COMMENTARY ON THE LAW ON PUBLIC ENTERPRISES AND STATE-OWNED OR PARTLY STATE-OWNED COMPANIES OF THE REPUBLIC OF NORTH MACEDONIA

The Reform Agenda for the Republic of North Macedonia sets out a package of reforms for governing public enterprises and state-owned companies, including a new law, strategy, and registry. Under the agenda's planned sequencing, these measures are to precede the restructuring of the postal and railway sectors.[1] The law and strategy are expected to address the selection of management and oversight boards, the publication of financial reports, risk management, and the establishment of key performance indicators.[2]

The Institute for Democracy "Societas Civilis" (IDSCS) was invited by the Ministry of Economy and Labour (MEL) in October 2025 to join the working group drafting the law and strategy on public enterprises and state-owned or partly state-owned companies of the Republic of North Macedonia. A draft law was published on ENER in January 2026,[3] and, after several versions circulated within the working group, an amended text was shared with the working group on 23 June 2026, one that MEL described as agreed with the European Commission. This version was never substantively discussed within the working group. The law was adopted by the Assembly under a shortened procedure on 30 June 2026, without adequate public debate.[4] Most of the positions set out in this document were also raised and advocated by us within the working group.

The law introduces financial and non-financial targets, greater financial transparency, and stronger internal control and audit for public enterprises and state-owned or partly state-owned companies. It also requires a detailed, public record of state-owned public enterprises and companies, including minority stakes — a welcome and substantial improvement.

The law also introduces a new instrument, the ownership rights policy, drawing on the OECD Guidelines on Corporate Governance of State-Owned Enterprises. These standards recommend that the owner state adopt and publish an ownership policy and periodically reassess the justification for each holding.[5] Under the law, the state must justify each ownership or stake by invoking at least one of the ownership and participation criteria: managing goods of general interest; managing infrastructure and distribution networks where the physical infrastructure constitutes a natural monopoly; business activity involving the provision of public services; impact on the state budget; market activities that contribute to

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[1] Measure 4.1.5 of the Reform Agenda. Available at: https://mep.gov.mk/en-GB/eu-integracii/plan-za-rast-za-zapaden-balkan-i-reformska-agenda/reformska-agenda-na-severna-makedonija-2024-2027-godina
[2] Reform Agenda of North Macedonia 2024–2027. Available at: https://portal.mdt.gov.mk/post-body-files/reformska-agenda-na-severna-makedonija-2024-2027-godina-file-Nhp6.pdf, p. 107.
[3] Draft Law on Public Enterprises and State-Owned or Partly State-Owned Companies of the RNM (27 January 2026). Published at: https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=117080
[4] Law on Public Enterprises and State-Owned or Partly State-Owned Companies of the RNM (adopted by the Assembly on 30 June 2026). Available at: https://www.sobranie.mk/detali-na-materijal.nspx?param=527634e5-6f67-480c-893d-abd0b9e3efa9
[5] OECD, *Guidelines on Corporate Governance of State-Owned Enterprises*, 2024 Edition. Available at: https://www.oecd.org/en/publications/2024/06/oecd-guidelines-on-corporate-governance-of-state-owned-enterprises-2024_68fa05cd.html

economic stability and development; or other activities of public interest.[6] Where the state cannot justify an ownership or stake, it must exit the ownership structure or the participation in those legal entities[7] — that is, divest.[8] The law requires the state to review its ownership rights policies at least every four years.[9] Similar approaches, also linked to the Reform Agenda for the Western Balkans, appear in newly adopted laws of other EU candidate countries.[10] The observations below, however, show that the law does not provide sufficient institutional safeguards against the abuse documented in North Macedonia's own experience with ownership transformation — while also calling into question the case for divestment where it rests on arguments such as unprofitability or poor management alone.

THE PROBLEM IS NOT OWNERSHIP, BUT MANAGEMENT

Reasons for poor performance. Advocates of privatisation often assume that state-owned entities operating at a loss are, by definition, unjustified and ripe for divestment. We disagree, for two reasons. First, some public enterprises and state-owned companies deliberately operate at a loss, or at the margin of profitability, because their purpose is to guarantee universal access to a basic service at an affordable price rather than to raise prices for profit (water supply and waste management, for example). It is therefore welcome that the law's ownership and participation criteria — managing goods of general interest, or business activity involving the provision of public services — give grounds to retain such entities in light of their social role. Second, weak financial performance often stems from appointing unprofessional or party-affiliated staff to management positions, not from the nature of public ownership itself. Where poor performance is a management problem, the right response is to professionalise how management is selected, not to divest ownership.

Impact analysis. The law was drafted without any publicly available analysis of how many entities the state fully or partially owns, what those stakes are worth, or how the new regime might play out in practice, that is, how many entities would likely fail the ownership-justification test and have to be divested, and what the social consequences would be. The law does not mandate automatic divestment, and it gives the state grounds to justify its ownership and stakes. But even so, given the law's text and the Reform Agenda's sequencing, which ties the restructuring of the postal and railway sectors directly to this law's implementation, it is reasonable to expect a significant wave of state capital divestment. And it will unfold through a procedure whose key elements, discussed below, are not being reformed in ways that would guard against the abuses seen in earlier waves of ownership transformation.

A troubled domestic and comparative record on corruption risk in privatisation. Earlier transformations of socially and state-owned capital in North Macedonia were accompanied by corruption risks: misuse of privileged information, deliberate undervaluation, opaque direct negotiations, and so on. Comparative research consistently finds that divesting state capital

[6] Art. 12(2)
[7] Art. 7(2)
[8] Art. 24
[9] Art. 23(1)
[10] Decree Promulgating the Law on the Management of Business Companies in State Ownership, Montenegro (22 June 2026). Available at: https://www.sluzbenilist.me/propisi/395379

without competitive, transparent procedures and independent institutional oversight raises the risk of abuse, especially in large transactions.

INSUFFICIENT SAFEGUARDS AGAINST ABUSE IN THE DIVESTMENT OF STATE CAPITAL

The divestment decision is centralised in the executive. Under the law, competent ministries submit proposals to the Government, which then decides on the disposal of shares, stakes, and founding rights. The law does require consultation with affected institutions and social partners while the ownership rights policy is being prepared[11] — a process that, at our request, now also includes the Commission for Protection of Competition. But this consultation concerns the ownership rights policy as a whole, not the specific decision to divest a given entity, which remains the Government's exclusive call.[12] Consultation at the policy level therefore gives no oversight over individual decisions: once the policy is adopted, a specific divestment can proceed without any further disclosure, public pressure, or external scrutiny, precisely at the stage where the risk of abuse is highest. Decision-making is thus fully centralised within the central government, with the Assembly excluded altogether. In our view, the Assembly, not the Government alone, should take the final decision on divestment (in all cases, or at least in certain ones), based on prior opinions from oversight and independent bodies, an analysis of the social effects of divestment, and public consultation. On a positive note, the final text, unlike earlier drafts, does require, both when adopting the ownership rights policy and when proposing a specific disposal of shares, stakes, or founding rights, a stated justification of the public interest and an assessment of the effects on the market and competition.[13]

Institutional oversight. The state today has far more oversight, independent, and safeguarding institutions than during earlier waves of ownership transformation, yet the law keeps them out of the divestment decision entirely. It assigns no oversight role to the Assembly and no proactive role to the State Audit Office or the State Commission for Prevention of Corruption, whether through a prior opinion, mandatory ex post audit, or an integrity check on high-risk transactions.

The divestment procedure itself. Beyond a general framework, the law does not regulate the actual mechanics of divestment clearly or systematically.[14] It requires that shares, stakes, and founding rights be divested "through a public, non-discriminatory, and competitive procedure," but does not specify how: by collecting public offers, public auction, direct negotiation, the stock exchange where appropriate, or some other route. Neither the Law on Public Enterprises nor the Law on Trading Companies fills this gap by regulating the methods, deadlines, or procedures of transformation. Leaving this unregulated hands the Government wide discretion, invites inconsistent practice, and creates conditions conducive to abuse. It departs from the principle that essential safeguards in high-risk procedures should be set by law, not by an act of the very body that also decides on the disposal.

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[11] Art. 22(3)
[12] Art. 25
[13] Art. 22(3) and 25(4)
[14] Art. 24 and 25

Valuation. Inadequate valuation was among the biggest corruption risks in earlier ownership transformations. Rather than adding safeguards, the law assigns the valuation of shares, stakes, and founding rights to "the competent ministry or an authorised state body,"[15] the same body that makes and carries out the disposal decision. Under the previous regime, valuation was at least formally conducted through a separate, institutionalized procedure;[16] under this law, the entire valuation goes without any external, independent check, meaning it does not require applying the Law on Assessment or engaging a licensed appraiser.

A REPLICATED, NOT REFORMED, SYSTEM FOR SELECTING MANAGEMENT

This law sets a single legal regime for organising and governing public enterprises and state-owned or partly state-owned companies.[17][18] Yet measured against the selection procedure in the new Law on Senior Executives,[19] it falls short on several counts: it does not specify where or for how long a vacancy notice must run, or what it must contain; it sets out no selection phases and no testing of candidates; it is unclear whether, or by whom, an administrative background check is conducted; it imposes no obligation to put the three highest-ranked candidates to the Government; and it provides no legal remedy against the decision.

This is not to say the law must copy the senior civil service selection procedure. But the selection of management bodies is one of the most well-documented channels of political influence over public enterprises and state-owned or partly state-owned companies, so the proposed rules should be at least at the level the state has already set for itself under the Law on Senior Civil Servants.

THE LAW'S PROPER APPLICATION AT THE LOCAL LEVEL MUST BE ENSURED

Within the working group, IDSCS argued that the law's scope, particularly the parts on registry inclusion and on strengthening oversight, internal control, and audit, should also cover public enterprises and municipally-owned or partly municipally-owned companies, creating a single, comprehensive legal regime. The law partly does this: the ownership-rights body is the Government, a state administration body, or the councils of the municipalities and the City of Skopje;[20] the ownership policy is adopted by the Government or by the relevant municipal or City of Skopje council;[21] and the coordinated governance of state-owned or part-owned legal entities runs through the competent ministries, while entities established by municipalities or the City of Skopje are governed through the body designated by the relevant council's decision.[22]

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[15] Art. 25(5)
[16] Law on Transformation of Capital under State Ownership ("Official Gazette of the Republic of Macedonia" No. 38/93, 48/93, 21/98, 25/99, 39/99, 81/99, 49/00, 6/02, 31/03, 38/04, 35/06, 84/07, 123/12 and 25/15).
[17] In addition, the law does not adequately classify the terminology for the management bodies found within these entities — for example, it lacks consistent use of the term "director," a governing body within public enterprises.
[18] Art. 3 provides that all matters not regulated by this law fall under the Law on Public Enterprises, the Law on Trading Companies, and other laws. Art. 42 sets out when the provisions on election and appointment do not apply, without excluding public enterprises. Art. 66 requires special laws to be harmonised within one year.
[19] Law on Senior Executives (adopted by the Assembly of the RNM on 26 June 2026). Available at: https://www.sobranie.mk/detali-na-materijal.nspx?param=95a8e595-fc9d-4ee2-a385-0f2c2f093fd2
[20] Art. 4(10)
[21] Art. 22(1)
[22] Art. 17

That distinction, however, drops out of key articles of the adopted law, despite appearing in earlier drafts. The law states that it applies to public enterprises and companies in which the Republic of North Macedonia has dominant influence or some form of stake, without saying explicitly that it also applies to entities established by municipalities or the City of Skopje.[23] Likewise, the body exercising ownership rights over legal entities of special interest and other legal entities is defined as the Government -again, not the municipalities or the City of Skopje,[24] which is inconsistent with the earlier definition.[25]

The law also introduces a new category, "legal entities of special interest,"[26] covering public enterprises and companies that a reasoned Government decision designates as such under the ownership and participation criteria. Municipalities and the City of Skopje have no access to this category. If those criteria are what earns an entity this status and what ultimately determines whether the state will exit an ownership, then it is unclear why the same test should not apply to entities established by municipalities. If municipalities are meant to apply a different criterion within their own ownership policy,[27] the law does not say what it is, leaving a gap. In fact, it is not clear the category is needed at all: if every state ownership or stake is justified under the ownership and participation criteria, then every one of these entities would automatically qualify, making the category redundant. Nor does the law define "other legal entities" and where state ownership or a stake falls outside the Article 12 regime and is governed by other rules, the law should say so explicitly.

Finally, although the municipal or City of Skopje council adopts its own ownership rights policy, the law has the Ministry of Economy and Labour propose it[28] — an intrusion on local government autonomy.

TRANSPARENCY WITH EXCEPTIONS THAT UNDERMINE ACCESS TO INFORMATION OF PUBLIC CHARACTER

On transparency, it is welcome that the law creates a public record documenting state capital i.e. the ownership and stakes the state holds. It also requires the Ministry of Finance to publish a consolidated report on financial performance, and the Ministry of Economy and Labour to publish a consolidated report on how well public enterprises and state-owned or partly state-owned companies meet their financial and non-financial targets.

Yet the way the law now regulates transparency for these entities is concerning for several reasons. First, it does not reaffirm that public enterprises remain subject to the Law on Free Access to Public Information (LFAPI). Second, while the law recognizes that other laws may also require state-owned or part-owned legal entities to publish information and documents,[29] the exceptions this law carves out are broader than those the LFAPI allows, which is itself

[23] Art. 2
[24] Art. 15
[25] Art. 4(10)
[26] Art. 4(7), 12
[27] Art. 22(1)
[28] Art. 22(1)
[29] Art. 46(3)

concerning. As a result, legal entities, including public enterprises, that fall under the LFAPI are not obliged to publish information deemed a business or professional secret. This creates a conflict between legal norms and weakens the overall regime for access to information of public character. Ideally, the LFAPI's scope should extend to companies with dominant state influence, following the model of the Law on Public Procurement and this law could, if it chose to, additionally list the information legal entities must proactively publish.

A MISSED OPPORTUNITY TO INTRODUCE GOOD ANTI-CORRUPTION PRACTICES

The law also misses several good practices for preventing conflicts of interest, boosting transparency, and protecting the public interest. It lacks an additional "critical infrastructure" criterion for designating legal entities of special interest, despite how important continuity of essential services is to the public interest and security.[30] It imposes no obligation on management-body members to file asset and interest declarations, and no post-employment restriction on their activities after leaving office.[31] And it fails to bring wholly state-owned companies into the Public Sector Employee Registry, a mechanism that could help guard against politically motivated hiring.

PROPOSALS FOR SPECIFIC AMENDMENTS TO THE LAW

Based on the above, we propose amending the Law to:

1. Have the Assembly take the final decision on divesting legal entities of special interest, based on prior opinions from the State Audit Office, the State Commission for Prevention of Corruption, and the Commission for Protection of Competition, following an analysis of social effects and public consultations;
2. Require an independent, external valuation of the shares, stakes, and founding rights subject to disposal;
3. Regulate the divestment procedure (public offer, public auction, stock exchange, direct negotiation) by law rather than by-laws;
4. Extend the "legal entities of special interest" category to entities owned or part-owned by municipalities and the City of Skopje, introduce an appropriate parallel mechanism, or drop the term altogether;
5. Align the selection procedure for oversight boards and boards of directors in companies with a state stake with the standards already set under the Law on Senior Civil Servants (transparent vacancy notice, selection phases, ranked list, legal remedy);
6. Introduce asset declarations, a post-employment restriction, and inclusion in the Public Sector Employee Registry;
7. Reaffirm and extend the scope of the Law on Free Access to Public Information to public enterprises and state-owned companies.

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[30] Art. 12(2). Draft Law on Critical Infrastructure (2022). Available at: https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=77229
[31] Art. 47 of the Law on Prevention of Corruption and Conflict of Interest.

ABOUT THE PROJECT

This public policy document is part of the project "**Promoting the Debate on Accountability and AntiCorruption**", which aims to contribute to the reform processes in North Macedonia by strengthening the role of the Assembly in the fight against corruption and in establishing reforms in the rule of law. In doing so, it facilitates dialogue between political parties and youth, as well as between parliamentarians and civil society. The project is supported by the National Endowment for Democracy.