

MECHANISMS USED BY THE EXECUTIVE AUTHORITIES TO ENSURE STAKEHOLDERS' PARTICIPATION IN POLICY-MAKING - EVALUATION AND RECOMMENDATIONS

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ABSTRACT

The purpose of this paper is to present existing mechanisms used by the executive authorities in the Republic of Macedonia to ensure stakeholders' participation in policy-making at national level, as well as to provide a critical overview of their application and give recommendations for improvements.

Participation implies information, consultations, dialogue and building partnership relations with the stakeholders. Analyses show that the level of systematic participation of stakeholders in policy-making in Macedonia is very low due to:

- shortfalls in the framework on stakeholders' participation;
- inadequate application of the existing mechanisms;
- tight timeframe for policy-making; and
- insufficient capacity and interest on the part of stakeholders and state administration bodies.

Although stakeholders' participation necessitates more resources, time and efforts in the initial stages of policy-making, in the later stages it contributes to creation of quality policies and influences the democratization processes.

The alternative solutions proposed in this document would lead to promotion of existing mechanisms and at the same time would contribute to strengthened democratic aspects of this process. They include:

- ▶ changes to the framework on stakeholders' participation (legal and technical solutions);
- ▶ ensuring adherent application and implementation of existing mechanisms;
- ▶ introducing reasonable timeframe for policy-making; and
- ▶ strengthening the capacity of stakeholders and state administration bodies.

The conclusion presented in this paper provides several recommendations under each alternative solution, and assesses their impact on the basis of two criteria: feasibility and democratic approach.

1. INTRODUCTION

The purpose of this paper is to present existing mechanisms used by executive authorities in the Republic of Macedonia to ensure stakeholders' participation in policy-making at national level, as well as to provide a critical overview of their application and give recommendations for improvements. The solutions proposed in this document would lead to promotion of communication between state administration bodies and stakeholders, and at the same time would contribute to strengthened democratic aspects of the policy-making process.

Well conceptualized, institutionally supported and adequately implemented policy-making process leads to greater support for measures, activities and regulations jointly agreed upon by the parties involved in this process.¹ Therefore, benefits from the participatory policy-making would be enjoyed by all parties involved. Although stakeholders' participation necessitates more resources, time and efforts in the initial stages of the policy-making process, it contributes to creation of quality policies, guarantees their legitimacy and broad acceptance, whereas stakeholders' exclusion from this process results in democratic deficit.²

For the purpose of this research, the analysis focuses on national level mechanisms for stakeholders' participation implemented by central level executive authorities. In that, stakeholders include citizens' associations and foundations, as well as natural persons and other legal entities that can be affected by the implementation of developed policies.³

According to the Code of Good Practice for Civil Participation in Policy Making, as well as the Code of Good Practice for Civil Participation in Decision-Making and depending on the participatory level, stakeholders' involvement in policy-making includes⁴:

- ▶ *Information*, as one-way dissemination of information by public authorities, which means that state administration bodies directly inform the stakeholders they have identified or the stakeholders are informed through the official websites of these bodies, by means of official publications and other public documents;

- ▶ *Consultations*, as a two-way process where public authorities ask the stakeholders to provide comments, views and opinions and feedback on specific policy or policy aspect related to a given topic or event. When initiating the consultation process, the authorities usually inform the stakeholders about current developments in a specific policy area;
- ▶ *Dialogue*, as a two-way communication, which can be initiated either by the stakeholders or the public authorities and is built on common interests related to a specific policy paper or a broader topic not related to an on-going process;
- ▶ *Partnership*, as the highest level of cooperation and mutual responsibility between representatives of the authorities and the stakeholders in all steps of the policy-making process, from agenda-setting, public policy formulation, decision-making and policy implementation and monitoring. Partnerships can include delegation of specific tasks to the stakeholders, such as service delivery, as well as participatory forums and establishment of joint decision-making bodies, including allocation of resources.

2. METHODOLOGY

For the purposes of this paper, an analysis was made of existing acts that regulate stakeholders' participation in policy-making⁵, as well as the implementation of these mechanisms. The literature⁶ consulted for this research shows that the perception of legitimacy is linked to participants' positions on the process's fairness. Representatives of stakeholders who perceive this process as legitimate and in compliance with the rules and regulations in place expressed stronger commitment to accept and promote the results in front of other stakeholders, even in cases when the regulations adopted as result of this process do not reflect their interests in entirety. Due to the small number of research studies conducted in the Republic of Macedonia on the methods for effective participation of stakeholders in drafting regulations and their limited scope, it can be concluded that there is a gap in scientific observations concerning this area.

Guided by six different types of semi-structured questionnaires, fourteen interviews were conducted with representatives of: citizens' associations and foundations, higher education institutions, organizations that implement international projects on this topic, executive bodies responsible for policy-making and the Parliament of the Republic of Macedonia. The interviews were conducted in the period September-December 2012. Analysis of responses obtained during the interviews enabled proper identification of problems and necessary interventions in the policies that govern this matter.

The framework on assessing alternative solutions, i.e., recommendations aimed to promote current policies on stakeholders' participation relies on two criteria – feasibility and democratic approach – as given later in this document. Feasibility is defined as minimizing the risks related to implementation of alternative solutions and are related to financial obstacles, legal obstacles, resistance to change, lack of knowledge and skills.⁷ Democratic approach is defined as openness, transparency and participation in policy-making, as well as provision of accurate, updated, available and user-friendly information, including other participatory mechanisms that would contribute to pro-active participation of stakeholders.⁸

Evaluation of existing practices used by executive authorities to ensure stakeholders' participation in this process is of limited scope, due to the following reasons:

- ▶ some mechanisms are relatively new and it is too early to assess their application and use;
- ▶ only limited data that are relevant and objectively verifiable are made available, while to a great extent the research relies on the perceptions of actors involved in this process.

3. PROBLEM DESCRIPTION

Low level of systematic participation of stakeholders in policy-making is a direct result of:

- ▶ shortcomings identified in the framework on stakeholders' participation;
- ▶ inadequate application of the existing mechanisms;
- ▶ tight timeframe for policy-making; and
- ▶ lack of capacity and interest on the part of stakeholders and state administration bodies.

In addition to information obtained by means of interviews, as presented later in this document, this problem was confirmed in the last two Progress Reports for the Republic of Macedonia, published by the European Commission (hereinafter: EC). These reports emphasize the need for a consistent approach to all-inclusive public participation in decision-making and establishment of adequate institutional mechanisms that would guarantee successful implementation.⁹ Moreover, Progress Reports noted that despite the obligation for organizing consultations with the stakeholders as part of *Regulatory Impact Assessment (RIA)* process, these obligations are not applied in systematic manner.¹⁰

2011 and 2012 Reports prepared as part of Support for Improvement in Governance and Management in the Republic of Macedonia (SIGMA)¹¹ include remarks that regulations are drafted in urgent procedures. On this account, consultations with stakeholders are on low level and result in lower quality of regulations.¹²

Globally accepted recommendations for promotion of the policy-making process indicate the need for adequate participation of stakeholders. OECD¹³ calls the governments of Member States and other states to:

- ▶ adhere to principles of open government, including transparency and participation in the regulatory process, to ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by regulation. This includes providing meaningful opportunities (including online) for the public to contribute to the process of preparing draft regulatory proposals and to the quality of the supporting analysis;

- ▶ integrate RIA into the early stages of the policy process for the formulation of new regulatory proposals. Clearly identify policy goals, and evaluate if regulation is necessary and how it can be most effective and efficient in achieving those goals;
- ▶ regularly publish reports on the performance of regulatory policy and reform programmes and the public authorities applying the regulations. Such reports should also include information on how regulatory tools, such as RIA, public consultation practices and reviews of existing regulations are functioning in practice.

3.1. FRAMEWORK ON STAKEHOLDERS' PARTICIPATION IN POLICY-MAKING (LEGAL AND TECHNICAL SOLUTIONS)

Civil participation in policy-making is guaranteed under the Constitution of the Republic of Macedonia¹⁴ and is regulated by several laws and other legal acts.

*Law on Organization and Operation of State Administration Bodies*¹⁵ regulates three methods on ensuring participatory processes.¹⁶ Furthermore, *Law on the Government of the Republic of Macedonia*¹⁷ provides a possibility for the President of Government to invite representatives of citizens' associations and foundations, institutions and other legal entities to participate in discussions and put forward opinions and proposals.¹⁸ According to the *Rules of Procedure of the Government*¹⁹, the Government should cooperate with the stakeholders²⁰ with a view to exercise their rights and interests, to deliberate on their proposals and initiatives at government's meetings and to adopt conclusions based on the reports submitted by government's working bodies and the opinions provided by competent line ministries.

*Strategy for Cooperation of the Government with the Civil Society 2012-2017*²¹ incorporates the principles contained in the Treaty of Lisbon and other documents of the European Union and the Council of Europe related to participation of civil society organizations (CSOs) and individual citizens in the democratic processes.

*Regulatory Impact Assessment Methodology*²² emphasizes stakeholders' participation as an indispensable mechanism in the process on drafting regulations that enables accumulation of additional input. This definition of the obligation for stakeholders' participation is valid from the process' onset, i.e., adoption of the Annual Work Programme of the Government of the Republic of Macedonia. In that, the Methodology defines techniques on stakeholders' participation in the legislative

process and includes Internet-based (electronic) consultations, as well as topic debates, public debates and workshops. Especially important is the fact that pursuant to the Rules of Procedure of the Government, the RIA a mandatory process,²³ i.e., all draft laws, except for those proposed to be adopted in urgent procedure, should include a regulatory impact assessment.

Decision on establishing working groups tasked to develop the National Programme for Adoption of the EU *Acquis* and the negotiation position papers for EU membership²⁴, anticipates the possibility for the working group's chair to invite representatives of the business and civil society sectors, as well as other experts outside the state administration to give input and contribute in specific issues. Using this possibility, working group tasked with the Chapter on Judiciary and Fundamental Rights, supported by a CSO²⁵, developed the rules of procedure, which include provisions on cooperation with the stakeholders (by dissemination of information, consultations, involvement of external members and partnership).

Another document that lays down the framework on stakeholders' participation are the *Guidelines on the manner of operation at the ministries for involving stakeholders in the procedure on legislation drafting*²⁶ (subject to RIA). These Guidelines stipulate that public insight shall be enabled in draft laws and in RIA reports, precise deadlines for consultations with stakeholders and public hearings on draft laws and RIA reports. According to the Guidelines, line ministries are obliged to regularly publish versions of draft laws and completed RIA forms, as well as reports from organized consultations on their websites and in the Single Electronic Register of Regulations (ENER) (www.ener.gov.mk). In addition, line ministries are obliged to publish information on the timeframe for drafting laws, information on responsible civil servants, contact address and e-mail addresses for submission of comments, deadlines for consultations with stakeholders, as well as methods on stakeholders' involvement.²⁷

Representative of the Ministry of Information Society and Administration (MISA) informed that this line ministry is competent to monitor whether all necessary documents and information are timely uploaded on the Internet platforms and whether sufficient time has been devoted for consultations. If that is the case, the State Secretary at MISA or the Minister is authorized to indicate the shortfalls in this process and to recommend removal of the item in question from the agenda. MISA is also competent to issue opinions on RIA for draft laws prior to their submission to the Government for adoption. Although this is a new instrument, MISA, in the capacity of RIA coordinator,²⁸ has somewhat contributed to improved situation; however, in the words of the interviewed representative, (MISA's) practices on indicating shortfalls in the procedure related to compliance with the obligations stipulated in the Guidelines do not imply automatic removal of the item from the government's

agenda, especially for regulations for which measures on guaranteeing adequate stakeholders' participation in the policy-making process have not been implemented.

In order to further improve cooperation with the civil society, the *Code of Good Practices for Civil Participation in the Policy-Making Process*²⁹ was adopted in 2011. This document promotes the role of the Department for Cooperation with the Civil Society³⁰ at the General Secretariat of the Government as the key organization unit tasked with civil society cooperation.³¹ In order to provide transparent information and consultations with the civil society, the General Secretariat designed a specific Internet platform (www.nvosorabotka.gov.mk). Moreover, the Secretariat is responsible for coordinating the inter-institutional network comprised of people nominated by all line ministries as contract persons responsible for cooperation with the civil society.³² According to the Code of Good Practices, the Department for Cooperation with the Civil Society is obliged, within a deadline of 30 days from receiving a proposal by CSOs related to a published notification (on above-indicated Internet platform) to publish feedback from the line ministry and/or state administration body on the relevance and acceptance of civil society proposals. The Code of Good Practice stipulates announcement of call for civil society contribution in developing the Government's Work Programme for the next calendar year. According to information obtained from the General Secretariat, the number of civil society proposals in developing the Government's Work Programmes for 2012 and 2013 was very low. Interviewees from the civil society indicated that the main reason behind the low number of proposals is the inadequate deadline for submission of proposals (September in the current year for the next year's programme), i.e., the fact that when developing their initiatives, the civil society relies on data included in the European Commission's Progress Reports, which are published in October.

In order to enable a simpler and more streamlined procedure for citizens to comment and suggest, and at the same time influence the policy-making process, the Internet platform *e-demokratija.mk* was established.³³ This platform was announced as early as the *2005 National Strategy for Information Society Development*³⁴, but it was actually established in February 2012.³⁵ It should be noted that MISA has consciously excluded .gov extension from this Internet platform (*e-demokratija.mk*) with a view to reflect state institutions' willingness to build partnership relations with the stakeholders. In addition to uploading data on final and draft strategic documents, this Internet platform also hosts forum-based debates and blog contents from advanced users (i.e., associations and foundations, chambers of commerce, trade unions, companies and other legal entities). In that, advanced users enjoy full autonomy to establish own blogs, create contents and facilitate on-line debates, without being subjected to administrator's approval.³⁶

Contrary to e-demokratija.mk, ENER is oriented towards provision of access to draft legislation, accompanied with RIA documents, as well as the possibility to make comments and proposals and to announce unofficial consolidated versions of relevant laws. However, in the opinion of some civil society representatives, parallel existence of these two Internet platforms with similar function and purpose is rather confusing, especially for the broader public.

3.2. APPLICATION OF THE EXISTING MECHANISMS

High share of interviewees from the civil society expressed criticism for insufficient control of compliance with the mechanisms anticipated for stakeholders' participation.

Although e-tools, as described above, should contribute to greater transparency on the part of institutions and process' efficiency, during the interviews conducted with CSOs and foundations³⁷ it was emphasized that there are certain shortfalls in stakeholders' involvement, both in terms of *non-compliance with law-stipulated deadlines and in terms of failure to update data*. Draft Law on Amending the Law on Property Taxes, Draft Law on Amending the Law on Tax Procedure, and others³⁸ are just some examples where the above-indicated shortfalls were noted. CSOs identified cases where draft laws are not published in ENER and on e-demokratija.mk, or where they are not adequately categorized as "regulation in preparation" and "adopted regulation" (i.e., "closed" and "open"), which creates certain distrust in these platforms among their users. Non-publication of all versions of draft laws additionally complicates monitoring of the legislative procedure. Also, cases were noted *where no feedback was provided*, for example in relation to the Energy Law, where a civil society representative³⁹ published in ENER comments and conclusions based on an analysis, but was not given any feedback. It should be stressed that *inconsistency in announcements made under the category "regulations", as well as "proposed regulations"* had been noted. Typical example is that these categories include significant number of consolidated legal texts which should be uploaded under a different category.⁴⁰ Furthermore, *announcements made by the line ministries are erroneous*, for example, they include test-announcements that do not contain the text of the regulation in question.⁴¹ Certain *inconsistencies were noted in relation to documents published as accompanying material*. For example, certain reports on consultations organized with the stakeholders include information that consultations were made only with state administration bodies or the report in question includes only a call for consultations.⁴²

Civil society interviewees identified a series of technical shortfalls of Internet platforms.⁴³ Having in mind that Macedonia is a candidate country for EU membership, interviewed representatives of the civil society supported the idea that mechanisms for stakeholders' participation should be structured according to the accession negotiations chapters.⁴⁴

As regards *e-demokratija.mk*, in the opinion of MISA's representative, positive is the fact that more than 80% of registered users are actively using this platform, and as high as 50% of them are monitoring platform activities on daily basis and provide self-initiated suggestions for improvements. However, a brief overview of the platform provides the conclusion that the number of registered users is relatively low, and there is insufficient utilization of possibilities to comment and initiate forum debates, which should be the key added value of this platform.

Inconsistencies appear also in regard to compliance with the obligation on organizing consultations as part of RIA, and often the obligation for RIA is not complied with. According to data obtained from MISA, when comparing data on laws that were subject to RIA (i.e., laws for which relevant RIA reports were developed), against the total number of laws adopted in the respective reporting period, in the second semester of 2011 this share accounts for 41%, while in the first semester of 2012 this share accounts for 48%. Therefore, an increase of 7% was noted under the number of laws that were accompanied with RIA reports, which is indicative of the progress made in implementing RIA once it was transferred under the competences of MISA. However, it should be noted that line ministries do not fully comply with RIA obligations and do not use the possibility to remove incomplete items from the government's agenda after MISA has indicated inconsistencies in the RIA process. This is particularly important having in mind that the regulation on RIA anticipates participation of stakeholders in the early stages of the policy-making process, i.e., as early as the needs-assessment stage, instead of after draft laws are already developed.

As regards *nvosorabotka.gov.mk*, previous experiences and data obtained from the General Secretariat related to the open call for civil society contribution in development of the Government's Work Programmes for 2012 and 2013 show also that there is inadequate utilization of these possibilities. Namely, only 4 civil society proposals were received on the call for contribution related to the 2012 work programme, and their number is 5 in regard to the 2013 work programme. In the opinion of our collocutor, in 2011, the problem with low civil society response was the call's invisibility.⁴⁵ However, CSOs indicated that the reason behind the small number of proposals is the institution's non-transparency, in particular related to feedback on whether stakeholders' proposals have been accepted by the line ministry or not.

Six of the total of eleven interviewees from the civil society stated that stakeholders' participation is unsatisfactory and usually implies a one-way communication, which, in turn, makes the process less effective. In addition, even when there is two-way communication, it is usually reduced to "disclosing a final document for comments", and CSOs are rarely directly involved in development of documents – as early as needs-assessment and legislation drafting stages. Even the establishment of mixed working groups that include representatives of different stakeholders is non-transparent, and often, once these working groups are established, no information is provided as to their work and composition.⁴⁶ In the opinion of one interviewee from the civil society, "stakeholders' participation depends on the good will of certain individuals at the state administration body competent for the given policy area, his/her awareness about the need to ensure participation, as well as personal relations with certain actors from the civil society". Hence, it does not come as surprise that five of eleven civil society interviewees stated that direct communication with competent authorities is a better solution compared to use of above-indicated centralized platforms, such as ENER, e-demokratija.mk and nvosorabotka.gov.mk.

3.3. TIMEFRAME FOR POLICY-MAKING

In order to illustrate the tight timeframe for policy-making, it should be indicated that in April 2011 the Parliament of the Republic of Macedonia has adopted more than 100 laws within a period of less than two weeks, 93 of which were enacted on one plenary session at the Parliament.⁴⁷

This reality does not correspond with the principle on rule of law and is in direct collision with the declared commitments for consultations with all stakeholders in the policy-making process. Faced with the pressure to propose legal solutions within extremely short deadline, it is impossible for state administration bodies to organize and implement quality consultations with stakeholders. In the opinion of CSOs, they do not have the analytic capacity to process the great scope of legislative activities, consult the groups whose interests they are representing and formulate credible opinions and recommendations that would protect these interests. All these might prevent the person responsible for certain matters to engage in participatory policy-making.

In addition, a trend was noted on frequent adoption of laws in urgent (fast-track) procedures. In the opinion of one interviewee from the civil society, adoption of majority laws does not require fast-track procedure, but the label of urgency is used as an alibi for disrespecting most obligations related to consultations and public hearings/debates.

As a result of fast-track legislation adoption, EC's 2011 Progress Report for the Republic of Macedonia noted the increased number of annulments of new legislation from 5% to nearly 30% of disputed legislative acts.

Hence, one of the key recommendations in SIGMA's Report indicates that it is better to focus on developing small number of well-conceptualized laws⁴⁸ and policies that would be in the interests of citizens, rather than to continue the hyper-production of laws and their fast adoption.

3.4. CAPACITY AND INTEREST OF STATE ADMINISTRATION BODIES AND STAKEHOLDERS

When initiating participatory processes, one must give due consideration to the capacity of parties involved. For the mechanism on stakeholders' participation to produce relevant results, the state administration bodies must understand the concept of participation, the need for participatory policy-making and benefits thereof. Interviewees from the civil society raised serious questions about the existence of such understanding.

Lack of administrative, institutional and financial capacity of state administration bodies to organize qualitative participatory processes could lead to serious problems in identifying the actual stakeholders and guaranteeing their participation in the process. As for the administrative capacity, attention should be focused on the importance of continuous promotion of relevant knowledge and skills of civil servants, especially the heads of working bodies tasked to draft various types of regulations. For example, one CSO indicated the issue of low culture at state administration bodies in terms of using the Internet and contemporary technologies, while most interviewees from the civil society expressed an opinion that state administration bodies lack systematic approach and do not invest sufficient efforts in identifying key and legitimate actors in the relevant policy area, which should be involved in these processes. This could be a result of the insufficient "institutional memory" that is an important factor for successful cooperation of state administrative bodies and stakeholders in the relevant field. In that, failure to regularly update/publish the register of CSOs additionally complicates the situation.⁴⁹ Having this in mind, certain form of grouping of stakeholders based on topic or geographical area would be of great importance and would assist state institutions to adequately lead and direct participatory policy-making processes.⁵⁰ The Government's Strategy for Cooperation with the Civil Society⁵¹ takes due notice of this fact and indicates it as a major challenge. As regards the financial capacity, it had been noted that state

administration bodies do not allocate the minimum financial resources needed to organize solid and comprehensive consultations.⁵²

Low response on the part of CSOs to calls for contribution in developing the Government's Work Programme for 2012 and 2013 could be a result of lack of capacity noted among stakeholders. In the opinion provided by the General Secretariat, the reason behind the low participation rate is identified in the lack of interest among stakeholders.⁵³

MISA representative stressed the need for increased awareness among state administration bodies on the importance of consultations, as well as the need for public campaign and training for citizens concerning the use of participatory mechanisms. On the other hand, the civil society criticized the disinterest demonstrated by state administration bodies in publishing reports from consultations organized as part of the policy-making process. Nevertheless, one interviewee from the civil society admitted that CSOs are not interested in pressuring the institutions to publish a report on comments provided by stakeholders, which results in their inability to significantly affect institution's effectiveness. Interviewees from the civil society stressed the need for increasing public awareness on this issue, by means of public campaigns, training and joint meetings. Moreover, they indicated the need for their contribution in building partnership relations with the institutions, to inform them about their work and to involve them in planning and implementation of their respective project and program activities.

4. ALTERNATIVE SOLUTIONS

Having in mind the reasons behind the low participation of stakeholders in policy-making processes, primarily shortfalls identified in regard to the framework, inadequate application of the existing mechanisms, accompanied with numerous and complex (Internet-based) participation mechanisms, the tight timeframe for policy-making, as well as the insufficient capacity and interest of stakeholders, the following alternative solutions are relevant with a view to improve the situation:

- ▶ changes to the framework on stakeholders' participation;
- ▶ adherent application and implementation of the existing mechanisms;

- ▶ introducing a reasonable timetable for policy-making processes; and
- ▶ strengthening the capacity of stakeholders and state administration bodies.

Each of these alternative solutions is followed up with relevant recommendations given in Tables 1 to 4. When assessing the alternative solution, the following two criteria were applied:

- ▶ *Democratic approach.* In this case, the democratic approach can be assessed against the indicators on **openness** (annual number of documents published on e-demokratija.mk; annual number of draft laws published in ENER; annual number regulations published in ENER); **transparency** (annual number of previous versions of draft laws published in ENER); and **participation** (number of civil society proposals in developing the government's work programme; annual number of comments and ideas posted on e-demokratija.mk; annual number of newly registered users with comments and ideas on e-demokratija.mk; annual number of visits to forums hosted on e-demokratija.mk).⁵⁴ All indicators are assigned relevant values for the current situation together with an assessment of the possible impact the alternative solutions can have. Descriptive assessments include: positive impact (1 point), negative impact (-1 point) and neutral impact (0 points), and are given in Tables 1 to 4. The higher the number of points assigned to an alternative solution, the greater its impact in terms of improved democratic approach. All alternative solutions can be assigned a maximum of 8 and a minimum of -8 points.
- ▶ *Feasibility.* In Table 5, each recommendation made under the alternative solutions is assessed against the relevant category of risk and its probability. Assessments are given in descriptive manner (small, great and medium impact; small, great and medium probability) and are assigned relevant points: small-small = 2; small-medium and medium-great = 1; small-great and great-small = 0; medium-medium = 0; medium-great and great-medium = -1; great-great = -2.⁵⁵ The higher the number of points, the greater the recommendation's feasibility. Last row in Table 5 provides the average values for each alternative solution. Each recommendation and each alternative solution can be assigned a maximum of 8 and a minimum of -8 points.

Table 1		
Impact on indicators for democratic approach of alternative solution 1		
Reason 1	Shortfalls in the framework on stakeholders' participation (legal and technical solutions)	
Alternative solution 1	Changes to the framework on stakeholders' participation	
Recommendations	<ol style="list-style-type: none"> 1. To stipulate an obligation for the General Secretariat or the President of Government to remove the item in question from the agenda after MISA has established non-compliance with the Guidelines on the method of operation at line ministries to involve stakeholders in the procedure on legislation drafting. 2. To introduce mandatory RIA for secondary legislation; to establish objective criteria on urgency of draft regulation and to implement limited consultations for draft laws whose adoption is labelled as urgent; 3. To extend the deadline for submission of civil society proposals on the call for contribution in developing the governments' work programme until 15 November; 4. To centralize the Internet platforms (integrate ENER and e-demokratija.mk) 	
Indicators on democratic approach	Current situation	Impact
Openness	<ul style="list-style-type: none"> - annual number of documents published on e-demokratija.mk: 83 - annual number of draft laws published in ENER: 271 in 2012 - annual number of regulations published in ENER: 169 in 2012 	<ul style="list-style-type: none"> - annual number of documents published on e-demokratija.mk: positive impact (1) - annual number of draft laws published in ENER: positive impact (1) - annual number of regulations published in ENER: neutral impact (0)
Transparency	<ul style="list-style-type: none"> - annual number of previous versions of draft laws published in ENER: 0 in 2012 	<ul style="list-style-type: none"> - annual number of previous versions of draft laws published in ENER: positive impact (1)
Participation	<ul style="list-style-type: none"> - number of civil society proposals in developing the government's work programme: 5 in 2012 - annual number of comments and ideas posted on e-demokratija.mk: 131 - annual number of newly registered users with comments and ideas on e-demokratija.mk: 50 - number of visits to forums hosted at e-demokratija.mk: 305535 	<ul style="list-style-type: none"> - number of civil society proposals in developing the government's work programme: positive (1) - annual number of comments and ideas posted on e-demokratija.mk: positive (1) - annual number of newly registered users with comments and ideas on e-demokratija.mk: positive (1) - number of visits to forums hosted at e-demokratija.mk: positive (1)
Total for the alternative solution		7

Impact on indicators for democratic approach of alternative solution 2	
Reason 2	Inadequate application of the existing mechanisms
Alternative solution 2	Ensuring adherent application and implementation of the existing mechanism
	<ol style="list-style-type: none"> Officials and high-level civil servants to be apply a pro-active approach to encourage mandatory publication of all draft laws and RIA reports in ENER and on the ministries' websites; to ensure compliance with deadlines on stakeholders' participation and the obligation on providing feedback to stakeholders, as well as to introduce state monitoring on compliance with these obligations; To utilize the possibility for removing items from the government's agenda related to draft laws for which RIA was not performed or is incomplete. To involve representatives of stakeholders in the early stage of policy-making and drafting of regulations, as well as to publish the lists of ministry employees appointed for cooperation with the civil society; State administration bodies to apply a pro-active approach in identifying and communicating with stakeholders, as well as to introduce registers of organizations working in a given area. To make technical improvements to the Internet platforms (to structure e-demokratija.mk and ENER according EU accession negotiations chapters; to appoint staff responsible for updating documents published on the Internet platforms; to introduce the possibility for automatic notifications for newly-uploaded documents, as well as to include a possibility for stakeholders to post more comprehensive and detailed comments in ENER; to introduce links to on-going hearings at the Parliament on documents published on the Internet platforms).
Recommendations	
Indicators on democratic approach	Current situation
Openness	<ul style="list-style-type: none"> - annual number of documents published on e-demokratija.mk: 83 - annual number of draft laws published in ENER: 271 in 2012 - annual number of regulations published in ENER: 169 in 2012
Transparency	<ul style="list-style-type: none"> - annual number of previous versions of draft laws published in ENER: 0 in 2012 - number of civil society proposals in developing the government's work programme: 5 in 2012
Participation	<ul style="list-style-type: none"> - annual number of comments and ideas posted on e-demokratija.mk: 131 - annual number of newly registered users with comments and ideas on e-demokratija.mk: 50 - annual number of visits to forums hosted at e-demokratija.mk: 305535
Total for the alternative solution	Impact
	<ul style="list-style-type: none"> - annual number of documents published on e-demokratija.mk: neutral impact (0) - annual number of draft laws published in ENER: positive impact (1) - annual number of regulations published in ENER: neutral impact (0) - annual number of previous versions of draft laws published in ENER: positive impact (1) - number of civil society proposals in developing the government's work programme: positive impact (1) - annual number of comments and ideas posted on e-demokratija.mk: positive impact (1) - annual number of newly registered users with comments and ideas on e-demokratija.mk: positive impact (1) - annual number of visits to forums hosted at e-demokratija.mk: positive impact (1)
	6

Impact on indicators for democratic approach of alternative solution 3		
Reason 3	Tight timeframe for policy-making	
Alternative solution 3	Introduce a reasonable timeframe for policy-making	
Recommendations	1. To adjust the timeframe on developing the Government's Work Programme and NPAA to the capacity of state administration bodies for participatory policy-making.	
Indicators on democratic approach	Current situation	Impact
Openness	<ul style="list-style-type: none"> - annual number of documents published on e-demokratija.mk: 83 - annual number of draft laws published in ENER: 271 in 2012 - annual number of regulations published in ENER: 169 in 2012 	<ul style="list-style-type: none"> - annual number of documents published on e-demokratija.mk neutral impact (0) - annual number of draft laws published in ENER: neutral impact (0) - annual number of regulations published in ENER: neutral impact (0)
Transparency	<ul style="list-style-type: none"> - annual number of previous versions of draft laws published in ENER: 0 in 2012 	<ul style="list-style-type: none"> - annual number of previous versions of draft laws published in ENER: positive (1)
Participation	<ul style="list-style-type: none"> - annual number of civil society proposals in developing the government's work programme: 5 in 2012 - annual number of comments and ideas posted on e-demokratija.mk: 131 - annual number of newly registered users with comments and ideas on e-demokratija.mk: 50 - annual number of visits to forums hosted at e-demokratija.mk: 305535 	<ul style="list-style-type: none"> - annual number of civil society proposals in developing the government's work programme: positive (1) - annual number of comments and ideas posted on e-demokratija.mk: neutral (0) - annual number of newly registered users with comments and ideas on e-demokratija.mk: neutral (0) - annual number of visits to forums hosted at e-demokratija.mk: neutral (0)
Total for the alternative solution		2

Impact on indicators for democratic approach of alternative solutions 4		
Insufficient capacity and interest of stakeholders and state administration bodies		
Strengthen the capacity and interest of stakeholders and state administration bodies		
Recommendations	1.	To build the capacity by means of continuous training, public campaigns and information activities to familiarize different categories of stakeholders and state administration bodies on the mechanisms for participatory policy-making, their possibilities and the importance of stakeholders' involvement
	2.	To develop networks of stakeholders around topics of interests or around negotiation chapters with EU, as well as registers of stakeholders interested in particular areas
	3.	To establish an advisory body tasked to improve cooperation, dialogue and encourage partnership relations between civil society and state administration bodies
	4.	State administration bodies to allocate the minimum financial resources needed for implementation of participatory mechanisms.
Indicators on the democratic approach	Current situation	Impact
Openness	<ul style="list-style-type: none"> - annual number of documents published on e-demokratija.mk: 83 - annual number of draft laws published in ENER: 27.1 in 2012 - annual number of regulations published in ENER: 169 in 2012 	<ul style="list-style-type: none"> - annual number of documents published on e-demokratija.mk: positive impact (1) - annual number of draft laws published in ENER: positive impact (1) - annual number of regulations published in ENER: neutral impact (0)
Transparency	<ul style="list-style-type: none"> - annual number of previous versions of draft laws published in ENER: 0 in 2012 	<ul style="list-style-type: none"> - annual number of previous versions of draft laws published in ENER: positive impact (1)
Participation	<ul style="list-style-type: none"> - number of civil society proposals in developing the government's work programme: 5 in 2012 - annual number of comments and ideas posted on e-demokratija.mk: 131 - annual number of newly registered users with comments and ideas on e-demokratija.mk: 50 - annual number of visits to forums hosted at e-demokratija.mk: 305535 	<ul style="list-style-type: none"> - number of civil society proposals in developing the government's work programme: positive (1) - annual number of comments and ideas posted on e-demokratija.mk: positive (1) - annual number of newly registered users with comments and ideas on e-demokratija.mk: positive (1) - annual number of visits to forums hosted at e-demokratija.mk: positive (1)
Total for the alternative solution		7

Table 5		Feasibility of alternative solutions (more points indicate to greater feasibility)												
Alternative solution	Changes to the framework on stakeholders' participation				Ensuring adherent application and implementation				Introduction of reasonable timeframe for policy-making		Strengthening the capacity and interest of stakeholders and state administration bodies			
	1	2	3	4	1	2	3	4	5	1	1	2	3	4
Impact on the recommendation / risk probability (summary assessment)														
Recommendations														
financial obstacles	small/medium (2)	great/medium (-1)	small/medium (2)	great/medium (-1)	medium/medium (0)	small/medium (2)	medium/medium (1)	small/medium (1)	great/medium (-1)	small/small (2)	medium/great (-2)	medium/great (-1)	great/great (-2)	great/great (-2)
legal obstacles	great/medium (-1)	great/medium (-1)	small/medium (2)	small/medium (2)	small/medium (2)	small/medium (2)	small/medium (2)	small/medium (2)	small/medium (2)	small/small (2)	medium/great (-2)	small/small (2)	small/small (2)	small/small (2)
resistance to change	great/great (-2)	great/great (-2)	small/medium (2)	medium/medium (0)	great/great (-2)	great/great (-2)	great/great (-2)	great/great (-2)	medium/medium (0)	great/great (-2)	medium/great (-2)	medium/great (-1)	great/great (-2)	great/great (-2)
insufficient knowledge and skills	small/small (2)	great/medium (-1)	small/medium (2)	small/medium (2)	medium/medium (0)	small/medium (2)	small/medium (2)	great/great (-2)	small/small (2)	medium/great (-1)	medium/great (-1)	medium/great (-1)	medium/great (-1)	medium/small (1)
Average per recommendation	1	-5	8	3	0	4	-1	-1	3	1	-2	-1	-2	-1
Average per alternative solution	1,75													
	1													
	-1,5													

5. CONCLUSION

On the basis of data shown in Tables 1 to 5, Table 6 provides the summary assessments per alternative solution and relevant recommendations, where the higher the number, the greater the desirability of the alternative solution (both in terms of state administration bodies and the stakeholders). In that, one solution can be assigned a maximum of 16 and a minimum of -16 points. As shown in the table, most desirable are alternative solutions 1 and 2.

Table 6		Summary assessment of alternative solutions		
Alternative solution	Criteria	Democratic approach	Feasibility	Total
	Amendments to the framework on stakeholders' participation (legal and technical solutions)		7	1,75
Ensuring adherent application and implementation		6	1	7
Introduction of reasonable timeframe for policy-making		2	1	3
Building capacity and interest of stakeholders and state administration bodies		6	-1,5	4,5

ENDNOTES

- 1 Focus on Citizens: Public Engagement for better Policy and Services, OECD, 2009.
- 2 2012 Report of the Programme on Support for Improvement in Governance and Management in the Republic of Macedonia, pg. 3 and 4, English version.
- 3 Definition on stakeholders in compliance with Article 2, paragraph 1 of the Guidance for the manner of acting in the work of the ministries for involvement of stakeholders in the process of preparation of laws, "Official Gazette of the Republic of Macedonia", no. 150/2011. Taking into consideration the research purpose, despite the fact that the business community is defined as a stakeholder in the Guidance, it is not covered in this research.
- 4 Article 5 of the Code of Good Practice for Civil Participation in Policy Creation Process "Official Gazette of the Republic of Macedonia" no. 99/2011, and Chapter 4, item 1 from the Code of Good Practice for Civil Participation in the Decision-Making Process, adopted at the Council of Europe's Conference of INGOs, 2009.
- 5 Documents of the Government of the Republic of Macedonia, existing analyses, different types of research, projects findings.
- 6 Focus on Citizens: Public Engagement for better Policy and Services, OECD, 2009.
- 7 Authors' definition.
- 8 Adapted from E-Participation and E-Government: Understanding the Present and Creating the Future, Report of the Ad Hoc Expert Group Meeting in July 2006, United Nations, 2007, pg. 36, and e-Government Economics Project (eGEP): Measurement Framework Final Version, European Commission, 2006, pg. 3, 10, 13-15, 18.
- 9 EC's 2011 Progress Reports for the Republic of Macedonia, pg. 17, English version.
- 10 EC's 2011 Progress Reports for the Republic of Macedonia, pg. 11, English version and EC's 2012 Progress Reports for the Republic of Macedonia, pg. 9, English version.
- 11 A joint initiative of the OECD and the EU, principally financed by the EU.
- 12 2012 Report of the Programme on Support for Improvement in Governance and Management in the Republic of Macedonia, pg. 3 and 4, English version.
- 13 Recommendation of the Council of the OECD on Regulatory Policy and Governance, OECD, 2012.
- 14 Constitution of the Republic of Macedonia, Article 2 and 20.
- 15 "Official Gazette of the Republic of Macedonia", no. 58/2000, 44/2002, 82/2008, 167/2010 and 51/2011.
- 16 Article 10 reads as follows: In the course of preparation of laws and other regulations within their competency, state administration bodies consult the citizens through: 1) publication of the type, content and the timetable for adoption of the laws and other regulations; 2) organization of public debates, and 3) inviting interested citizen's associations and other legal entities, etc. to give their opinions.

- 17 "Official Gazette of the Republic of Macedonia", no. 59/2000, 12/2003, 55/2005, 37/2006, 115/2007, 19/2008, 82/2008, 10/2010 and 51/2011.
- 18 Law on Government of the Republic of Macedonia, Article 22
- 19 Rules of Procedure of the Government of the Republic of Macedonia, Articles 136 and 137.
- 20 Public enterprises, public institutions, public services, political parties, companies, citizens' associations and foundations.
- 21 Strategy for Cooperation of the Government with the Civil Society 2012-2017, http://www.nvosorobotka.gov.mk/dmdocuments/Strategija_za_sorobotka_na_Vladata_so_graganskiot_sektor2012-2017.pdf (last visited on 21.12.2012). Notably, the Strategy was developed with participation of civil society organizations.
- 22 "Official Gazette of the Republic of Macedonia", no. 66/2009.
- 23 Article 65, Rules of Procedure of the Government, consolidated text, "Official Gazette of the Republic of Macedonia", no. 36/2008.
- 24 "Official Gazette of the Republic of Macedonia", no. 137/2009; Article 10.
- 25 Association for Development Initiatives – Zenith.
- 26 "Official Gazette of the Republic of Macedonia", no. 150/2011.
- 27 ENER represents technical solution to achieve transparency of the policy development process through publication of draft-laws in the preparation stage.
- 28 MISA assumed this role by the end of 2011.
- 29 "Official Gazette of the Republic of Macedonia" no. 99/2011.
- 30 Article 10 of the Code of Good Practice refers to the department for cooperation with the civil society at the General Secretariat.
- 31 According to the General Secretariat representative, development of the Code of Good Practice followed the examples of good practices for civil participation in decision-making of the Council of Europe from 2009 and the experiences from Croatia, In 2013, the General Secretariat, in cooperation with civil society organizations, will assess the implementation of the Code of Good Practice and will develop recommendations for improvements.
- 32 Despite the existence of this network, its composition and contact information were not published in the period when the present analysis was made.
- 33 According to the Work Programme of the Government of the Republic of Macedonia for the period 2011–2015 and the National Strategy for e-Government 2010-2012, the Ministry of Information Society and Administration is the holder of this project.
- 34 Available at: http://www.mio.gov.mk/files/pdf/dokumenti/Strategija_i_Akcionen_Plan.pdf (last visited on 17.12.2012)
- 35 According to MISA representative, when designing the Internet platform due consideration was given to the Recommendation CM/Rec(2009)1 of the Committee of Ministers to member states on electronic democracy (e-democracy).

- 36 A special team (working group) comprised of 6 members regularly informs the Government through the Minister of Information Society and Administration on monitoring, continuity and quality of stakeholders' participation through this platform. In the beginning, reporting was made on fortnight basis, and today quarterly reports are prepared.
- 37 Interview with representatives of the Macedonian Centre for International Cooperation (MCIC) and the Foundation Open Society – Macedonia (FOSM).
- 38 Draft Law on Attorney Tax Payment for Minimum Fees; Draft Law on Administration; Draft Law on Amending the Law on Interception of Communications;
- 39 Interview with Think-Thank Analytica.
- 40 For example, Law on Memorials and Monuments – unofficial consolidated text published on 20.9.2012; Law on Protection of the Population from Infectious Diseases – consolidated text published on 17.7.2012; Law on Sanitary and Health Inspection – consolidated text published on 16.7.2012.
- 41 For example, on 21.9.2010 under “drafts” a regulation was published by the Ministry of Culture, and in that the competent sector indicated was “environment”, while the relevant policy area indicated was “traffic, storage and communications”; or on 21.9.2010 a regulation titled “SSSSS” was published by the Ministry of Health, and in that the competent sector indicated was “environment”.
- 42 For example, the report on the consultations organized with stakeholders on the Draft Law on Amending the Law on Market Surveillance published on 10.10.2012 and the report on the consultations organized with the stakeholders on the Draft Law on Amending the Law on Nature Protection published on 22.10.2012.
- 43 Lack of automatic notifications on newly posted documents, limited length of comments in ENER and inability to post comments by means of attaching documents, no links to on-going parliament debates on documents published on the Internet platforms.
- 44 At the moment, e-demokratija.mk and ENER are not categorized according to negotiation chapters for EU membership.
- 45 In 2012, the call, in addition to nvosorabotka.gov.mk, was also published on the website of the project for Technical Assistance to Civil Society Organizations (TACSO) and was forwarded to all e-mail addresses from their database (total of 1,600 CSOs) and to 300 stakeholders that applied for projects through the Government of the Republic of Macedonia.
- 46 Natasa Gaber Damjanovska, Ph.D, Participation of Stakeholders in Decision-Making and Legislation Drafting Process in the Republic of Macedonia, European Centre for Non-Profit Law, 2008, pg. 60.
- 47 2011 Report prepared as part of Support for Improvement in Governance and Management in the Republic of Macedonia, pg. 11, English version.
- 48 2012 Report prepared as part of Support for Improvement in Governance and Management in the Republic of Macedonia, English version.

- 49 Civicus – Index of the Civil Society, Analytical Report for Macedonia “Long Way to Civil Engagement”, MCIC, 2011, pg. 29.
- 50 Visible is the lack of permanent or ad hoc structures (for example advisory bodies or unions) that would join resources of stakeholders for the purpose of capacity building and would work on developing joint positions that would be presented to state administration bodies.
- 51 Strategy for Cooperation of the Government with the Civil Society (2012-2017), pg. 46.
- 52 Civicus – Index of the Civil Society, “Long Way to Civil Engagement” – Summary and Recommendations for Future Civil Society Policies, MCIC, 2011, pg. 15.
- 53 In communication with other state administration bodies beyond this research, the authors were informed on the insufficient capacity for performing analyses, formulating and articulation of positions among civil society organizations and the business sector.
- 54 Adapted from E-Participation and E-Government: Understanding the Present and Creating the Future, Report of the Ad Hoc Expert Group Meeting in July 2006, United Nations, 2007, pg. 36 and e-Government Economics Project (eGEP): Measurement Framework Final Version, European Commission, 2006, pg. 3, 10, 13-15, 18.
- 55 Starting from the assumption that democratic approach and feasibility are equally important, i.e., they can bring the same maximum number of points or the minimum number of points. Therefore, each of the four categories of risks can be assigned a maximum of 2 or a minimum of -2 points.

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 - representative of the Ministry of Information Society and Administration and consultant to the project "Strengthened Regulatory Process in Macedonia";
- ▶ **Parliament of the Republic of Macedonia**
 - representative of the sector supporting the National Council for European Integration¹;
- ▶ **Higher Education Institutions**
 - professor at the Faculty of Law "Iustinianus Primus" at "Ss. Cyril and Methodius" University in Skopje;
 - professor at the Faculty of Economy at "Ss. Cyril and Methodius" University in Skopje;
 - assistant teacher at the Faculty of Public Administration and Political Science at the South East European University in Tetovo;
- ▶ **CSOs and foundations (including projects they have implemented):**
 - representatives of the Macedonian Centre for International Cooperation;
 - representative of the Centre for Regional Research and Cooperation "Studiorum";
 - representative of the Foundation Open Society – Macedonia;
 - representative of the Centre for Policy Research and Making;
 - representative of the Institute of Democracy "Societas Civilis";
 - representative of the project "Support for Public Administration Reform";
 - representative of the Think-Thank "Analytica";
 - representative of the project "Technical Assistance for CSOs" (TACSO).

¹ Initially, this research aimed to address the mechanisms used by legislative authorities to guarantee stakeholders' participation in policy-making, in order to secure sufficient level of details without exceeding the average length of a policy paper, but later a decision was taken for the research to focus on the mechanisms designed and implemented by the executive authorities.

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