financial management.

## 2.9 Law on the Use and Managing of State-Owned and Municipal-Owned Assets

The MP treats the funds used in the Parliament with due care, and undertakes measures to prevent the vanishing, loss or damage of the funds, and after the end of the mandate, he/she returns the borrowed funds to the corresponding service in the Parliament. Such obligation follows from Article 12 of the Code of Ethics for the Members of Parliament. It is directly related to the Law on the Use and Managing of State-Owned and Municipal-Owned Assets, which regulates the rights and duties of state authorities in regard to the procurement, use and managing of state-owned assets, which are used by the state authorities as long-term funds for the performing work and tasks in the country and abroad, except for the assets used by the diplomatic-consular missions of the Republic of North Macedonia.



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This Law regulates the rights and duties of the legal entities established by the state in regard to the use of real estate and movables, exchange of real estate and movables, sales and leasing of state-owned movable property.

From the subject of regulation, it is seen that the Law refers to the state bodies (including the Parliament of the Republic of North Macedonia), and not to the MPs.

The state bodies and the legal entities established by the state use real estate in accordance with their purpose and the works and tasks they perform. The state bodies and the legal entities established by the state are obliged to ensure the keeping and protection of the immovable property, their economical and appropriate use and the orderly and timely performance of the obligations arising from the use of the objects.

The state authorities and the legal entities established by the state use the movable property in accordance with their purpose and the works and tasks they perform. The movable items that are not harmful to the environment and health, and which the state bodies or the legal entities established by the state temporarily or permanently stopped using due to malfunction, technological incompatibility, technological obsolescence or are surplus, can be given away for use, be sold or exchanged.

The Government of the Republic of North Macedonia is responsible for managing the state-owned real estate and the movable property. This also refers to movable and immovable property of the Parliament of the Republic of North Macedonia.

Although the law does not contain obligations for the MPs, they are obliged to take care of the movable and immovable property that the Assembly, as their employer, has at its disposal. Otherwise, the provisions on material responsibility from the Law on Obligation Relations also apply to them, because the Constitution excludes criminal, but not material responsibility of the MPs for caused damage.



### 3. Recommendations

The subject of regulation of the Code of Ethics for the Members of the Parliament in the Assembly of the Republic of North Macedonia covers diverse matter that is not systematically regulated currently, which is why the Code itself is practically inapplicable.

In order to overcome this situation, the mentioned matter must be systematically approached, so that there would be no colliding of the Code with the other laws that regulate each of the fields covered by the Code. In order to overcome the present situation, which causes confusion, the following recommendations should be implemented:

1. To determine the place of Codes of Ethics in the legal system of the state. Namely, at the present moment, these acts, although general, do not and cannot have almost any legal consequences, because they are not adequately integrated into the system of general normative acts in the country. This issue is of essential importance, not only for the Parliament, but also for all other areas in which codes of ethical conduct are intended to be adopted.
2. Certain issues that are regulated in the Code of Ethics for the Members of Parliament do not have basis or elaboration in any law, and these primarily include the responsibility for movable property and financial discipline. Taking into consideration the fact that this matter is solidly regulated with laws, it is necessary to clearly and precisely regulate in the Code itself what is the intention of these ethical obligations of the MPs.
3. To adopt a completely new Code of Ethics for the conduct of the MPs, which will systematically regulate the principles of ethical conduct of the MPs, but also provide a clear mechanism for the responsibility of MPs for non-compliance with the provisions of the Code.
4. In order to prescribe an appropriate mechanism for the implementation of the Code, as well as in order to strengthen the status and the position of the Committee on Ethics in the Parliament, the possibility should be considered for it to be regulated by the Rules of Procedure of the Assembly or even by the Law on the Assembly of the Republic of North Macedonia.
5. To review the possibility of strengthening the measures against non-compliance with the Code that can be pronounced against the MPs, that is, to specify the way in which these measures shall be carried out, especially the measure of public



reprimand, which, if properly arranged, can be a stronger mechanism of pressure for compliance with the Code. Considering the fact that in the Constitution there is no obstacle for material responsibility of the MPs, this can also be an alternative way to respect the Code.

6. From the analysis of the Law on Prevention of Corruption and Conflict of Interests, it can be seen that in general the Law is clear in regard to the prevention of corruption for all officials, including the MPs. On the other hand, concerning the prevention of conflict of interests, additional specification is needed in the Law itself, which means conflict of interests among MPs, because directly or indirectly they have a conflict of interests in the adoption of almost every law. This is especially the case, if we take into account the fact that the Constitution does not stipulate the possibility of excluding an MP in the case of a possible conflict of interests. This is an essential issue that needs to be clarified, because currently, through the prism of the Law on the Prevention of Corruption and Conflict of Interests, the MPs violate the provisions of this Law on daily basis. Taking into consideration Article 64 of the Constitution, however, they cannot be held responsible for this violation of the Law. Therefore, a clear definition about what constitutes conflict of interests for an MP should be given, as well as about the overall procedure in the case of conflict of interests, if it can exist at all for the MPs.



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## Information about the project

The Swiss Program for Parliamentary support (PSP) will support the efforts of the Assembly of the Republic North Macedonia for independence through building consensus, structural reforms and building of capacities in institutional development the Assembly; in its legislative and supervisory roles and in his institutional transparency and accountability. PSP are implemented by the National democratic institute, the Institute for democracy "Societas Civilis" – Skopje and the Center for Change Management, for support of the strategic planning of The Assembly; for reforms in the management of human resources; for improved assessment the impact of regulation and processes for procurement; for commitment to open data and through the measurement of public opinion and the monitoring of efforts for reforms, including for greater civil engagement in the processes of creation policies.

## Information about CCM

The Center for Change Management (CCM) is a think tank, non-governmental organization that believes that strengthening the capacities of public administration, the civil sector, the business community, Euro-integration and investing in people are the main agents for change in society. This document was prepared by the CCM and refers to the application of the Code of Ethics for Members of Parliament in the Assembly of the Republic of North Macedonia in the direction of improving the system for parliamentary ethics in the Assembly of RNM.

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