

Biljana Daskalova
Official Gazette 29/96
October 25, 2000

NATIONAL BANK OF THE REPUBLIC OF MACEDONIA ACT
(Revised text)

I. GENERAL PROVISIONS

In order to provide Denar stability and to regulate the amount of money in circulation, prior to the end of each current year the National Bank of Macedonia shall prepare monetary movement projections for the next year.

Article 7

9. Limitation on the scale and timeframes of the growth rate of the banks' placements within a certain period of time.

The National Bank of Macedonia may prescribe compulsory purchase of securities by the banks and savings houses, as a measure for maintenance of their minimum liquidity.

The National Bank of Macedonia shall determine the interest rate based on which it shall pay interest to the banks and savings houses for the compulsory subscription of securities.

Article 13

The National Bank of Macedonia shall determine the type, amount, dates and other requirements for purchasing and selling domestic and foreign transferable short-term securities, and may purchase and sell them to banks and savings houses directly, by auctions or on the inter-bank money and short-term securities market.

Article 14

The National Bank of Macedonia may purchase and sell deposits to banks and savings houses directly, by auctions or on the inter-bank money and short-term securities market.

Article 15

The National Bank of Macedonia shall determine the amount, period of use and repayment, and other requirements for granting credits to banks and savings houses directly, by auctions or on the inter-bank money and short-term securities market, as follows:

1. on the base of the domestic and foreign transferable securities with a maturity up to one year, for which the banks and savings houses have provided backing guarantees
2. on the basis of collateral of particular securities

The National Bank of Macedonia shall determine the types of securities serving as basis for granting credit in accordance with the provisions of this Article.

Article 16

Depending on the monetary and general economic trends, the National Bank of Macedonia shall set and publish the general discount rate of the National Bank of Macedonia.

Depending on the discount rate under paragraph 1 of this Article, the National Bank of Macedonia shall set all the other interest rates of the National Bank of Macedonia.

Article 17

The National Bank of Macedonia shall also issue and withdraw money by purchasing and selling foreign currency in the foreign exchange market, in compliance with the law and the established monetary and foreign exchange

3. determining the manner of utilization of compulsory reserve with the National Bank of Macedonia in order to maintain the liquidity of the banks and savings houses;
4. determining the level and manner of forming special provisions of the banks for covering potential losses;
5. determining the types and level of guarantee capital of the banks and savings houses;
6. establishing the framework of banks for providing backing guarantees on securities issued by enterprises, for issuing guarantees and own securities by the banks;
7. setting the conditions for forming special provisions of the banks and savings houses in order to maintain the payment liquidity based on savings deposits and current accounts of individuals in Denars;
8. determining the level, period of use and repayment, as well as other conditions for granting short-term credits to banks in order to maintain their daily liquidity, on the basis of certain securities;
9. establishing the minimum general requirements for creditworthiness of the banks and savings houses;

Savings deposit under paragraph 1 of this Article shall be considered to be the principal of savings deposit increased by an amount of interest, not exceeding the discount rate of the National Bank of Macedonia.

Article 25

The National Bank of Macedonia shall determine the date when a bank or savings house became illiquid and undertake actions for establishing a long-term liquidity position.

The National Bank of Macedonia shall report on the illiquidity of a bank or savings house to:

- the Parliament of the Republic of Macedonia;
- the Government of the Republic of Macedonia and

The monetary unit of the Republic of Macedonia shall be defined by a special law.

Article 38

The National Bank of Macedonia shall issue notes and coins and shall determine the denominations as well as the basic features of the notes and coins.

The National Bank of Macedonia shall bring decision on issuance and withdrawal of notes and coins from circulation.

Article 39

The National Bank of Macedonia shall supply the institutions carrying out the payment operations with notes and coins.

The expenses for delivery of cash to the organizational units of the institutions carrying out the payment operations shall be covered by the National Bank of Macedonia. The National Bank of Macedonia shall also cover the expenses for replacement of damaged notes and expenses for withdrawal of worn-out notes, conducted by the institutions carrying out the payment operations for the account of the National Bank of Macedonia.

Article 40

The National Bank of Macedonia in agreement with the Government of the Republic of Macedonia shall determine the lowest denomination in circulation for completing the final calculation in the cash and non-cash payment operations and in the account book.

Article 41

The withdrawn notes and coins shall cease to be legal tender and shall be replaced within the timeframes and manner determined by a decision brought by the National Bank of Macedonia.

Article 42

The National Bank of Macedonia shall replace the notes and coins that became unsuitable for circulation under terms and manners that it considers adequate.

Article 43

The decision on issuance of notes in case of emergency in the country due to immediate military threat or state of war shall be brought by the Government of the Republic of Macedonia.

Article 44

The production of notes and coins is in the authority of the National Bank of Macedonia.

The notes and coins shall be produced by an institution operating in the territory of the Republic of Macedonia authorized by the law, or in exclusive instances, in foreign countries, on a basis of a decision brought by the Government of the Republic of Macedonia, and upon proposal of the National Bank of Macedonia.

5. Operations for the account of the Republic

Article 45

The National Bank of Macedonia shall carry out deposit, credit and other banking operations for the account of the bodies of the Republic of Macedonia.

Article 46

The National Bank of Macedonia may extend credits to the Republic of

The National Bank of Macedonia shall conduct on-site examination of banks and savings houses and off-site examination of the enforcement actions of the monetary and foreign exchange policy and the regulations establishing the foreign exchange operations and the international credit relations, the exchange of commodities and services and the international economic activities performed by the banks and savings houses.

The examinations under paragraph 1 of this Article shall be performed according to standards and procedures set by the National Bank of Macedonia.

The examinations under paragraph 1 of this Article shall be conducted by the National Bank of Macedonia in indirect manner, by reviewing the documentation submitted to the National Bank of Macedonia and in direct manner, by examining the bank and the savings house and other entities that are capital and management related to the bank and the savings houses.

The National Bank of Macedonia shall prescribe the capital and management relation under paragraph 3 of this Article.

Article 48

The banks and savings houses shall submit the necessary data for conducting examination under Article 50 of this Act, upon request by the National Bank of Macedonia.

Article 49

If the examinations stipulated under Article 47 indicate that the banks and savings houses failed to adhere to the established standards, and if certain irregularities are identified in the enforcement of actions of the monetary and foreign exchange policy, of regulations establishing the foreign exchange operations and international credit relations, the international exchange of commodities and services and international economic activities, the Governor shall bring a decision on taking actions against the bank or the savings house and shall determine deadlines for overcoming of the identified irregularities.

Within 8 days upon receipt of the decision, the discontented party may file an appeal under paragraph 1 of this Article with the Council of the National Bank of Macedonia.

Appeals against the decision of the Governor under paragraph 1 of this Article shall not delay the implementation of the decision.

Article 50

The actions under Article 49 of this Act taken against a bank, i.e. savings house shall be the following:

1. Ceasing the use of assets from the primary issue;
2. Limitation on the growth of placements for a period of 30 to 90 days;
3. Ceasing the foreign currency and exchange operations in the country;
4. Excluding from the foreign exchange market
5. Ceasing the payments in foreign countries, except for the payments of matured liabilities based on foreign credits and conventional liabilities;
6. Limiting external indebtedness;
7. Increasing the amount of fixed capital, the reserve funds and the special provisions for covering the loss risk;
8. Writing off non-performing claims;
9. Ceasing the crediting of particular founders and depositors;

The National Bank of Macedonia shall set the minimum scale, form and content of the program of economic and financial audits and of the report on the economic and financial auditing of banks and savings houses.

The National Bank of Macedonia may require the banks and savings houses to prepare and submit reports on the economic and financial audits of their annual account and operations within a certain time frame.

The National Bank of Macedonia may require from the bank, i.e. savings house to submit a new report on the economic and financial auditing of their annual account and operations within a certain time frame, prepared by another authorized auditor in compliance with the Law, if it assesses that the report under paragraph 2 of this Article is not in compliance with the established auditing standards or with the determined scope, form and content of the report on the economic and financial auditing of the banks and savings houses.

Article 58

The National Bank of Macedonia shall pass decisions that prescribe methodology, form, content, manner and deadlines in which the banks and savings houses shall submit data to National Bank of Macedonia in order to perform the banking supervision and to implement the measures of the monetary and foreign exchange policy.

The Governor of National Bank of Macedonia with consent of the Minister of Finance shall prescribe a special method of executing the accounting of banks and savings houses in compliance with the generally accepted accounting standards.

III. BODIES OF THE NATIONAL BANK OF MACEDONIA

Article 59

The bodies of the National Bank of Macedonia shall be the following: the Council of the National Bank of Macedonia and the Governor of the National Bank of Macedonia.

Article 60

The Council of the National Bank of Macedonia shall consist of the Governor and the Deputy Governor of the National Bank of Macedonia and seven experts and scientists. A member of the Council of the National Bank of Macedonia may not hold a position with a bank of savings house.

The Governor of the National Bank of Macedonia shall be President of the

5. defining the objectives and tasks of the monetary and foreign exchange policy and determining the methods for their accomplishment;
6. establishing the types and levels of banks and savings houses' guarantee capital;

24. prescribing detailed conditions and method of examination, the types, terms, order and procedure of taking actions against banks and savings houses;
25. determining regulations and standards of supervision;
26. prescribing the minimum volume, form and content of the program for economic and financial auditing and of the report on the economic and financial auditing for banks and savings houses;
27. prescribing standards that determine which of the placements are considered risky and the degree of their risk ;
28. making decision on the purpose and the level of allocation of assets for the needs stipulated under paragraph 2 of Article 78 of this Act;
29. deciding upon appeals against a decision of the Governor;
30. other issues and adopting regulations which are within the authority of the National Bank of Macedonia, unless the Governor of the National Bank of Macedonia is authorized to do the same;
31. reports on the implementation of monetary and foreign exchange policy; and
32. reports on accomplished examinations and undertaken actions.

Article 64

The Council of the National Bank of Macedonia shall decide upon managing the operations of the National Bank of Macedonia pertaining to the implementation of

The Parliament of the Republic of Macedonia shall adopt final decisions on the disputed issues under paragraphs 3 and 4 of this Article.

Article 65

The Governor of the National Bank of Macedonia shall be authorized to adopt instructions for the uniform method of application of the regulations and decisions of the Council of the National Bank of Macedonia brought in compliance with Article 63 of this Act.

Article 66

The Governor of the National Bank of Macedonia shall manage and organize the operations of the National Bank of Macedonia and shall bring decisions on the financial operations which are not in the authority of the Council of the National Bank of Macedonia.

Article 67

The Governor of the National Bank of Macedonia shall represent the National Bank of Macedonia.

The Governor shall pass decisions and other by-laws related to the operation of the National Bank of Macedonia that are not within the authority of the Council of the National Bank of Macedonia with this Act, and shall notify the Council of the National Bank of Macedonia on the passed decisions and other by-laws, at its next session.

Article 68

The Governor of the National Bank of Macedonia shall be appointed or dismissed by the Parliament of the Republic of Macedonia, on proposal of the President of the Republic of Macedonia, to serve a term in the office of seven years, with a right of one reelection.

The Governor of the National Bank of Macedonia may be dismissed prior to the expiration of the term in the office in case he is convicted for criminal offence against the property or for economic offences, in identical procedure as for his appointment.

Article 69

The Governor of the National Bank of Macedonia shall be responsible to the Parliament of the Republic of Macedonia for his actions.

Article 70

A Deputy Governor and one or more Vice-Governors shall be appointed at the National Bank of Macedonia.

The National Bank of Macedonia shall adopt a Statute.

The Statute shall determine the organization and operation of the National Bank of Macedonia.

The Statute of the National Bank of Macedonia shall be brought by the Council of the National Bank of Macedonia and shall be approved by the Parliament of the Republic of Macedonia.

Article 75

The seal of the National Bank of Macedonia shall bear the name of the bank in Macedonian language and the herald of the Republic of Macedonia.

Article 76

The rights, duties and responsibilities of the employees of the National Bank of Macedonia shall be determined in compliance with the provisions of the Law on Civil Service.

The procedure of application of the provisions of this Act under paragraph 1 of this Article shall be determined by the Governor of the National Bank of Macedonia.

The Council of the National Bank of Macedonia shall adopt the annual account for the previous year and the financial plan for each current year, by February 28, each year.

The Council of the National Bank of Macedonia shall adopt a decision for interim financing of the National Bank of Macedonia, until the adoption of the financial plan of the National Bank of Macedonia.

Article 82

After the application of the provisions under paragraph 2 of item 78 of this Act, the excess income above the expenditures of the National Bank of Macedonia shall be considered as income of the state budget, unless otherwise determined by law.

The excess expenditure over revenue of the National Bank of Macedonia shall be covered from the reserve funds of the National Bank of Macedonia, and in case of insufficiency of funds the excess expenditures shall be covered from the funds of the state budget.

Article 83

The funds for the fixed assets shall be determined by the financial plan of the National Bank of Macedonia and shall be determined by the annual account of the National Bank of Macedonia.

Article 84

The reserve funds shall be allocated from the income in the amount determined by the Council of the National Bank of Macedonia by a decision or when determining the expenditure under Article 78 paragraph 2 item 2 of this Act.

The decision on the use of reserve funds shall be brought by the Council of the National Bank of Macedonia.

VI. PENALTY CLAUSES

Article 85

The bank or savings house shall be charged with a fine from 150 to 250 salaries for an economic offence:

1. if it fails to adhere to the prescribed framework when providing backing guaranties, issuing guaranties and issuing its own securities (Article 19 paragraph 3 item 6);
2. if it fails to maintain liquid funds within the specified amount or structure

Gazette of the Republic of Macedonia” No.78/93) which contains the day of their enactment.

Biljana Daskalova
Official Gazette 64/96
October 25, 2000

1189.

According to Article 110 of the Constitution of the Republic of Macedonia and Article 70 of the Rules and Procedures of the Constitutional Court of the Republic of Macedonia (Official Gazette of the Republic of Macedonia no. 70/92), the Constitutional Court of the Republic of Macedonia on the session held on November 13 1996, brought the following

DECISION

1. Article 34 item 14 of the Law on Amendments to the National Bank of the Republic of Macedonia Act (Official Gazette of the Republic of Macedonia no. 17/96) shall be abolished.
2. This decision causes legal action from the date of its publication in the Official Gazette of the Republic of Macedonia.
3. Based on initiative submitted by Komercijalna Banka a.d. – Skopje and Aleksandar Manevski from Skopje, the Constitutional Court of the Republic of Macedonia, with a decision U. no. 118/96 from September 18, 1996, initiated a procedure for assessment of the constitutionality of the provision of Article 34 item 14 of the law mentioned in item 1 of this decision, since its compliance with the Constitution of the Republic of Macedonia was put in question.
4. At the session, the Court determined that in accordance with Article 34 item 14 of the Law, besides the actions that can be undertaken against bank or savings house that during their operations do not comply with the regulations, the Governor is authorized to undertake other actions that he considers necessary to be imposed.
5. In accordance with Article 14 paragraph 1 of the Constitution of the Republic of Macedonia, a person may not be sentenced for an act which, prior to the conduct, it had not been stipulated by law or other regulation as a criminal act and for which a sanction had not been determined.

As can be seen from the aforementioned, the perpetrator may not be sentenced for an act, which prior to its conduct it had not been stipulated by the law or other regulation as a criminal act and for which a punishment had not been determined.

Respecting the fact that the Governor of the National Bank, as organ with full power in it, besides the measures that the National Bank of the Republic of Macedonia overtakes against the banks that are not obeying the Law during their operations, and that are taxatively listed in Article 34 of the Law on Amendments to the National Bank of the Republic of Macedonia Act, with the present item no. 14 of the same Article of the Law, is entitled to overtake other measures that he/she finds appropriate to be taken against a certain bank, without ascertaining which measures are to be taken, and what are the cases in which they correspond as necessary. The Court has found that this provision is not according to the Constitution. This is because the Court has found that the Governor of the National Bank, as organ with full power in it, in situation when in the Constitution of the Republic of Macedonia there is a division of the power on three branches: legislative, executive and judicial, can not be authorized to decide the measures alone by himself and to decide in which cases it is necessary to apply them.

6. Based on the aforementioned, the Court decided as in item 1 of this decision.
7. This decision was brought by the Court composed of the President of the Court Jovan Proevski, Ph.D., and the justices Bahri Isljami, Nikola Krleski, Ph.D., Olga Lazova, Stojmen Mihajlovski, Ph.D., Milan Nedkov, Ph.D., Besim Selimi and Josif Talevski, Ph.D.

U. no. 118/96
November 13, 1996
Skopje

President
of the Constitutional Court of the
Republic of Macedonia
Jovan Proevski, Ph.D

Biljana Daskalova
Official Gazette 37/98
October 25,2000

**LAW ON AMENDMENTS TO THE NATIONAL BANK OF THE REPUBLIC OF
MACEDONIA ACT**

Article 1

After Article 14 of the National Bank of the Republic of Macedonia Act (Official Gazette of the SRM no. 26/92, 4/93, 29/93 and 17/96), a new article is added which reads:

“Article 14-a

The National Bank of the Republic of Macedonia may extend credit to the Deposit Insurance Fund in case of deficiency of funds for payment of the insured savings deposits.

The credit under paragraph 1 of this Article shall be allocated from the reserve funds of the National Bank of Macedonia.

The terms for extension of the credit under paragraph 1 of this article shall be stipulated by the National Bank of the Republic of Macedonia.”

Article 2

Article 21 shall be deleted.

Article 3

The word “illiquidity” from Article 26 shall be replaced with the word “liquidity.

Article 4

Paragraph 2 of Article 27 shall be replaced with two new paragraphs which read:

The National Bank of the Republic of Macedonia may exclude from the payment transactions system an illiquid bank or a savings house.

In case of exclusion of an illiquid bank or a savings house from the payment system, the National Bank of Macedonia shall notify the following institutions:

- the Parliament of the Republic of Macedonia
- the Government of the Republic of Macedonia
- the Assembly of the bank, or savings house

Article 5

Article 51 is followed by a new Article 51-a that reads:

“Article 51-a

The National Bank of Macedonia shall not be liable for the harms caused to third parties which may appear due to the actions undertaken by supervisory agencies for maintenance of the stability and safety of individual bank or the entire banking system.”

Article 6

The paragraph 2 of Article 51-a which becomes Article 51-b shall be deleted. Therefore, the paragraph 3 becomes paragraph 2.

Article 7

In Article 52 paragraph 1, after the item 13 four new items 14, 15, 16 and 17 shall be added that read:

“14. Determination of deadlines for elimination of the identified irregularities;

15. suspension of the managing body of the bank or savings house and authorization of a representative of the National Bank of Macedonia to organize the bank or savings houses’ operations;

16. ban on performance of all or particular banking operations for a certain period of time and

17. ban on acceptance of savings deposits.”

The existing item 14 shall become item 18.

Article 8

The paragraph 2 of Article 52 shall be deleted.

Article 9

After Article 52-a, a new Article 52-b shall be added that reads:

“Article 52-b

The provisions of Article 10 of this Act refer to the election and reelection of the members of the Council of the National Bank of Macedonia, after this Act enters into force.”

Article 13

The words “from 150 to 250 salaries” under Article 94 paragraph 1 shall be replaced with the words “from Denar 150.000 to 300.000”, while the words “economic offense” from the same article shall be replaced with the words “minor offense”.

The words “from eight to ten salaries” under paragraph 2 shall be replaced with the words “from Denar 30.000 to 50.000”.

Article 14

The words “from eight to ten salaries” under Article 95 paragraph 1 shall be replaced with the words “from Denar 30.000 to 50.000”, while the words “economic offense” from the same article shall be replaced with the words “minor offense”.

Article 15

This Act shall enter into force on the eighth day after the date of its publication in the Official Gazette of the Republic of Macedonia.

Biljana Daskalova
Official Gazette 7-99
October 25, 2000

Respecting the fact that the Governor of the National Bank, as organ with full power in it, besides the measures that the National Bank of the Republic of Macedonia overtakes against the banks that are not obeying the Law, and that are taxatively listed in the Law, with the present item no. 18 is entitled to overtake other measures that he/she finds appropriate to be taken against a certain bank, without ascertaining which measures are to be taken, and what are the cases in which they correspond as necessary. The Court has found that this provision is not according to the Constitution. This is because of the presence of the division of the power on three branches: legislative, executive and judicial, the Court has found that the Governor can not be authorized to decide the measures alone by