



Council of the  
European Union

Brussels, 2 March 2020  
(OR. en)

6424/20

COWEB 24  
ELARG 16

#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	2 March 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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No. prev. doc.:	9814/19
No. Cion doc.:	SWD(2020) 47 final

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Subject:	COMMISSION STAFF WORKING DOCUMENT – Update on the Republic of North Macedonia
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Delegations will find attached document SWD(2020) 47 final.

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Encl.: SWD(2020) 47 final



Brussels, 2.3.2020  
SWD(2020) 47 final

**COMMISSION STAFF WORKING DOCUMENT**

**Update on the Republic of North Macedonia**

# Update on the Republic of North Macedonia<sup>1</sup>

## 1. Introduction

In April 2018, the Commission recommended to open accession negotiations with North Macedonia<sup>2</sup>. In its June 2018 Conclusions, the Council acknowledged the progress achieved and set out the path towards opening accession negotiations in June 2019<sup>3</sup>. The Council underlined that the assessment of progress should be part of the Commission's yearly report and include further tangible and sustained results, in particular on:

- judicial reforms and proactive investigations, prosecutions and final convictions in corruption and organised crime cases, including at high level;
- intelligence and security services reform;
- public administration reform.

In line with the Council Conclusions, the Commission started the preparatory work, including through the technical explanation of chapters of the *acquis*. 'In light of the significant progress achieved and the conditions set unanimously by the Council in June 2018 having been met', the Commission recommended in May 2019 to open accession negotiations with the country<sup>4</sup>. In June 2019, the Council postponed the decision to no later than October 2019<sup>5</sup>. The European Council decided in October to 'revert to the issue of enlargement before the EU-Western Balkans summit in Zagreb in May 2020'.<sup>6</sup>

Following the outcome of the European Council in October 2019, the political leaders agreed by common accord to organise early parliamentary elections on 12 April 2020. In line with the national legislation, a technical government, led by Prime Minister Spasovski and including two Ministers and three Deputy Ministers from the main opposition party, was appointed on 3 January 2020. In addition to organising early parliamentary elections, its strategic priorities include the opening of EU accession negotiations, completing NATO accession, reform of judiciary, fight against corruption and organised crime and implementation of the Ohrid Framework Agreement. The Parliament dissolved on 16 February 2020.

## 2. Update on the implementation of reforms

North Macedonia delivered tangible results in its continued implementation of EU-related reforms and on good neighbourly relations. On reforms, the country has focused in particular on the areas identified in the Council Conclusions, as follows:

- **Judicial reforms and proactive investigations, prosecutions and final convictions in corruption and organised crime cases, including at high level<sup>7</sup>**

### *Judicial reforms*

Concerning judicial reforms, significant legislative steps have been taken to strengthen the independence of the judiciary. The relevant bodies continued functioning, while initiating important reforms to strengthen their effectiveness. As noted by the Venice Commission, the authorities have been consistent in their efforts to bring the rules governing the judicial system in line with international standards and best practices.<sup>8</sup> In this regard, North Macedonia stepped up the

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<sup>1</sup> This update covers the period from the Council Conclusions of June 2018 to date, building upon the key findings of the 2019 enlargement package.

<sup>2</sup> COM(2018) 450 final

<sup>3</sup> <https://www.consilium.europa.eu/media/35863/st10555-en18.pdf>

<sup>4</sup> COM(2019) 260 final

<sup>5</sup> <https://www.consilium.europa.eu/en/press/press-releases/2019/06/18/council-conclusions-on-enlargement-and-stabilisation-and-association-process/>

<sup>6</sup> <https://www.consilium.europa.eu/media/41123/17-18-euco-final-conclusions-en.pdf>

<sup>7</sup> Information on prosecutions, indictments, cases and verdicts is from open source information and states if proceedings are ongoing or final. The figures are based on the input provided by the national authorities.

<sup>8</sup> [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2019\)008-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2019)008-e)

implementation of the reforms envisaged in their Judicial Sector Reform Strategy and action plan, addressing the earlier ‘Urgent Reform Priorities’, the recommendations from the Venice Commission and of the Senior Experts’ Group on systemic Rule of Law issues. Monitoring of the reforms is a priority at the highest level and there has been open dialogue with the European Commission and other partners to ensure the quality of adopted strategies and legislation.

There have been several sets of amendments to laws or new laws adopted since July 2018 (including the Criminal Code, Law on Courts, Law on the Judicial Council, Law on the Public Prosecutor’s Council, Law on Misdemeanours, Law on Administrative Disputes, Law on Notaries, Law on Enforcement and Law on Free Legal Aid). The implementation of the new legal framework is under way. These reform efforts increase transparency in appointments, introduce qualitative criteria for evaluation of judges and increase accountability of judges and members of the Judicial Council. The Judicial Council is playing a more pro-active role in both protecting the independence of judges and in applying the improved disciplinary rules. Since July 2019, it dismissed six judges, including the President and two judges of the Supreme Court, as well as three other judges (including the ex-President of the Basic Criminal Court in Skopje). It lifted the immunity of a judge of the Administrative Court in May 2019 and of one of its members suspected in a fraud investigation in December 2019.

Following the end of the mandate of the Special Prosecutor in September 2019, the cases were transferred to the Public Prosecutor’s Office in order to ensure their continuity. Following months of intensive discussions between political parties, the Law on the Public Prosecutor’s Office was put to the vote in Parliament and adopted by a 2/3 majority (i.e. 80 Members of Parliament) on 16 February 2020. The purpose of the law is *inter alia* to ensure a sustainable solution for the cases of the Special Prosecutor’s Office (SPO), to establish accountability for the crimes arising from and surrounding the illegal wiretaps.

Amendments to the Law on the Academy of Judges and Prosecutors, which incorporates several key recommendations of a peer review mission on judicial training and confirms the Academy as the sole point of entry to the judiciary, are ready to be adopted by the next Parliament. As regards court case management, the inspections of the automated court case-management system (ACCMIS) continues, and has yielded results. The authorities have taken swift disciplinary action where necessary and a first indictment has been filed for misuse of ACCMIS. The Law on Court Case Management was adopted by Parliament in February 2020. The law provides safeguards to ensure a smooth functioning of the system.

### ***Proactive investigations, prosecutions and final convictions in corruption cases, including at high level***

The country continues to undertake proactive investigations, prosecutions and final convictions in corruption cases, including at high level. It confirms positive trends reported in 2018. The legislative framework on prevention of corruption has been strengthened. Good progress has been made through further consolidating a track record on investigating, prosecuting and trying high level corruption cases. These efforts need to continue unabated and in a transparent manner, irrespective of the position or political affiliation of the suspects.

- In 2019, the **Public Prosecutor for organised crime and corruption** (within the Public Prosecutor's Office) opened nine new **investigations**, involving 52 suspects (and one legal entity), against high-level officials (compared to five cases involving seven suspects in 2018 and six cases involving 10 suspects in 2017).
- In 2019, there is a total of 38 suspects **indicted** mainly for abuse of official authority in relation to violation of procurement procedures, illegal constructions or illegal sales of state-owned land. For instance, 11 persons, including a former Minister of Transport, notaries, administrative officers and public officials, were indicted for allegedly illegally selling state-owned land. The estimated loss for the state budget is about €2.6 million. In another case, a

former political party leader was indicted, together with 10 other defendants employed mainly in the municipality, for abuse of position leading to illegal construction, with estimated financial damage of €600,000. In the ongoing trial, several of the initial 11 defendants entered guilty pleas in January 2020 in exchange for lighter sentences.

- In summer 2019, serious questions were raised with the so-called ‘racket case’ involving three suspects, including the former Special Prosecutor, being **indicted** for alleged money extortion and abuse of office in relation to a case of the Special Prosecutor’s Office. One defendant has been sentenced to three years imprisonment, following a plea bargain, with a trial ongoing for the other two suspects.
- In a related case, a Deputy Speaker of the Parliament is **indicted** for fraud and money laundering.
- **Court hearings** in several other prominent cases, involving former senior officials, have resumed.

The **Special Prosecutor’s Office** was also proactive in establishing accountability for the wiretaps.

- During its mandate, the Special Prosecutor’s Office filed **indictments** for criminal offences in 21 major cases. In addition, it took over earlier sensitive cases from the Public Prosecutor’s Office. A total of 26 cases involving 164 persons were transferred in autumn 2019 to the Public Prosecutor’s Office for organised crime and corruption. Most of them concern abuse of office or position, falsification or forgery of documents, embezzlements, money laundering and fraud.
- In 2018, the courts issued four **final judgments** against four persons, including two judgements based on guilty pleas. The courts issued final sentences against a former Prime Minister for accepting a reward for unlawful influence and against his assistant for abuse of position. Another defendant, a former Minister of Interior, was tried separately.
- In 2019, there were **final convictions** in two cases against three defendants. A former Minister of Interior was sentenced to six years imprisonment. In the second case, the court found a businessman and one of his associates guilty of forging documentation for winning a tender from the state-owned electricity generation company (ELEM). The legal entities involved in the case were also found guilty. The asset confiscation verdict was confirmed on appeal (for €17 million in illegal gains / damage to the state budget).
- **Prison sentences** were also given to former managers of ELEM for forging documentation to win a tender as well as abusing position and authority in procurement of software. The court also ordered financial compensation for the state-owned company in the amount of € 450.000.
- **Trials are ongoing** for 12 cases, with several dozen hearings throughout the year. For procedural reasons, the Court of Appeal has ordered a retrial in one case where the six defendants had been sentenced to imprisonment between three years and four years six months.

The arrest of the former Special Prosecutor and the expiry of the mandates of the prosecutors working in the Special Prosecutor’s Office delayed some proceedings. As a result, some cases reached the statute of limitations or trials had to be restarted.

In another high profile case not related to corruption charges, the first instance court has sentenced 16 people to prison, for periods from seven to 18 years for their involvement in the April 2017 attacks in Parliament, for ‘terrorist acts endangering the constitutional order of the state’. This includes a former Minister of Interior and former Police Director. Most of the convicts appealed the judgment and the Public Prosecutor’s Office itself appealed the acquittal of one defendant. In January 2020, further indictments were presented against a former Speaker of the Parliament, a former Director of the (former) Bureau for Security and Counterintelligence (UBK), together with two former Ministers

currently under house arrest, for organising unhindered access to the Parliament for the mobs and for contracting individuals for violent actions. Trials are scheduled to start soon.

The new State Commission for Prevention of Corruption (SCPC), which has a mandate to prevent corruption, including by checking assets and conflict of interest, has been particularly active in preventing corruption. Major steps were taken to ensure that the SCPC has the powers and financial resources to fulfil its tasks. After a comprehensive revision of the legal framework to strengthen its powers, its new members were appointed in a more transparent manner in February 2019. Since then, the new SCPC has been proactively pursuing allegations of nepotism, including involving high-level officials across the political spectrum. They initiated 66 cases in relation to nepotism allegations. Following examination by the SCPC, 37 cases were closed when conflict of interest was either not established or the conflict of interest was removed. Two cases were sent to the Public Prosecutor's Office. In 16 cases, the competent institutions were requested to act on the SCPC's decision and in 11 cases, the SCPC procedure is ongoing. Due to some legal requirements and deadlines (e.g. to obtain information from other bodies), not all cases have been resolved yet. The SCPC has also finalised its new strategy for 2020-2024.

### ***Proactive investigations, prosecutions and final convictions in organised crime cases, including at high level***

In the area of the fight against organised crime, the track record has further improved. There is an increase in the number of criminal investigations opened in 2019 in relation to organised crime groups, especially against groups involving a large number of suspects, i.e. up to 21 individuals for smuggling migrants. There were 15 new investigations opened against 96 persons and the continuation of two investigations from 2018 against 15 suspects. They concern mainly crimes of smuggling migrants or drugs related offences.

There are 20 ongoing trials (including in front of the Appellate Court) from cases opened in 2018 and 2019.

In 2019, first instance convictions were pronounced against 60 persons (compared to 37 persons in 2018). Final convictions were pronounced against 56 persons. Most of them concern smuggling of migrants or unauthorised production and trade of narcotics, psychotropic substances and precursors.

Law enforcement cooperation continues to be implemented. The National Coordination Centre for the Fight against Organised Crime has continued to improve the exchange of information between relevant institutions.

#### **- Intelligence and security services reform**

As reported in 2019, North Macedonia has made good progress on reforming its intelligence and security services, the abuse of which were at the origin of the 2015 crisis. It has finalised the reform of the system for interception of communications, in line with the recommendation of the Senior Experts' Group on systemic Rule of Law issues. The new Operational Technical Agency is operational and new robust procedures have been adopted. The capacity for oversight by Parliament is being strengthened.

The country has also embarked on the reform of its intelligence services in cooperation with NATO and other partners. The National Security Agency (NSA) was set up in September 2019 and completed its recruitment procedures. Unlike its predecessor, the Bureau for Security and Counterintelligence (UBK), the NSA has been designed to be an independent agency located outside the Ministry of Interior and without police powers.

#### **- Public administration reform**

North Macedonia continued to make progress on reforming its public administration. Transparency increased with the adoption of the 2019-2021 Transparency Strategy, aiming at increasing the transparency of public institutions, and though the introduction of the open government data portal and the wider publication of public finances data. The consultative process improved, with an increasing number of comments received on draft regulations and greater involvement of civil society in policy making processes.

A functional analysis of the central government started, intended to lead to a proposal in spring 2020 to improve the administration's rationality and lines of accountability. To facilitate public service delivery to citizens and businesses, the national e-portal for services was upgraded to serve as a single contact point and to create a more user-oriented administration. The population register became functional and serves as a basic source of information for both state institutions and citizens' interaction with the administration.

As previously stated<sup>9</sup>, guaranteeing the professional independence and accountability of the administration, as well as respect for the principles of merit and equitable representation remains essential. In this respect, it is of the utmost importance that the government and the State Commission for Prevention of Corruption continue to take actions over any allegations of nepotism or non-merit based recruitment.

### **3. Conclusion**

In light of the significant progress achieved and the conditions set unanimously by the Council in June 2018 having been met, the Commission recommended in its 2019 enlargement package that the Council open accession negotiations with North Macedonia. Overall, North Macedonia has increased its efforts and delivered further tangible and sustainable results in the key areas identified in the Council Conclusions of June 2018. Consequently, the bases of the Commission's 2019 recommendation to open accession negotiations with North Macedonia remain valid

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<sup>9</sup> SWD(2019) 218 final