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## Analysis

### **SAME RECOMMENDATION, NEW COMMENDATION**

#### ***The 2012 EC Report on the Progress of the Republic of Macedonia***

October 2012

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This year's Progress report for Macedonia and the messages of the European Commission led to reactions quite opposite to the last year. The report is *predominantly seen as "positive"*, and efforts of the Commission are welcomed. The Government has used the opportunity to qualify the Report as "the most positive ever". Just a year ago, Commissioner Füle was subject to severe criticism, as the Government claimed the Report was used to impose pressure on Macedonia on the name dispute with Greece, and rejected as "overstressed" the criticism on judiciary, fight against corruption and freedom of expression.<sup>1</sup> In addition, the complete omission of the adjective "Macedonian" had led to a strong reaction in the country. Of course, just the insertion of the adjective "Macedonian" (although used only in two words, naming institutions) in this year's Report is not the only reason for a higher level of "acceptability" of the Report.

What is, then, making this document so different from the last three, which also resulted in a recommendation to launch accession negotiations? Definitely - *the increased political engagement of the Commission, and especially its Enlargement Commissioner – Mr. Stefan Füle*. Based on the identical assessment – that "the political criteria have been sufficiently met", the EC encourages the European Council to make a decision, calls for "increased political engagement by all sides", expressing "readiness to present without delay a Negotiating Framework, which also takes into account the need to solve the name issue at an early stage of accession negotiations".<sup>2</sup> The Commission deems that moving the accession process to its next stage is necessary "in order to consolidate the pace and sustainability of reforms, mitigating the risk of any reversal in this process, as well as to strengthen inter-ethnic relations". It also invokes the arguments of EU credibility and the regional context – "that this step would act as an encouragement to reform efforts elsewhere in the region".<sup>3</sup>

The evidently different tone and message of the Enlargement package related to the Republic of Macedonia is certainly due to a more engaged approach of the Commission, based, in our opinion, on several grounds:

- The first one is the evident non-sustainability of the *status quo* in the relations between the Republic of Macedonia and the European Union, which brings no benefit either for the Republic of Macedonia, or the Commission.<sup>4</sup> EU institutions, in a situation of blockade in the Council, deprive themselves of the main instruments of the enlargement policy of conditionality – the reward and the punishment. The leverage on Macedonian politics and policies has significantly decreased, as has the trust of Macedonian citizens in the EU. The high risk of drawbacks is evident - they could destroy everything that has already been achieved in the considerable dossier of EU-Macedonia relations.
- The European Commission, and especially its Enlargement Directorate, as responsible for Enlargement is itself interested to have success in its mission. Now that the climate for enlargement among Member States is not most fa-

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<sup>1</sup> Statement of the Prime Minister of the Republic of Macedonia ?Nikola Gruevski on the 2011 EC Progress Report (According to MIA, 12 October 2011 "Gruevski: Regardless of the blockade due to the name issues, we do not give up the reforms and the Euro-integration") <http://www.mia.com.mk/default.aspx?vid=87554357&lld=1>

<sup>2</sup> European Commission, Brussels, 10.10.2012 COM(2012) 600, Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2012-2013, {SWD(2012) 331}{SWD(2012) 332}, {SWD(2012) 333}, {SWD(2012) 334}, {SWD(2012) 335}, {SWD(2012) 336} {SWD(2012) 337}

<sup>3</sup> Ibid.

<sup>4</sup> EPI warned of the non-sustainability of the status quo in the Commentary to the last-year's Progress report: The Republic of Macedonia and the EU: the Risk of the Status Quo. [http://www.epi.org.mk/docs/epi\\_commentary\\_ec\\_report\\_2011\\_en\\_final.pdf](http://www.epi.org.mk/docs/epi_commentary_ec_report_2011_en_final.pdf)

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vourable, and the chances for the Commission to make a bigger success with, e.g. Turkey, Serbia or Bosnia and Herzegovina are more limited, Macedonia seems worth-while for another try. Therefore, the “renewed effort” on resolving the name dispute with Greece seems logical.

- The issue of credibility of the EU is inevitable. If for four years in a row EC recommends to launch accession negotiations, and they cannot be launched, due to an issue that is outside the Copenhagen criteria, the damage for EU on a normative level is nevertheless high. In this context, the Judgment of the International Court of Justice of December 2011 that Greece has infringed the Interim Agreement with Macedonia by blocking its entry to NATO is unavoidable, regardless of the avoidance of this issue in the rhetoric of the official EU representatives.

### **The catalyst named High Level Accession Dialogue: a Glass Half-Full**

The Commission needed an additional instrument in order to redirect the process to a positive trend, after the last year’s “freezing”. The dialogue between the two parties came in a “new package”: the High-Level Accession Dialogue (HLAD). The key difference from the “regular” political dialogue was the level and frequency of the Dialogue (more frequent meetings at the level Enlargement Commissioned – Prime Minister) on its negotiated targets. From the very beginning it was clear that the goal of the HLAD was to re-install the European into the national agenda and to strengthen the argumentation of the Commission, clearing the way to the fourth recommendation. The efforts resulted as it was planned – with the statement that the HLAD has served “as a catalyst for accelerating reforms and has contributed to substantial progress in a number of key policy areas.”<sup>5</sup>

*Realistically, the not overly ambitious targets of the Government Roadmap that resulted from the HLAD until the publication of the Report are more “activities in progress” than end results: tabled electoral legal framework, revision of the voters’ list in progress, tabled law on decriminalisation of label, etc. Still, the very statement that “the HLAD has put the European integration to the forefront of the Government’s agenda” significantly changes the political pitch of the Report and gives the perception of the glass as a “half-full”, not “half-empty”.*

*The arguments quoted in favour of the repeated recommendation are at the same time the most significant messages and warnings to the Macedonian political elite: re-formulated, they could also be read as „the pace of reforms is not yet consolidated and they are not sustainable “; „the risk of reversal is realistic “; „inter-ethnic relations are not strong enough “.*

*Inter-ethnic relations are a priority in the Report, but with a high dose of caution – phrases used are encouraging, than critical. It is obvious that the starting point is the view that the European agenda is a common point, “glue” for the sensitive inter-ethnic relations, as well as a pillar of the coalition government. Therefore, the EC*

*The HLAD managed to change the climate. However, the not overly ambitious targets of the Government HLAD Roadmap, until the publication of the Report are more “activities in progress” than end results.*

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<sup>5</sup> European Commission, Brussels, 10.10.2012 COM(2012) 600, Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2012-2013, {SWD(2012) 331}{SWD(2012) 332}, {SWD(2012) 333}, {SWD(2012) 334}, {SWD(2012) 335}, {SWD(2012) 336} {SWD(2012) 337}, p. 13.

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acknowledges that the Government responded “in a calm and measured way”<sup>6</sup> to the inter-ethnic incidents of the spring 2012. It also commends the adopted Report on the implementation of the Framework Agreement. Yet, it recommends the coalition partners to find a solution for the victims of the 2001 conflict, as well as further measures to implement the Framework Agreement, to strengthen inter-ethnic relations, and especially measures for integration of Roma.<sup>7</sup>

## Reality: continuity

The key assessments on each of the Copenhagen criteria are not changed.

*Status quo* remains also for the second phase of the Stabilisation and Association Agreement

*A more detailed analysis of the Report does not lead to a conclusion on any significant changes in the integration process – neither its contents, nor its dynamics. The key assessments on each of the Copenhagen criteria are not changed. On political criteria, the assessment is identical as in earlier reports: “continue to be sufficiently met”.<sup>8</sup> Rule of law remains at the forefront of the agenda. Market economy is “significantly advanced”, but not yet “a functioning market economy”. Legislative alignment related to the assumption of obligations from membership is good, but implementation remains an issue.*

*Status quo* remains also for the second phase of the Stabilisation and Association Agreement, which cannot be established, due to the Greek blockade in the Council. This issue is only noted in the Report, probably being left for a “political package”.

Both the quantitative and the qualitative analysis of the Report prove that there is no space for any glorification of this year’s report assessments.<sup>9</sup> Still, only the quantitative analysis on the assessments of progress, especially in political and economic criteria, may lead to wrong conclusions, since the starting position from the previous year is important. For example, the content analysis of political criteria in the period 2009-2012 indicates that there was more progress in 2009 and in 2012 than in 2009 and 2010. How relative the assessment can be is evident from the following example: in 2009 progress in the area of elections was “good”, but the basis for comparison was the recess in the same field in 2008. In political criteria statements on level of alignment and on progress in the reports are used interchangeably. This leads to inconsistency interpretations and political parties explore it for domestic political purposes.

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<sup>6</sup> Ibid., p.16.

<sup>7</sup> European Commission, Brussels, 10.10.2012, SWD(2012) 332, Commission Staff Working Document, Republic of Macedonia 2012 Progress Report *accompanying the document* Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2012-2013 {COM(2012) 600}

<sup>8</sup> European Commission, Brussels, 10.10.2012 COM(2012) 600, Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2012-2013, {SWD(2012) 331}{SWD(2012) 332}, {SWD(2012) 333}, {SWD(2012) 334}, {SWD(2012) 335}, {SWD(2012) 336} {SWD(2012) 337}, p. 13.

<sup>9</sup> Comparability of reports is possible, since the EC uses the same structure and methodology in the compilation of the reports. Under each criterion, at the level of sub-criterion/chapter areas the relevant developments are noted, assessed and recommendations are given. Same formulations are used for the assessments, which are then summarized at the level of chapter. Progress, as well as level of alignment is assessed. Progress is assessed compared to the previous report, while level of alignment is assessed compared to the requirements at accession. In political and economic criteria the assessment on the level of alignment is not always presented.

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*Assessments on progress in political criteria in this year's Report are neither "generous", nor "dramatic". This refers to all issues included in the HLAD. Progress is achieved in areas that converge with the political priorities of the Government; it is missing when priorities do not diverge.* Thus, there is progress in efficiency of the judiciary, but it is missing in granting its independence and quality. In public administration e.g. e-services have progressed, but the key problem of "transparency, professionalism and independence of the public administration" pertains.<sup>10</sup> This year the criticism on recruitment of non-majority members in the administration "on quantitative basis" is more explicit.<sup>11</sup> „Little visible progress" is observed "in terms of end-results of anti-corruption measures".<sup>12</sup> Remarks are severe related to public procurement, where the corruption is seen as a „serious problem"<sup>13</sup>, despite the traditionally high assessments on the level of progress and legislative alignment with the public procurement acquis. Concerning freedom of expression, requirements of non-discriminatory and transparent approach of the Broadcasting Council, transparency of Government advertising and journalists' worker's rights follow the acknowledgment on the dialogue between the Government and the journalists. It is likely that these recommendations set the next benchmarks in the accession process, regardless of whether they will be part of the ever-open chapters of negotiations, or a new/continued dialogue.

*In economic criteria, continuity with former reports prevails – in most positive and negative aspects.* In the positive light are the macro-economic stability, the sound monetary policy, further facilitation of market entry and exit. The limited diversification of economic activities pertains, but an improved structure of export goods is noted. The limited competition of network industries remains, as well as limited access to capital for small and medium enterprises. Unemployment and the rule of law continue to be the most critical issues, including the insufficient independence/capacity of several regulatory bodies. Unlike last year, this year the Commission avoids mentioning the "Skopje 2014 Project". However, this year, in addition to the repeated criticism on the weak quality of public expenditure, it notes that "budgetary planning and the management of public expenditure have deteriorated markedly."<sup>14</sup> It is surprising that the Government has not submitted a fiscal notification, which is an obligation of a candidate country.

The structure of the report content regarding the third Copenhagen criterion – assuming membership obligations - allows for a more consistent comparability. The analysis of reports from 2009 to 2012 indicates *similar progress* – from 2,58 to 2,63 (on a scale of 0 to 5). The level of alignment has increased from 0,70 to 3,14.<sup>15</sup> This should mean that there are *no high oscillations in the intensity of reforms*. Still, assessment of alignment is problematic, as the quantitative analysis leads to stating progress related to previous years, but stagnation of the level of alignment. This could be a result of the well known rule that the acquis is a "moving target" for the candidate countries – as the country is adopting the acquis, it keeps being produced. However, it is more likely that *the assessments are not precise enough – the process of approximation has been taking place for a longer period without screening,*

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<sup>10</sup> European Commission, Brussels, 10.10.2012, SWD(2012) 332, Commission Staff Working Document, Republic of Macedonia 2012 Progress Report *accompanying the document* Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2012-2013 {COM(2012) 600}, p.10

<sup>11</sup> Ibid, p. 9.

<sup>12</sup> Ibid, p. 13.

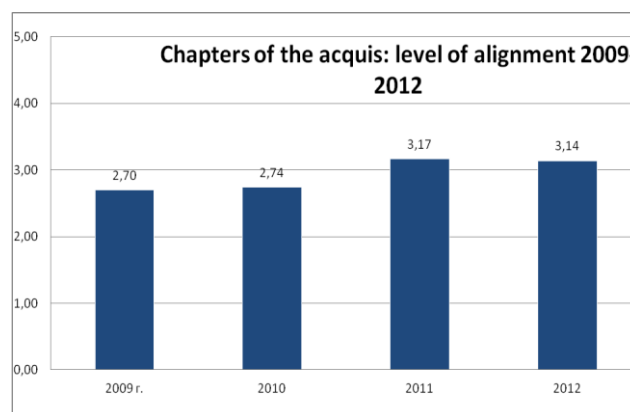
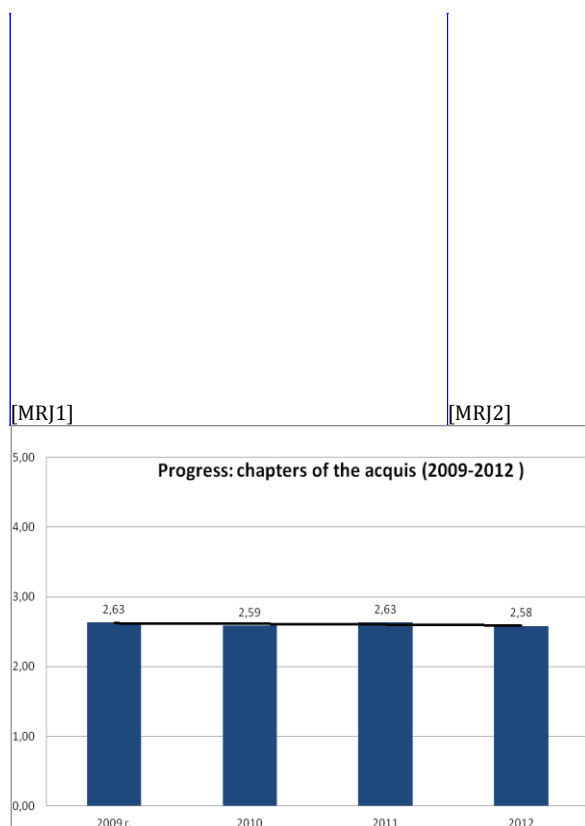
<sup>13</sup> Ibid, p. 12.

<sup>14</sup> Ibid, p. 22.

<sup>15</sup> The Analysis is based on quantification of the standardized scores expressed in the conclusions of each chapter, but the role of the chapter in the average score is weighted according to their complexity and scope.

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while the engagement of the Commission services is not at the same level as it would be for a negotiating country.

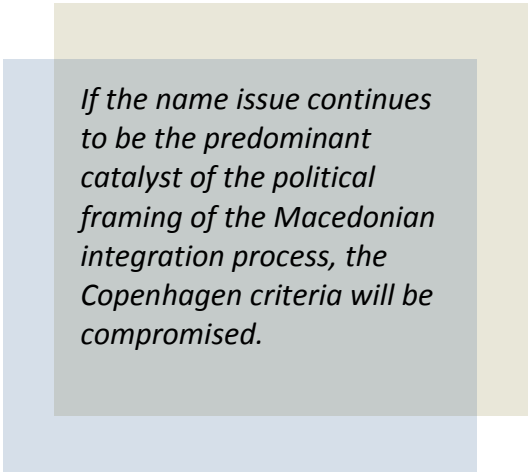


Chapters prioritised in the first phase of the Stabilisation and Association Agreement generally achieve higher level of alignment (e.g. Customs Union, External Relations, Public Procurement, Competition, Free Movement of Goods), which is logical. Notable is this year's progress in the chapter Freedom of movement of goods (especially the areas of standardisation, accreditation and metrology). This is positive because of ensuring conformity of products with the Single market requirements. Progress and level of alignment is also good in the chapter Competition. Furthermore, progress in Food Safety and Veterinary Policy is considerable; unfortunately, progress in phytosanitary measures is traditionally lacking. Criticism pertains on Social Policy and Employment, as well as in the difficult chapter Environment – in both of them the low administrative capacity is considered to be the key limiting factor. Criticism is more severe on the chapters Regional Policy and Coordination of Structural Instruments, as well as Financial control, which is of high concern, as these chapters relate to the use of EU funds – IPA. *In certain areas already achieved compliance has been withdrawn – such is the case with closing the railway transport to competition until accession. This is an evident example of the impact of the slow-down of the accession process on reforms.*

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## Risks

In conclusion, the content of the report does not substantially vary from previous reports. What made the Report different this year is the framing and the wording of the political criteria, which, in turn, is a result of the process of dialogue on selected benchmarks and the positive climate created by the Commission and the Government, represented by the Prime Minister and Commissioner for Enlargement. The real issue at stake will be to what extent the substance of the reform efforts based on the Copenhagen criteria will be subject to re-tailoring and re-framing, depending predominantly on political considerations related to the developments on the name issue. In other words, if the name issue continues to be the predominant catalyst of the political framing of the Macedonian integration process, the Copenhagen criteria will be compromised.



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## EC Report on the Republic of Macedonia 2012

### Overview of conclusions and assessments

Criterion/ Sub-criterion/ chapter	2009	2010	2011	2012				
<b>I. POLITICAL CRITERIA</b>								
<i>I.1. Democracy and the Rule of Law</i>								
Implementa- tion of the Framework Agreement	Progress	3	Some progress	2	Some progress	2	<sup>16</sup>	
Elections	Good progress was made in the conduct of elections, which met most international standards.	3	The government followed-up the 2008 and 2009 elections and the ODIHR/OSCE Recommendations.	2	Progress in the conduct of elections. The elections were competitive, transparent, and well-administered throughout the country.	3	Delivered legislation in Parliament for consideration	3
Political dia- logue	Good progress	4	Some progress	2	Political dialogue needs to be further strengthened	2	<sup>17</sup>	
Parliament	Good progress	4	Further progress	3	Some progress	2	The functioning of the parliament has improved and political dialogue has been maintained, in particular as regards EU integration.; strong support of HLAD	3

<sup>16</sup> Is not separately noted under this part of the Report.

<sup>17</sup> Is not separately noted under this part of the Report.



Criterion/ Sub-criterion/ chapter	2009		2010		2011		2012	
Government	The government coalition has been stable and functioned effectively.	4	The government coalition continues to be stable and to resolve differences through Cooperation	3	The government coalition has overcome difficulties and strengthened its internal cooperation	3	Cooperation within the government coalition has continued and has been successful in putting the accession process at the centre of the political agenda. Maturity in dealing with inter-ethnic tensions	3
Public Administration	Some progress	2	Some progress	2	Progress in the legislative framework, the progress in implementing the reforms was limited.	2	Some progress	2
Judiciary	Further progress	3	Limited progress	1	Limited progress	1	Generally, some progress; progress in efficiency, further efforts are needed to guarantee independence and impartiality in practice	2
Fight against corruption	Good progress	4	Some progress	2	Limited progress	1	Little visible progress	1
<b>1.2. Human rights and protection of minority rights</b>								
Observance of international human rights law	The legal and institutional framework for the protection of human rights and minorities is broadly in place. Limited progress in the implementation and promotion of human rights.	1	Limited progress in the promotion and enforcement of human rights. The legal framework is broadly in place; however the institutional framework is not completed.	1	Limited progress, the implementation of legal framework was uneven.	1	Limited progress in the promotion and enforcement of human rights	1

Criterion/ Sub-criterion/ chapter	2009		2010		2011		2012	
Civil and political rights	Some steps have been taken to strengthen civil and political rights. The country is moderately advanced in this area.	2	Civil and political rights are broadly respected, limited further progress was made.	1	Civil and political rights are broadly respected, further progress was limited.	1	Some further progress was made.	2
Economic, social and cultural rights	Some steps have been taken to strengthen social and economic rights; the country partially meets its objectives in this area.	2	Social and economic rights are broadly in place, there was limited further progress.	1	Social and economic rights are broadly in place, and some further progress was made.	2	Some progress	2
Minority rights, and protection of the minority and cultural rights	Some progress	2	Progress	3	Some progress	2	Some progress	2
<b>1.3. Regional issues and international obligations</b>	Participating actively in regional cooperation and further developing its bilateral relations with its neighbours. The name issue continues to affect relations with Greece.	4	Active partner in the region. Bilateral relations with neighbours further improved, but relations with Greece continue to be affected by the unresolved name issue.	4	Constructive partner in the region. Bilateral relations with neighbouring and other enlargement countries continued to improve. The name issue continues to affect relations with Greece.	4	Participated actively in regional cooperation initiatives; has maintained an overall constructive role as regards bilateral relations with neighbouring Member States and other enlargement countries. Relations with partners in the Western Balkans were further developed. Relations with Greece remained affected by the name issue.	4
<b>General assessment regarding political criteria</b>	<b>The country sufficiently fulfils the political criteria</b>		<b>Continues to sufficiently fulfil the political criteria</b>		<b>Continues to sufficiently meet the political criteria</b>		<b>Continues to sufficiently fulfil the political criteria</b>	

<b>II. ECONOMIC CRITERIA</b>	Very advanced; approaches towards meeting the economic criteria		Remains very advanced		Remains very advanced		Continues to be well advanced	
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### III. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

Chapter	Progress				Level of alignment			
	2009	2010	2011	2012	2009	2010	2011	2012
1. Free movement of goods	2	4	2	4	2	3	3	4
2. Freedom of movement for workers	2	1	1	2	1	1	1	1
3. Right of establishment and freedom to provide services	2	2	3	2	1	2	1	3
4. Free movement of capital	2	3	2	2	2	2	3	3
5. Public procurement	4	3	3	2	4	3	5	4
6. Company law	4	4	4	4	3	3	3	3
7. Intellectual property law	2	2	2	2	4	3	3	3
8. Competition policy	2	2	2	4	4	3	3	4
9. Financial services	2	4	4	3	3	3	3	3
10. Information society and media	3	3	3	3	4	3	3	3
11. Agriculture and rural development	3	3	3	3	1	2	3	3
12. Food safety, veterinary and phytosanitary policy	2	2	4	4	2	2	4	3
13. Fisheries	2	2	2	2	2	2	3	3
14. Transport policy	4	2	3	1	4	4	4	3
15. Energy	2	2	4	2	2	3	3	3
16. Taxation	4	1	1	2	3	3	3	3
17. Economic and monetary policy	2	1	5	1	3	2	4	4
18. Statistics	4	4	4	3	4	4	4	3
19. Social policy and employment	1	1	1	1	3	1	2	2
20. Enterprise and industrial policy	3	2	3	2	3	3	3	3

Chapter	Progress				Level of alignment			
	2009	2010	2011	2012	2009	2010	2011	2012
21. Trans European Networks	3	2	3	3	4	3	4	3
22. Regional policy and coordination of structural instruments	2	2	2	2	3	3	3	3
23. Judiciary and fundamental rights	3	1	1	2	3	3	3	3
24. Justice, freedom and security	4	3	3	3	4	4	4	4
25. Science and research	2	2	3	2	4	3	2	2
26. Education and culture	2	2	2	2	4	3	3	3
27. Environment	3	3	2	1	3	3	3	3
28. Consumer and health protection	2	2	2	2	3	2	3	3
29. Customs Union	5	2	4	3	4.5	4.5	4	4
30. External relations	2	3	3	2	4	4	4	3
31. Foreign, Security and Defence Policy	2	4	4	4	4	5	5	5
32. Financial control	2	2	1	2	2	2	2	1
33. Financial and budgetary provisions	2	2	1	1	3	3	3	1

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## Explanation on the quantification of assessments of progress and alignment

### Progress

<i>Assessment</i>	Numerical value
Recess	(-5)-(-1)
No progress; no further progress	0
No substantial progress; no visible progress; insufficient progress; slow progress; initial progress, limited progress,	1
Little progress; modest progress, some progress	2
Progress; further progress	3
Good progress; visible progress; sustainable progress; satisfactory progress	4
Significant progress; important progress; substantial progress	5

### Alignment:

<i>Assessment</i>	Numerical value
Not initiated	0
Early phase; very early phased; initial phase	1
Not very advanced; advances; slowly advances	2
Moderately advanced	3
Advanced; in an advanced phased	4
Well advanced	5

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