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## Post-monitoring dialogue with North Macedonia

### Report<sup>1</sup>

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Co-rapporteurs: Ms Lise CHRISTOFFERSEN, Norway, Socialists, Democrats and Greens Group, and Mr Aleksander POCIEJ, Poland, Group of the European People's Party

### Summary

North Macedonia has undergone significant political changes in recent years: the Pržino Agreements signed in 2015 and 2016 by the main political parties have solved a long political crisis and led to political alternation. In addition, an Office of the Special Prosecutor was tasked with investigating possible serious malfunctions which seemed to come to light in illegally intercepted telephone conversations.

The Monitoring Committee also welcomes the Prespa Agreement signed in 2018 with Greece, which resolved the name issue and re-launched the accession negotiations with NATO and the European Union – a strategic and consensual objective in the country.

The committee notes important progress made by the country to restore the rule of law. In particular, it welcomes the legislation adopted regarding the judiciary and the fight against corruption but insists on their full implementation.

In this context, the committee proposes that the Assembly continues the post-monitoring dialogue with North Macedonia, and asks the authorities, in particular, to strengthen the independence of the judiciary, the fight against corruption, the consolidation of its electoral framework, and the pursuit of inclusive policies aimed at guaranteeing the rights of minorities.

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1. Reference to Committee: [Resolution 1115 \(1997\)](#).



<b>Contents</b>	<b>Page</b>
A. Draft resolution .....	3
B. Explanatory memorandum by Ms Christoffersen and Mr Pocij .....	7
1. Introduction .....	7
2. Political context .....	8
2.1. Domestic politics: the “Pržino Agreements” of June 2015 and July 2016 .....	8
2.2. Regional and international developments: the Prespa Agreement of 17 June 2018 and its impact on the Euro-Atlantic integration process .....	8
2.3. Context of the current reforms .....	10
3. Rule of law .....	11
3.1. Reform of the judiciary: state of play .....	11
3.2. Reform of the Law on the public prosecution office and future status of the Special Prosecutor .....	12
3.3. Fight against corruption .....	14
4. Democracy .....	15
4.1. Follow-up to the 27 April 2017 events .....	15
4.2. Considerations about the political transition period. ....	16
4.3. Electoral issues and changes of the election legislation .....	16
4.4. Constitutional issues .....	19
4.5. Local democracy .....	20
4.6. Reform of the public administration .....	21
5. Human Rights .....	21
5.1. Latest developments pertaining to gender equality .....	21
5.2. The ombudsman institution .....	22
5.3. Reform of the Intelligence Service .....	22
5.4. Situation in prisons .....	23
5.5. Ill-treatment and torture .....	23
5.6. Media .....	24
5.7. Ohrid Framework Agreement .....	25
5.8. Fight against discrimination .....	27
5.9. National minorities .....	28
5.10. Migration and asylum issues .....	29
6. Conclusions .....	29

## A. Draft resolution<sup>2</sup>

1. North Macedonia joined the Council of Europe in 1995. Since the year 2000, it has been engaged in a post-monitoring dialogue with the Parliamentary Assembly. In its [Resolution 1949 \(2013\)](#), the Assembly highlighted the multi-level challenges that North Macedonia had to face in order to secure its political stability and social cohesion.
2. Since the last report of the Assembly, the country has remained committed to its Euro-Atlantic integration agenda, which has been a consensual strategic objective, transcending political and ethnic differences. The Assembly welcomes the breakthrough Agreement signed with Greece in Prespa on 17 June 2018, which put an end to the 27-year “name dispute”, changing the country’s name from “the former Yugoslav Republic of Macedonia” to “Republic of North Macedonia”, which is now recognised by all United Nations member States. This was crucial in unblocking negotiations towards integration into the North Atlantic Treaty Organisation (NATO), and for the possible launch of European Union accession negotiations. On 30 September 2018, 94% of voters expressed their support for European Union and NATO membership by accepting the Prespa Agreement in a consultative referendum which, although invalid due to the low turnout (36%), gave a clear indication of the people’s will. As a result, the parliament adopted the constitutional amendments on 13 December 2018. The official name of the country changed on 12 February 2019 after the ratification of the Prespa Agreement by the Greek Parliament on 26 January 2019.
3. The Assembly also welcomes the signature of the “Agreement on Friendship, Good Neighbourly Relations and Co-operation” with Bulgaria on 1 August 2017, which paved the way towards enhanced bilateral co-operation. At the same time, the Assembly acknowledges that North Macedonia, along with its neighbours, experienced migration inflows through the ‘Balkan routes’ and faced, with limited resources, a major, humanitarian crisis triggered by the conflicts in Syria and Iraq and which very much affected the country.
4. Since the adoption of the last Assembly resolution, the country has experienced profound political changes: in 2014, the opposition rejected the results of the 2014 presidential elections and boycotted the parliament after the 2014 early elections. The release of illegally wire-taped conversations stirred a major political crisis that lasted two years. The signing of the European Union-sponsored, cross-party and cross-ethnicity “Pržino Agreements” in June 2015 and July 2016 resulted in the resignation of Prime Minister Gruevski. Other developments that arose from these agreements include the establishment of a technocratic government from July 2016 to January 2017 with the participation of opposition members, amendments to the electoral legislation, the organisation of early parliamentary elections on 11 December 2016 and a change of power.
5. The Pržino Agreements also stipulated the creation of the office of the “Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications” which has been, for a limited period of time and under exceptional political circumstances, investigating politically-sensitive allegations of crimes deriving from the illegally wiretapped conversations. The Assembly welcomes the outstanding work carried out by this office, which pressed charges in 20 high level cases and indicted more than 100 people in at least 18 high cases of serious criminal offenses, most of them concerning abuse of office, abuse of position, forgery of documents, embezzlement and large-scale fraud. This office has played a crucial role in normalising the situation and ensuring the investigation of the alleged cases arising from the illegally wiretapped conversations. The Assembly expects that those responsible will be held accountable, considering that amnesty laws should not contravene fundamental rights. It also calls on the Hungarian authorities to extradite Mr Gruevski in order to allow the continuation of his trial.
6. The Assembly commends the main political parties for reaching the Pržino Agreements and solving, through negotiations, the political crisis. The Assembly was, however, appalled by the storming of the parliament on 27 April 2017 before the formation of a new government. The Assembly strongly condemns this violence and calls on the authorities to ensure that the perpetrators and those who instigated these events will be duly prosecuted.
7. The release of the wiretapped conversations revealed serious dysfunctions and a concentration of power within the national security service (UBK). The Assembly therefore welcomes the recent upgrading of the legal framework including the adoption, in March 2019, of the Law on State Security Agency, the setting-up of an Operational Technical Agency operating upon court orders and the monitoring of the activities of the intelligence service by an oversight parliamentary committee chaired by the opposition. These measures should provide safeguards and limit potential abuse.

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2. Draft resolution adopted unanimously by the Committee on 10 September 2019.

8. The Assembly welcomes the attitude shown by the opposition parties, who participated actively in the work of the parliament and enabled the adoption of important pieces of legislation required to fulfil the country's EU accession aspiration. It also notes that the legislative procedure was marked by institutional deadlocks after the President of the Republic refused, for the second time, to promulgate laws adopted by the parliament. The Assembly therefore urges the authorities to prevent institutional deadlocks by amending the constitution and avoiding the use of a presidential "pocket veto", and to re-consider the President's power to pardon.
9. The Assembly commends the authorities for launching an ambitious plan of reform (so-called 3-6-9 Plan and Plan 18) based on the urgent priorities and recommendations identified by the European Commission Senior Expert Group (so-called Priebe Report) in four key areas: reforms of the judicial system, the security services, public administration and anti-corruption policies. It welcomes the excellent co-operation established by the authorities with the Council of Europe and its European Commission for Democracy through Law (Venice Commission) and the setting-up of a Council of Europe project office in Skopje, in line with the Assembly's proposal in its [Recommendation 2022 \(2013\)](#).
10. In this context, the Assembly welcomes the steps taken to increase the independence and accountability of the justice system and restore trust in the judiciary, in particular:
  - 10.1. The abolition of the Council for Disciplinary Liability and Evaluation of judges, in line with the 2015 Opinion of the Venice Commission recommendations;
  - 10.2. The suspension of the lustration process and the abolition of the lustration law in 2015, the abolition of the Lustration Committee in 2017 as requested by the Assembly in its [Resolution 1949 \(2013\)](#) and the 2013 Amicus curiae brief of the Venice Commission;
  - 10.3. The adoption of the Law on Courts, the Law on Judges and the Law on the Judicial Council which broadly comply with the opinions issued by the Venice Commission in 2018 and 2019;
11. The Assembly invites the authorities of North Macedonia to pursue legal reforms, and in particular to
  - 11.1. revise the law on the prosecution office and the law on the Council of Prosecutors, which should ensure that the prosecution office will work as an independent body; to seek the expertise of the Council of Europe to ensure the compliance of these laws with Council of Europe standards;
  - 11.2. ensure that the reform of the Prosecution office will enable the "Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications" to carry on its task, finalise the on-going investigations and further handle sensitive cases with the requisite autonomy and independence.
12. Corruption remains a serious problem in North Macedonia. The Assembly acknowledges the progress made in reforming the legal framework and institutions. In particular, the Assembly welcomes the adoption of the following laws in 2019: the Law on the Prevention of Corruption and Conflict of interest, the Law on Lobbying, the Law on Free Access to Information of Public Character and the Law on the Protection of Whistleblowers. The establishment of a new State Commission for the prevention of corruption following an open and transparent appointment procedure is also to be welcomed. The Assembly also welcomes the setting-up of internal and external oversight mechanisms over the police forces, who remain perceived as politicised.
13. However, more effort needs to be made in the fight against corruption:
  - 13.1. Concerning the prevention of the corruption of public officials, the Assembly calls on the authorities to fully implement the recommendations issued by GRECO in 2018 with respect to "Corruption prevention in respect of members of parliament, judges and prosecutors";
  - 13.2. The Assembly calls on the authorities to implement the recommendations issued by GRECO in 2019. The most relevant recommendations include: the strengthening of the operational independence of the police, the strengthening of the efficiency of the internal control mechanisms, subordinated directly to the Minister of the Interior, as well as the external oversight performed by the Parliament, the Ombudsman and the Public Prosecutor. This needs to be done in order to improve the public accountability of the police. North Macedonia should also heed GRECO's call for the adoption of a code of ethics for the police addressing issues such as the integrity, conflicts of interest, gifts and corruption prevention within the police;

14. In light of the findings of its election observation missions of 2014 (presidential and early parliamentary elections) and 2016 (early parliamentary elections), the Assembly calls on the authorities to upgrade the electoral framework and to reform the Electoral Code, in co-operation with the Venice Commission and in line with its 2016 Opinion. The Assembly takes note of the announced intention of revising the electoral system and urges the authorities to ensure a public and inclusive process in order to reach a consensual solution sufficiently in advance of the next elections;

15. In the field of human rights, the Assembly calls on the authorities to implement the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to improve conditions in prisons and psychiatric institutions. It urges the authorities to address, as a matter of priority, the situation of the Idrizovo prison and the continued problems of ill-treatment. In this context, the Assembly welcomes the adoption, in March 2017, of a Strategy for the implementation of the policy of zero tolerance of ill-treatment and a Plan for the prevention of corruption among the staff at prisons and educational-correctional facilities. In addition, the Assembly takes note of the adoption, in 2018, of standard operating procedures and a new Code of Conduct for staff at prisons and at educational – correctional facilities, which should establish more effective mechanisms for dealing with cases of ill-treatment of persons deprived of their freedom. Other measures that ought to be welcomed include: steps aimed at improving detention conditions; the development of a sustainable probation system and alternative measures, which should help tackle overcrowding; the renovation of detention premises, including the Idrizovo prison with the support of the Council of Europe Development Bank; and increased internal and external oversight of the police forces by the Ministry of the Interior, the prosecution office and the Ombudsman.

16. In line with the recommendations of the European Commission against Racism and Intolerance (ECRI), the Assembly expects the resources of the Ombudsman institution to be strengthened in order to ensure that the institution will be in a capacity to carry out its tasks as a national preventive mechanism of the Optional Protocol to the Convention against Torture (OPCAT), an oversight mechanism over the police and prison police officers, an assistance provider for victims and a monitoring body for the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

17. In the field of media, the Assembly notes the improvement of the working environment and safety of journalists in recent months, and the adoption of the Law on Audio and Audio-visual Media Services in 2018. It notes however that the financial sustainability of media remains a challenge and expects the strengthening of the regulatory bodies and the strengthening of the independence of the media. The interests of the different ethnic groups should be duly reflected in the media policy. The Assembly also expects the reinforcement of the public broadcaster company, which still needs to be reformed in order to become a high quality and independent public medium.

18. The Assembly acknowledges the progress made in fighting discrimination: the Law on Prevention and Protection against Discrimination, adopted in March 2019, encompasses sexual orientation and gender identity as a grounds for discrimination and allows courts to impose effective, proportional and dissuasive sanctions. The Assembly, however, invites the authorities to strengthen the composition and capacities of the State Commission for the protection against discrimination, taking into account the 2018 recommendations of the Venice Commission and the Committee of Ministers to ensure that this State Commission can functioning properly as a fully independent, professional quality body. The Assembly also stresses the need to reinforce the fight against hate speech and welcomes in this respect the amendments to the criminal code.

19. Concerning the interethnic relationship, the Assembly recalls the contribution of the Ohrid Framework Agreement (OFA) in securing peaceful co-existence of the ethnic communities in North Macedonia after 2001. It also notes that interethnic relationships remain fragile. It therefore welcomes the adoption of the Law on the Languages in 2019, which was one of the last requirements stipulated in the OFA and invites the authorities of the country to take into account the upcoming opinion of the Venice Commission on that law. The Assembly calls on the authorities to further strengthen the building of an inclusive society, and notably to:

19.1. take all measures to build an integrated and multicultural education system, in line with the Committee of Ministers' recommendations on the implementation of the Framework Convention for the Protection of National Minorities (ETS No. 157) ratified by the country in 1997;

19.2. ensure the effective implementation of the Law on the Languages and the operational functioning and monitoring of the Agency for Implementation of the Language Spoken by at least 20% of the Citizens of North Macedonia, whilst also taking into account the Opinion requested from the Venice Commission on this law;

19.3. take all measures necessary to prevent and diffuse ethnic tensions and to thoroughly investigate alleged cases of ethnically-motivated crimes;

- 19.4. ensure equitable representation of minorities in the public administrations;
  - 19.5. reach the necessary political agreement to carry out a census, in line with international standards;
  - 19.6. pursue effective decentralisation policies, including fiscal decentralisation, and the proper implementation of the Law on equal regional development
  - 19.7. foster inclusive policies aimed at consolidating social cohesion and take resolute action to combat discrimination against the Roma community, while pursuing the efforts to identify unregistered persons and ensure their access to social, health and education services.
20. The Assembly welcomes progress made in promoting gender equality in North Macedonia. It encourages the authorities to pursue their efforts to reach the objective of a 50% participation of women in election processes and decision making. The Assembly equally encourages the authorities to further develop gender budgeting measures.
21. The Assembly congratulates the country for the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210) (Istanbul Convention) in March 2018. It encourages the authorities to adopt the new Law for the Prevention of and Protection against gender-based violence, to increase the level of services for victims and to improve the training for those professionals dealing with violence against women and domestic violence.
22. As regards the rights of the LGBTI people, the Assembly welcomes the anti-discrimination provisions included in the Anti-discrimination law and other pieces of legislation, as well as the holding of the first Pride Parade on 29 June 2019. It invites the country to carry-out an independent and comprehensive study on all forms of discriminations against LGBTI people, as suggested by ECRI.
23. In conclusion, the Assembly commends the authorities of North Macedonia for the progress made since the adoption of the last report on the post-monitoring dialogue in 2013. It further welcomes the steps undertaken, after a two-year political transition period, to normalise the situation of the country and comply with Council of Europe standards in the field of rule of law, democracy and human rights and the outstanding improvement of its neighbouring relations.
24. It stresses however that the recently adopted laws need to be fully implemented in order to strengthen the sustainability of State institutions, the independence of the judicial institutions, and the consolidation of the rule of law.
25. In this context, the Assembly resolves to pursue the post-monitoring dialogue with North Macedonia, and to assess, in its next report, the progress made in particular in the following areas:
- 25.1. the further consolidation of the sustainability and functioning of democratic institutions;
  - 25.2. the independence of the judiciary, notably the strengthening of the independence and accountability of judges and prosecutors. The Assembly expects the reform of the prosecution office to be done in line with Council of Europe standards and to ensure the Special Prosecutor's office, which has played an important role in addressing highly sensitive cases, will be in a position to operate, within the national public prosecution office, without undue political interference;
  - 25.3. the fight against corruption, in line with the recommendations issued by the Group of States against Corruption (GRECO), in particular with respect to high level corruption cases and non-selective implementation of laws and policies;
  - 25.4. the consolidation of its electoral framework, in line with the recommendations of the Venice Commission and the Parliamentary Assembly election observation mission reports;
  - 25.5. the pursuance of inclusive policies aiming at securing the rights of the minorities, in the spirit of the Ohrid Framework Agreement, including for the Roma community.



## B. Explanatory memorandum by Ms Christoffersen and Mr Pocij

### 1. Introduction

1. A member of the Council of Europe since 1995, the Republic of North Macedonia has been engaged in a post-monitoring dialogue with the Parliamentary Assembly since the year 2000. In its [Resolution 1949 \(2013\)](#), the Assembly stressed that the country had “multi-level challenges to face to secure its political stability and social cohesion”. While praising the country’s aspiration to further integrate into Europe and to fully comply with European standards in the fields of human rights, democracy and the rule of law, the Assembly expressed serious doubts as to whether there was “sufficient political stability (...) to carry out the required reforms at a regular pace”.

2. Since our appointment as co-rapporteurs in June 2015<sup>3</sup>, Mr Ghiletschi and I conducted four fact-finding visits to the country in February 2016, May 2017, June 2018 and in May 2019, which resulted in the preparation of three detailed information notes.<sup>4</sup> During our visits, we met the highest official authorities of the country, including the President of the Republic, Mr Pendarovski, the Speaker or Vice-Speakers of the parliament and the leaders of the parliamentary factions and political parties. Additionally, we met the Ministers of Justice, of the Interior, Labour and Social Policy, Information Society or their representatives, the high judicial officials, the Ombudsman and other independent regulatory bodies. We also met representatives of civil society and the media, as well as representatives of the European Union, the OSCE Mission, the UN Special Resident and the diplomatic community to gather information about the state of play of reforms.

3. We would like to thank the delegation of North Macedonia to the Parliamentary Assembly and the authorities of the country for their co-operation throughout our mandate and for the assistance provided in preparing our visits. We would also like to thank the delegation for the extensive comments on the preliminary draft report sent on 12 August 2019.<sup>5</sup>

4. The Assembly also observed a number of elections including the presidential election of 13 and 27 April 2014 and the early parliamentary elections of 27 April 2014. These observations were followed by two post-electoral visits in July 2014 and April 2015.<sup>6</sup> In view of the political situation that arose after the April 2014 elections and the boycott of both the elections and the parliament by the opposition, the Parliamentary Assembly organised a current affairs debate on “the situation in “the former Yugoslav Republic of Macedonia”<sup>7</sup>” on 22 May 2015 following a request by four political groups.<sup>8</sup> A post-election delegation from the Monitoring Committee paid a fact-finding visit to Skopje on 28-29 April 2015 and called on the authorities to comply with constitutional and legal requirements, while pursuing a political dialogue.<sup>9</sup> The Assembly also observed the early parliamentary elections of 11 December 2016<sup>10</sup>, the referendum on the “name issue” on 30 September 2018<sup>11</sup> and the presidential election on 21 April and 5 May 2019.<sup>12</sup> These ad hoc commissions of the Assembly produced valuable material to assess the legal electoral framework and the issues that needed to be addressed.

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3. Mr Valeriu Ghiletschi (Republic of Moldova, EPP/CD) was co-rapporteur for the post-monitoring dialogue with North Macedonia until 24 June 2019, when he left the Assembly. Co-rapporteurs Ms Christoffersen and Mr Ghiletschi drafted the preliminary draft report submitted to the Monitoring Committee on 25 June 2019. The Monitoring Committee appointed Mr Aleksander Pocij (Poland, EPP/CD) as new co-rapporteur at its meeting on 10 September 2019.

4. See Documents [AS/Mon\(2016\)06rev](#), [AS/Mon\(2017\)22rev](#) and [AS/Mon\(2018\)13rev](#).

5. Doc AS/Mon (2019) 20.

6. The post-electoral delegation comprised Robert Walter (United Kingdom, EC), then rapporteur on the post-monitoring dialogue, Stefan Schennach (Austria, SOC), then Chairperson of the Monitoring Committee and Andreas Gross (Switzerland, SOC), then Chairperson of the Socialist Group. The delegation issued statements on 10 July 2014 and on 30 April 2015: “The former Yugoslav Republic of Macedonia”: fostering both political dialogue and compliance with the rule of law”.

7. As of 12 February 2019, the official name of “the former Yugoslav Republic of Macedonia” changed to North Macedonia.

8. See the [minutes of the meeting](#) of the Standing Committee in Sarajevo, 22 May 2015.

9. See the [Statement of the delegation 30 April 2015](#): “The former Yugoslav Republic of Macedonia”: fostering both political dialogue and compliance with the rule of law.

10. See Documents [Doc.13517](#) and [Doc. 14238](#).

11. See Memorandum on the Observation of the referendum in “the former Yugoslav Republic of Macedonia” (30 September 2018) (Ad hoc Committee of the Bureau Chairperson: Mr Stefan Schennach (Austria, SOC)), 8 November 2018, [AS/Bur \(2018\) 49](#).

12. Report on the Observation of the presidential election in North Macedonia (21 April and 5 May 2019) – [Doc 14897](#).

5. In 2013, the Assembly had recommended the reinforcement of the Council of Europe presence in the country in order to, inter alia, “provide advice, promote and support the policies and activities of national authorities and local partners related to membership of the Council of Europe”.<sup>13</sup> The establishment of the Council of Europe Project Office in Skopje in 2015 has been a very positive development, and is to be welcomed. In the framework of the “Horizontal Facility for the Western Balkans and Turkey” the office has been implementing joint EU-Council of Europe Programmes aimed at bringing the country closer to European standards, in particular in the fields of justice, the fight against discrimination and the fight against corruption. The office has contributed towards the strengthening of co-operation with the Council of Europe.

## 2. Political context

### **2.1. Domestic politics: the “Pržino Agreements” of June 2015 and July 2016**

6. In spring 2015, the release of illegally wire-taped conversations revealing “apparent direct involvement of senior government and party officials in electoral fraud, corruption, abuse of power and authority, conflict of interest, blackmail, extortion, criminal damage,” as well as “unacceptable political interference in the nomination/appointment of judges”<sup>14</sup> stirred a major political crisis that lasted two years. It ended in 2016 with the resignation of Prime Minister Gruevski and the signing of the EU-sponsored “Pržino Agreements” in June 2015 and July 2016.<sup>15</sup> Other events that marked the end of the crisis include the establishment of a technocratic government from July 2016 to January 2017 (with the participation of opposition members), and the eventual organisation of early parliamentary elections on 11 December 2016.

7. The 2016 elections were inconclusive and did not allow for the formation of a clear majority. Out of 123 seats, the VMRO-DPMNE won 51 seats, the SDSM 49 seats and the Albanian party DUI 10 seats. The formation of a new government was delayed for months after the December 2016 elections, as President Ivanov refused the SDSM’s request for a mandate to form a government after the VMRO–DPMNE, which had won a plurality of seats in the elections, was unable to form a parliamentary majority. The VMRO–DPMNE deputies, meanwhile, filibustered a vote to install an SDSM-backed Assembly speaker, Talat Xhaferi, who is an ethnic Albanian member of the Democratic Union for Integration (DUI).

8. In 27 April 2017, while Mr Xhaferi was being elected Speaker of the parliament, VMRO–DPMNE supporters stormed the parliament building and violently assaulted several opposition leaders (see below). The SDSM and their Albanian coalition partners were finally able to form a government on 31 May 2017. After a period of mediation led by the European Union and the United States State Department, Mr Zaev was designated as Prime minister.<sup>16</sup> The SDSM-led government has prioritized rebooting North Macedonia’s European Union (EU) and North Atlantic Treaty Organization (NATO) accession paths.

### **2.2. Regional and international developments: the Prespa Agreement of 17 June 2018 and its impact on the Euro-Atlantic integration process**

9. At a regional level, Prime Minister Zaev and the Bulgarian Prime Minister Boyko Borisov signed an “Agreement on Friendship, Good Neighbourly Relations and Co-operation” on 1 August 2017, thus paving the way towards enhanced bilateral co-operation in several areas including: energy, transport and communication infrastructures, financial services and capital markets. This Agreement put an end to years of disputes between the two countries concerning the denomination of the language and resulted in increased co-operation and economic programmes between the two countries.

10. The authorities also resumed negotiations aimed at settling a 27-year old “name dispute” with Greece, which ended successfully with the signing of the historical “name agreement” on 17 June 2018, also called “Prespa Agreement.”<sup>17</sup> The agreement was signed by the Ministers of Foreign Affairs of the two Parties,

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13. See [Recommendation 2022 \(2013\)](#) on Post-monitoring dialogue with “the former Yugoslav Republic of Macedonia”.

14. [Recommendations](#) of the Senior Experts’ Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015, 8 June 2015.

15. Under the auspices of Johannes Hahn, EC Commissioner for European Neighbourhood Policy and Enlargement Negotiations, and three members of the European Parliament, on 2 June 2015 the four political parties (VMRO-DPMNE, SDSM, DUI and DPA) signed the Pržino Agreement, which was supplemented on 15 July 2015. In line with this agreement, the opposition returned to parliament on 1 September 2015 after a 16-month boycott and agreed to stop releasing the wire-tapes. The text of the agreement and its protocol were included in our information note [AS/MON (2016)6 rev]. A second [Agreement concluded between the four political parties](#) was signed on 20 July 2016.

16. See our information note of October 2017 ([AS/Mon\(2017\) 22rev](#)) and our [Statement](#) of 28 April 2017 “Rapporteurs condemn violence in Parliament of Skopje, call on political parties to reach political agreement”.



Mr Kotzias and Mr Dimitrov, in the presence of the Prime ministers of Greece (Mr Tsipras) and of North Macedonia (Mr Zaev) at the border Lake Prespa. Other parties present included the UN Mediator Matthew Nimetz, the EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini, and the EU Enlargement Commissioner, Johannes Hahn.

11. The Agreement was flagged as an EU accession issue, and thus underwent a speedy adoption procedure in parliament. The ratification law was adopted by the parliament of North Macedonia on 20 June 2018 by 69 votes in favour and none against; all parliamentary parties expressed their support for the Agreement, with the exception of the VMRO-DPMNE, who refrained from voting. Opponents of the agreement demonstrated in the street and in front of parliament.<sup>18</sup> The demonstrations were triggered by some small extra-parliamentary parties and football hooligans.<sup>19</sup> The President's veto on the "name agreement" (see below) did not however hamper the continuation of the process foreseen in the Agreement.

12. The Agreement regulates the "name issue(s)", excludes any territorial claims, prohibits hostile activities, actions or propaganda by State agencies or agencies and clarifies some historical issues. The Agreement also resulted in the establishment of a Joint Inter-Disciplinary Committee of Experts on historic, archaeological and educational matters (which met twice since then) and provides a basis for an extended strategic partnership between the two countries.

13. On 30 July 2018, the parliament decided to organise a consultative referendum (not legally binding) on 30 September 2018, with 68 votes in favour (and none against).<sup>20</sup> The question was phrased as follows: "*Are you in favour of European Union and NATO membership by accepting the agreement between the Republic of Macedonia and the Republic of Greece?*" 94% of the 666 000 voters voted "yes" during a voting process, which the Assembly ad hoc committee considered to be administered impartially, with fundamental freedoms being respected throughout the campaign.<sup>21</sup> However, due to the low turnout (36,89%, i.e. less than the 50% threshold required), which was triggered by the absence of an active 'Against' or organised boycott campaign, the State Election Commission declared the referendum invalid.

14. The "name issue", alongside other identity issues addressed in this agreement, has stirred heated and emotional reactions for decades, and remains a highly divisive issue in Macedonian society. We had stressed that these concerns and opinions ought to be articulated and debated in a free, peaceful and constructive manner, without recourse to violence, intimidation and inflammatory rhetoric.

15. After the referendum, the constitutional amendments needed to ratify the "name agreement" had to be adopted by a two-thirds majority. As the VMRO-DPMNE opposed it, political negotiations were undertaken to unblock the situation. After the adoption of the Amnesty Law in December 2018, charges pressed against 8 opposition MPs involved in the storming of the parliament were dropped (see below). With the support of these deputies, the required parliamentary majority needed to adopt the constitutional amendments could be secured. This amnesty was, at that time, deemed necessary to overcome polarization, to enable the adoption of the constitutional amendments and to take a step towards reconciliation. At the same time, such action raises questions in terms of respect of the rule of law. Such processes should not contravene the powers of the judicial system to establish liability of those who perpetrated violence.

16. The constitutional amendments were adopted on 13 December 2018. Following the ratification of the Prespa Agreement by Greece on 26 January 2019, the country formally changed its name to "Republic of North Macedonia" on 12 February 2019.

17. The conclusive ratification of the Prespa Agreement paved the way for integration into the North Atlantic Treaty Organisation (NATO) and for the launch of EU accession negotiations (the country had signed a Stabilization and Association Agreement in 2001, which entered in force in 2004, and was engaged, since 2012, in a "High-Level Accession Dialogue" with the European Union). As a result of its ratification, and in line

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17. The "Final Agreement for the Settlement of the Differences as described in the United Nations Security Council Resolutions 817 (1993) and 845 (1993), the Termination of the Interim Accord of 1995 and the Establishment of a Strategic Partnership between the Parties. The full text of the Agreement can be found [here](#).

18. On Sunday 17 June 2018, following the signature of the agreement, a protest gathering about 1500 persons in front of Parliament was marked by aggressive rhetoric and nationalist chants. Police used tear gas to disperse protestors. It reported 26 arrests, while seven were protesters and ten police officers were injured.

19. Notably from Komiti, a fan club of Skopje's Vardar soccer team, owned by Russian millionaire Sergey Samsonenko. This decision was challenged at the Constitutional Court, which has not yet rendered a decision. The VMRO-DPMNE did not vote.

21. See [AS/Bur \(2018\) 49](#), Memorandum on the Observation of the referendum in "the former Yugoslav Republic of Macedonia" (30 September 2018). The Assembly ad hoc committee was composed of one member of each political group as well as the two co-rapporteurs of the Monitoring Committee and chaired by Stefan Schennach (Austria, SOC).

with the Agreement, the Greek authorities sent a notification to the EU and NATO on 25 June 2018, indicating their approval of North Macedonia's accession to these two institutions. The accession Protocol was signed with NATO on 6 February 2019. The authorities expected the ratification process of the Protocol by the 29 NATO member States to be completed by the end of the year 2019.<sup>22</sup>

18. The EU General Affairs Council, for its part, had decided to make a "conditional opening" of accession negotiations in June 2018. The final decision whether to open these negotiations would depend on the progress made in reforming several priority areas. Most notably, judicial reforms would need to produce tangible and sustained results and the government would need to proactively investigate, prosecute and convict individuals involved in corruption and organised crime cases (including individuals in high levels of power, members of the security and intelligence services and individuals involved in public administration). Other pre-requisites for the opening of negotiations included a positive report of the European Commission and a decision by the European Council and First Intergovernmental Conference at the end of 2019. In a report released on 29 May 2019<sup>23</sup>, the European Commission recommended that European Council should open EU accession negotiations. On 18 June 2019, the European Council decided to postpone the decision to open accession negotiations – a decision which requires unanimity of EU member States – until October 2019.<sup>24</sup>

19. It transpired from our meetings that the signing of the agreement has raised immense hopes of strengthening Euro-Atlantic integration – which has been a consensual strategic objective of the country. This objective has transcended political parties and ethnic communities who, for a while, have focused their attention on this process and have left their traditional demands aside. After a two-year political crisis that stalled the democratisation process of the country, it has also enhanced the authorities' desire to pursue reforms which have been under way since April 2017.

### **2.3. Context of the current reforms**

20. On 8 June 2015, during the political crisis, a group of European Commission Senior Experts led by retired EC Director Reinhard Priebe, issued the so called Priebe report, which made a wide range of recommendations. These recommendations have constituted the basis for the reforms undertaken by the Government after April 2017. The so-called "Plan 3-6-9" implantation plan sought to outline urgent issues that needed to be addressed in order to restore rule of law, democracy and human rights within given a deadline (respectively 3, 6 and 9 months). Detailed information about the state of implementation of these reforms was summarised in a report published by the government in spring 2018.<sup>25</sup>

21. In June 2018, the European Council underlined "the critical need for the former Yugoslav Republic of Macedonia to continue making concrete progress on the Urgent Reform Priorities and to deliver further tangible results in the fight against corruption".<sup>26</sup> As a result, the authorities of North Macedonia adopted Plan 18 in June 2018, which focused on 4 key rule of law reforms: namely, judicial reforms; reforms to the security services; public administration reform; and reforms aimed at introducing anti-corruption policies.<sup>27</sup>

22. The release of the illegally wire-taped conversations has revealed a profound dysfunctioning in democratic and State institutions and has plunged the country into a deep political crisis. The authorities are now expected to restore trust in the democratic system and to reinstate protection of fundamental rights. In view of the profound political and legal changes that have happened since the adoption of the Assembly's last report in 2013, we have decided to focus this report on the post-monitoring dialogue with North Macedonia concerning the current state of reforms. The report shall highlight progress made in overcoming the systemic issues noted in our previous reports and information notes, and the Priebe report. The report also highlights issues that deserve to be addressed by the authorities. For the sake of clarity, this report will be divided into three chapters: namely rule of law, democracy and human rights.

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22. At the current stage of writing, 22 NATO countries had completed the ratification process of the Protocol. See [https://en.wikipedia.org/wiki/Accession\\_of\\_North\\_Macedonia\\_to\\_NATO](https://en.wikipedia.org/wiki/Accession_of_North_Macedonia_to_NATO).

23. SWD(2019) 218 final.

24. The German Parliament had yet to take position on this issue in September 2019.

25. "Overview of the State of Implementation of the Plan 3-6-9 for the period 4 July 2017 – 17 April 2018".

26. Council of the European Union's conclusions on Enlargement and Stabilisation and Association Process as adopted by the Council on 26 June 2018, [ELARG 41 COWEB 102](#).

27. The text of the Plan 18 is available here: <http://www.sep.gov.mk/data/file/Dokumenti/Plan.18.ENG.pdf>

### 3. Rule of law

#### 3.1. Reform of the judiciary: state of play

23. In 2013, the Assembly noted that citizens of North Macedonia have little confidence in their justice system. This observation remains valid, as the 2018 Annual report of the Ombudsman recently confirmed. Low confidence in the justice system is triggered by delays in court procedures and by the people's perception that most of the rulings are partial, selective and politically motivated.<sup>28</sup> The Assembly had urged the Macedonian authorities to ensure that conditions are met for the creation of a non-selective justice system.

24. With the change of the ruling party, the country has undertaken major reforms to the justice system, as recommended by the 3-6-9 Plan and the Plan 18. The first measures included the following:

24.1. The Council for Disciplinary Liability and Evaluation of Judges was abolished on 28 July 2017. This disciplinary body had been established in 2015 by the former ruling party. It was considered by the then opposition as a political tool and criticized by the Venice Commission.<sup>29</sup> Disciplinary procedures now fall within the remit of the Judicial Council once again.

24.2. The Chief Public Prosecutor Marko Zvrlevski, who was perceived as an ally of the former ruling coalition, was dismissed by the parliament (following a positive opinion from the Council of Public Prosecutors) on 17 August 2017.

24.3. The mandate of the Lustration Committee was terminated by the parliament on 14 September 2017. This Committee had been put in place in 2009 and was criticized both by the Assembly<sup>30</sup> and the Venice Commission in an *amicus curiae* brief dated March 2013 and was subsequently challenged by the Macedonian Constitutional Court. The lustration process was suspended in 2015 as part of the Pržino Agreement and the law abolished.

25. Significant reforms have been launched since then. The Law on Courts and the Law on the Judicial Council were adopted in line with most of the Venice Commission recommendations issued in 2015 and 2018. These recommendations focused most notably on the grounds for disciplinary liability of judges, disciplinary procedures and bodies, as well as the performance evaluation system of judges.<sup>31</sup> The Law on the Judicial Council intends to improve the system of appointment, promotion and professional evaluation of judges. The law ensures that appointments to the first instance give prominence to candidates' ranking upon their completion of the training in the Academy for Judges and Prosecutors in the appointment procedure. The law also introduces a procedure for appeals to the Supreme Court regarding appointment procedures. In addition, the law grants the possibility for citizens to launch petitions and requests for the dismissals of judges – which raised some concerns from the President of the Judicial Council.

26. A number of other pieces of legislations have been adopted in recent months to render the justice system more efficient and more accessible. This legislation includes: amendments to the Law on Judges, Law on the Academy of judges and public prosecutors (August 2018); the Law on Misdemeanours; the Law on Administrative Disputes; the Law on salaries of judges and the Law on Judicial Service (December 2018); and the Law on Free Legal Aid (March 2019). Some amendments to the criminal code pertaining to the criminal prosecution of hate crime were introduced in December 2018. New provisions on witness protection and interference with justice were also introduced. There were important pieces of legislation still in preparation, including the Law on the Public Prosecution office and the Law on the Council of Public Prosecution.

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28. <https://balkaneu.com/north-macedonia-publics-confidence-in-the-judiciary-remains-low/>.

29. See Opinion on the Laws on the Disciplinary Liability and Evaluation of Judges of "the former Yugoslav Republic of Macedonia", adopted by the Venice Commission at its 105th Plenary Session (Venice, 18-19 December 2015), [CDL-AD\(2015\)042](#).

30. See [Resolution 1949 \(2013\)](#), Post-monitoring dialogue with "the former Yugoslav Republic of Macedonia", paragraph 16.

31. See the Opinions of the Venice Commission on the Draft Law on the termination of the validity of the Law on the Council for establishment of facts and initiation of proceedings for determination of accountability for Judges, on the Draft Law amending the Law on the Judicial Council, and on the Draft Law amending the Law on Witness protection adopted by the Commission at its 113th Plenary Session (Venice, 8-9 December 2017) ([CDL-AD\(2017\)033-e](#)), on the Law amending the law on the Judicial Council and on the Law amending the Law on Courts', adopted by the Venice Commission at its 116th Plenary Session (Venice, 19-20 October 2018), [CDL-AD\(2018\)022](#), on "the draft amendments to the Law on Courts" adopted by the Venice Commission at its 117th Plenary Session (Venice, 14-15 December 2018), on the draft Law of the judicial council of North Macedonia, adopted by the Venice Commission at its 118th Plenary Session (Venice, 15-16 March 2019) [CDL-AD\(2019\)008](#).

27. During our visits in 2018 and 2019, the President of the Council of Prosecutors regretted that this institution was not involved in the preparation of the draft laws on the public prosecutor office and the draft law on the Council of prosecutors at an early stage. The President of the Association of Judges had welcomed, for his part, the involvement of his association in the drafting of the Law on judges and the Law on the Judicial Council but stressed that a lot needed to be done to overcome the lack of trust in the judiciary and its dysfunctional institutions (notably the Supreme Court and the Judicial Council).

28. The President of the Judicial Council had also expected a greater involvement of the Judicial Council in the drafting of the laws. He stressed the insufficient budget allocated to courts (ie 0,34% of GDP instead of the expected 0,8%) and the shortage of about 200 judges, which, according to the authorities, could be addressed by a shortened training period provided by the Academy, and by making it possible for judges about to retire to extend their mandate.

29. However, the President of the Judicial Council took issue with allegations made in a survey carried out by the Ministry of Justice in 2018 that the allocation of court cases had been controlled in the Basic Court of Skopje 1, the Appellate Court and the Supreme Court. Further to these allegations, the Minister of Justice informed us this year that investigations have been carried out to identify those who abused the automated court case management information system (ACCMIS). As a result, investigations have been opened both by the Public Prosecutors' Office and by the Judicial Council, which have still to reach their conclusion. As a first step, the law now allows for the dismissal of Court Presidents who fail to allocate cases through the ACCMIS, and of judges who would accept to deal with cases not allocated through the system.

30. While questions concerning the vetting of judges were raised by some of our interlocutors, the President of the Judicial Council considered that there are already existing tools allowing for the evaluation of judges' performances. NGOs, for their part, regret that the lack of reasoning of decisions issued by the Judicial council and the Council of Public Prosecutors concerning the (non) election and transfer of judges or prosecutors. Amendments to the Law on Courts in March 2019 dealing with the grounds for liability of judges, which were endorsed by the Venice Commission, aim at strengthening the independence of judges. It is important that the reforms undertaken also strengthen the impartiality and accountability of judges: the politicisation of the judiciary has been an issue in the past and has allegedly had an impact on the election processes of judges at a national and European level. There are still open questions concerning the functioning of the ACCMIS system in the justice system.<sup>32</sup> We were informed by the Minister of Justice that amendments to the Law on ACCMIS were under preparation.

### **3.2. Reform of the Law on the public prosecution office and future status of the Special Prosecutor**

31. The release of illegally wire-taped conversations in 2015 brought to light conversations revealing alleged government interference in the judiciary and election administration and its control over a number of media outlets. Given the mistrust of the opposition in the prosecution office to handle these sensitive cases, the four political parties agreed to establish a "Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications" (hereafter the Special Prosecutor) and, on 15 September 2016, appointed Ms Katica Janeva, a prosecutor from the basic court of Gevgelia, to this position. Under the terms of the Pržino Agreement, she was to have "full autonomy to lead the investigations surrounding and arising from the interception of communications" and her mandate was meant to remain valid for a period of 18 months after the hand-over of the tapes. We met Ms Janeva on several occasions to be informed about her work, the state of progress of the cases and the relations with the prosecutors and the Council of Prosecutors which considerably improved after 2017.

32. Ms Janeva was concerned about the status of limitation and had requested an extension of the term of her mandate (which ends in September 2019). This concern was also echoed by the OSCE Mission in Skopje, which has been monitoring 20 cases in which the Special Prosecution Office (SPO) filed indictments by the (very narrow) statutory deadline (30 June 2017). In a recent interim report, it found that the current limitations in the legal and institutional framework jeopardised the process of ensuring accountability for the serious crimes revealed in the wiretaps.<sup>33</sup> As part of the on-going discussions on the preparation of the reform of the public prosecution office, Ms Janeva conceded that the wire-tape conversations would not need to be produced in court, since sufficient evidence had been gathered to proceed with these cases in courts without

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32. See Shadow report on Chapter 23, p.29, published by the European Policy Institute of Skopje and "the Helsinki Committee for human rights of the Republic of Macedonia", April 2019 ("Shadow report on Chapter 23").

33. [First interim report](#) on the activities and the cases under the competence of the Special Prosecutor's office (SPO), released by the OSCE Mission to Skopje on 29 August 2018.



the taped material. The validity of the action undertaken by the Special Prosecutor after July 2017 is subject to different interpretations. While the Special Prosecutor considers that crimes arising from the investigation launched before July 2017 should not remain unpunished, the Supreme Court has issued an opinion stating that it would consider cases opened after 30 June 2017 as invalid and that the interpretation provided by the Special Prosecutor amounted to obstruction to justice and abuse of taxpayers' money.

33. The SPO was established in exceptional political circumstances and as a result of a political agreement of the four main political parties. Within three years, this office pressed charges in 20 high level cases and indicted more than 100 people in at least 18 high cases of serious criminal offenses, most of them concerning abuse of office, abuse of position, forgery of documents, embezzlement and large-scale fraud. In June 2017, the Special Prosecutor charged former Prime Minister Gruevski, along with nearly 100 other people, with corruption. Mr Gruevski's trial began in December 2017. The former Prime minister eventually fled the country in 2018 and was granted political asylum in Hungary. The authorities of North Macedonia have launched a request for extradition which has, so far, remained unfulfilled.

34. At the time of our May 2019 visit, there were still discussions between the government and the opposition to reach an agreement on the reform of the Law on the public prosecution office, which should encompass a special prosecution office. A draft law had been submitted to the parliament. There were ongoing political negotiations between the SDSM government and the VMRO-DPMNE party, whose support is needed to reach the two-thirds majority required for the adoption of the law. One of the disputed issues is the management of the flow of cases opened by the Special Prosecutor, including those being investigated after July 2017<sup>34</sup>. The demand formulated by VMRO-DPMNE to amnesty all these cases was deemed unacceptable by the authorities.

35. On 15 July 2019, as the negotiations were stalled, Ms Janeva unexpectedly submitted her resignation, which would become effective after the adoption of the new law on the Special Prosecution office and the designation of her successor. Ms Janeva expressed her frustration over the ongoing feud between the country's main political parties over the future law on the Prosecution office. The following day, Ms Janeva's phone was seized in connection with an investigation over a suspected extortion case (so-called "Extortion case") launched by the regular Prosecution Against Organised Crime against two businessmen: Mr Jovanovski (who owns a TV network in Skopje) and Mr Milevski. They were suspected of demanding millions of euros from a suspect in one (so far unnamed) Special Prosecution case in exchange for a promise of that they would help him avoid a jail sentence or get a lighter one by using their alleged influence over the prosecutor running the case.<sup>35</sup> According to the prosecutor Vilma Ruskovska, the Special Public Prosecutor, Katica Janeva, had her phone seized in order to determine whether there is a connection with Jovanovski. Ms Janeva has denied any abuse of office.

36. On 8 August 2019, the Italian newspaper *La Verità* published recorded conversations allegedly involving Mr Kamcev, Mr Jovanovski and Ms Janeva. Ms Janeva acknowledged that it was her voice and that she had been in contact with Mr Kamcev over another unnamed case but denied any illegitimate move in relation with the "Extorsion case". On 21 August, the prosecutor office for organised crime requested the arrest of Ms Janeva on suspicion of "abuse of office". She was placed in pre-trial detention for 30 days.<sup>36</sup> On 30 August 2019, the Council of Public Prosecutors unanimously decided to initiate a motion and propose to the parliament to dismiss Ms Janeva from her position of Special Prosecutor. This request was unanimously approved by the parliamentary Committee on Elections and Appointment issues on 5 September 2019 and submitted to the parliament. In the meantime, from her place of detention, Ms Janeva has reportedly sent a request to her colleagues from the SPO to hand over all their cases (including those already in trial), investigations and pre-investigative procedures, to the regular prosecutor's office. This request was then submitted to the Chief Prosecutor of North Macedonia.<sup>37</sup> At the time of writing, the investigation into the "Extorsion case," and whether other persons, including ruling party politicians, are involved in the case, was still in progress. These developments came as a shock to the country, shaking people's trust in the SPO. We are not in a capacity to judge on the merit of the case. However, this case shows that no one is above the law and must be entitled to a fair trial. It is now crucial that the prosecution office and the judiciary system act in a diligent and independent manner to bring justice and cast light on this case. We also remain confident that the SPO will continue to operate and investigate high level crimes, in line with its mandate.

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34. This concerns for example the "Talir" investigation, in which the former Prime Minister and VMRO DPMNE leader Nikola Gruevski, along with ten other top party officials, are suspected of illegally financing the party through money-laundering. This led a court to temporarily freeze 69 real-estate assets owned by the VMRO-DPMNE.

35. <https://balkaninsight.com/2019/07/16/north-macedonia-prosecutors-parry-extortion-probe-scandal/>.

36. <https://balkaninsight.com/2019/08/21/north-macedonia-arrests-outgoing-chief-special-prosecutor/>.

37. <https://balkaninsight.com/2019/09/04/detained-north-macedonia-prosecutor-demands-transfer-of-cases/>.



37. As announced by the Prime Minister Zoran Zaev on 19 July, the draft law on Public Prosecution was submitted to the parliament end of August 2019. Under this law, both the Public Prosecution and the Special Public Prosecution should be amalgamated together in order to form a new organisation, entitled the: “Public Prosecution For Organised Crime and High Corruption.” This new entity could be headed by Prosecutor Vilma Ruskoska. The SPO prosecutors, whose mandates expire in September 2020, would be entitled to apply again.<sup>38</sup> At the time of writing, no compromise had been reached with the opposition. This draft law was flagged as an EU accession issue, and thus undergoing a speedy adoption procedure in parliament.

38. It is essential to reach an agreement that will ensure the independent and efficient functioning of the prosecution office and enhance its capacity to handle sensitive cases. While political compromises might be necessary, fundamental rule of law principles should be respected. It is also important to provide a legal framework to ensure that the SPO can operate with the necessary autonomy and independence. We therefore strongly encourage the authorities to seek the expertise of the Council of Europe, so as to ensure that this key piece of legislation will comply with Council of Europe standards.

### **3.3. Fight against corruption**

39. In the Corruption perception index 2018, North Macedonia ranks 93 out of 180 countries, with a score of 37/100, although slight progress has been made since 2017 (when it ranked 107).<sup>39</sup> Corruption remains a widespread phenomenon in many areas. In 2018, GRECO found that the country has made some limited progress in adopting amendments to the Law on the Judicial Council (in December 2017 and May 2018). Limited progress has also been made in the creation of new advisory and supervisory bodies for judges and prosecutors to support the implementation of their respective rules of conduct in daily practice.<sup>40</sup> No meaningful developments had taken place to strengthen the control function and to support a “more balanced and political interference-free approach” of the State Commission for the Prevention of Corruption (SCPC) in charge of controlling declarations of assets and interests of public officials. North Macedonia’s performance at this stage was described as “clearly disappointing” by GRECO, which urged the authorities to take more determined and focused action in respect of a number of recommendations issued four-and-a-half years ago. The authorities were asked to provide a report on the country’s progress in implementing the recommendations as soon as possible, but no later than 30 June 2019.<sup>41</sup>

40. The new Law on the Prevention of Corruption and Conflict of interests adopted in January 2019, which now encompasses the prevention of corruption and conflict of interests, is an important step towards strengthening the fight against corruption. A new State Commission for the prevention of corruption was established. Its members were elected in the basis of clear criteria, in open and transparent procedures (with interviews of candidates being broadcast on TV) which have been praised by many of our interlocutors, including civil society representatives. A new electronic tool interconnecting several databases was set up, which should strengthen the co-operation of all institutions involved in the prevention of and the fight against corruption and facilitate direct access to statistical data.

41. As allegations of nepotism and conflict of interest of high officials surfaced, the Commission swiftly launched action to deal with them, with a clear political backing and strong media attention. This is encouraging. We hope that this institution will continue to have the means, the capacity and the political backing to tackle deeply-rooted corruptive habits and practices which have undermined democratic societies. Strong and effective independent bodies could have a deterrent effect in the future. This development however needs to be confirmed in the long-run and must be confirmed by responsive judicial institutions which should stretch the cases to their final conclusion. We therefore encourage the authorities to ensure that the new pieces of legislation and their implementation will take into account the recommendations made by GRECO and step up their efforts to combat corruption. We believe that these measures can strengthen the independence and impartiality of the State Commission for the Prevention of Corruption, as requested by the Assembly in 2013, provided that its financial and technical means can be stepped up.

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38. <https://meta.mk/en/the-law-of-public-prosecution-predicts-integration-of-spo-into-the-public-prosecution-that-is-led-by-ruskoska/>

39. <https://www.transparency.org/country/MKD>.

40. Second compliance report of the Fourth Evaluation Round on “Corruption prevention in respect of members of parliament, judges and prosecutors”, published on 9 August 2018, [GrecoRC4\(2018\)6](#). GRECO indicated that only six of the 19 recommendations have been implemented satisfactorily. Of the remaining recommendations, eight have been partially implemented and five have not been implemented.

41. *Ibid.*

42. In March 2019, the Commission also adopted a strategy for the promotion of a whistle blower protection system. For the record, the Assembly had, in 2013, called for a stronger legal and institutional protection for “whistle-blowers, which has remained an issue in North Macedonia.”<sup>42</sup>

43. In its recent report on Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies (Fifth Evaluation Round), GRECO acknowledged that North Macedonia had established a rather broad policy and institutional framework for preventing and combatting corruption with its 2016-2019 State Programme for Repression of Corruption and Reduction of Conflicts of Interest. North Macedonia had also adopted the 2019 Law on Prevention of Corruption and Conflicts of Interest, the Law on Lobbying and the Law on the Protection of Whistle-blowers. However, it notes that several shortcomings still remain to be addressed and that “the overall strength of the anti-corruption framework is questionable, as the implementation of different policies and laws is weak and selective in practice”. GRECO also points out the perceived politicisation of the police and the need to strengthen its operational independence. GRECO further recommends strengthening the efficiency of the internal control mechanisms, subordinated directly to the Minister of the Interior, as well as the external oversight performed by the Assembly, the Ombudsman and the Public Prosecutor in order to improve the public accountability of the police. It recommends the elaboration of a new code of ethics for the police addressing issues such as the integrity, conflicts of interest, gifts and corruption prevention within the police.<sup>43</sup>

44. In the field of rule of law, North Macedonia has taken meaningful steps to restore rule of law principles. We would like to stress all efforts undertaken to normalise the system and put the country back on track towards meeting European standards should further enhance transparency, impartiality and accountability and the independence of the justice system. It remains to be seen, however, how these new laws will be implemented by the judicial and prosecutorial instances. The challenges faced by the Special Prosecutor Ms Janeva since 2015 – as we had noted during our visits – in bringing the (politically sensitive) legal cases to court and ensuring that they would be duly processed by the ordinary judicial system raises concerns. At the very least it has shown that the judiciary still has a long way to go towards restoring trust. At the same time, the State Commission for the Prevention of Corruption of Conflict of Interests emphasised during our last visit that the main problem of corruption lays within political parties. This requires strong attention and a change of mentalities. In June 2019, the Prime minister decided to reshuffle his government and release underperforming ministers, following the disappointing results of the party during the presidential election. Prime Minister Zaev proposed that he himself take on the function of Minister of Finance, a decision which was rebuffed by the State Commission for the Prevention of Corruption and Conflict of interests which qualified this situation as a conflict of interests. As a result, the Prime minister decided to temporarily take on this function until the appointment, on 2 September 2019, of Nina Angelovska, the first woman to hold this position in the government of North Macedonia.

## 4. Democracy

### 4.1. Follow-up to the 27 April 2017 events

45. On 27 April 2017, while a new parliamentary coalition was in the process of being formed, the parliament was stormed, which we strongly condemned. More than 100 people, including the SDSM leader, Mr Zaev, and other MPs, were injured. During this deplorable event, Mr Sela, leader of the DPA party, was heavily beaten and severely injured. The trial of those involved in the violence started in August 2018, with thirty people, including the former minister of the Interior, the police chief, five opposition MPs, police employees and activists being charged with “endangering constitutional order and safety”, by participating in or being part of the logistics behind the events.<sup>44</sup>

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42. On 22 November 2018, Transparency International-Macedonia, the Southeast European Coalition on Whistleblower Protection, and the European Center for Whistleblower Rights requested the release of Gjorgji Lazarevski and Zvonko Kostovski, who had disclosed the secret wiretapping that led to the resignation of Prime Minister Nikola Gruevski in 2016, and their reinstatement to the public service positions they lost as retaliation. <http://www.transparency.org.mk/en/>.

43. GRECO’s Fifth Evaluation Round, Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies, Evaluation report adopted on 22 March 2019 and published on 27 June 2019, [GrecoEval5Rep\(2018\)7](https://www.greco-eu.org/en/evaluations/5th-evaluation-round).

44. See <http://www.balkaninsight.com/en/article/macedonia-still-searches-for-masterminds-behind-parliament-attack-08-23-2018> and <http://www.balkaninsight.com/en/article/trial-starts-in-macedonia-parliament-rampage-case-08-22-2018>.

46. As mentioned earlier, in the context of the political negotiations over the constitutional amendments needed for the ratification of the Prespa Agreement, an amnesty law was adopted by the parliament in December 2018, exempting eight deputies from their liability in the April 2017 events.<sup>45</sup>

47. On 20 February 2019, the former Speaker of the parliament, Trajko Veljanovski and former ministers, Spiro Ristovski and Mile Janakievski were arrested by the police in Skopje under suspicion of being organisers of the 27 April 2017 attacks in Parliament. These arrests were qualified as political by the VMRO-DPMNE leader. The former ministers were sent to pre-trial detention (for 30 days) while Mr Veljanovski, enjoying parliamentary immunity, remained free. In the Skopje remand prison of Sutka, the two former ministers were involved in verbal and physical incident and suffered minor injuries, which resulted in the launch of an urgent investigation initiated by the Ministry of Justice and the resignation of the prison governor on 25 February 2018.

48. The situation related to the prosecution of senior VMRO-DPMNE officials had created high political tensions, resulting in the boycott of the parliament by the main opposition party. However, in the spring of 2018, the VMRO-DPMNE party decided to return to parliament, a decision that we viewed as a sign of political responsibility: it has indeed enabled the adoption of crucial pieces of legislation – which requires a 2/3 majority – such as the Law on Energy and the Law on Higher Education (which has restored the autonomy of universities), the Law on Foreigners, as well as a package of laws aimed at reforming the system for interception of communications by the Government, etc.<sup>46</sup>

#### **4.2. Considerations about the political transition period.**

49. North Macedonia experienced a major and deep political crisis in 2015-2016, followed by a transition period (2016-2017). The resolution of the political crisis, which ended with the peaceful organisation of parliamentary elections (December 2016) and a presidential election (May 2019), was facilitated by two actors: the international mediator Peter Vanhoutte, and the expert group led by senior European Commission expert Reinhard Priebe which drafted the “Priebe report” in 2017. The Priebe report provided a roadmap which was then agreed upon by all major political parties, paving the way to redress systemic problems concerning the functioning of democratic institutions and the rule of law.

50. This process was completed on the basis of the consensus reached by the four main political parties, encompassing the two major communities. It is commendable that political parties, despite a highly polarized context, managed to make the necessary compromises. A constructive dialogue is still needed to continue the reform process, fully implement the recommendations included in the Priebe report and to respect the obligations of North Macedonia as a Council of Europe member State. As noted by the European Commission in its 2019 report, “consensus across party and ethnic lines was established on several occasions, including for the amendments to the laws requiring a two-thirds majority, in particular (...) in the field of judiciary, fight against corruption and intelligence services”.<sup>47</sup> It is also commendable that political parties in North Macedonia have, in recent months, opted for a full and active participation in the work of the parliament, which is the place where all subjects, including sensitive and controversial ones, need to be discussed. At the same time, the parliament has strengthened its oversight role and decreased the use of shortened and urgent procedures.

#### **4.3. Electoral issues and changes of the election legislation**

51. In 2013, the Assembly had requested the revision of the electoral code and addressed the electoral issues identified by the Parliamentary Assembly’s ad hoc committee on the observation of the elections of 2011. North Macedonia needed in particular to address the blurring of the line between State and party and to strengthen the legal mechanisms for protecting the status of public officials, especially at the local level. These measures needed to be taken in order to deal effectively with the perceived widespread cases of pressure and threats made during the election campaign that individuals would lose their jobs.

52. In 2016, upon request of the Monitoring Committee, the Venice Commission and OSCE/ODIHR noted that key recommendations pertaining to parliamentary elections remained unaddressed. These recommendations addressed a number of areas including: candidate registration and the dismissal of

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45. This law did not apply for the persons suspected, convicted or already serving a prison sentence for offenses related to the 27 April 2017 events. Shadow report on Chapter 23.

46. All laws adopted are listed in the “[overview](#) of the State of Play of the Implementation of Plan 3-6-9 for the period 4 July 2017 – 17 April 2018” published by the Government.

47. SWD(2019) 218 final.

members of the election administration; restrictive campaign regulations related to the length of the campaign, and to the broad definition of campaign activities; public hearings on complaints and appeals, and periodic reallocation of seats or review of district boundaries by an independent body. It was stressed that the preparation of further amendments to the electoral code should be based on an inclusive process and a constructive dialogue among all political forces and stakeholders. Electoral reforms need to be completed well in advance of the next elections and implemented in good faith. The Venice Commission also noted that previous recommendations, including those on municipal and presidential elections, remained unaddressed by these amendments.<sup>48</sup>

53. In the process of preparing the parliamentary elections of 2016 (first scheduled on 5 June 2016, then postponed to December 2016 following decisions of the Constitutional Court), several laws were adopted. Contentious issues raised by the SDSM, the DUI and the DPA related to the accuracy of the electoral lists and the functioning and composition of the Audiovisual Agency and the Public Broadcaster Council. The VMRO-DPMNE-led parliament adopted, in the absence of the SDMS, amendments to five laws related to the President's right to pardon (see below), a law on protection of privacy banning the publication of wiretap material made between 2008 and 2015 that endanger the privacy and personal life of individuals, and the use of such materials for electoral, political and other goals. In addition, changes were made in the laws on protection of public information, the electoral code and the law on administrative disputes<sup>49</sup>.

54. In the light of these issues, the Monitoring Committee decided on 23 May 2016 to invite the leaders of the two main parties (VMRO-DPMNE and SDSM) to take part in an exchange of views on recent developments and the state of implementation of the Pržino Agreement in September 2016 in Tirana.

55. During the December 2016 early elections, the Assembly *ad hoc election* observation committee pointed out the ineffective internal organisation of the State Election Commission (SEC); its politicised decision-making and shortened legal deadlines; the lack of transparency of some SEC activities (closed sessions, no systematic publication of decisions); the misuse of administrative resources and pressure exerted on voters, in particular on civil servants.<sup>50</sup> The final report of the OSCE/ODIHR Election Observation Mission (February 2017) confirmed that there were "allegations of voter intimidation, coercion, pressure on civil servants, vote-buying, and the misuse of administrative resources [that] persisted through the campaign".<sup>51</sup>

56. With regards to the SEC, during our 2017 visit we had expressed our concerns about the fact that despite its new composition (six nominees from the four main political parties and three independent members), the SEC remained prone to political interference along both political and ethnic lines in this highly polarised country. The influence of political parties in that electoral body remained a source of tensions and could hinder its work. In December 2017, all SEC members (except one) resigned.<sup>52</sup>

57. Amendments to the electoral code were adopted in 25 July 2018. The new provisions related to the composition of the SEC (comprising experts instead of representatives of political parties), the funding of political parties and candidates (which will be covered by the State budget, and no longer be funded by the parties themselves) and to media regulations during election campaigns.<sup>53</sup> They have however raised concerns among media associations, since a) they reintroduce state-funded advertising, which was halted a few years ago, and b) they empower the SEC to register and monitor online media reporting on the elections and to impose fines of up to 4,000 euros on traditional and online media if they are found guilty of "unbalanced or impartial reporting moves that watchdogs and journalists say will curb media freedom and distort the media market again."<sup>54</sup> An alert was also published on the Council of Europe Platform to promote the protection of

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48. "The former Yugoslav Republic of Macedonia" – Joint Opinion on the Electoral Code, as amended on 9 November 2015, adopted by the Council for Democratic Elections at its 56th meeting (Venice, 13 October 2016) and by the Venice Commission at its 108th Plenary Session (Venice, 14-15 October 2016), [CDL-AD\(2016\)032](#)

49. ASMON (2016) 6rev.

50. [Doc. 14238](#), Observation of the early parliamentary elections in "the former Yugoslav Republic of Macedonia" (11 December 2016) (Rapporteur: Mr Stefan SCHENNACH, Austria, SOC), 23 January 2017.

51. OSCE/ODIHR Election Observation Mission [Final Report](#) of the early parliamentary elections of 11 December 2016, 28 February 2017.

52. It had been revealed that the SEC members had awarded themselves considerable sums as bonuses for their activities in the last election cycles.

53. In order to conduct the referendum, new members of the SEC were appointed by the parliament in July 2018 according to the old scheme, with representatives of political parties.

54. <http://www.balkaninsight.com/en/article/macedonia-restricts-media-freedom-again-journalists-warn-08-13-2018>.



journalism and safety of journalists.<sup>55</sup> In their reply of 6 September 2018, the authorities vowed to take these concerns into consideration when preparing the revision of the election legislation and drafting the new Electoral Code.<sup>56</sup>

58. In its report on the observation of the referendum on the name issue of 30 September 2018, the Assembly delegation had noted that “the accuracy of the voter list was not cited as a major concern by its interlocutors, although the abnormally high number of voters registered in comparison with the population of the country remains a matter of concern.” The delegation also stressed the need for a new census to be organised in the country, as the latest one dates from 2002.<sup>57</sup> Although the bill needed to be ratified by the parliament, the opposition has threatened to boycott the process. In its memorandum, the Assembly ad hoc committee<sup>58</sup> concluded that the referendum was administered impartially, and fundamental freedoms were respected throughout the campaign.” The commission noted, however, that the legal framework governing the conduct of referenda was neither comprehensive nor harmonised, and encouraged the authorities to request an opinion from the Venice Commission on the Referendum Law in order to clarify and develop the text, with the aim of harmonising it vis-à-vis the Election Code.

59. During our May 2019 visit, we were informed of the authorities’ intention to organise a new census in 2020 with the help of Eurostat experts. In 2011, there was an attempt to launch a new census. However, this was aborted due to dissenting opinions on the counting method. The issue concerned notably citizens working abroad. Organising a new census has, during our previous visits, been a sensitive issue, due to the linguistic and cultural rights deriving from the size of the communities (in 2001, the Albanian community amounted to 25% of the population). During our last visit in May 2019, none of our interlocutors mentioned the census as controversial. This census could contribute to updating the list of voters. One key concern is the fact that citizens who are actually working abroad, are nevertheless registered on the domestic voting lists. In this context, there were some reflections about implementing an out-of-country voting system for North Macedonian citizens living abroad. The political parties have not yet reached a political agreement, and the discussions were postponed after the 2019 summer recess.

60. During the presidential election held on 21 April and 5 May 2019, the Assembly *ad hoc* election observation committee noted that the election campaign was conducted in a calm environment. Unlike previous elections, this time public employees tried to maintain a clear distinction between their official and political activities, and to avoid using State resources and abusing administration resources in the campaign. Media outlets, including the public broadcaster, presented a variety of information about presidential candidates and the political parties that supported them, allowing voters to make an informed choice. The elections were well organised on election day; the election administration performed its key functions, operated impartially and enjoyed the confidence of most stakeholders. However, the Assembly noted that the electoral code had been changed four times since 2016. “Key previous recommendations aimed at improving electoral litigation, voter registration, representation of the diaspora, campaign financing and the political campaign, as well as at addressing the use of participation thresholds for both referendum and presidential elections, could be addressed in the next electoral reform.”<sup>59</sup>

61. In conclusion, a positive trend was noted throughout the previous elections. It is also noted that the electoral code had been amended several times since 2013, but still failed to address all of the Venice Commission’s recommendations. Drawing from the observation of Assembly election observers, we would strongly encourage the authorities of North Macedonia to consider reviewing the election legislation in its entirety to make it consistent and in compliance with the Venice Commission recommendations. At the time this draft report was drafted, the government was considering revising the electoral system. We hope that the authorities of North Macedonia will foster cross party consensus and work with the Venice Commission to align the election legislation with European standards.

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55. “Amendments to the Electoral Code Empower State Election Commission to Issue Fines to Media for ‘Unbalanced Reporting’”, [Platform to promote the protection of journalism and safety of journalists](#), 9 August 2018. See also the [statement](#) issued by media organisations on 27 July 2018.

56. [Reply](#) of the authorities to the complaint of the Association of Journalists of Macedonia: “Amendments to the Electoral Code threaten the work and the freedom of the media”.

57. [AS/Bur \(2018\) 49](#).

58. The Assembly ad hoc committee was composed of one member of each political group as well as the two co-rapporteurs of the Monitoring Committee.

59. Election observation report, Observation of the presidential election in North Macedonia (21 April and 5 May 2019), Ad hoc Committee of the Bureau (Rapporteur: Ms Marie-Christine DALLOZ, France, Group of the European People's Party, [AS/Bur/NM \(2019\) 02](#), 15 May 2019.



#### 4.4. Constitutional issues

62. In 2014, the VMRO-DPMNE, which was then the ruling party, sought to revise the constitution and to adopt seven draft constitutional amendments. These amendments addressed several areas including: the removal of the Minister of Justice from the Court Council (which appoints judges) in order to reduce political influence on the courts; the introduction of a mechanism of “constitutional complaint” which would allow citizens to lodge complaints against the authorities; a narrower definition of marriage, as a union between a man and a woman; the opening of an “international financial zone” (ie a tax haven) and the limitation of the rate of the public debt to 60% of the GDP and the budget deficit to 3% of the GDP. After the adoption of the Venice Commission opinion<sup>60</sup>, the revised draft amendments reflected some but not all of the criticism expressed by the Commission in its opinion. However, due to a lacking two-thirds majority, these amendments were not endorsed by the parliament.

##### 4.4.1. The President’s right to pardon

63. The transition period experienced by North Macedonia raised some issues concerning the prerogatives of the President of the Republic and the exercise of his mandate in a highly polarised context.

64. On 16 March 2016, in a closed session, the Constitutional Court annulled a legal provision which had previously barred the President of the Republic from granting pardons. This caused the opposition to fear that this decision would pave the way for the President to pardon former senior government officials suspected of organising election fraud, should they be sentenced. This decision also triggered demonstrations from both sides in front of the Constitution Court building. We noted at that time that the decision of the President of the Republic to terminate all criminal investigations linked to the illegally wire-taped conversations, however well-intentioned it might be, would lead to a breach of the rule of law, hinder the work of the Special Prosecutor, undermine the implementation of the Pržino Agreement and lead to impunity.<sup>61</sup>

65. On 12 April 2016, In the light of the deteriorating political situation, President Ivanov took the unilateral decision to terminate all criminal investigations against ruling or opposition party members related to the illegally wire-taped conversations and to grant an amnesty to the one person convicted so far.<sup>62</sup> 56 people were pardoned, including former Prime Minister Nikola Gruevski (from five criminal proceedings), former Transportation Minister Mile Janakieski (16 proceedings) and former Minister of the Interior Gordana Jankulovska (11 proceedings). The former President, Prime Minister and leader of the SDSM party Branko Crvenkovski, as well as current SDSM leader Zoran Zaev (with two criminal proceedings) were also pardoned.<sup>63</sup>

66. On 19 May 2016, at the proposals of leaders of the VMRO-DPMNE and DUI parliamentary groups, the Parliament adopted, amendments to the law on pardons granted by the President of the Republic. The amendments sought revoke pardons within a 30-day period after the law was passed and to oblige the president, on receipt of a request, to withdraw pardons bestowed on certain individuals; The decision stirred demonstrations and strong reactions from the European Union and the United States.

67. On 6 June 2016, the President of the Republic decided to cancel the pardon granted to the 22 politically exposed persons (out of 56 pardons granted earlier), signaling that politicians should not be untouchable. No names were made public at that stage.

##### 4.4.2. The President’s “pocket veto”

68. Another issue developed after the December 2016 elections, when President Ivanov refused the SDSM’s request for a mandate to form a government after the VMRO–DPMNE-- who had won a plurality of seats in the elections--was unable to gather enough support to form its own majority, thus delaying the formation of a new government for months.

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60. [CDL-AD\(2014\)026](#), Opinion on the seven amendments to the Constitution of "the former Yugoslav Republic of Macedonia" concerning, in particular, the judicial Council, the competence of the Constitutional Court and special financial zones, adopted by the Venice Commission at its 100th Plenary Session (Rome, 10-11 October 2014).

61. ASMON (2016) 6rev.

62. Zvonko Kostovski worked as an engineer at the Administration for Security and Counterintelligence. He was sentenced to 3 years of prison on 25 March 2016.

63. <http://www.balkaninsight.com/en/page/macedonia-home> and <http://www.independent.mk/articles/30445/Macedonia+Presidential+Pardons+Published+in+Official+Gazette>.

69. After the formation of the new government in 2017 and the change of the name of country in 2019, the President of the Republic refused on several occasions to promulgate laws adopted by the parliament which he deemed unconstitutional or saw as a danger for the national unity.<sup>64</sup> It is highly questionable whether this “pocket veto” is in line with the constitution: Article 75 stipulates that “the President of the Republic may decide not to sign the promulgation declaring a law. The Parliament reconsiders the law and the President of the Republic is then obliged to sign the promulgation in so far as it is adopted by a majority vote of the total number of Representatives”.

70. In our conversation, Prime minister Zaev indicated in June 2018 that he was seeking advice from experts to circumvent the President’s veto. Impeaching the President (whose mandate expired in April 2019) might have proved difficult, since it required a two-thirds majority in parliament<sup>65</sup> and the support of the main opposition party to which the President belonged. In order to overcome this “pocket veto”, these laws were eventually signed by the Speaker of the parliament and published in the Official Gazette. A change of the constitution would be welcome to avoid deadlocks in the future and to clarify the procedure to be followed in the event that the President refuses to promulgate laws adopted by the parliament for a second time (and to avoid the use of this “pocket veto”). The authorities could draw inspiration from good practices developed in other Council of Europe member States, which have clear constitutional provisions on this issue.

#### **4.5. Local democracy**

71. The last local elections in North Macedonia were held in 2017. Although the elections were originally planned in May, they had to be postponed until October 2017. The postponement stemmed from a stalemate in electing the Speaker of Parliament and the expiration of all election deadlines, which required amendments to the Electoral code in June and September 2017. The amendments were enacted via an expedited procedure designed to extend the mandates of the incumbent mayors and municipal councilors until the elections in question and to enable BESA (the fourth political force in parliament) to have one member in the State Election Commission.

72. On 15 October 2017, 45 mayors (out of 81) were elected following the first round of elections, including 37 from the SDSM party, three from the VMRO-DPMNE and two from the DUI. The second round of elections—including in the Capital Skopje – was held on 29 October 2017. The Congress of Local and Regional Authorities of the Council of Europe observed the elections. The international election observation mission noted that these elections were held in a competitive environment. Candidates were generally able to campaign without restriction and fundamental freedoms were respected overall. There were however credible allegations of vote-buying, pressure on voters and isolated cases of violence during the pre-election period. The mission concluded that “despite organisational challenges, the election administration ensured that voters were able to exercise their voting rights. Election day generally proceeded orderly, although some procedural irregularities were observed”.<sup>66</sup>

73. We stressed in previous reports that decentralisation is key element to good governance at local level and to the effective implementation of the Ohrid Framework Agreement. During the meetings we had in 2017, prior to the local elections, several representatives of the Association of Local Self-Government Units (ZELS), including its Chair and Mayor of Skopje, Mr Trajanovski (VMRO-DPMNE), and its Vice-Presidents Nevzat Bejta, Mayor of Gostivar (DUI), and Zoran Damjanovski, Mayor of Kumanovo (SDSM), had regretted that the series of presidential and (early) parliamentary elections since 2013 had put mayors under pressure. Because of the three-year political crisis, the essence of decentralisation had been lost. Asked about their expectations from the new government, the three mayors mentioned a broadening of the competences of local authorities, increased fiscal decentralisation and fiscal capacities, and fair and equitable implementation of the Law on equal regional development.

74. The new government will be expected to review the legislation and complete the fiscal decentralization so as to ensure that all municipalities have the capacity to carry out their obligations with adequate fundings.

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64. President Ivanov has for example refused to sign any promulgation of decrees, including on the Anti-Discrimination Law, the Law on the Operational Technical Agency and the Law on the Electronic Communications.

65. See Article 87 of the [constitution](#): “The President is held accountable for any violation of the Constitution in exercising his/her rights and duties. The procedure for determining the President of the Republic’s answerability is initiated by the Assembly with a two-thirds majority vote of all Representatives. It is the Constitutional Court that decides on the answerability of the President by a two-thirds majority vote of all judges. If the Constitutional Court considers the president answerable for a violation, his/her mandate is terminated by the force of the Constitution.”

66. See the report prepared by the Congress of Local and Regional authorities, Observation of municipal elections in “The former Yugoslav Republic of Macedonia” (15 October 2017), Rapporteur: Karim VAN OVERMEIRE, Belgium (R, NR), 16 March 2018, [CPL34\(2018\)02final](#).

#### 4.6. Reform of the public administration

75. In 2013, the Assembly had called on the authorities to reinforce the merit-based recruitment system, which needed to be based on transparent criteria in selection or election processes. “In the context of the perceived polarisation and politicisation of society, the ruling parties, which have held a majority both in the parliament and at local level since the March 2013 elections, have a major responsibility for ensuring that an inclusive dialogue is developed with all segments of society and political parties.”

76. The implementation of the Public Administration Reform Strategy and the Public Financial Management Reform Programme has continued. The European Union acknowledged that concrete efforts have been made in increasing transparency and accountability and in improving consultations in policy-making. As already stated in the 2013 Assembly report, it is necessary to ensure that the recruitment, appointment or dismissal of civil servants and public administration staff is merit-based (and not based on party affiliation). The legal steps adopted in October 2017 and February 2018 by the Government obliging ministries, state administrations, as well as public enterprises or regulatory bodies established by parliament, to publish and regularly update a list of 21 documents<sup>67</sup> is a step towards more transparency. At the same time, it is also important to bear in mind the need to ensure transparent and equitable representation in the administration.<sup>68</sup> In this context, the swift action undertaken by the State Commission for the Prevention of Corruption following allegations of nepotism in the administration is to be welcome.

77. The new law on Free access to Information of Public Character of January 2019 could also strengthen transparency in public administration. This law aims at drastically easing public access to information, increasing institutional transparency and redressing the legal loopholes that exist in current legislation, which enable parties to hide or delay the disclosure of data. Political parties will be obliged to disclose all financial data, such as their incomes and expenditures. The law contains a much stricter definition of what the public interest is. The Commission for Free access to Information of Public Character will now be able to launch procedures against institutions who prevent the right to free access and should issue penalties on its own.<sup>69</sup>

### 5. Human Rights

#### 5.1. Latest developments pertaining to gender equality

78. Some important developments have occurred in the field of gender equality. 38% of the representatives in the current parliament are women. The action plan for gender equality (2018-2020) sought to introduce a 50% quota for ensuring the participation of women in election processes and decision making, while gender budgeting measures are being implemented at ministerial levels.<sup>70</sup> The authorities indicated that the amendments to the Electoral Code which are under preparation should include a 50/50 quota to ensure an equal representation of women and men on lists of candidates for parliamentary elections.<sup>71</sup> We welcome this commitment and strongly encourage the authorities to ensure that this provision will be based on a “zip system” (ie alternating female and male candidates on candidate lists) with effective mechanisms preventing political parties from failing to comply with this requirement.

79. We also welcome the efforts undertaken by the Government to adopt gender responsive budgets (including in the 2019 Law on Budgets) and to support State institutions in making gender budgeting analysis with the creation, by the end of the year 2019, of a resource centre. With the support of the UN Women Office, this centre will help promote gender responsive budgeting and gender equality policies.

80. Following the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No.210) (Istanbul Convention) on 23 March 2018, North Macedonia adopted a national action for its implementation, which should also address the need to increase the number of shelters for victims of gender-based violence. A new Law for the Prevention of and Protection against gender-based violence is expected to be adopted by the end of 2019. New services, such as shelters,

67. See details in AS/Mon (2019) 20.

68. Joint press statement of the Fifteenth meeting of the Stabilisation and Association Council between the Republic of North Macedonia and the European Union, 19 April 2019.

69. According to the Active Transparency Index for 2018, institutions of North Macedonia disclosed only 43.5 % of the public information that they were legally obliged to. <https://balkaninsight.com/2018/11/28/macedonia-to-make-party-finances-public-11-27-2018/>.

70. SWD(2019) 218 final.

71. AS/Mon (2019) 20.

crisis centres and counselling centres for victims and perpetrators of violence, should be opened. During the period from 2019-2023, training will be provided for specialized service providers, as well as professionals working in health care, police, social work centres, civil society activists and the media.<sup>72</sup>

81. In March 2019, after a long process and a heated debate, parliament adopted the Law on Termination of Pregnancy (however, the law was not signed by the President of the Republic Mr Ivanov), annulling the previous more restrictive law which had been in place since 2013. The law was eventually promulgated by President Pendarovski. More specifically, the new law removes in particular administrative barriers, obligatory counselling of women and a three-day waiting period which had been put in place by the previous legislation.<sup>73</sup>

## **5.2. The ombudsman institution**

82. In 2013, the Assembly had called on the authorities to allocate sufficient financial and human resources to this area and to ensure the proper functioning of the Office of the Ombudsman.

83. The adoption of amendments to the Law on the Ombudsman has strengthened this institution. In addition to being the national preventive mechanism of the Optional Protocol to the Convention against Torture (OPCAT), the Ombudsman is now mandated to oversight action by the police and prison police officers. The Ombudsman will serve as a civil control mechanism and will ensure protection and assistance for victims. The ombudsman will also be responsible for the monitoring of the Convention on the Rights of Persons with Disabilities and its Optional Protocol. In order to fulfill these mandates, independent and sufficient financial and human resources should be secured. In this context, ECRI had noted that despite the increase of the number of staff at the ombudsman's office, only 50% (79 out of 142 positions) of the posts were staffed in August 2018.

84. In view of the need to strengthen the ombudsman's office as an independent body, the fact that the parliament of North Macedonia has debated the Annual reports of the ombudsman is to be welcomed. In June 2018, the parliament adopted measures with a view to implementing the recommendations listed in the 2017 Annual report.<sup>74</sup>

## **5.3. Reform of the Intelligence Service**

85. The wire-taped conversation scandal of spring 2015 revealed a massive wire-tapping in the country: during its investigation, with allegedly 670 000 illegally recorded conversations from more than 20 000 telephone numbers, the EU senior expert group established that the ruling party had misused the national security services in order to control top officials in the public administration, prosecutors, judges and political opponents. It revealed a concentration of power within the national security service (UBK) – which, at that time, held the monopoly over the use of surveillance in both intelligence and criminal investigations. Additionally, the report revealed the malfunctioning of the mechanism tasked with overseeing the UBK, which could intercept communications directly, autonomously and unimpeded, regardless of whether a court order has issued in accordance with the Law on Interception of Communications.<sup>75</sup>

86. In 2015, in the wake of the release of the wire-taped conversations, the previous authorities adopted new legislation to restrain and regulate the use and, in particular, the publication of this material. This was done so as to protect privacy – and personal and family rights in particular – and to protect the public interest in the investigation of crime and corrupt misbehaviour. After the formation of a technical government, a law adopted in September 2015 established a Special Prosecutor (see previous sections), who was tasked with investigating these allegations. Laws on the Protection of Privacy (focusing on the disclosure of material allegedly intercepted by the UBK between 2008 and 2015) and on the Protection of Whistleblowers were enacted on 10 November 2015. In an opinion dated March 2016, the Venice Commission suggested an in-depth revision of the Privacy Law, which failed to achieve a proper balance between private interest and the interest of the public to be informed and recommended that the Whistleblowers Law be upgraded.<sup>76</sup>

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72. AS/Mon (2019)20.

73. Shadow report, p.93.

74. Shadow report, p.74.

75. [Recommendations](#) of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015, 8 June 2015.

76. "The former Yugoslav Republic of Macedonia" – Opinion on the Law on the Protection of Privacy and on the Law on the Protection of Whistleblowers of "the former Yugoslav Republic of Macedonia", adopted by the Venice Commission at its 106th plenary session (Venice, 11-12 March 2016) [CDL-AD\(2016\)008-e](#).



87. In March 2019, a set of laws aimed at reforming the security intelligence community, including the Law on State Security Agency, was adopted. An Operational Technical Agency was established. It has been operational since November 2018. The Law entrusts the Agency, upon a court order, to intercept communications for the protection of the security of the State or for criminal investigations. The Intelligence Service is now under the authority of the government. All telecommunication interceptions should be ordered by a court. An oversight parliamentary committee, chaired by the opposition, is monitoring the activities of the intelligence service. These safeguards should limit the abuse of the system.

#### **5.4. Situation in prisons**

88. In 2017, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a highly critical report on the situation of prisons in North Macedonia. The report highlighted a wide range of concerns, especially at Idrizovo Prison (which accommodate 60% of the country's prisoners), such as "totally inadequate provision of health-care", continued problems of ill-treatment, inter-prisoner violence, corruption and a lack of activities offered to prisoners, insufficient number of prison staff and the lack of training and support provided to them. The conditions of detention in several parts of this prison could be considered as inhuman and as placing prisoners' lives at risk. In the remand section of Skopje Prison (which holds the vast majority of the country's pre-trial prisoners), inmates were confined to their cells for up to 23 hours a day for periods of up to two years. Little progress had been made on systemic issues raised since 2006 (such as an inadequate system of reporting and supervision, and the poor management and performance of staff).<sup>77</sup> On 14 October 2017, the President of the CPT held meetings with senior government officials, including the Prime Minister Mr Zaev, to see how the situation could be addressed. The CPT will pay a visit to the country in 2019. The situation of the Idrizovo Prison needs to be urgently addressed, as do the poor conditions in police stations, social care facilities and psychiatric institutions.<sup>78</sup>

89. We have been informed that, since February 2018, the Directorate for the Execution of Sanctions (the DES) has submitted 6 quarterly reports to inform the CPT about measures and activities implemented to improve the penitentiary system. These measures envisage, *inter alia* the increase of accommodation capacities and facilities, the improvement of conditions for stay and work in prisons and educational-correctional facilities, the reconstruction of the Idrizovo Prison (with the support of the Council of Europe Development Bank), the construction of a pre-trial detention ward at the Idrizovo Prison, the improvement of health care for convicted and remand inmates at prisons and educational-correctional facilities and the recruitment of additional staff.

90. Overcrowding in prisons also remains an issue. On 21 September 2017, as part of a wider reform of the judicial system, the government announced its plan to pardon all convicts serving jail sentences of less than six months and to cut the jail terms of prisoners serving less than five years by 30% in order to tackle "the overcrowding in prisons and the inhumane conditions inside them."<sup>79</sup> The amnesty law adopted in January 2018 applied to 2 345 convicted persons, of whom 736 were released, while 1 560 received a 30% reduction in their sentence. This contributed to a reduction in the number of prisoners.<sup>80</sup> In addition, the DES is also developing a sustainable probation system for providing alternative measures within the community.<sup>81</sup>

#### **5.5. Ill-treatment and torture**

91. Ill treatment, coupled with the lack of an adequate response by State institutions in relation to such ill-treatment, remains an issue. In 2018, the European Court of Human Rights issued a ruling in the case of Mr Selami (and others), who had been arrested for his suspected involvement in the killing of two police officers and was seriously injured during his arrest. The Court found that Mr Selami had clearly been the victim of torture and unlawful detention. The Court concluded that the domestic courts had not provided adequate redress for the torture and detention of Mr Selami.<sup>82</sup>

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77. Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 6 to 9 December 2016, published on 12 October 2017, [CPT/Inf \(2017\) 30](#).

78. SWD(2019) 218 final.

79. <http://www.balkaninsight.com/en/article/macedonia-plans-easing-pressure-on-crowded-prisons-09-20-2017>. See also the executive summary prepared by the CPT in March 2016 after its 2014 visit to the country ([CPT/Inf\(2016\)/part](#)).

80. Figures as of 23 February 2018. AS/Mon (2019)20.

81. AS/Mon (2019) 20.

82. Chamber [judgment](#) in the case of Selami and Others v. "The former Yugoslav Republic of Macedonia" (application no. 78241/13), 1<sup>st</sup> March 2018.



92. Following the publication of the CPT report, the authorities have undertaken measures to improve the conditions of detention of persons in police stations and the renovation of these premises.<sup>83</sup> Amendments to the Law on Internal Affairs of February 2018 also provide for an *ex-officio* criminal prosecution in cases where criminal reports indicate that police officers or authorised official person for security and counterintelligence with police powers, have allegedly perpetrated a criminal act while performing an official act. The law further criminalises police officials who have perpetrated a criminal act outside the service by using serious threat, force or means of coercion resulting in death, grievous bodily harm, bodily harm, illegal detention, torture and other cruel, inhuman or humiliating treatment and punishment.<sup>84</sup> These investigations should be carried out by the newly created Section for Investigation and Prosecution of Criminal Acts Perpetrated by Persons with Police Powers and Prison Police Officers. This new service was created following amendments that were made to the Law on the Public prosecutor's office adopted in October 2018, as their investigations were previously seen as inefficient and ineffective.

93. The authorities indicated that, in March 2017, with the assistance of Council of Europe experts, the Directorate for the Execution of Sanctions adopted a Strategy for the implementation of the policy of zero tolerance of ill-treatment and a Plan for the prevention of corruption to establish more effective mechanisms for dealing with cases of ill-treatment of persons deprived of their freedom, as well as cases of corruption among the staff at prisons and educational-correctional facilities. Standard Operating Procedures (to keep records of the use of means of coercion) and a new Code of Conduct for staff at prisons and at educational – correctional facilities were developed in 2018 and included in the training provided for staff employed at prisons and at educational-correctional facilities. The DES is currently developing a new National Strategy for the Penitentiary System (2020-2025) with the assistance of the Council of Europe. Meanwhile, under the EU funded twinning Project, a Strategy will be designed for the development of the probation service.

94. In this context, we welcome, within the ombudsman's office, the creation of a special organisational unit for civil control. This has been established as an additional correction to the system of investigation of criminal acts perpetrated by persons with police powers and prison police officers, including three representatives of NGOs. As criminal charges against police and prison police officers have been very low so far, the European Commission expressed the hope that the external oversight mechanism could address the sense of impunity.<sup>85</sup>

## 5.6. Media

95. North Macedonia ranks 95 in the 2019 World Press Freedom Index, which constitutes an improvement compared to its 2018 performance, when it ranked 109.<sup>86</sup> In our information notes, we have highlighted a number of challenges with respect to media freedom, including attacks against journalists<sup>87</sup> and a lack of court decisions against perpetrators (thus fostering a climate of impunity for the perpetrators). Attacks against journalists, undue political interference in, and political control over, the media and problematic public funding of media are all issues that need to be addressed. Journalists have also described a "corrupt system" functioning in a closed-circuit, with public institutions contracting with advertisement companies and commercial distributing companies close to the ruling authorities.

96. We observed improvement in the climate for journalists in recent months, who now have more freedom to express critical views. However, more needs to be done to fight what was described as "more subtle forms of pressure" (of economic nature, for example), to ensure that previous attacks against journalists do not go unpunished and to strengthen the regulatory bodies in the media sector.

97. Amendments to the Law on Audio and Audio-visual Media Services in North Macedonia were adopted in December 2018 and entered into force in January 2019. This law is expected to improve the independence, transparency, efficiency and accountability of the Audio and Audio-visual Media Services. This Law is now considered to be in line with European and international standards on audio-visual media.<sup>88</sup> These amendments include provisions designed to strengthen the diversity of representation in various media regulatory bodies and to ensure that the interests of different ethnic groups are taken into consideration.

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83. The authorities provided details about the implementation of the Strategic Plan of the Ministry of the Interior for 2018-2020. See AS/Mon (2019)20.

84. AS/Mon (2019) 20.

85. SWD(2019) 218 final.

86. <https://rsf.org/en/republic-north-macedonia#alerteszone>.

87. In 2017, the Association of Journalists of Macedonia had referred to 50 attacks against journalists.

88. See the [Legal Analysis](#) of Amendments to the Law on Audio and Audio-visual media services in North Macedonia published by the OSCE, by Professor Dr Katrin Nyman Metcalf 16 May 2019 and press release.

98. One of the main challenges relates to the financial sustainability of the media. One of the first measures announced by the government in 2018 was the scrapping of the monthly payment of radio and television taxes (which funded the public broadcaster up to then), so as to ease the financial strain on low-income families. Media representatives criticised this measure which they considered populist, as it would not strengthen the independence of the public broadcaster and would run against European standards. In May 2019, there were still discussions as to whether the funding of the public broadcaster through the State budget was advisable.

99. We also noted that journalists and staff of the public broadcaster feared that they would be evaluated according to the Law on Employees in the Public sector, which, according to the Association of journalists, could have an impact on the editorial policy of the public broadcaster and could lead to political pressure.<sup>89</sup>

100. The public broadcaster MRT still needs to be reformed in order to become an independent public medium. In its 2019 yearly report on the World Press Freedom Index, Reporters Without Borders noted that “for the time being, the State broadcaster’s programming continues to serve the interests of the former ruling conservative party, the VMRO-DPMNE”<sup>90</sup>: MRT’s program council and its management remain led by “the same people who were often accused of subordinating MRT to the interests of VMRO-DPMNE party”.<sup>91</sup> The terms of office of the outgoing 13 members of the Program Council (appointed in December 2014) expired in early 2019, but they have not yet been replaced. In particular, the re-election, of Marijan Cvetkovski in February 2018, as head of MRT raised controversy since he is the subject of a probe instigated by the Special Prosecution in October 2018 for alleged abuse of office and criminal affiliation.

101. Combating hate speech on online media and the internet is an issue that should be addressed and monitored by the authorities. Political leaders have a responsibility in this matter: they need to refrain from using hate speech, and they need to condemn the use of hate speech. Inflammatory speeches often lead to further hateful rhetoric. Public figures need to ensure that their statements do not trigger further hate speech by their supporters. According to data collected by the Helsinki Committee, 64% of the 123 hate crimes registered in 2018 were ethnically motivated, and 25% were politically motivated.<sup>92</sup>

102. The announced plan to fight disinformation and fake news by the Prime minister on 24 July 2019 stirred a lot of reaction: the opposition party VMRO-DPMNE claimed that this could amount to censorship, while the Association of Journalists expressed its concerns about the so-called “proactive measures” foreseen, such as paid campaigns at private media, co-regulation, the introduction of criteria regulating the accreditation of media allowed to follow government events or the problematic role of the action group to fight disinformation to be formed.<sup>93</sup>

103. After our visit in May 2019, we concluded that the media was operating in a better environment: the safety of journalists is a lesser issue; the focus is now on financial and other systemic issues. We notably expect the authorities to ensure that the public broadcaster will operate as a high quality and impartial information medium. Media regulation bodies, but also associations like the Media Ethics Council which promote the application and advancement of ethical and professional standards in the media, have an important role to play in this respect.

### **5.7. Ohrid Framework Agreement**

104. During our visits, we have collected continuous information about the implementation of the Ohrid Framework Agreement (OFA). As described in the previous post-monitoring dialogue report, this Agreement had been signed in 2001 to put an end to the fighting between the Albanian National Liberation Army (NLA) and the State security forces. An additional aim of the agreement was to enact significant reforms designed to improve the rights of the ethnic Albanians, who represent some 25% of the country’s two million inhabitants, while maintaining the State’s unity. These reforms included changes to key passages of the constitution, including its preamble, to promote the concept of equal citizenship over the preferential status formerly given to ethnic Macedonians; provisions on language to regulate and expand the use of the Albanian language,

89. Shadow report on Chapter 23, p.86. The authorities explained that employees in public enterprises having the status of administrative officers are evaluated in accordance with the 2014 Law on Administrative Officers, while public service providers and ancillary-technical staff are assessed in accordance with the Law on Public Enterprises and collective agreements in place. See AS/Mon (2019) 20.

90. <https://rsf.org/en/republic-north-macedonia#alerteszone>.

91. <https://balkaninsight.com/2019/05/17/north-macedonia-eyes-chance-to-reform-discredited-broadcaster/>

92. Shadow report, p.105.

93. <https://meta.mk/en/avalanche-of-reactions-on-governments-announcement-of-its-involvement-in-the-fight-against-disinformation/>.

especially in communities that are at least 20% Albanian; proportional representation in public administration and State institutions; protection mechanisms for minorities in parliament and decentralisation. It also required the use of a qualified majority (so-called "Badinter rule"), ie a double majority requiring 1) a majority vote and 2) a majority vote from non-majority communities when the parliament adopts laws that directly concern the rights of national communities, as specified in the 2007 Law on the Inter-Community Relations Committee.<sup>94</sup>

105. Interethnic relations remain fragile. This crisis period was marked by renewed inter-ethnic tensions and heavy fighting in the ethnically mixed city of Kumanovo, on the northern border (30 km from Skopje) on 26 April 2015,<sup>95</sup> then on 9 May 2015 armed clashes and heavy gunfire erupted, leaving eight policemen and ten Albanian militants dead,<sup>96</sup> more than 40 wounded and causing significant damage. This attack was described as a "terrorist attack" by the authorities. It led DUI leader Ali Ahmeti, then Deputy Prime Minister (and former leader of the "Kosovo (\*)<sup>97</sup> Liberation Army" (KLA) in Macedonia in 2001), to resign under pressure from the Albanian community. On 12 May 2015, the Minister of the Interior Gordana Jankulovska, Minister of Transport and Communications Mile Janakievski, and the Director of Security and Counterintelligence (UBK) Saso Mijalkov all resigned. During the appeal trial (currently going on in Skopje), the 33 defendants reiterated their claim that they were victims of a political set-up by the former government led by ex-premier Nikola Gruevski, and asked for an international investigation with testimonies from top-ranking former and current officials. The Appeal court should decide whether to hold a retrial of the defendants.<sup>98</sup>

106. Tensions had arose after the killing of five ethnic Macedonian fishermen by, allegedly, six ethnic Albanians in the so-called "Monster Case" in 2015. They were exacerbated after alleged interference of the authorities in the case revealed by the release illegally wiretapped conversations.<sup>99</sup> In November 2017, the Supreme Court overturned the verdict, called for a re-trial and released the four defendants on probation.<sup>100</sup> The Criminal Court of Skopje resumed the case in June 2019.

107. The 3-6-9 plan drafted by the Government in 2017 addressed the implementation of the Ohrid Framework Agreement. The report also took into consideration the adoption by the government of a new draft law on the use of languages, following the coalition agreement concluded between the SDSM and the Albanian parties DUI and BESA. A draft law was adopted on 4 August 2017 by the government, with Prime Minister Zaev indicating that controversial provisions (such as adding Albanian to banknotes and coins, and to the insignia of army and police uniforms), had not been included in the draft law.

108. The Parliament finally adopted the Law on the use of Languages in January 2019. The Law extends, at national level, the use of the Albanian language in administrative, health, judicial, police, and other official matters. The Albanian language had until now been an official language only in areas where the minority makes up at least 20 percent of the population. This law was opposed by the right-wing party VMRO-DPMNE, and by the President of the Republic (who refused to promulgate it, arguing that it could endanger Macedonia's unity and sovereignty) and sparked demonstrations in the country. The Law was ultimately signed by the Speaker of the parliament and published in the official gazette. Subsequently, the authorities requested an opinion from the Venice Commission which is due to be adopted in 2019.

109. In the meantime, the Committee of Ministers of the Council of Europe has recommended the monitoring and effective implementation of the Law on the Use of Languages at central and local levels, including as regards the display of minority languages on topographical signs, and has encouraged the use of minority languages in the public sphere where possible, while refraining "from relying exclusively on the 2002

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94. See [Doc. 13227](#).

95. According to the Macedonian police, a group of 40 men wearing uniforms of the disbanded ethnic "Albanian Kosovo Liberation Army" (UCK), had apparently entered Macedonian territory from Kosovo(\*), attacked a police watchtower in Gosince, briefly captured four Macedonian police officers and took control of the watchtower. No injuries were reported and the policemen were released after 30 minutes.

96. <http://uk.reuters.com/article/2015/05/15/uk-macedonia-police-idUKKBN0001RZ20150515>. Nine of these ten militants were Kosovo\* Albanians and KLA veterans with ties to the KLA leadership,

97. All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council [Resolution 1244](#) and without prejudice to the status of Kosovo.

98. <https://balkaninsight.com/2019/05/16/tensions-flare-at-north-macedonia-shootout-hearing/>.

99. Wiretapped conversations of officials allegedly cast doubt on the convictions of the six people for the killing of the five ethnic Macedonians but added that he is still withholding publication of those tapes for fear of causing a violent reaction. An Albanian political movement, "Besa", has scheduled a march in Skopje for 13 June 2015 to seek the resignation of the government and responsibility from the ethnic Albanian ministers in it, a member of the junior ruling party, the DUI and its leader Ali Ahmeti, due to partisanship of the country, misuse of institutions, failure of the integration process and anti-Albanian policies. <http://www.balkaninsight.com/en/article/daily-protests-resume-in-macedonia>.

100. Two other accused persons are still at large. <https://meta.mk/en/the-supreme-court-abolished-the- verdicts-and-returned-the-monster-case-for-a-retrial/>.

census”<sup>101</sup>. It is also obvious that the implementation of the Law on the Use of Languages would pose many practical challenges, in particular in court proceedings. For the time being, we welcome the creation of an Agency responsible for the implementation of the Law on the Use of Languages, which has started its work. We also note that a draft law establishing the Inspectorate for the implementation of the Law on Languages was prepared by the Government and submitted to the Parliament.<sup>102</sup>

110. On 28 March 2018, the parliament decided to close down the Secretariat for the implementation of the Ohrid Framework Agreement and to replace it with the Ministry for Political System and Relations between Communities. On 5 July 2019, Sadula Duraki was appointed deputy Prime Minister and Minister for Political System and Relations between Communities. We hope that this new Minister will promote the spirit of the Ohrid Framework Agreement and contribute to enhanced cohesion between all communities.

111. Further attention will need to be paid to inter-ethnic relationships in the future. The normalisation of political life will most certainly re-open discussions concerning issues that are deemed important for the Albanian community, such as regionalisation issues or ethnically-based distribution of funds. We welcome the inclusive approach of the newly elected President of the Republic Mr Pendarovski, who could foster social cohesion and reinforce this multiethnic society. The recent adoption of the Law on the Use of Languages, which is currently being examined by the Venice Commission, is an important step forward to further implement the 2001 Ohrid Framework Agreement, even if the implementation of this Law could be challenging in practice.

### **5.8. Fight against discrimination**

112. In 2013, the Assembly urged the authorities to intensify efforts to combat discrimination, in particular against the Roma, and to pursue local integration programmes. Additionally, the Assembly urged authorities to ensure effective access to identification documents, as well as access to health care and social rights. The Assembly recalled at that time that the fight against discrimination should encompass all forms of discrimination, including prejudice against sexual orientation.

113. A new Law on Prevention and Protection against Discrimination (Anti-discrimination Law) was adopted in March 2019. The Venice Commission issued an opinion on the draft law in March 2018<sup>103</sup> and welcomed many positive aspects introduced by the law, including the introduction of a shared burden of proof in discrimination cases, the professionalisation of the Commission which now has full time employed members, financial independence of the Commission, and the addition of new responsibilities and competences for the Commission. It also lays down the condition of a “gender-balanced participation” for the selection of the members of the Commission. The law also establishes an administrative office for the Commission, allows courts more latitude to impose effective, proportionate and dissuasive sanctions, mentions expressly sexual orientation and gender identity as grounds for discrimination, empowers the relevant associations and other organisations to initiate proceedings on behalf or in support of victims of discrimination (even if a specific victim is not referred to) and exempts court proceedings in discrimination cases from court fees, etc.<sup>104</sup> The State Commission for the Protection against Discrimination will also be entrusted with the prevention of discrimination in the future. ECRI however had been informed that the draft revised law on the Prevention and Protection against Discrimination, which should establish a support service for the professional, administrative and technical work of the Commission for the Protection against Discrimination had not yet been adopted and applied.<sup>105</sup> In the meantime, the authorities indicated that new premises have been provided for the Commission and its Secretariat.

114. In May 2019, we met the President of the State Commission for the Protection against Discrimination, which is composed of seven members, who are appointed and dismissed by the Parliament upon proposal of its Committee on Elections and Appointments. As noted by the Venice Commission, this State Commission has faced “serious budgetary and staff shortage problems which prevented it from playing a significant role in the fight against discrimination”.<sup>106</sup> The State Commission has suffered from public mistrust, since it was seen as being linked to the former ruling party.<sup>107</sup> The new law stipulates that new members of this

101. CM/ResCMN(2019)5.

102. AS/Mon (2019)20.

103. Opinion of the Venice Commission on the Draft law on Prevention and Protection against Discrimination, adopted by the Venice Commission at its 114th Plenary Session (Venice, 16-17 March 2018) ([CDL-AD\(2018\)001-e](#)).

104. ([CDL-AD\(2018\)001-e](#)).

105. ECRI Conclusions on the implementation of the recommendations in respect to North Macedonia, subject to interim follow-up, adopted on 3 April 2019 and published on 6 June 2019, [CRI\(2019\)26](#).

106. Ibid.

107. SWD(2019) 218 final, p.29.



commission should be appointed by the parliament<sup>108</sup>, thus shortening the mandate of the current members, which the Venice Commission considered as “highly problematic”: these provisions would “make illusory the concept of independence of human rights bodies, as any new majority may follow this precedent and interrupt the mandate of an independent body by adopting a new law.” The Venice Commission also recommended that the authorities consider transitional solutions “enabling current members to bring their mandate to its term and to ensure their replacement under appropriate conditions”.<sup>109</sup>

115. In March 2019 as well, the Committee of Ministers invited the authorities of North Macedonia to “ensure the proper functioning of the Commission for Protection against Discrimination as a fully independent and professional equality body, equipped with a functioning Secretariat, and take comprehensive measures to promote awareness of applicable anti-discrimination standards within the judiciary and amongst society, particularly among the most disadvantaged.”<sup>110</sup>

116. With regard to the promotion of the rights of LGBTI persons, the legal framework was upgraded in recent months thanks to the activities of civil society organisations and the inter-parliamentary group for the promotion of human rights of LGBTI persons. A number of promising initiatives have been enacted including the Law on Prevention and Protection against Discrimination of March 2019, the anti-discrimination clause of the 2018 Law on Audio and Audio-visual Media services and the amended criminal code, which now includes sexual orientation and gender identity as grounds for hate speech. Skopje hosted North Macedonia’s first Pride Parade in July 2019 with the participation of representatives of the Government. However, as noted during our previous visits, LGBTI persons remain subject to discrimination. In its 2019 conclusions on North Macedonia, ECRI reiterated the recommendation made to the authorities in 2016 to carry out an independent comprehensive study on all forms of discrimination against LGBT persons jointly with the LGBT community.<sup>111</sup>

117. Concerning the situation of transgender people, the European Court of Human Rights issued a landmark judgment in January 2019<sup>112</sup> and found a violation Article 8 of the Convention on account of the lack of a regulatory framework ensuring the right to respect for the applicant’s private life. This should prompt the country to adopt a law that should enable transgender people to have access to a fast and transparent procedure for the legal recognition of their gender.

### **5.9. National minorities**

118. North Macedonia ratified the Framework Convention for the Protection of National Minorities in 1997 (ETS No. 157). In March 2019, the Committee of Ministers urgently recommended, the authorities to “take with resolve all necessary measures to continue building an integrated society and avoid mutually exclusive ethno-nationalist politics that further the formation of parallel societies.” Additionally, the Committee of Ministers called on national authorities to “implement measures to regain trust in public institutions and actively disengage from politically and ethnically based hate speech” and to “take all necessary measures to build an integrated and multicultural education system in line with the Education Strategy for 2018-2025.” Finally, the Committee of Ministers urged authorities to “continue to implement the principle of equitable representation and promote the effective participation of all persons belonging to national minorities, in public life and in relevant decision-making processes at all levels.”<sup>113</sup>

119. We were informed by the Ministry of Social affairs of social actions taken to reach people in need. The situation facing the Roma community and children in institutions demonstrates why the country needs to implement inclusive policies. This initiative was taken as part of an action plan designed to eradicate transgenerational poverty, set up a minimum guaranteed income for 26 000 families in social need (following the adoption of amendments to the Law on the Protection of Children and the Law on Social Security of the Elderly that entered into force on 23 May 2019), end the institutionalisation of children with mental disabilities<sup>114</sup> and to promote the inclusion Roma children in pre-school education.

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108. The parliament has indeed launched a public announcement for the election of the new members of the Commission for the Protection against Discrimination on 13 June 2019. AS/Mon (2019)20.

109. Ibid.

110. CM/ResCMN(2019)5.

111. ECRI Conclusions on the implementation of the recommendations in respect to North Macedonia, subject to interim follow-up, adopted on 3 April 2019 and published on 6 June 2019, [CRI\(2019\)26](#).

112. The applicant, who is transgender, had sought to have the sex/gender marker on the birth certificate changed. [ECtHR judgment “X v. ‘The former Yugoslav Republic of Macedonia”](#) (application no. 29683/16), 14 January 2019.

113. Resolution CM/ResCMN(2019)5 on the implementation of the Framework Convention for the Protection of National Minorities by the Republic of North Macedonia, (*Adopted by the Committee of Ministers on 27 March 2019 at the 1342<sup>th</sup> meeting of the Ministers’ Deputies*).



120. Roma continue to face multiple discrimination. Concerning the implementation of the Framework convention, the Committee of Ministers asked the authorities to “ensure that Roma representatives are effectively included in all decision-making processes related to the promotion of their socio-economic integration, including the adoption and implementation of relevant strategies and action plans, and to take all necessary measures to resolve the remaining obstacles to the issuance of personal documentation, registration, and property legalisation processes.”<sup>115</sup> Further action was undertaken to identify unregistered persons (notably Roma people). In 2018, 700 persons could be identified and included in registers, thus enabling their access to social, health and education services.

### **5.10. Migration and asylum issues**

121. The country has been facing a major migration crisis triggered by the conflicts in Syria and Iraq. The so-called “Balkan route” used by migrants to reach European countries such as Germany and the United Kingdom passes through the country. In August 2015, up to 3 000 migrants a day would enter the country. North Macedonia, along with its neighbours, was facing this humanitarian crisis with limited resources, which very much affected the country<sup>116</sup>. Legal steps were taken to require migrants to either claim asylum within three days or leave the country. More radical actions were also taken, such as building technical hindrances and fences at the Greek border to stop the unlawful or illicit State border crossing (and consequently contain the flow of refugees). The authorities pinpointed that the legal transit of migrants was allowed and ran smoothly until the beginning of March 2016. After the countries along the “Balkan route” signaled that they would no longer allow entry or transit of these migrants, the country is nowadays dealing with “attempts for an illegal/unlawful transit of foreign nationals (illegal migrants)”.<sup>117</sup>

122. In the meantime, a new Law on International and Temporary Protection was adopted. Effective control at the southern border has been ensured. Guest officers from EU Member States at the border were deployed, and a European Border and Coast Guard Status Agreement with the EU was initiated.<sup>118</sup>

123. Despite these measures and international agreements aimed at managing the flow of refugees, the country remains under severe pressure due to its geographic location. According to the latest data published by the European Commission, the flow continues to be “largely transitory”. Since the beginning of 2018, “about 32 500 migrants are considered to have illegally crossed the country’s border in both directions, including many Iranians crossing illegally from Serbia and moving onwards to Greece”.<sup>119</sup> In 2018, only 299 individuals applied for asylum in North Macedonia. Six were granted subsidiary protection (no refugee status was granted) while the procedure was terminated for 278 asylum seekers – either because they had left their place of accommodation, or because they had failed to appear when so requested by the authorities of the Asylum Sector without justifying their absence.<sup>120</sup> The authorities also indicated that 16 895 illegal border crossing attempts were prevented on the State border.<sup>121</sup>

## **6. Conclusions**

124. Since the last report on the post-monitoring dialogue with North Macedonia was produced in 2013, major changes have occurred. Despite the polarisation of the society along ethnic and political lines observed in 2013, the main political parties managed to overcome their differences and build consensus by agreeing on a democratic roadmap contained in the Pržino Agreements of 2015 and 2016. The agreement aims to address crucial issues related to the rule of law, the judicial system and the fight against corruption.

125. We commended the goodwill and courageous steps taken by two Council of Europe member States, North Macedonia and Greece, that put an end to a 27-year name dispute with the signature and ratification of the Prespa Agreement. This deal is an invaluable contribution to the stability of the whole region. We also

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114. The authorities indicated that, under the 2018-2027 National Strategy for Deinstitutionalisation, called “Timjanik”, all children residing in institutions have been transferred to facilities with better conditions, such as small group homes, residential units with organised supported living or accommodation with foster families. See AS/Mon (2019)20.

115. CM/ResCMN(2019)5.

116. For further details, see [Resolution 2108 \(2016\)](#) and [Doc 14013](#), Human rights of refugees and migrants – the situation in the western Balkans (Rapporteur Ms Tineke Strik, Netherlands, Socialist Group).

117. AS/Mon (2019) 20

118. SWD(2019) 218 final.

119. SWD(2019) 218 final.

120. Figures provided by the Ministry of the Interior. AS/Mon (2019) 20

121. AS/Mon (2019)20

commend the efforts of the authorities, of its functioning parliament and of the people of North Macedonia to strengthen the country's good relations with its neighbours (in particular Bulgaria) and to contribute to the cohesion of the region.

126. It transpired from our meetings that the signing of the Prespa Agreement has raised immense hopes of strengthening Euro-Atlantic integration – which has been a consensual strategic objective of the country, transcending political parties and ethnic communities. It has also boosted the authorities' intention to pursue the reforms which have been under way since April 2017, after a two-year political crisis that stalled the democratisation process of the country.

127. However, the society remains polarised, wounds from the past should be overcome. Promising steps towards reforming the judiciary, strengthening media freedom, reviewing electoral laws, reforming the intelligence and secret services and preventing and prohibiting discrimination are to be welcomed and must be supported. They should also contribute toward ensuring equality for all citizens and overcome political and ethnic divisions.

128. The reform of the justice system, in particular, will be of utmost importance. In a context marked by sharp mistrust in the judicial system, the reform should enhance the accountability, transparency and independence of judges – and restore trust. There are still important steps to be undertaken, notably to reform the public prosecution office. In this context, it is necessary to ensure that the Special Prosecutor's office, which has played an important role in addressing highly sensitive cases that have undermined the functioning of state and judicial institutions which is so necessary for the rule of law, will be in a position to operate, within the national public prosecution office, without undue political interference.

129. In conclusion, we welcome the constructive attitude of the authorities and their co-operation with the Council of Europe. In the past two years, many important laws have been adopted or revised on the basis of the recommendations issued by the Venice Commission, GRECO and other monitoring bodies. This process will be challenging; it will take time. Mindsets will have to change to implement effectively the laws that have recently been adopted.

130. The post-monitoring procedure is a tool that allows a reinforced dialogue with the authorities of North Macedonia and that helps to ensure that reforms in line with Council of Europe standards will result in the establishment of sustainable and accountable institutions. We should therefore propose to the Assembly to resolve to pursue the post-monitoring dialogue with North Macedonia, and to assess, in the next report which we intend to prepare in 2022, progress made in particular in the following areas:

130.1. The further consolidation of the sustainability and functioning of democratic institutions;

130.2. The independence of the judiciary, notably the strengthening of the independence and accountability of judges and prosecutors. The Assembly expects the reform of the prosecution office to be done in line with Council of Europe standards and to ensure the Special Prosecutor's office, which has played an important role in addressing highly sensitive cases, will be in a position to operate, within the national public prosecution office, without undue political interference;

130.3. The fight against corruption, in line with the recommendations issued by the Group of States against Corruption (GRECO), in particular with respect to high level corruption cases and non-selective implementation of laws and policies;

130.4. The consolidation of its electoral framework, in line with the recommendations of the Venice Commission and the Assembly election observation mission reports;

130.5. The pursuance of inclusive policies aiming at securing the rights of the minorities, in the spirit of the Ohrid Framework Agreement, including for the Roma community.

131. The Council of Europe remains available at all times to assist the authorities in meeting European standards through its expertise and to support both this transition period – which could be a source of inspiration for other Council of Europe member States – and the people's aspiration for European integration.