



EC 2020 REPORT: CASE FOR LAUNCHING NEGOTIATIONS STRENGTHENED

Analysis of the European Commission Report on the
Republic of North Macedonia from 6 October 2020

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Authors:

Malinka Ristevska Jordanova, PhD
Simonida Kacarska, PhD
Biljana Kotevska, PhD
Stefan Ristovski, MA
Julijana Karai, MA
Iva Conevska, LL.M.
Ismail Kamberi, LL.M
Angel Mojsovski
Ardita Vejseli
Angela Delevska

Graphic design:

Relativ

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CONTENTS:

LIST OF ABBREVIATIONS	4
INTRODUCTION	5
Methodological approach	6
UNEVENNESS HIDDEN BEHIND THE AVERAGING	8
POSITIVE FINDINGS FOR THE PRIORITY AREAS	9
KEY FINDINGS ACCORDING TO CLUSTERS	10
CLUSTER 1: FUNDAMENTALS	10
Functioning of democratic institutions and public administration reform	11
Rule of law: Chapter 23. Judiciary and fundamental rights and 24. Justice, freedom and security	13
Economic development and competition	18
The existence of a functioning market economy/capacity to cope with competitive pressure and market forces within the Union	18
Capacity of the economy to cope with competitive pressure and market forces within the Union	18
Chapters: 5. Public Procurement, 18. Statistics, 32. Financial control	19
CLUSTER 2: INTERNAL MARKET	21
CLUSTER 3. COMPETITIVENESS AND INCLUSIVE GROWTH	23
CLUSTER 4. GREEN AGENDA AND SUSTAINABLE CONNECTIVITY	25
CLUSTER 5. RESOURCES, AGRICULTURE AND COHESION	27
CLUSTER 6: EXTERNAL RELATIONS	29
GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION – POSITIVE CONTEXT WITH SWORD OF DAMOCLES	30
WHAT’S NEXT?	31
CONCLUSIONS AND RECOMMENDATIONS	32
Annex 1: Level of alignment and progress – economic criteria and chapter	34

LIST OF ABBREVIATIONS

ACCMIS	Authorised Court Case Management Information System
NSA	National Security Agency
AFCOS	Anti-Fraud Coordination Office
GDP	Gross Domestic Product
VAT	Value Added Tax
SAO	State Audit Office
SCPC	State Commission for Prevention of Corruption
EUROPOL	European Union Agency for Law Enforcement Cooperation
EDIF	Enterprise Development and Innovation Fund for the Western Balkans
EC	European Commission
ESA 2010	European System of Accounts 2010
EUROJUST	European Union Agency for Criminal Justice Cooperation
EU	European Union
ICT	Internet and Communication Technologies
IPA	Instrument for Pre-Accession Assistance
IPARD	Instrument for Pre-Accession Assistance for Rural Development
PPO	Public Prosecutor's Office
COSME	EU Small and Medium Enterprise Competitiveness Program
MOI	Ministry of Interior
MISA	Ministry of Information Society and Administration
MSMEs	Micro, small and medium-sized enterprises
MES	Ministry of Education and Science
MRT	Macedonian Radio Television
MLSP	Ministry of Labour and Social Policy
MF	Ministry of Finance
NBRSM	National Bank of the Republic of North Macedonia Ombudsman
NUTS	Nomenclature of Territorial Statistical Units
OSCE	Organization for Security and Co-operation in Europe
ODIHR	Office for Democratic Institutions and Human Rights
BPPO	Basic Public Prosecutor's Office
OTA	Operational Technical Agency
PISA	Program for International Student Assessment
REA	Regional Economic Area
RICO	Regional Youth Cooperation Council
PAR	Public Administration Reform
SEP	Secretariat for European Affairs
SPPO	Special Public Prosecutor's Office
SIGMA	Support for Improvement in Governance and Management
SOPs	Standard Operating Procedures
WTO	World Trade Organization
TEN	Trans-European Transport Network
PRO	Public Revenue Office
FRONTEX	European Border and Coast Guard Agency
CHU	Central Harmonization Unit
CEFTA	Central European Free Trade Agreement

INTRODUCTION

This year, the presentation of the Enlargement Package was dominated by the supplementary document – the Economic and Investment Plan for the Western Balkans. The EU Commissioner for Enlargement Várhelyi underlined precisely this long awaited document. The Plan attracted great interest during the presentation before the Foreign Affairs Committee of the European Parliament, as well as at the press conference. The package seeks to emphasize the EU commitment to the Western Balkans region and to raise the credibility of the process itself.

The context surrounding the publication of the annual Enlargement Package is marked by more pronounced geopolitical and geo-strategic factors, with the emergence of new crisis hotspots in the EU neighbourhood, with special implications on the relations with Turkey. Conversely, migration issues not only remain an important factor in shaping enlargement policy, but they also gain weight. In September 2020, the European Commission announced the New Migration and Asylum Pact, the implementation of which will undoubtedly have an impact on the Western Balkans.¹

Another important element is the growing insistence on rigorous conditionality in view of rule of law issues, while taking into account the ongoing discussions in the EU on the application of conditionality related to the rule of law on the use of funds in the European Union itself, especially after the first published reports on the rule of law in the member states.²

As the European Commission is now scrutinizing the rule of law in detail in all member states and when options for conditioning funds and exercising the full rights of countries within the EU are considered and introduced, it should be expected that those countries will insist even further on this issue for those who want to join the Union and use the public funds of the citizens of the European Union in that name.

It also must be taken into account, that under the leadership of the President von der Leyen, the European Commission is introducing a wide platform “A Union of Equality” thus positioning equality for all and in all of its senses as a high goal of this College of Commissioners.³

The consequences and the manner for dealing with the pandemic caused by COVID-19 – present and future – leave a special mark on all the documents of the Package.

This report is the first one following the political decision of the EU for the start of negotiations with our country from May 2020.

The findings on North Macedonia in these documents are particularly important in order to maintain and strengthen the case for actual start of negotiations with the holding of the first inter-governmental conference by the end of this year – according to the plan of the German Presidency.

In this analysis, we focus on the key aspects of the Enlargement Strategy⁴ which are related to North Macedonia as well as on the specific report for our country.⁵

1 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, 2020.

2 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2020 Rule of Law Report The rule of law situation in the European Union, COM(2020) 580 final (Brussels, 30.9.2020). https://ec.europa.eu/info/publications/2020-rule-law-report-communication-and-country-chapters_en.

3 https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf

4 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU enlargement policy, Brussels, 6.10.2020 COM(2020) 660 final.

5 European Commission, Commission Staff Working Document North Macedonia 2020 Report Accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU Enlargement Policy, Brussels, 6.10.2020 SWD(2020) 351 final.

This year's package of documents on enlargement is the first to be published following the adoption of the new methodology on enlargement.⁶ Its implementation is particularly visible in the Enlargement Strategy, whereby on a comparative regional level, the Commission provides more explicit grades grouped in clusters. In addition, an attempt is made to plan the negotiations for next year – which this year is relevant for Montenegro and Serbia, but, it should soon become relevant for us as well.

In view of the national reports, the Commission to a large extent maintains the approach from the previous reports and the cluster approach is not visible. Since the 2018 Report the structure itself was adjusted to the “Fundamental first” approach, thus making the division according to the Copenhagen criteria less recognizable. The structure and content of the Report are becoming more complex while it is also becoming more challenging to bring it closer to the public.

METHODOLOGICAL APPROACH

According to the new enlargement methodology the analysis is carried out and presented in clusters. We consider that in this way we will contribute to the adequate consideration of the approach and accordingly, to the policy coordination in line with the new methodology for enlargement.

An analysis on the content of the text of the report is carried out, by using the established methodology which we are using for several consecutive years. The only correction is made in view of the assessment for the progress, due to the fact that the Commission re-introduced the assessment “limited progress.”

The assessments for the progress, which express the progress from the last report thus far, are the following:

Assessment	Numerical value
Backsliding	(-5)-(-1)
No progress	0
Limited progress	1
Some progress	2
Good progress	3
Very good progress	4

The assessments on the preparation, which express the degree of preparation in view of the EU membership requests, remain the same:

Assessment	Numerical value
At an early stage	1
Some level of preparation	2
Moderately prepared	3
Good level of preparation	4
Well advanced	5

⁶ European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Enhancing the accession process – A credible EU perspective for the Western Balkans COM(2020) 57 final.

We note that the areas for which the Commission gives uniform assessments that could be presented as figures remain unchanged. For example – in the area of democracy, the quantification is only possible for the area public administration reform, while it is not possible for other areas (governance, etc.). In the area fundamental rights, quantification is only possible for the freedom of expression.

In addition, we point out to the limited possibility for analysis, due to the small range of assessments (both to progress and to preparation) used by the Commission. Most probably, having in mind the open time perspective for membership (estimated number of years required for membership), the Commission is quite withheld, especially in terms of assessments of the level of preparation. As it was previously noted, the quantitative assessments should be taken into account with caution due to the fact that the dynamics of their alteration significantly slowed down since 2015, when the European Commission assessment system was changed. The comparison with the previous years is additionally complicated with the introduction of scaling by the European Commission for this year (“limited” progress).

Therefore, the quantified expression of progress and the level of preparation should only be seen in the context of the qualitative content of the assessments and recommendations. Thus, we place the focus on the qualitative analysis. Using an inductive method, on the basis of the qualitative analysis of the text of the report by chapters, then by clusters, we carried out a horizontal analysis identifying the issues and problems which we consider important in the forthcoming carrying out of the accession process. At the same time, one should have in mind that most of the recommendations are of a long-term character and they envisage activities in the course of several years. Therefore, the repetition of a certain recommendation does not have to mean its complete non-implementation in the period of the previous report.

The fact that in the previous years the publication of the Report was postponed twice (in 2016 and this year) creates problems for the comparison of the state of play and the data. One of the reasons for the postponement of the publication of the Report in the spring of 2016 was to provide a systematic annual monitoring of the situation, as well as the use of data. The subsequent postponement of the publication of the Report for this fall again creates uncertainty about the dynamics of the further preparation and publication of the reports. Predictability is especially important due to the linking of reporting and setting priorities on an annual basis in accordance with the new Enlargement Methodology.

In addition to analysing the findings of the Report, we also analysed the content of the main (or “key”) recommendations. These are the recommendations listed in the Report at the beginning of each chapter and are usually treated as a priority. The analysis is conducted according to the criteria of the type of measures covered by the recommendation - whether they refer to the strategic framework, the harmonization of legislation, the institutional capacity, the enforcement or other measures and it is presented at the cluster level. However, it should be borne in mind that the text of the Report itself also contains other recommendations as well as implicit guidelines.

In this document we present the results of the analysis of the findings and recommendations in general for the report, and then on the level of clusters. This is followed by an overview of regional cooperation and good-neighbourly relations, and the procedures that follow for the review of the Package at national and EU level. Finally, we present the concluding remarks and recommendations.

UNEVENNESS HIDDEN BEHIND THE AVERAGING

Progress in the level of preparation since 2015 is evident in two chapters: 12. Food Safety (for two levels, from “some” level to “good” level of preparation); 23. Judiciary and fundamental rights – from “some” to “some/moderate” level of preparation (the only case where in our country the level of preparation is between the two levels). The level of alignment is lowered also in two chapters: 10 Information society and media – from “good” to “moderate” level of preparation and 27. Environment from “moderate” to “some” level of preparation.

All the other chapters remain at the same level of preparation, regardless of the progress made by some in the period in between the two reports (for example. 29 Customs Union, where the progress is “good” two years in a row, while the alignment track record is continuously “good”).

At the level of sections within certain chapters, which were selected as “pilot chapters” since 2015, there is progress in the following areas of Chapter 23. Judiciary and fundamental rights: functioning of the judiciary, fight against corruption and freedom of expression, for half a level – from “some” to “some/moderate” level of preparation.

In view of the progress from last year, there is no progress in four chapters, the newly introduced assessment “limited” progress is used in five chapter and one area of the economic criteria. Progress is marked as “some” in seventeen chapters and one area of the economic criteria while it is “good” in seven chapters. The highest assessment for the progress is not given in any chapter, which is the case for several years in a row.

The overview of the quantified grades for the level of preparations in the period 2015-2019 and for the progress from the last report is provided in Annex 1.

The quantified EU assessments point to a conclusion that they are ‘averaged’. Still, the deeper analysis of the report indicates a much more diverse and uneven picture. Hence the need for deeper qualitative examination of the findings, their underlying reasons, and in particular for caution in the analysis of the recommendation and their implementation.

The initial picture that emerges from the assessments - especially those for the level of preparation - is that they are “averaged”. Although it could still be argued that the Republic of North Macedonia has a relatively high level of alignment with the acquis in comparison to the countries from the region, especially having in mind its status in the accession process, the analysis of the contents of the report demonstrates a much more diverse and uneven picture. Hence the need for deeper qualitative examination of the findings, their underlying reasons, and in particular for caution in the analysis of the recommendation and their implementation. Progress reports provide findings for the situation and recommendations but they do not represent analysis of the causes and usually do not point out to the source of the findings. These, however, have to be taken into account in order to respond with adequate plans, i.e. measures.

The analysis of the main recommendations of the Report demonstrates that they significantly differ according to the level of specification. In some cases, it is recommended to generally harmonize the legislation in a certain area and to implement it, or to adopt a strategic policy framework and to implement it. Nevertheless, those chapters and sections with a record of progress contain more precise recommendation referring to concrete measures and institutions. Although the focus on implementation and enforcement is visible, a significant number of recommendations refer also to the harmonization with the latest EU law – in particular in Cluster 2. Internal Market.

The general finding is that the institutional framework deriving from the *acquis* is established. The competence of the institutions for the *acquis* is mainly determined, although overlaps and ambiguities are identified. However, the assessments of the administrative capacities of the central bodies responsible for the adoption and implementation of policies- the ministries, and especially those that are the bearers of large capital projects, for which EU funds are used- are worrying. Most of the newly established institutions in accordance with the *acquis* are celebrating more than a decade, even two, since their establishment. However, some of these institutions lack administrative capacity and are even backsliding in their functioning. A regular and already chronic remark is the lack of inter-institutional cooperation.

POSITIVE FINDINGS FOR THE PRIORITY AREAS

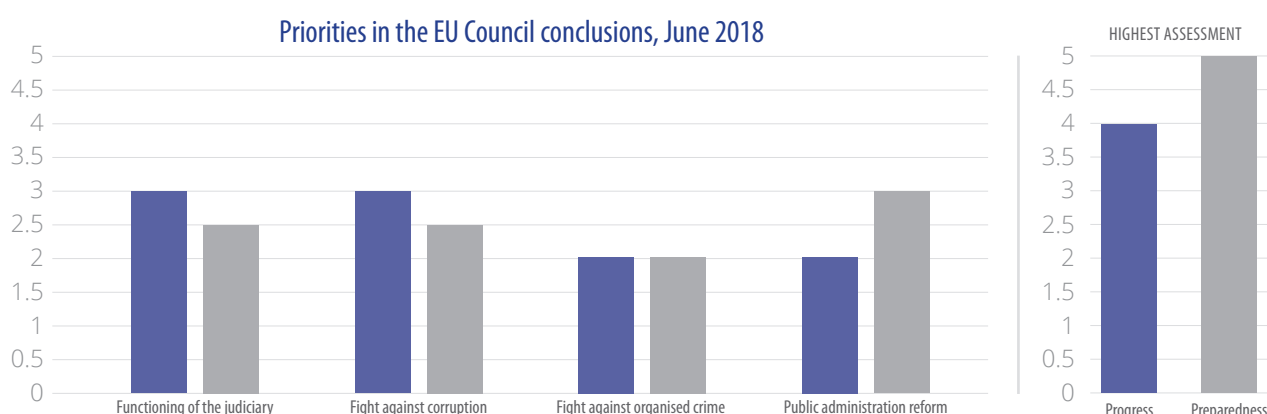
The conclusion of the Strategy, stating that North Macedonia “has continued to advance the EU reform agenda in an inclusive manner, involving the opposition in Parliament, civil society and international partners,” as well as that it achieved “further tangible and sustained results, including in the key areas identified in the June 2018 Council Conclusions” is the key country assessment.⁷

This confirms the conclusions from the document in which the EU updated the findings in these areas in March 2020, just before the adoption of the decision to start negotiations.⁸

We recall that the Council conclusions from June 2018, based on the Priebe Report, indicate the following priority areas:

- 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.

As the analysis in these areas of Cluster 1. Fundamentals demonstrates, progress in most areas is marked “good” (with the exception of public administration and organized crime, where it is “some”).



However, it is immediately remarked that the sustainability of these structural reforms is “a long-term process, which requires continuous engagement from both the government and the opposition”.⁹

⁷ Enlargement Strategy 22.

⁸ Commission Staff Working Document, Update on the Republic of North Macedonia Brussels, 2.3.2020 SWD(2020) 47 final.

⁹ Enlargement Strategy 22.

KEY FINDINGS ACCORDING TO CLUSTERS

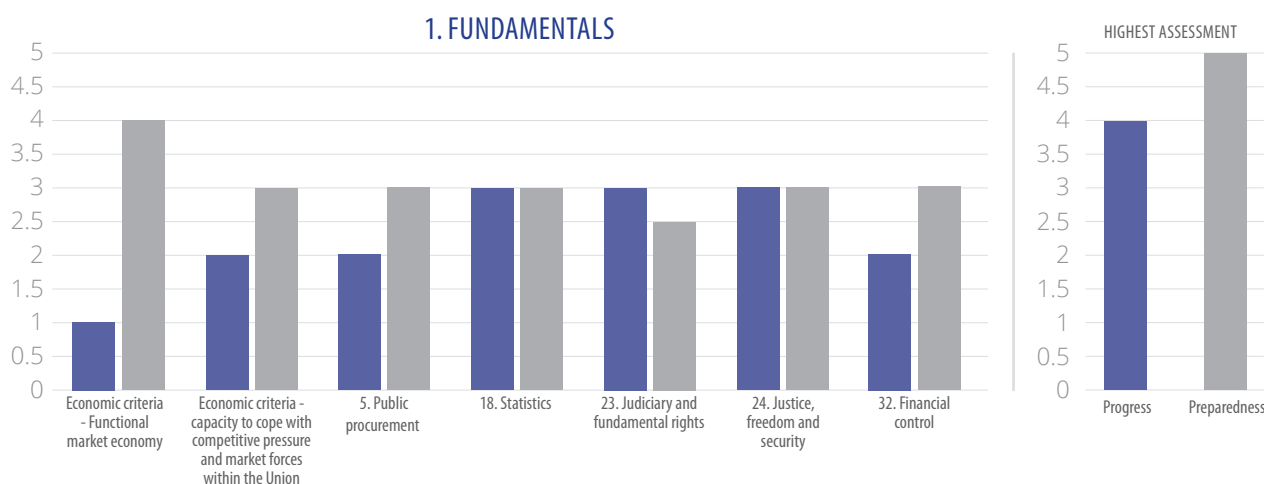
CLUSTER 1. FUNDAMENTALS

The complexity of this cluster is proven both by this first analysis of the content of report according to the clusters. The fact that it takes about half of the Report in volume indicates the weight that the Cluster Fundamentals will carry in the upcoming process of accession. In addition, it is diverse in terms of topics and it practically includes the entire political and economic criteria, Chapters 23 Judiciary and fundamental rights, Chapter 24: Justice, freedom and security as well as Chapter 5 Public Procurement, 18. Statistics and 31. Financial control.

Let us recall that according to the new Enlargement Methodology this cluster is opened first, while it is closed last. The cluster is supposed to produce new documents- roadmaps for chapters 23 and 24, as well as for democratic institutions and public administration reform.¹⁰ The economic criteria are tied to the Economic Reform Programme.

In Chapters 23 and 24, following the fulfilment of the benchmarks for negotiations, temporary benchmarks will be set, without the fulfilment of which other chapters will not be closed. The application of the latter principle is already visible in the case of Montenegro.¹¹

Therefore, it is to be expected that the issues and especially the recommendations that are in focus now would be the basis for future benchmarks in the negotiations.



¹⁰ This is expected to be further delineated in the negotiating framework.

¹¹ Enlargement Strategy 20.

FUNCTIONING OF DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORM

In view of democratic institutions, the key finding is that the existing mechanisms of checks and balances are activated, a broad public debate is held, including in the time of state of emergency. The assessment that the opposition parties remained engaged in Parliament and the main opposition party joined the technical government from January to July 2020, is important and it contributes to the general assessment for the progress of the EU reform agenda in an „inclusive manner“.¹²

- Activated mechanism of checks and balances;
- Generally well run elections;
- Parliament with a strengthened legislative and oversight function;
- Continued consolidation of democratic governance.

It is assessed that the *Elections* were generally well administered and essentially allowed for a level-playing field, with the remark that the legal framework was undermined due to the revisions to the laws and regulations. The key findings remain the timely completion of the initiated review of electoral legislation and the systematic update of the voters' list.

The Commission considers that the *Parliament* contributed to the functioning of the checks and balances mechanisms with the ensured political dialogue and with its enhanced legislative and oversight function. The Report is critical in view of the increased number of laws adopted with the use of fast track procedure. The key recommendation is that the Parliament is expected to work in an inclusive manner, while further improving its functioning. This provides a clear message to both ruling and opposition parties for the needed constructiveness in their work in the legislative institution. The recommendation for political parties to strengthen their internal democratic processes and to improve transparency in financing is also noticeable.

The assessment that the democratic governance „continued to be consolidated,“ is due to the functioning of the checks and balances, whereby the Constitutional Court and the Ombudsperson are particularly mentioned. In addition, the Commission explicitly assesses that the technical government fulfilled its mandate to organize the early parliamentary elections, while at the same time it dealt with the crisis caused by COVID-19. Although the Report in this section considers that the inter-ethnic situation remained calm and that efforts to implement the Ohrid Framework Agreement continued, it is far more critical on inter-ethnic relations in Chapter 23 in the section Fundamental rights, where it warns that “without clear political actions to manage ethnic divides at national and local level, communities will remain divided along ethnic lines.”¹³ With regard to the publicly undermined issue of decentralization, it is significant that the Report notes progress in the financial management by municipalities and process initiated by the government, in partnership with the Association of the Units of Local Self-Government (ZELS), to reform the legislation on the local self-government system, in order to grant municipalities additional powers and financial resources, is noted.

The positive assessment of the environment and the inclusion of civil society is followed by a recommendation to ensure a more meaningful and timely consultation process, as well as to improve the legal and financial frameworks and their implementation in practice.

By noting the institutional changes in the security sector and the *Civilian oversight of the security*, the Commission implicitly announces that it will carefully follow the implementation, with a focus on the need of non-partisan performance of the Agency, as well as of strengthening of the civilian oversight.¹⁴

¹² Ibid. 22.

¹³ EC Report on North Macedonia 2020 35.

¹⁴ Enlargement Strategy 12.

It is necessary to maintain the positive achievements in this sector, while at the same time it is necessary to develop a strategic vision for the further functioning of democratic institutions, from where the main priorities will be singled out as well as due to the fact that this sector will be part of the accession negotiations, in accordance to the new methodology, for the first time.

Public administration reform is gaining a wider scope in each new report, structured according to the SIGMA principles, although a tendency towards technicisation of these issues is apparent.

EC assesses that North Macedonia is moderately prepared and that it has achieved some progress.

While the assessments of the *strategic framework*, the improved capacity and inter-institutional cooperation as well as the quality of monitoring are positive, the critical findings in view of the *policy development and coordination* are worrisome. In light of the expected start of accessions, the need to strengthen the coordination system for the process of EU integration on the technical level, is an important warning.

The overcoming of serious deficiencies noted in the process of policy-making, including the regulatory impact assessment, becomes a priority for the implementation of reforms in general, including the reforms related to the EU accession.

The assessments on budget transparency and the *public financial management* in general are on the positive side, while the parliamentary oversight over the preparation of the budget and the monitoring of its spending remains a challenge. *Budget transparency* is improved with the adoption of the “Transparency Strategy,” as well as with the new Law on Free Access to Public Information.

Although the EC avoids to explicitly mention the issue of politization of the public service, it is noted that the implementation of the merit principle as well as the procedures for temporary employments are a continuous problem. Hence, the first main recommendation is the establishment of a legal framework for the full respect of the merit principle in the process of employment of high-ranking administration and in general in all positions of the administration.

The lack of application of the Law on General Administrative Procedure on the entire public administration is a serious remark. This is especially important for the realization of the principles of equality and legal certainty, as well as for *the ensuring of services* on the part of the administration. Hence, the full implementation of the Law on General Administrative Procedure is one of the main recommendations.

The third main recommendation is related to the completion of the previously started horizontal functional analysis, according to which the implementation of clear lines of responsibilities among the institutions should commence.

The recommendations in these two sections are formulated using a different approach. While in the area of public administration they follow the same methodological approach as in the chapters, these inconsistent with the section on democratic institutions. Three of the recommendations refer to legal interventions, three are related to implementation in general, one is related to institutions, while two are in view of other more specific activities related to the area.

RULE OF LAW:

CHAPTER 23. JUDICIARY AND FUNDAMENTAL RIGHTS AND 24. JUSTICE, FREEDOM AND SECURITY

The reform processes in **Chapter 23** are assessed with “good progress”, and the level of preparation remains halfway between “some” and “moderately advanced”.¹⁵ This statement is mainly due to the achievements in the judiciary and the fight against corruption. Progress in the area of fundamental rights is assessed as limited, which is mainly due not to the legal framework, but to its (non) implementation.

The positive assessment of the progress in the judiciary is mainly a result of the implementation of the Justice Sector Reform Strategy. The proactive role of the Judicial Council was welcomed, which on several occasions defended the independence of the judiciary. The European Commission is apparently reserved about the announced process of *purging* of the judiciary and the Public Prosecutor’s Office, stressing that the independence of the judiciary should be protected from the risk of political interference, as well as using existing mechanisms to check the professionalism and integrity of judges and prosecutors. Further recommendations refer mainly to the implementation of the Strategy for the judicial system, the implementation of the legal framework adopted so far for the Judicial Council and the Public Prosecutors Council, the new law on the Public Prosecutor’s Office, finalization and implementation of the human resources strategy, and the functionality of the Automated Court Case Management Information System (ACCMIS).

Throughout the entire text of the Report in the area of rule of law, the EC’s commitment for continuation and completion of the proceedings in the cases of the former Special Public Prosecutor’s Office is evident.

There is also a rather unambiguous assessment that the two councils - the Judicial Council and the Council of Public Prosecutors - have promoted transparency, procedures, and that they have respected the principle of merit in appointments and promotions. Noting the high efficiency of the Macedonian judiciary, the Report recalls the opinion of the Venice Commission to review the Law on the Use of Languages and to take into account its recommendations regarding the bilingualism of court proceedings. The document is critical in terms of resolving the issue of costs and the duration of enforcement proceedings only at the level of enforcement agents.

The good progress in the *anti-corruption* policy this year, as well as the previous one, is due to the conduct of investigations and indictments, as well as the trials related to high level corruption. This especially refers to the cases of the former SPPO, as well as the case against the former Chief Special Prosecutor, presented in detail in the Report. The key recommendations of the Commission are to

continue to implement the new legislation transferring some of the prerogatives of the former Special Prosecutor’s Office and regulating the status of the wiretaps so that accountability for the crimes arising from and surrounding the wiretaps continues,

to increase the track record of final convictions, including confiscation. The proactive approach of the State Commission for Prevention of Corruption (SCPC), particularly in the cases of nepotism in the public sector employment as well as the activities of the plan for prevention, also contributes to the positive file. The main recommendations refer to the follow up of the recommendations of the SCPC, along with the issue of its resources, faced with an increasing volume of work, considered to be an issue of political will. In addition, the need for the Public Prosecution Office to be proactive in dealing with the cases submitted by the SCPC, the State Audit Office and other institutions, as well as in the strengthening of capacity of the Public Prosecution Office investigative centres is highlighted.

¹⁵ Most of the findings contained in the section of Chapter 23 – Judiciary and Fundamental Rights, which are contained in the EC report 2020 are already found in the „ Shadow Report on Chapter 23 for the Period June 2019 “prepared by the European Policy Institute. See more at: Iva Conevska and Ismail Kamberi, ‘Shadow Report on Chapter 23 for the Period June 2019 - March 2020 [Извештај во сенка за Поглавјето 23 за периодот јуни 2019 - март 2020 година]’ (European Policy Institute – Skopje 2020) <https://epi.org.mk/wp-content/uploads/2020/05/Izvestaj_vo_senka_2020.pdf>.

The key recommendation for the *fundamental rights* is repeated from the previous year, while the good progress which in the 2019 Report was precisely due to the legislation on anti-discrimination, this year is lowered to “limited”. Therefore, it is particularly important to fulfill the first main recommendation – the Parliament to adopt the new Law on the Prevention and Protection against Discrimination and to establish the Commission for Prevention and Protection against Discrimination.¹⁶ A bigger step forward is noted in the area of social services at community level, including the deinstitutionalization of child care. Still, the ensuring of community services with a wider outreach remains one of the main recommendations – for the identification of children at risk, child victims of domestic violence, Roma and children with disabilities, which necessitates the improvement of the inter-institutional cooperation. On the positive side, the report notes the new competencies of the Ombudsperson as the national rapporteur for trafficking of people and illegal migration, as well as the increase of resources of this institution in 2019. The Report also notes that North Macedonia used the right to derogation from the obligations of the European Convention on Human Rights, due to the COVID-19 crisis.¹⁷

The Enlargement Strategy, on the regional level singles out: freedom of expression, gender equality, rights of the child, the rights of children with disability, Roma integration and conditions in the prisons,¹⁸ which are underlined in the main recommendation for our country. This approach originates in the wide platform “Union of equality” of the European Commission.¹⁹ Within this framework, the fight against racism, gender equality and Roma integration are set high on the agenda and strategic documents for realization of these priorities and documents for support and monitoring of the implementation (such as for ex. Concrete lists of indicators) are adopted.²⁰ It is also explicitly stated within the EU Strategy on Gender Equality 2020-2025 that the approach taken by the European Commission in this strategy is the intersectional approach.²¹ All these documents should be taken as guidelines for what should be expected as criteria for the country in the near future and to already work on the domestic adjustment to the relevant standards, practices and the monitoring and evaluation. The Report itself is increasingly focused on gender equality whereby representation is horizontally treated in several sections. It is important to also recall that the European Union has acceded to the Convention on the Rights of Persons with Disabilities, while at the same time, the EU Charter on Fundamental Rights remains relevant as a horizontal issue. Hence, it is necessary to consider them as foundational documents and guidelines for the standards and conditionality in view of these issues.

In our country, the continued criticism of the situation in the prisons is particularly worrisome (especially some of the penitentiary facilities), while support is provided to the alternatives of detention. The attention is directed towards the need for resocialisation, with a special accent on the new system of probation. The Report explains in detail the file of specific cases related to the external and internal police control mechanism, indicating that this will continue to be the focus of attention. Hence, the report points to the need to implement the recommendations of the international monitoring bodies in this area.

16 Nine networks of citizen organizations, which altogether include more than 100 associations, sent a request for support to all political parties which participated in early parliamentary elections in 2020 on the Declaration for priority adoption of the Law on Prevention and Protection of Discrimination (LPPD) by the next parliamentary composition. This declaration was supported by 17 political parties.

17 The European Policy Institute prepared an analysis on the derogation from the obligations of the European Convention on Human Rights, due to the crisis caused by COVID-19. More available at: Biljana Kotevska, 'On shaky ground: Human Rights and COVID-19 in North Macedonia after the derogation from the European Convention on Human Rights' <<https://epi.org.mk/wp-content/uploads/2020/04/ECHR-COVID19-MK.pdf>>.

18 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2020 Communication on EU enlargement policy, Brussels, 6.10.2020 COM(2020) 660 final 7.

19 Ursula von der Leyen, «A Union that strives for more - My agenda for Europe», Europa - Official Website of the European Union (2019), https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf

20 European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Union of equality: EU anti-racism action plan 2020-2025, COM(2020) 565 final (Brussels, 18.09.2020); European Commission, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Union of equality: Gender Equality Strategy 2020-2025, COM(2020) 152 final (Brussels, 05.03.2020); European Commission, Communication from the Commission to the European Parliament and the Council – A Union of Equality: EU Roma strategic framework for equality, inclusion and participation, COM(2020) 530 final (Brussels, 07.10.2020).

21 For more on the intersectional approach in policy creation, please see: Kotevska, Biljana, Elena Anchevska and Simonida Kacarska, What Stands at the Crossroad(s)? Inequalities at the Intersections in Social Protection in Macedonia - a User's Perspective (European Policy Institute (EPI) - Skopje 2016) <[https://epi.org.mk/docs/\[EN\]Policy_Brief\[DTP\].pdf](https://epi.org.mk/docs/[EN]Policy_Brief[DTP].pdf)>.

Following the strategies and reports on enlargement in relation to fundamental rights for many years, it is noticeable that despite the increasing obligations to implement international standards, the pace of their enforcement at the national level lags behind, notwithstanding their relatively fast adoption through ratification of relevant international instruments.

This is particularly noticeable in *gender equality, children's rights, the rights of persons with disabilities, as well as the adoption and implementation of the acquis on procedural rights, including victims of criminal acts*. In all these areas there are serious shortcomings in the implementation, due to inadequate planning, lack of capacity, insufficient cooperation of numerous institutions, bodies and the civil society in these areas, although in some cases an improvement in cooperation is noted. Improving the application of standards in these areas, which is the third main recommendation, carries with it significant material investments.

While in the past the issues related to fundamental rights were sidelined, due to the focus on the judiciary and the fight against corruption, with the start of negotiations they are also expected to be subject to increased interest from the Commission and some EU member states. Some of them are subject to the EU Charter on Fundamental Rights and are in the mandate of the EU Fundamental Rights Agency, which has included North Macedonia in its regular reporting mechanisms since last year.²²

The dossier on *personal data protection* is “mixed”, due to the fact that the Agency operated without a director for more than six months, resulting in a reduced number of procedures under its competence, which is also due to the COVID-crisis. Still, the alignment of the Law on Personal Data Protection with the General Data Protection Regulation is very significant, as are the extraordinary oversights of the Agency related to the elections and other matters. The Agency gave recommendations on several draft legislative acts proposed by other institutions, but their implementation is still under question.

In the area of *freedom of expression* limited progress is noted as well as some level of preparation/is moderately prepared in view of alignment. The limited progress is mostly due to the increased number of cases of intimidation of journalists and the slow dynamics of the reform of the public service, whose overcoming is also addressed in the main recommendations. Concerns are expressed about the imbalance in the media market, which could affect the financial sustainability, as well as the integrity and independence of the media. The key recommendations include an intensified fight against misinformation, for which an Action Plan has already been adopted.

With regard to the rights of minorities, the Report is very explicit about the need to implement the “One Society for All” Strategy, noting that the newly established Ministry of Political System and Inter-Community Relations should show that “it is actively implementing the strategy and to cooperate closely with stakeholders to establish social cohesion,” as well as “particular attention is needed to ensure the rights of smaller non-majority communities are respected”.²³ This could present a special challenge, having in mind the different attitudes in the former/current government coalition on this strategy.

There is a serious remark that “the institutions in charge of minority-related policies remain understaffed, insufficiently funded and politically and ethnically divided,” as well as that “without clear political actions to manage ethnic divides at national and local level, communities will remain divided along ethnic lines”.²⁴

Moreover, the need to follow and implement the Recommendations by the Advisory Committee of the Framework Convention on National Minorities is also noted.

22 The European Policy Institute, as the national research organization for the Agency prepared the 2020 report on North Macedonia, available at: https://fra.europa.eu/sites/default/files/fra_uploads/north-macedonia-frr2020_en.pdf

23 EC North Macedonia Report 2020 34.

24 Ibid., 35.

The Report focuses on the issue of *the inclusion of Roma*, which is receiving increased attention, but policy implementation is assessed as slow. The adoption of the Law on persons without regulated civil status is noted on the positive side, although again implementation remains an issue. There is also a lack of a comprehensive approach on Roma asylum seekers and returnees, in spite of the already proposed measures.²⁵ We expect that this issue will gain momentum at the EU level due to the new Roma Strategic Framework²⁶, which was published by the Commission almost at the same time with the enlargement package.

In the area of EU citizens' rights, the Report mentions concerns related to the 2012 amendments allowing **acquisition of citizenship for special economic interest**. The Commission announces that it will closely monitor this issue, due to the possible migratory and security risks.

In **Chapter 24: Justice, freedom and security** North Macedonia continues with the same pace of progress in terms of the criteria set out in this chapter, in the last three reports. The country is moderately prepared in terms of the requirements of EU legislation, while good progress is made, including in meeting last year's recommendations for institutional security sector reform, as well as intelligence reform.

In all areas of the chapter, high compliance of the legal framework with the *acquis* is generally noted. The focus is on *implementation and enforcement*, and in particular on the outcome of criminal cases, noting progress, which is supported by concrete data.

The EC assesses that the establishment of the National Security Agency, together with the previously established Operational Technical Agency (OTA) in 2018, leads to the implementation of the recommendations for the intelligence reforms. The first major recommendation is for institutional reforms to result in a proactive implementation policy of strategic documents towards tangible results.

The assessments for the improvement of the capacity of the National Coordination Centre for Fight against Organized Crime are positive, but one of the main recommendations remains the need to increase functionality and capacity of the investigation centres.

There has been an increase in the number of opened criminal investigations against organized crime groups, especially against groups with many suspects. Although the number of detected crimes and convictions for smuggling of migrants has increased, it is estimated that the number is higher and therefore the fight against these criminal networks must be a priority. Further improvement of concrete results in organized crime cases and money laundering, especially the dismantling of large organized criminal networks, remains one of the main recommendations in the field of organized crime. It is recommended to improve the implementation of laws in the fight against specific forms of crime, such as money laundering and financial crime and in particular the imposition of sanctions for proceeds of crime.

The need to strengthen multidisciplinary cooperation on *financial investigations* is reiterated. The requirement to make the *confiscation of criminally acquired property* a strategic priority is strongly emphasized. Hence one of the main recommendations is for the courts to increase the use of confiscation of criminal assets.

It is concluded that the *external control mechanism* over the police is established, and data on the conducted investigations and their results are provided.

The assessments for the international and regional cooperation in all areas of the chapter are also favourable- the international police cooperation, the cross-border cooperation, the judicial cooperation for civil and criminal matters, whereby the cases in cooperation with EUROJUST are worth mentioning.

25 EPI initiated a public debate in the Parliament of the Republic of North Macedonia, on the topic „The problems of returnees from European Union countries in accordance to the readmission agreements“, koja se održa na 24 januari 2020 godina. Vidi poveće na: <https://www.sobranie.mk/materialdetails.aspx?materialId=2adbfd4e-4abf-408c-b2dd-2badea752184>

26 The package of documents on the new strategic framework on EU on Roma equality, inclusion and participation is available at: https://ec.europa.eu/info/publications/new-eu-roma-strategic-framework-equality-inclusion-and-participation-full-package_en

This report pays special attention to the fight against *terrorism*, extremism and the prevention of radicalization, and hence one of the main recommendations- to implement the priorities of the Joint Action Plan on Counter-Terrorism.

The active role of North Macedonia in the management of *migration flows* is emphasized, while effective control of the southern border is ensured. However, the need to establish a comprehensive migration management system, with an aspect of protection, is emphasized.

The EC expresses serious concerns regarding the quality of *asylum* decisions, both in administrative proceedings as well as in proceedings before the Administrative Court. The need to find a sustainable solution for Roma refugees from Kosovo is also underlined.

Although it is concluded that the readmission agreement with the EU is being implemented in a satisfactory manner, the necessary attention to be paid for the successful reintegration of returnees is pointed out.

North Macedonia continues to meet the benchmarks for visa liberalization, and the number of asylum seekers in EU member states has decreased by 20% compared to 2018.

The analysis on the recommendations in the field of rule of law shows a concentration on the implementation measures. As many as 10 recommendations are related to the implementation, additional 2 are more specifically related to the institutions, while 2 recommendations refer to the execution. Two recommendations refer to the legal framework.

It can be concluded, from the presented findings of the EC, that the country does not use enough the opportunities given to it to participate directly in the work and activities of the Union. More specifically, the Commission finds that the country is generally insufficiently involved in the work within the EU bodies where it has been given the position of “observer”. For example, although the country has been praised for participating as an observer in FRONTEX missions, it has been noted for under-exercising observer status in relation to the EU Agency for Fundamental Rights and the European Judicial Training Network.

ECONOMIC DEVELOPMENT AND COMPETITION

The existence of a functioning market economy/capacity to cope with competitive pressure and market forces within the Union

For years, the country has a good level of preparation for a functioning market economy, but limited progress.

The EC acknowledges that measures taken to overcome the negative consequences of the COVID-19 crisis will slow down fiscal consolidation and the reducing of public debt. However, income support and state aid to companies, at the expense of planned capital expenditures, is assessed as a less development-oriented model of budget policy.

Reduced budget revenues, delayed pension reforms and a lack of revenue-raising measures further increase fiscal risks. Unlike fiscal policy, monetary policy is said to be in line with economic fundamentals.

The EC recommends that fiscal space for recovery from the crisis is provided through better revenue collection. It reiterates the need to strengthen fiscal governance, including by increasing the transparency and sustainability of public finances. It also recommends greater efficiency and transparency in the granting of state aid.

Despite the alignment with the acquis through the adoption of the Law on Financial Discipline, the business environment is characterized by a low level of financial discipline and the implementation of contracts that negatively affect the liquidity of companies. The informal economy undermines the competitiveness of the private sector and that is why the EC recommends continuous implementation of the Strategy for Formalization of the Informal Economy, i.e. informal employment.

The guidelines from the Economic and Financial Dialogue, as thus far, are partially implemented.

Capacity of the economy to cope with competitive pressure and market forces within the Union

It is assessed with a moderate level of preparation and showing some progress. With this assessment, in a comparative regional sense, North Macedonia stands on the same level as well as Montenegro and Serbia.

The education budget remains lower than the average in the EU member states and OECD countries, and the results of the education process are worse than the average of the countries in the region, although there is progress compared to previous years. Investments in research and development remain significantly lower than the EU average, while state aid has a larger share in the financing of innovation activity in the private sector.

The lack of investments in infrastructure and the lack of maintenance of the existing road and railway infrastructure make trade and the inclusion of Macedonian companies in the international value systems difficult. Regarding the energy infrastructure, the EC points out that the economy is energy intensive but it has low efficiency in production and consumption depending on the import of coal as the main source of energy.

The participation of Macedonian companies in global production networks remains scarce mainly due to the nature and position of foreign direct investment, but also due to the technological backwardness of local companies, low level of innovation and lack of labour force that meets the needs of the labour market.

Hence, the EC recommends again reform of the education system, but this time in order to improve skills in line with labour market demand, as opposed to the previous recommendation for modernization of all educational levels.

It is recommended to provide and maintain the domestic and international road infrastructure for greater competitiveness of domestic companies and their inclusion in global value systems. Finally, it is recommended to increase energy efficiency and diversify energy sources towards renewable energy, including through the establishment of an Energy Efficiency Fund and the implementation of the Law on Energy Efficiency.

CHAPTERS: 5. PUBLIC PROCUREMENT, 18. STATISTICS, 32. FINANCIAL CONTROL

In this report as well as in the previous one, the EC assesses the country as moderately prepared in **Chapter 5. Public Procurement**. Observed over a long period of time, the dynamics of progress and the level of compliance in this chapter, which was one of the leading ones, is slowing down. This trend should definitely be reversed.

Some progress is made with the adoption of the new Law on Public Procurement in the field of defines and security, as well as the relevant bylaws. The EC reiterates the need for additional efforts to prevent irregularities and corruption during the procurement cycle and to ensure a more effective procurement system, based on the principles of transparency, equal treatment, free competition and non-discrimination.

The EC recommendations from 2019 have not been fully implemented and remain valid, and in that regard, it is necessary to ensure the implementation of the Law on Public Procurement, including upgrading the e-procurement portal with new modules and further harmonization with EU directives on concessions. It is also necessary to show that the reports on irregularities in public procurement are properly investigated and the perpetrators are punished. Furthermore, the need to strengthen the administrative capacity of the Public Procurement Bureau, the State Appeals Commission and the State Audit Office, for public procurement supervision and monitoring, as well as of the Ministry of Economy for concession management and public-private partnership- is pointed out.

In **Chapter 18. Statistics**, the EC assesses the country as moderately prepared this year as well.

Good progress has been made, especially in the implementation of the pilot phase of the population census and the testing of the new census methodology.

Improvements were noted in all 81 statistical areas and further alignment of sectoral statistics with EU standards. Additional efforts are needed to improve the scope and quality of macroeconomic and social statistics.

Last year's recommendations were implemented, so that in the next year focus is needed on adopting the necessary legislation and providing the necessary administrative capacity to conduct the 2021 census, as well as to continue aligning the financial and quarterly national accounts with the European System of Accounts 2010 (ESA 2010). Staffing and adequate funding of the State Statistical Office is also required.

North Macedonia continues, as in the previous report, to be moderately prepared and to make some progress in relation to **Chapter 32. Financial control**.

The strategic framework is established in the policy document Public Internal Financial Control 2019-2021. The pending adoption of a new Law on Public Internal Financial Control is emphasised. In view of *internal audit*, the key recommendation is to improve the accountability and transparency of managers through the effective implementation of internal control standards in the management processes of public sector organizations. A recommendation is given to improve the monitoring and supervision of the Central Harmonization Unit (CEC), including the quality of reporting. In terms of external audit, the institutional capacity of the State Audit Office (SAO) is assessed as good, while the biggest challenge is the incomplete implementation of the SAO recommendations, as well as the oversight by the Assembly regarding the findings and recommendations of the SAO, which is the second key recommendation.

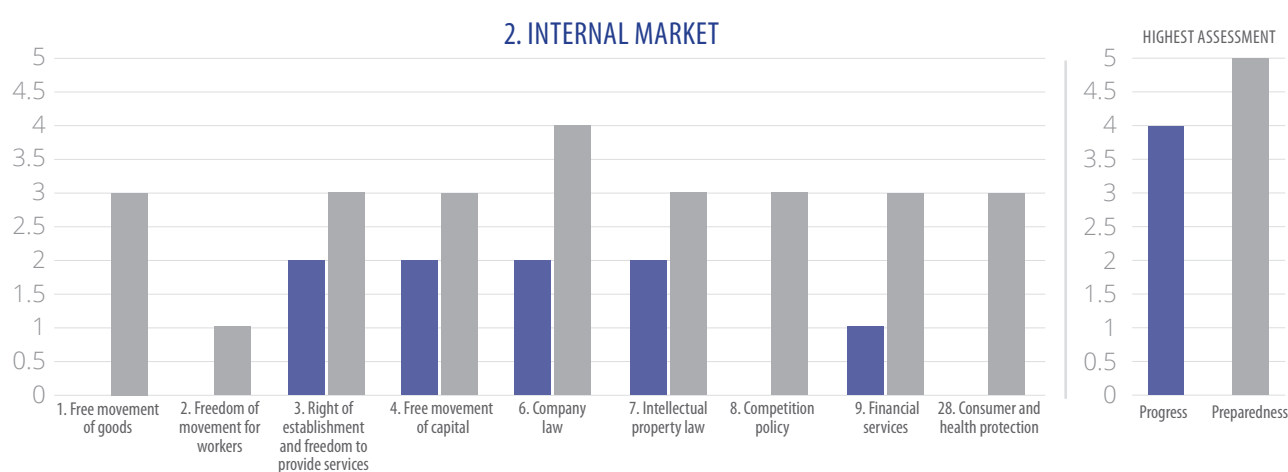
The main recommendations for the chapters contained in Cluster 1. Fundamentals are balanced in structure, but still with a predominant focus on the implementation and the institutions: one refers to the strategic framework, two to the legal framework, three to the implementation, three to the institutions, one on the enforcement, and one relates to other measures.

CLUSTER 2. INTERNAL MARKET

The basic logic of linking the chapters in this cluster is the EU's "four freedoms" basic *acquis*: freedom of movement of goods, people, services and capital.

The cluster consists of chapters with a comprehensive and complex *acquis*. One part of the obligations arising from the membership applications were already covered by the first phase of the SAA (with identified priority areas). The opening of the second phase of the SAA, which implies further liberalization in the free movement of capital and financial services, has implications in this cluster.

In general, in the cluster the state is "moderately prepared" - this is an assessment for all chapters except 6. Company law, where the level of preparations is for a long time "good" and, on the other hand, Chapter 2. Free movement of workers, where it is "at an early stage". The progress in all chapters does not exceed the grade "limited", and all four chapters where the country has no progress belong to this cluster. This should be of concern, given the fact that alignment in much of the Internal Market cluster was prioritized by the Stabilization and Association Agreement.



Thus, it should come as no surprise that the **European Commission repeats in full the recommendations of last year's report** (Chapter 1. Free movement of goods, Chapter 2. Free movement of workers, Chapter 3. Right of establishment and freedom to provide services, Chapter 7- Intellectual Property Rights) **or refines the existing ones and makes new recommendations** (Chapter 4. Free Movement of Capital, Chapter 6. Company Law, Chapter 8. Competition Policy, Chapter 9. Financial Services and Chapter 28: Consumer Protection and Health Protection). It can be noted that many of the recommendations refer to legislative harmonization, i.e. attaining of the *acquis*. It is noted that the pace of alignment with the new *acquis* has slowed down in all chapters, indicating a lack of prioritization and/or systemic weakness in the process of acquiring the *acquis*.

The institutional framework is established in line with the requirements of the *acquis* across the cluster. However, there are evident problems with the **capacities** (MES in terms of recognition of qualifications), and financial, human and material resources to fulfil the tasks (Market Inspectorate, Commission for Protection of Competition), but also other stakeholders (fight against money laundering and financial terrorism). **The brain drain of qualified personnel** is seen as a problem for the health sector. The fact that the issue of **institutional independence** (Commission for Protection of Competition) persists is of concern, including **financial independence** (Audit Promotion and Supervision Council).

The measures undertaken by the country as a response to the crisis caused by COVID-19 for the credit market (Chapter 9- Revision of credit risk regulation), as well as for international trade (implementation of green corridors within the Transport Community and the CEFTA Secretariat) are assessed as an appropriate response to the challenges of the financial markets, i.e. the commodity market.

The structure of the main recommendations in this cluster is different from other clusters.

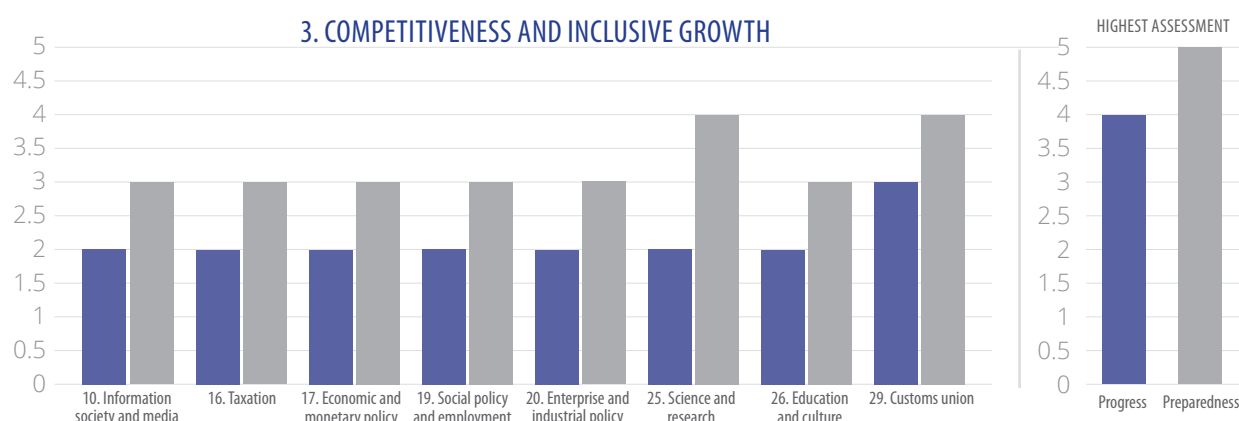
It is in this cluster only that there are **the most recommendations for harmonization of the legislation** (nine).

One recommendation is for the strategic framework, while four refer to the institutional capacities. One recommendation is specific for enforcement, one is general for implementation. The other five main recommendations refer to more specific measures (IT systems, transparency, data collection, etc.).

CLUSTER 3. COMPETITIVENESS AND INCLUSIVE GROWTH

This cluster is characterized by several diverse chapters that focus mainly on policy coordination, but individual chapters or parts of them contain significant *acquis* that is subject to transposition. The main axis of grouping the chapters in this cluster is their interrelation to economic development, but also the interrelation to the development of human capital, as one of the key factors of growth. The interrelation to the economic criteria from Cluster 1. Fundamentals should also be taken into account.

In general, most chapters in the Cluster are with moderate level of preparation. Two out of the four chapters that are well prepared are from this cluster - 25. Science and Research and 29. Customs Union. The progress from the previous year is assessed as moderate in all chapters, except in Chapter 29 Customs, where it is characterised as “good”.



There are especially noticeable **shortcomings in the evaluation of the undertaken measures**, i.e. the implementation of certain strategic documents is strongly emphasized in Chapter 20. Enterprises and industrial policy, where it is necessary to introduce these instruments in order to determine which measures contribute to competitiveness and growth.

According to the Report, in many of the chapters in this cluster there is a need to strengthen the capacities and practices related to **the dialogue regarding the adoption and implementation of policies and laws**. Thus, in Chapter 20 a need to improve consultations with the private sector on key reforms is stated while the adoption of some laws and measures without the necessary consultation (e.g. the Law on Strategic Investments in Chapter 20.) is underscored. In Chapter 19, where one of the main topics is social dialogue, the EC finds that social dialogue is “inappropriate” and the capacities of the social partners are “weak”.

The strategic framework is generally established, but insufficient or slow implementation is criticized. The only thing that is insisted upon is the adoption of the long-announced ICT Strategy.

This cluster is not intensive in terms of **legislative** alignment and therefore contains several recommendations for alignment of legislation with the *acquis*. However, they should also be taken seriously, especially those relating to the organic budget law, compliance with the Late Payments Directive, and the adoption of laws on cultural heritage protection.

In terms of **institutional matters**, the European Commission noted a **lack of independence** (for example, of the public service in Chapter 10, of the NBRNM in Chapter 17) and **capacity** (for example, Chapter 16 for the central and local tax administrations, Chapter 19 for the State Labour Inspectorate), in some cases also in spite of the increased number of employees. There are also remarks on overlaps and unclear competencies (Chapter 20) or lack of inter-ministerial or inter-institutional cooperation (for example, Chapter 19).

This cluster requires targeted and significant **investments** in the long run in order to achieve results. Despite the evidenced increased investments in innovations, education and research, it is estimated that this is insufficient. There is also a lack of resources and efforts to implement laws and policies, which is why the Commission calls for the allocation of resources in order to strengthen the implementation of laws and strategies (for example in relation to Chapter 10 and the emergency number 112, Chapter 26 and protection of cultural heritage).

This cluster is characterized by a strong representation of the instrument **Community programs**. There is a big difference in the assessments for the use of the programs. While participation in Chapter 20. Enterprise and Industrial Policy (EDIF, COSME) and Chapter 25. Science and Research (Horizon 2020) programs is subject to criticism, participation in Chapter 26. Education and Culture programs is at the level of member states, while the success in applications is at a high level (Erasmus +) or at a satisfactory level (Creative Europe). This shows that there is room for improvement and learning from best practices for Community programs and within the country, despite the different characteristics or requirements of the programs.

One of the horizontal principles in the entire accession process - **non-discrimination and inclusiveness** is particularly expressed in this cluster, especially chapters 19. Social policy and employment and 26. Education and culture. Special attention should be paid to the findings on the susceptibility of the education system to political influence and corruption, to the existing ethnic segregation in education and training, as well as to significant barriers to integrated education and training.

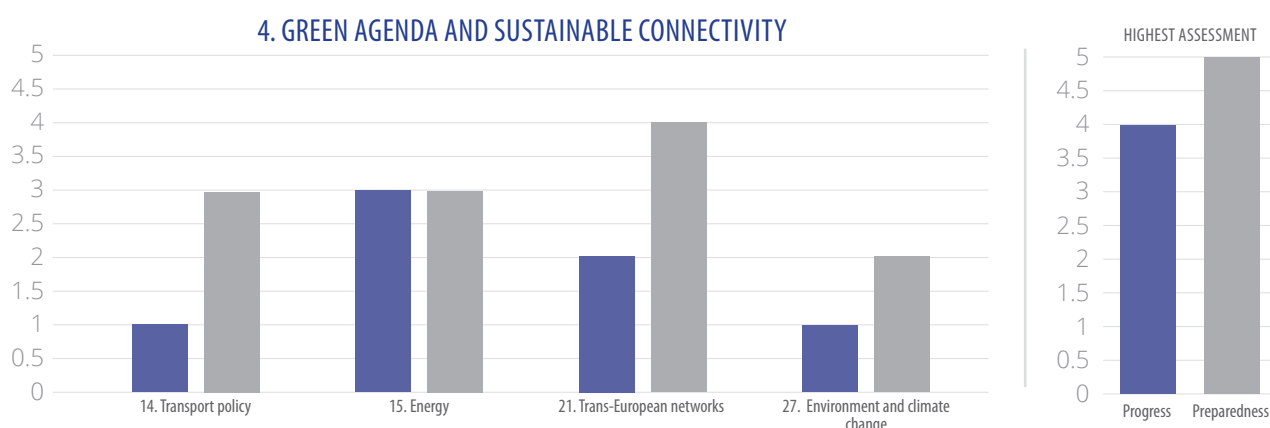
The EC also notes **the impact of the COVID-19 crisis**, for example, on the privacy and freedom of the media in Chapter 10 or on the education process in Chapter 26. It is warned in Chapter 19 that backsliding is possible due to the inevitable impact of the crisis, which threatens to undo the previous positive development, especially in employment. The recommendation for evaluation of the undertaken measures for dealing with the crisis, especially the economic ones, is also important.

The structure of the main recommendations in this cluster shows diversity of the recommended measures. Three are of a strategic nature, four refer to the harmonization of legislation, three to the strengthening of institutions. The remaining eleven recommendations are more specific and refer to the process of policy making and evaluation, including the regulatory impact assessment i.e. the measures, as well as to specific IT systems, financial investments, etc.

CLUSTER 4. GREEN AGENDA AND SUSTAINABLE CONNECTIVITY

The cluster is linked to the realisation of the “European Green Deal”, which recognises that the EU’s environmental transition is impossible without effective action in its immediate neighbourhood.²⁷ The second axis connecting the chapters in these clusters is the “Connectivity Agenda” for the Western Balkans, aimed at strengthening infrastructure links with and in the region, especially in transport and energy, which should contribute to economic growth.

Apart from Chapter 15 Energy, which is assessed with good progress, it is worrisome that all the other chapters are assessed with limited or some progress. Chapter 21 is the only one with a good level of preparation, while Chapter 27 has only some level of preparation. The fact that these chapters are an important part of the Economic and Investment Plan for the Western Balkans is of particular concern.



Capacity related issues also seem to be key in this cluster.

■ **The European Commission notes that the institutions do not have sufficient capacity to implement laws and policies.** ■

Thus, for example, in view of the implementation of energy efficiency legislation in Chapter 15, the need to increase human and technical resources in the Ministry of Economy, i.e. the Energy Agency is identified, while in Chapter 21 the need to strengthen the operational and technical capacities of the entire management structure and the institutions concerned dealing with the Trans-European Transport and Trans-European Energy networks is indicated. This is particularly pointed out in Chapter 27 which indicates that the administrative capacity for environmental protection is on a very low level. The conclusion on the political influence of the Energy Regulatory Commission is also worrying.

The need for further **harmonization with European legislation** is pointed out. For example, Chapter 14 requires the implementation of EU passenger rights legislation and the transposition of the Smart Traffic Directive. Chapter 15 requires harmonization of the provisions on biofuel sustainability and hydropower investment with relevant EU environmental legislation. Chapter 21, on the other hand, indicates that the legal framework needs to be harmonized with the trans-European network legislation. The need for the remaining agreements that need to be signed and/or implemented is underscored - such as, for example, in Chapter 14- to sign the agreement on cross-border railway cooperation with Greece, while the agreement with Kosovo needs to be implemented.

■ **The continuous lagging behind in Chapter 27: Environment and climate change is of particular concern - both in terms of approximation of legislation and in view of implementation.** ■

In the long run – since the candidate status, the level of approximation and the dynamics of reforms in this chapter have receded, significantly altering the situation compared to other countries in the region. Having in mind that this is a chapter with an extremely complex *acquis*, which also requires significant investments, a special and continuous commitment by the authorities is needed.

²⁷ European Commission, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, COM/2019/640 final 20.

The need for additional funding to implement laws and policies is also pointed out. Chapter 27 generally states that financial resources for implementation of legislation are a challenge. Significant financial resources are also needed in Chapter 15 in the area of energy efficiency improvement, whereby the need for greater commitment of municipalities for its improvement is underscored.

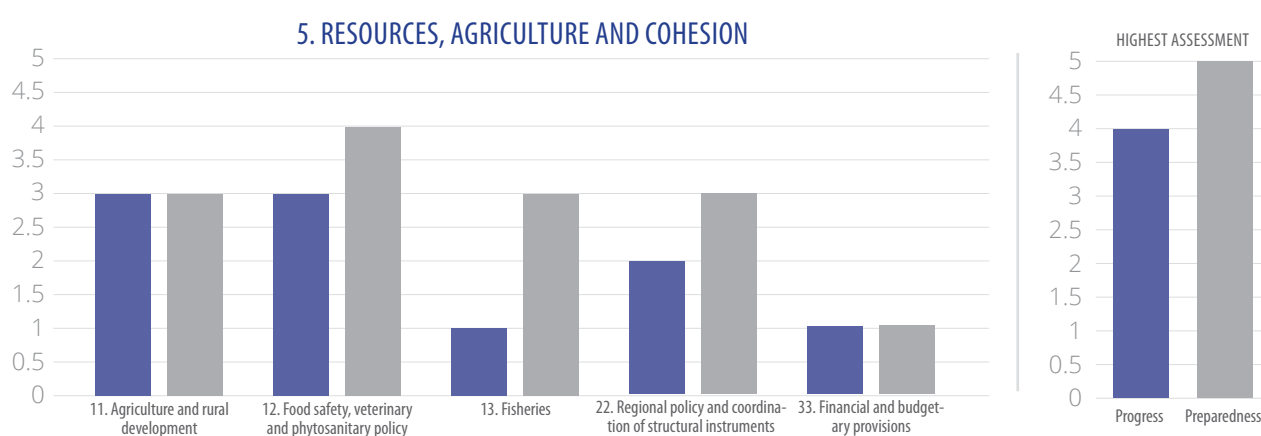
Hence, it should come as no surprise that most of the key recommendations in the cluster relate to institutional strengthening (4), two are related to implementation in general, two to approximation of legislation and one to the strategic framework. The remaining two recommendations refer to other types of interventions / activities.

CLUSTER 5. RESOURCES, AGRICULTURE AND COHESION

The specificity of the cluster stems from the fact that these chapters are related to significant resources that the country could use as an EU member.

There are two extremely positive elements in this cluster. The first is that Chapter 12. Food safety, veterinary and phytosanitary policy has a good level of preparation, which has been maintained since 2016, but this year there is also “good progress”.

This is particularly important given the complexity of the chapter (often considered the most difficult chapter in implementing the acquis), as well as the fact that we are leading the way in the region. The second element is the change in the progress trend in Chapter 11. Agriculture and Rural Development, although the country remains “moderately prepared”. After a number of years of noting small (“some”) progress, for the first time progress is assessed as good, which is a significant turn in the chapter, which is otherwise considered one of the most complex. Such a trend should be maintained. Chapter 13: Fisheries also records “limited progress” for the first time in three years.



In contrast to the above-mentioned chapters, the stagnation in Chapter 22 in the area of regional policy and coordination of structural instruments is worrying, because it is the chapter related to the preparation for the use of structural funds.

Some of the remarks of the European Commission in this cluster refer to the lack of human resources i.e. administrative capacity. This problem is particularly highlighted in Chapter 22. Regional Policy and Coordination of Structural Instruments. The European Commission notes a significant deterioration of the situation in 2019 and the absence of a staff retention policy. The Commission sounds an alarm bell requiring an urgent response to increase administrative capacity, for which an immediate response is needed. Specifically, it is pointed out that the role of the national coordinator (Deputy Prime Minister for European Affairs- SEA) should be significantly strengthened. The Commission also warns of weaknesses in the contracting process- tender planning, procedures and documentation, as well as weaknesses in the institutional set-up.

All of the above mentioned, jeopardizes the large EU investments in the TEN network. In addition, it is pointed out that the management capacities for capital and infrastructure investments in the competent ministries need to be significantly improved. Given the importance of Chapter 22 in creating the preconditions for the use of EU funds, including the Economic and Investment Plan, it is urgently needed to overcome the identified shortcomings. The European Commission also notes the need for capacity building in Chapter 33. Financial and Budgetary Provisions.

Chapter 11 indicates that more staff is needed in the agency and the governing body to ensure the successful absorption of IPARD funds in the next programming period, while Chapter 13 indicates that the administrative capacities for resource and fleet management, inspections and control of fisheries policy and the capacity to control illegal fishing remain insufficient.

In this cluster **there are no major problems with the harmonization of legislation**, thanks to the fact that in the most complex chapter in this respect 12. Food Safety, a system of harmonization of legislation has been established followed by implementation measures.

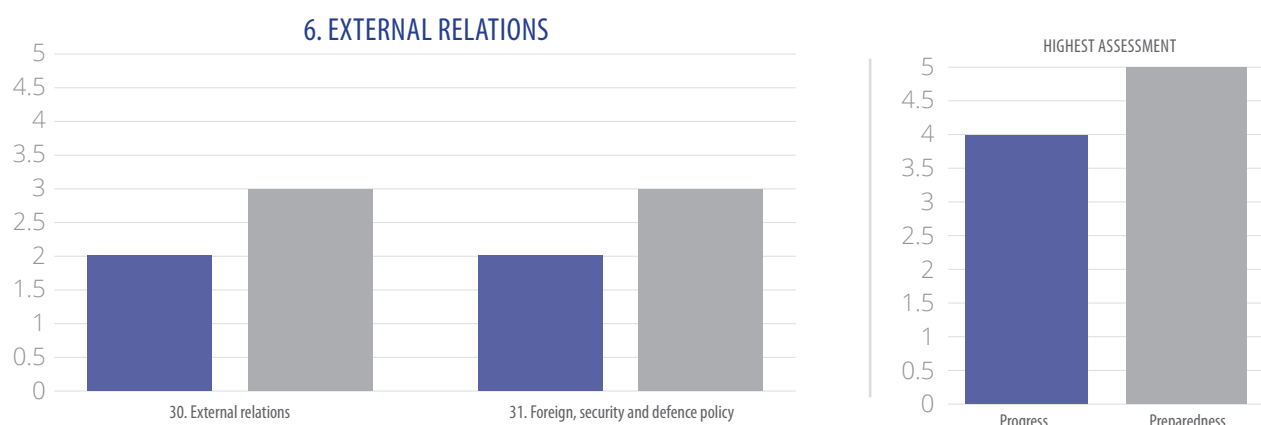
There is a positive conclusion about **the increased transparency, especially with regard to the use of EU funds, as well as concerning the approach to involvement in programming**. This could be the basis for a more structured dialogue on the use of EU funds- a topic that requires both expertise as well as a strong civic engagement.

The structure of the recommendations in this cluster is mainly balanced between the legislative and institutional measures (5 each), while one recommendation refers to the strategic framework, two to the more precise necessary interventions, and two include a general direction on implementation, i.e. sustainability.

CLUSTER 6. EXTERNAL RELATIONS

The cluster covers two chapters related to two aspects of the Union's external relations- foreign trade and foreign policy: 30. External relations, 31. EU foreign, security and defence policy.

The gradual alignment with the EU positions from its common foreign, security and defence policy is an obligation from the SAA and indicates the degree of convergence of the country's foreign policy relations with those of the Union.



The level of compliance is identical in both chapters- moderately advanced, while progress from 2015 onwards is marked as “some”.

In general, the legal and institutional frameworks in both chapters are in place, although a policy framework for development and humanitarian assistance is lacking.

Although the negative trend in aligning with the EU's common foreign and security policy has been reversed, there is room for further improvement, given that the country also became a member of NATO in March 2020.

The recommendations generally refer to the further improvement of the alignment with the common EU positions in the CFSP, as well as to the active participation in the Regional Economic Area, including the strengthening of the capacities, especially in the foreign trade policy.

GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION – POSITIVE CONTEXT WITH SWORD OF DAMOCLES

The sword of Damocles – the possible blockade by Bulgaria that threatens to endanger the Macedonian path to the EU again – is not acknowledged by the Enlargement Package. The European Commission remains extremely neutral in the ongoing discussion of the negotiating framework, in particular the demands made by Bulgaria, while it consistently applies the principle declared in the new Methodology – to keep bilateral issues out of the negotiations.

In the regional document- Enlargement Strategy- the Commission calls on “the existing agreements, including the Prespa Agreement between North Macedonia and Greece and the Good Neighbourly Agreement with Bulgaria, to continue to be implemented in good faith by all parties”.²⁸ It is obvious that this balanced wording is addressed to all parties equally, regardless of whether or not they are EU members. The Summary of the Report on North Macedonia²⁹, emphasizes that it is important “to continue the implementation of bilateral agreements, including the Prespa Agreement and the Agreement on Good Neighbourly Relations with Bulgaria.”³⁰ In the very text of the Report, the EC gives arguments, noting the activities carried out for implementation of these agreements.³¹

In general, in this area there is a positive assessment that North Macedonia “remains constructively committed to bilateral relations with other enlargement countries and neighbouring EU Member States.” There is a positive assessment on the participation in regional initiatives, however with the recommendation for the state “to play a constructive role in the building of the common regional market”.³²

However, we must keep in mind that discussions on this issue take place in the Council of the EU, where the decision is taken unanimously. The Commission will be bound by the decision of the member states. Although this issue is not the subject of this analysis³³, we emphasize that the eventual blockade has the potential to completely undermine the credibility of the process, the strengthening of which, in turn, was one of the main goals of the new Enlargement Methodology.

28 EC Enlargement Strategy 2020 18.

29 The Summary is also part of the Enlargement Strategy.

30 EC North Macedonia Report 2020 6.

31 Ibid., 58-59.

32 EC North Macedonia Report 2020, 58-59.

33 On this issue, see the European Policy Institute policy document „EU-North Macedonia accession negotiations: possible consequences or Bulgarian conditions“ Skopje May 2020 https://epi.org.mk/wp-content/uploads/2020/06/EU_North-Macedonia-accession-negotiations_MK_2.pdf.

WHAT'S NEXT?

At the EU level, the package will be the basis for a discussion in the Council, which will reach conclusions- most likely in December. Given the discussions so far and the growing role of member states in the enlargement process under the new enlargement methodology, a heated further debate could be expected, especially on the assessments of the priorities set out in the Council's previous conclusions - those of June 2018, in parallel to the process of adopting the negotiating framework that is already underway.

At the national level, after the initially expected, so far usual, political scruffles between the government and the opposition, a further step should be taken by the Government- not only in terms of the Report's assessments, but how it will position and organize itself in the further strategic management of the process while taking into account the recommendations of the Report. Obviously, a debate is expected also in the Parliament, with the prior involvement of the competent committees for the areas under their competence, as well as the special bodies for European integration. The involvement of civil society is by all means necessary as well.

CONCLUSIONS AND RECOMMENDATIONS

1. This Report is an additional strong argument for starting the accession negotiations with North Macedonia. Namely, the progress in the key areas set out in the Council conclusions- resulting from the Priebe report (judiciary, fight against corruption, security forces reform) is mainly assessed as good.
2. The general assessment of the Government's commitment and continuity to EU-related reforms involving the opposition and civil society is encouraging. *However, it is necessary to find structural ways to maintain, but also deepen, the commitment so that it does not depend, or be less affected, by contextual and political changes that will inevitably occur given the length of the process.*
3. The dialogue, although present at the general level, is absent or underdeveloped when it comes to sectoral and thematic issues. Efforts should be directed at its promotion and structuring, in order *to ensure the constructive and fruitful participation of stakeholders as well as the systematic consideration and taking into account of their contribution in relation to relevant policies and legislation.*
4. The horizontal capacity issues are of concern, such as shortcomings in strategic planning and policy coordination at central level, including coordination of European affairs and the poor quality of the regulatory impact assessment process. In addition, the capacities for implementation and enforcement of the harmonized legislation which will be more and more important in the accession process are of key importance. *This indicates the need for significant interventions and advancement of the national policy-making process - planning, implementation, monitoring and evaluation, which will consistently incorporate the requirements of the accession process.*
5. With the introduction of democratic institutions and public administration reform in the negotiations, it will be crucial to build a *long-term strategic vision for the development of the democratic system of the country, which will incorporate the values and democratic principles of the EU, and which will provide for the priorities for realization.*
6. The commitment to implement the priorities set in the political criteria that were emphasized in the previous reporting periods (additionally in combination with bilateral issues outside the objective membership criteria) and which will continue to be more emphasized, seems to be draining energy for other clusters. This is worrisome for several reasons. First, it results in stagnation in many other areas and, if continued in this way, will result in the future. Second, it indicates a lack of mobilization of sufficient resources to implement the process or inadequate mobilization of resources. Third, it may have serious implications for the use of the Economic and Investment Plan funds, which in turn are linked to other clusters.

On the other hand, the exceptions of some chapters that continuously show good results (example: 12. Food safety 29. Customs Union) *indicate the need to analyse their success factors and apply them appropriately as best practices for other chapters.*

7. The new clustering enables a greater degree of complementarity with the dialogue and the institutional structure within the implementation of the Stabilization and Association Agreement. North Macedonia *should use the experience obtained and the human resources that are developed from the experience of over 15 years in the SAA process.*
8. The capacity to use pre-accession funds as a specific issue of Chapter 22. Regional policy and structural instruments is essentially related to the horizontal policy-making and implementation capacity and the general capacity to manage and use both national funds and projects. *However, urgent measures are needed to retain existing public administration experts, as well as to improve capacities.*
9. Having in mind the previous conclusions, *an analysis should be undertaken on the capacities for incorporating the requirements of the EU accession in the national reform agenda, including the instruments for following up or implementing the recommendations of the Report (NPAA, action plans, Government programs, etc.), taking into account the instruments that will be necessary according to the new methodology for enlargement (roadmaps, etc.). as well as for the use of pre-accession funds. These instruments should be properly incorporated into a consistent system and process of national policy-making.*

The analysis should lead to clear priorities in realistic time frames that will enable long-term thoughtful, balanced and stable progress on the overall reform agenda related to the EU accession.

10. The report, in line with the Priebe Report, pays special attention to independent institutions, in a systematic way, in all areas. In addition to highlighting the positive examples (such as the State Commission for Prevention of Corruption, the Judicial Council, the State Audit Office), the Report also points out to problems with delayed appointments in such institutions, with insufficient resources and capacities as well as the need for their proactive approach.

The downward trend in some independent institutions or regulatory bodies (such as for example, the Commission for Protection of Competition, the Postal Agency) is worrying.

The issues of independence, capacity, proactivity, accountability and influence of independent institutions and regulatory bodies would need to be systematically addressed. In this context, the role of the Assembly is especially important - both in terms of appointment and in terms of carrying out its oversight role.

11. The weaknesses related to fundamental rights indicate that they need to be given due attention once again, especially given the growing focus they are receiving within the European Union. The novelties on the policies arising from this priority should be taken as guidelines to what could be expected to emerge as a criterion for the country in the near future. *Therefore, it is necessary to work especially on domestic adjustment of standards, practices, monitoring and evaluation related to gender equality, the rights of persons with disabilities, Roma rights and the fight against racism, to approach them through an intersectional perspective, as well as to take into consideration the EU Charter of Fundamental Rights as a horizontal issue.*
12. Having in mind the insufficient use of the opportunities that the state has at its disposal for participation in the work and activities of the Union, *it is necessary to carry out an evaluation of the results and experiences of such participation, which would lead to clear guidelines for further rational use of all opportunities in the future.*
13. *Although the assessments regarding the measures taken to deal with the crisis caused by COVID-19 are relatively favourable, attention should be paid to the general recommendations for assessing the impact of the measures taken by the Government, and in particular to the measures implemented as a response to the crisis caused by COVID-19.*
14. *The Report should not be a point of contention, but a platform for debate. Related to the first recommendation we make here, this debate needs to be structured and its place is in the legislature, with the active participation of the position and the opposition and the involvement of the civil society sector. This can be an initial contribution to the further development and shaping of the role of the Assembly in the accession process, through a constructive and comprehensive dialogue.*

ANNEX 1: LEVEL OF ALIGNMENT AND PROGRESS – ECONOMIC CRITERIA AND CHAPTERS

Cluster	Chapter/criteria	Level of preparation				Progress	
		2015	2016	2018	2019	2020	2019-2020
1. Fundamentals	Economic criteria – functioning market economy	4	4	4	4	4	1
1. Fundamentals	Economic criteria – capacity to cope with competitive pressure and market forces within the Union	3	3	3	3	3	2
2. Internal market	1. Free movements of goods	3	3	3	3	3	0
2. Internal market	2. Free movement of workers	1	1	1	1	1	0
2. Internal market	3. Right of establishment and freedom to provide services	3	3	3	3	3	2
2. Internal market	4. Free movement of capital	3	3	3	3	3	2
1. Fundamentals	5. Public procurement	3	3	3	3	3	2
2. Internal market	6. Company law	4	4	4	4	4	2
2. Internal market	7. Intellectual property law	3	3	3	3	3	2
2. Internal market	8. Competition policy	3	3	3	3	3	0
2. Internal market	9. Financial services	3	3	3	3	3	1
3. Competitiveness and inclusive growth	10. Information society and media	4	4	3	3	3	2
5. Resources, agriculture and cohesion	11. Agriculture and rural development	3	3	3	3	3	3
5. Resources, agriculture and cohesion	12. Food safety, veterinary and phytosanitary policy	2	2	4	4	4	3
5. Resources, agriculture and cohesion	13. Fisheries	3	3	3	3	3	1
4. Green agenda and sustainable connectivity	14. Transport policy	3	3	3	3	3	1
4. Green agenda and sustainable connectivity	15. Energy	3	3	3	3	3	3
3. Competitiveness and inclusive growth	16. Taxation	3	3	3	3	3	2
3. Competitiveness and inclusive growth	17. Economic and monetary policy	3	3	3	3	3	2
1. Fundamentals	18. Statistics	3	3	3	3	3	3
3. Competitiveness and inclusive growth	19. Social policy and employment	3	3	3	3	3	2
3. Competitiveness and inclusive growth	20. Enterprise and industrial policy	3	3	3	3	3	2
4. Green agenda and sustainable connectivity	21. Trans-European networks	4	4	4	4	4	2
5. Resources, agriculture and cohesion	22. Regional policy and coordination of structural instruments	3	3	3	3	3	2
1. Fundamentals	23. Judiciary and fundamental rights	2	2	2	2,5	2,5	3
1. Fundamentals	24. Justice, freedom and security	3	3	3	3	3	3
3. Competitiveness and inclusive growth	25. Science and research	4	4	4	4	4	2
3. Competitiveness and inclusive growth	26. Education and culture	3	3	3	3	3	2
4. Green agenda and sustainable connectivity	27. Environment and climate change	3	2	2	2	2	1
2. Internal market	28. Consumer and health protection	3	3	3	3	3	0
3. Competitiveness and inclusive growth	29. Customs Union	4	4	4	4	4	3
6. External Relations	30. External relations	3	3	3	3	3	2
6. External Relations	31. Foreign, security and defence policy	3	3	3	3	3	2
1. Fundamentals	32. Financial control	3	3	3	3	3	2
5. Resources, agriculture and cohesion	33. Financial and budgetary provisions	1	1	1	1	1	1

