

## **IS AN IMPULSE FOR REFORMS FEASIBLE?**

Analysis of the Report of the European Commission  
for the Republic of North Macedonia from October 19, 2021

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## LIST OF ABBREVIATIONS

ACCMIS	Authorised Court Case Management Information System
AJPP	Academy for Judges and Public Prosecutors
AETP	European Agreement on the work of crews of vehicles engaged in international road transport
CA	Customs Administration
CEFTA	Central European Free Trade Agreement
CEPOL	European Union Agency for Law Enforcement Training
CHU	Central Harmonisation Unit
CFSP	Common foreign and security policy
CJEU	Court of Justice of the EU
CMO	Common Market Organisation
CPC	Commission for Protection of Competition
CPPD	Commission for Prevention and Protection against Discrimination
CSDP	Common security and defence policy
EC	European Commission
EPPO	European Public Prosecutor's Office
ESA	European System of Accounts
EU	European Union
EUROJUST	European Union Agency for Criminal Justice Cooperation
EUROPOL	European Union's Law Enforcement Agency
FRONTEX	European Border and Coast Guard Agency
FVA	Food and Veterinary Agency
GNI	Gross national income
GDP	Gross domestic product
ICT	Information and communication technology
ILO	International Labour Organisation
INTOSAI	International Organisation of Supreme Audit Institutions
IPA	Instrument for Pre-accession Assistance
IPARD	Instrument for Pre-accession Assistance for Rural Development
IPR	Intellectual Property Rights
LGBTIQ	Lesbian, gay, bi-sexual, trans, intersex and queer persons
MES	Ministry of Education and Science
MF	Ministry of Finance
MISA	Ministry of Information Society and Administration
MoI	Ministry of Interior
NBRNM	National Bank of the Republic of North Macedonia
NPAA	National Program for the Adoption of the Acquis
NSA	National Security Agency (NSA)
OTA	Operational Technical Agency
PAR	Public Administration Reform
PIFC	Public internal financial control
PRO	Public Revenues Office
REA	Regional Economic Area
SAO	State Audit Office
SCPC	State Commission for Prevention from Corruption
SCPD	State Commission for Prevention and Protection from Discrimination
SPO	Special Prosecutor Office
TEN	Trans-European Networks
VAT	Value-added tax
WB	Western Balkans
WTO	World Trade Organisation

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## INTRODUCTION

The publication of the Enlargement Package this year took place in the circumstances of continued focus on the COVID-19 crisis, highly pronounced geopolitical and geostrategic factors, evolving energy crisis, as well as re-emerging migration issues.

Rifts over rule of law standards have been deepening in the EU, following a series of actions by the European Commission (EC) and judgments of the EU Court of Justice (CJEU) against Poland and Hungary, noted in the EU annual Rule of Law Report.<sup>1</sup> Such trends in the EU have a serious impact on support for enlargement even in countries that have traditionally promoted this policy.

In this year's Enlargement Strategy the Commission once again recommends the start of negotiations – to adopt the negotiating framework and to hold the first intergovernmental conferences with North Macedonia and Albania by the end of the year, arguing that the delay has a negative impact on EU's credibility.<sup>2</sup> Visa liberalization for Kosovo is also recommended again. The Commission proposed opening of two clusters with Serbia.<sup>3</sup> No further steps have been proposed for other countries. The Commission is trying to take a move forward this year, after last year's stagnation, when no country made any progress. The rather ambitious statements by the President of the EC, Von der Leyen, during her September visit to the region before the announcement of the Package, created a pretext for these developments. Less ambitious was the attempt of the Member States to maintain the momentum of the process at the EU-Western Balkans Summit held in Brdo, Slovenia.<sup>4</sup>

This Report<sup>5</sup> comes at a time when the accession process of North Macedonia is “captured” by the blockade imposed by Bulgaria, which completely overshadows the conditions and reforms arising from the obligations of membership, i.e. the adoption of the EU *acquis*.

In these circumstances, the risk of further weakening of the EU's transformational power of the accession is extremely high. This risk is especially high in our country, which has been in the SAA process for two decades, but is also present throughout the region. In addition, the previously widespread opinion that the European Union acts as an actor that contributes to democratization in the candidate countries is questioned.

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- 1 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2021 Rule of Law Report The rule of law situation in the European Union, COM/2021/700 final
  - 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 Communication on EU enlargement policy, Brussels, 6.10.2020 COM(2020) 660 final.
  - 3 Montenegro and Serbia have previously adopted the new enlargement methodology.
  - 4 <https://www.consilium.europa.eu/en/press/press-releases/2021/10/06/brdo-declaration-6-october-2021/>
  - 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.

## Methodology

We retain the methodology from last year, when we introduced the cluster approach for the first time. The assessments for progress, which express the progress from the previous report, are the following:

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

The assessments on the level of preparation, which express the degree of preparation in view of EU membership requirements, 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

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, quantification is only possible for the area of public administration reform (PAR), while it is not possible for other areas (governance, etc.). In the area of fundamental rights, quantification is only possible for freedom of expression.

In addition, we point out to the limited possibility for analysis, due to the limited range of assessments used by the Commission (both for progress and preparation).

In addition to analysing the structure and findings of the Report, we also performed content analysis 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 was conducted according to two criteria: 1. Whether the recommendation is repeated, changed or new; 2. The type of measures covered by the recommendation - whether they relate to the alignment of legislation, institutional capacity, implementation, strategic framework, or other measures. We present the findings on the recommendations at cluster level. The results of the analysis are limited by the content of the recommendations, which differs in scope and timeline. It should be also borne in mind that the text of the Report contains other recommendations, as well as implicit guidance.

In this document we firstly present the results of the analysis of the Report as a whole - in terms of structure and content, as well as of the key findings of the Report. Then we present the analysis of the findings and recommendations at the cluster level. The following section examines regional cooperation and good neighbourly relations, and at the end we present the concluding observations and recommendations.

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## The Reports, too, Are Aligned with the New Methodology

The structure of the national reports has changed this year, as the chapters are grouped in clusters. However, this reorganisation is not accompanied by other changes implying the cluster logic. Given that this year the Commission for the first time proposes the opening of a cluster (Serbia), the argumentation that the conditions for this have been fulfilled will be very significant. According to the Strategy and national reports, this assessment is based solely on meeting the benchmarks (so far set at the level of chapters). Hence, the issue of criteria for setting benchmarks at cluster level becomes more relevant.

The level at which the recommendations are set remains unbalanced, and their impact on the formulation of the assessment of progress and preparation is unclear. Some recommendations are still rather general and relate to lengthy systemic processes, such as alignment with the *acquis* and its implementation, capacity building of institutions, while others relate to specific activities, e.g. conducting an evaluation of a given strategy. In view of the overall stagnation of the level of preparation, the inability to monitor the scope and importance of specific recommendations is a significant methodological weakness of the Report. This problem is further complicated by the introduced, but still underdeveloped cluster logic.

The analysis of the content of the Strategy and the reports shows a more technical approach of the Commission, as it is focused mostly on establishing facts and findings. On key political and strategic issues, and especially on contentious issues, such as bilateral relations, the Commission remains “on safe ground”, mainly by repeating existing Council formulations. This reflects the increasing role of the Member States and indicates possible developments of “politicization” of the accession process announced with the new Enlargement Methodology.

A growing link between the accession process and the regional agenda can be observed in this year’s Report.

On the other hand, the continuous changes in the composition of the EC annual enlargement reports make them less clear and less understandable. As a result, the documents become more and more a privilege only for a narrow circle of experts and connoisseurs.

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## A Recommendation yet Again

The key finding of the Strategy is that North Macedonia continues to meet the conditions to open accession negotiations, as “the authorities have demonstrated publicly their firm commitment to advance on their EU path.” This is supported by the maintained “steady and determined pace in advancing EU reforms”, especially in key areas of the rule of law, including the fight against corruption and organized crime.<sup>6</sup>

At the same time, the EC warns that the sustainability of reforms will be a long-term process, which will require.<sup>7</sup> The message is that a possible change of government should not jeopardize the course and dynamics of EU reforms.

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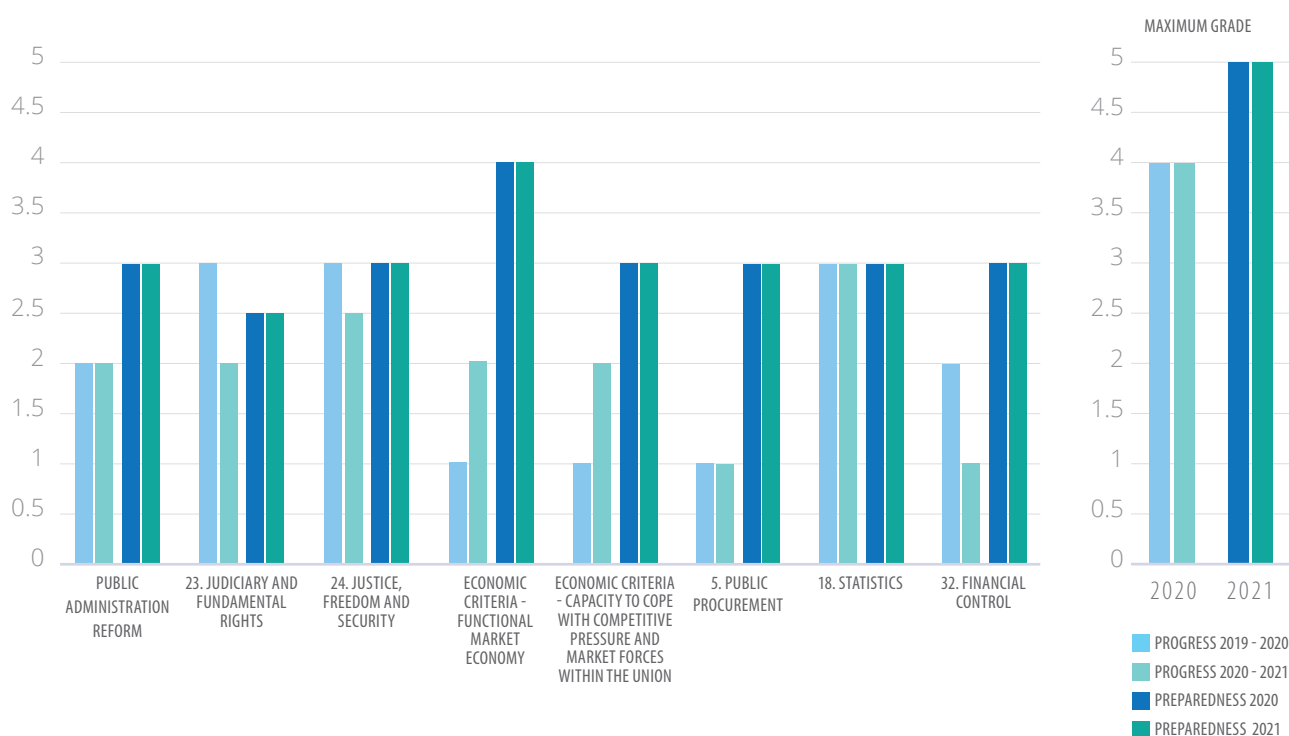
6 Enlargement Strategy, p. 28.  
7 Ibid.



## CLUSTER ANALYSIS

### Cluster 1: Fundamentals

#### PROGRESS AND LEVEL OF PREPARATION, 2020 AND 2021



- The EC assessment on the preparation of this cluster is mainly “moderate”, with good level of preparation for the existence of a functioning market economy (one of the sub-criteria in the Economic Criteria), and with an intermediate score of a moderate level of preparation for Chapter 23. Judiciary and fundamental rights. In most chapters there is “some progress”, except for Chapter 5. Public Procurement, where progress is limited, and Chapter 18. Statistics, with good progress. Last year, the assessment on progress was better in most of the chapters of this cluster, which indicates the need to intensify the reforms.
- Lack of implementation (chapters 4, 23, 32 and PAR), coordination (chapters 23, 24, PAR) and capacities / resources (chapters 4, 18, 23, 24 and Economic Criteria) have been noted.
- Most of the recommendations have been amended (22), only five remain the same, and 11 new recommendations are set. This indicates some level of implementation of last year’s recommendations. Most of the recommendations (34) are related to implementation, including institution building and enforcement.

## Overview of recommendations

Repeated	Changed	New	Legislative	Implementation (general)	Institutions	Other
5	22	11	5	17	11	6

On **democratic institutions**, the key assessment is that the country continued its efforts to strengthen democracy and the rule of law, the Government's commitment to EU related reforms, as well as the activated checks and balances mechanisms.

Criticism for the last-minute amendments to the Electoral Code is repeated, along with a warning that election legislation needs to be amended well in advance of the elections, through a broad consultative process, a principle that has been constantly violated in our practice.

The assessment of the *Parliament* as a forum for political dialogue, with the participation of all the parliamentary parties, despite the political polarisation, is in a positive light, especially from a regional comparative perspective. Also positive are the findings on the transparent election of the Commission for Prevention and Protection against Discrimination (CPPD), as well as the unanimous election of the State Election Commission. The European Commission continues to observe the procedures for determining responsibility for the events of April 27, 2017. Key remarks relate to planning and efficiency of work, especially in the wake of the crisis caused by COVID-19, and the shortened legislative procedures,<sup>8</sup> albeit acknowledging that they were used to prevent filibustering. The Commission points out that "the use of the EU flags, needs to be coherent and linked to laws, large part of which aim at being aligned with the EU *acquis*,<sup>9</sup> but does not question the procedure itself.

The EC reiterates the recommendation to continue the work on improving the efficiency of the democratic system, including transparency on the funding of political parties.

Regarding *Governance*, the Report contains brief findings on the work of the Government - the adoption of action plans and the NPAA, as well as the assessment that the Ohrid Framework Agreement is being implemented, but with the remark that its obligations should be met "by preserving the multi-ethnic character of the society". A most critical remark is that the government should concentrate on implementing the existing legal framework "instead of sporadic new initiatives". In addition, the EC considers that the local self-government reform has stalled.<sup>10</sup>

Besides the generally positive assessment of the dialogue with the civil society, the needs for an appropriate follow-up of exchanges with the civil society, and an improvement of the financial framework are noted.

The *reform of the intelligence sector* is described as almost complete, but the impediments in the work of the Civilian Oversight Council are criticised.

The findings on the **public administration reform** are mainly positive at the level of the strategic framework, the established regulatory framework and the institutional structures for policy development and coordination. However, serious criticism is expressed on the quality of the policy and legislative development – especially on the low quality of data, the formally conducted regulatory impact assessment and the non-comprehensive consultation process. These are "old wounds" in the system of governance and public administration, to which no attention is paid at all, although they are of essential and horizontal importance for national reforms, including for the EU accession process. The criticism of the uneven and inadequate implementation of the Law on Administrative Procedure is also severe.

<sup>8</sup> The number of laws adopted under shortened procedures is 42% compared to last year's 61,6 %.

<sup>9</sup> In the section dedicated to public administration reform.

<sup>10</sup> Report, p. 11.

Contrary to the recommendation to the Government to concentrate on enforcing existing laws, the key recommendations in this area are to amend relatively new systemic laws adopted with EC support or to adopt new ones (amendments to the laws on administrative servants and the public sector employees, the new draft Law on Top Management Service, the new draft Law on Organisation of the State Administration Bodies). There is no argumentation as to how these changes would contribute to eradicate the essential problems in the public administration - politicization and clientelism, the poor quality of the policy-making process, legal uncertainty, etc.

More positive are the findings on the right of access to information and public finance management, including transparency.

Unlike the 2019 and 2020 EC reports, which determined good progress in **Chapter 23 Judiciary and fundamental rights**, for the last year “some progress” was noted, which should be understood as a “yellow card” for the reform processes in this chapter.

In this report, the EC is more reserved and restrained in its assessments of the *judicial reform process* and mainly presents the events and achievements in a factual manner.

The assessment “some progress” is partly due to the pandemic, as noted also in the last Shadow Report for Chapter 23 prepared by EPI. In the latter we assessed that due to the pandemic, some of the reform processes stagnated, whereas priority was given to the intensification of the process of digitalization of the judiciary.<sup>11</sup> However, the EC Report does not mention the plan for digitalization of the judiciary, and only recommends to improve the ACCMIS.

However, the EC Report does not mention the plan for digitalization of the judiciary, and only recommends to improve the ACCMIS.

The need for consistent and intensified implementation of the reforms envisaged in the Strategy for Reform of the Judicial Sector with the revised action plan is reiterated. For the first time focus on adopting a new Law on Civil Procedure, as a systemic law, is part of the key recommendations. With the adoption of new strategies for human resources management in the courts and in the Public Prosecutor's offices by the end of 2020, one of the key recommendations from the reports in 2019 and 2020 was realised, but it is emphasised that they need to be implemented, especially for new employments.

The EC's reservation is particularly noticeable in relation to the operation of the Judicial Council. Last year's report emphasized the Council's proactive role in maintaining judicial independence and impartiality, its transparency and openness, while this report warns that the Council should retain its role as guardian of the independence and impartiality of judges and to build on its efforts to operate in a transparent manner. At the same time, the efforts of the Association of Judges and the Judicial Media Council to promote transparency in the judiciary, in order to restore public trust in the judiciary, were praised. It is recommended that the Council of Public Prosecutors allow the media to attend its sessions. The Report concludes that all institutions apply the new rules for the appointment, promotion, disciplinary proceedings and dismissal of judges and prosecutors.

The EC underlines that the Academy for Judges and Public Prosecutors (AJPP) should remain the sole entry point to the judiciary and prosecution, reminding that this should also be granted in the new law on the AJPP.

It is rather disconcerting that this year, as in previous years, the Commission expresses concern over the budget allocated to the judiciary and the public prosecutor's office.

The judiciary maintains high efficiency (clearance rate of 100%) and the number of unfinished cases under the old procedural laws decreased further. The use of mediation as an alternative way of resolving disputes has improved.<sup>12</sup>

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11 European Policy Institute, Shadow Report for Chapter 23 for the period between April 2020 and September 2021, <https://epi.org.mk/post/20044?lang=en>

12 <https://epi.org.mk/post/17929>

The EC once again warns that the recommendation of the Venice Commission to review the provisions of the Law on the Use of Languages with regard to bilingualism in court proceedings has not been implemented.

Regarding the fight against corruption, the Commission assessed “some progress”, while the alignment remains halfway between “some level of preparation” and “moderately prepared”. However, the Report is generally positive on the track-record of corruption-related cases. The number and status of cases are presented in detail, especially for high-level corruption, including cases from the former SPO, and confiscation cases.

The proactive role of the State Commission for Prevention of Corruption (SCPC) was emphasized in this year’s report, too, especially the opening of high profile cases.

According to the Report, the strategic, institutional and legal framework is largely in place. As stated in our Shadow Report for Chapter 23, it is positive that in this reporting period the SCPC was finally accommodated in new and appropriate premises to be able to perform its competences. However, as noted in previous reports, it is crucial to improve the resources of the SCPC, the State Audit Office and other anti-corruption institutions to improve their capacity to pursue high-profile cases. The Report stresses the need to appoint new prosecutors, as well as the need for the investigation centres in the Prosecutor’s office to demonstrate capacity and to support its work of the prosecutor’s offices by increasing the number of investigations.

In the *area of fundamental rights*, the re-adoption of the Law on Prevention and Protection against Discrimination and the transparent election of members of the Commission for Protection against Discrimination are highlighted as progress. On the contrary, the Commission considers the election of the Ombudsman “a matter of concern” because of his political affiliation.

Despite the ongoing dialogue with the European Committee for the Prevention of Torture, inadequate conditions of detention in some prisons, police stations and social and psychiatric facilities have been reiterated; hence it is recommended that the situation in prisons continue to improve, and further increase alternatives to detention.

Regarding the police oversight mechanisms, the EC mainly registers cases, recommending to improve the cooperation of the entities and the functioning of the external oversight mechanism. However, it concludes that the absence of real independent investigators hinders the resolution of police impunity and effective prosecution.

This report also provides a detailed overview of the implementation of the probation system, which is steadily developing.

The Report is generally positive about the activities of the Personal Data Protection Agency, but notes that it is dependent on the executive in terms of finances and employment, that it is not regularly consulted on relevant legislation (laws and by-laws), and that its recommendations are not fully respected.

The freedom of expression has been assessed with limited progress, reflecting the state of reform in this area. Additionally, the negative impact of COVID-19 on the media and the support provided by the Government were noted.

The text of the Report remains mild towards some of the key social problems facing the country, which are also part of the priorities of this Commission, such as gender equality, the fight against racism or the equality of LGBTIQ people. In addition, the EC increasingly advocates and applies in its work an intersectional approach to gender equality, which is not reflected in this Report. The Commission notes improvement in respect of women’s rights and gender, and praised the adoption of the Law on Prevention and Protection from violence against Women and Domestic Violence, with inter-party support.

Despite the high level of normative compliance with international standards for the rights of the child, lack of implementation, ineffective monitoring, and lack of relevant data were observed. In addition a more coordinated approach to combating violence against children, as well as promoting the administration of juvenile justice are advised. The Report concludes that the deinstitutionalisation process has been completed, and most of the children concerned were resettled to community-based care. The example of deinstitutionalization shows that political will and prioritization lead to results even of difficult and sensitive reforms.

Little progress has been made on the rights of persons with disabilities, who continue to face discrimination.

In addition, the Commission calls for better implementation of hate speech legislation.

Regarding the protection of minorities, the focus of the Report is on the implementation of the “One Society for All and Interculturalism” Strategy noting that both the Ministry of Political System and Inter-Community Relations and the National Coordinator for Interculturalism should have a permanent dialogue with all non-majority communities.

Progress on Roma inclusion is assessed as limited. The Report explicitly criticizes the abolition of the position of Minister without portfolio in charge of Roma issues, and notes the high negative impact of the crisis caused by COVID-19 on the Roma community.

In the area of *EU citizens' rights*, the Commission criticizes again the criteria for acquiring citizenship for a special economic interest, which is part of the mechanism for monitoring visa liberalization, recommending to refrain from systematic use of this opportunity.

In **Chapter 24 Justice, freedom and security**, the same pace of progress as in previous reports is observed. The country is moderately prepared, and some progress has been made, primarily, in improving the operational capacity of law enforcement agencies.

In the *fight against organized crime*, despite the modest assessment of “some progress”, the Report notes positive developments, both in terms of legal, institutional and strategic set-up, as well as in terms of the number and dynamics of cases. It concludes that the security sector reform is in line with the recommendations of the Priebe Report, but three of the six operational bodies have yet to be linked to the OTA. The needs to increase the resources of the Asset Recovery Office, and further staffing of the investigation centres are also pointed out. The cooperation with Europol, with CEPOL and the results in the fight against small arms are welcomed. The state of the National Drug Observatory and its cooperation with the EMCDDA is criticised, along with the proposed amendments to the law on Control of Narcotic Drugs and Psychotropic Substances. In contrast, increased prevention of drug trafficking is observed.

The strategic, legal and institutional set-up for *fight against terrorism* is assessed as appropriate. Anti-terrorism cases, the good cooperation with Europol, but also the activities at the local level are noted, with a recommendation for clear demarcation of competencies with the central level.

A new *migration* strategy has not yet been adopted. It is worrying that the Report notes increased dynamics of illegal migration, especially smuggling at the northern border. The assessment still stands that the country has not established an appropriate protection-sensitive migration management system.

The situation in the field of *asylum* is similar to last year - mainly the status of subsidiary protection is granted; most of the requests are withdrawn, the procedure is long, and the quality of the decisions is disputable. The conditions in the Centre in Vizbegovo are assessed by the Commission as appropriate, especially in terms of protection against Covid-19.

It is concluded that the country continues to meet the conditions for visa liberalization.

The Commission considers it important to sign the agreement with Frontex,<sup>13</sup> in view of possible renewed migratory pressure.

*Good cooperation* with EUROJUST is noted, with an increased number of cases, whereas it is suggested to develop the cooperation with the European Public Prosecutor's Office (EPPO).

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13 The Report states that the signature and ratification of the agreement is delayed “due to a bilateral issue”. Actually, Bulgaria has blocked the signature of the Agreement, objecting to the use of the term “Macedonian language”.

For the first time, an annex to the Enlargement Strategy provides an insight into which indicators and international indices the Commission will use in assessing the state of democratic institutions and the rule of law. These include the annual indices of Freedom House, Transparency International, the World Bank, and Reporters Without Borders. Their diversity, on the other hand, indicates the difficulties regarding the establishment of clear standards and evaluation in these areas.

On **Economic criteria – the sub-criterion existence of functional market economy**, the country remains at good level of preparation, but with an improved assessment in terms of progress compared to last year (some progress).

The EC positively assesses the actions taken by the Government and the NBRNM to deal with the crisis caused by the pandemic. In this regard, the transparency of financial assistance is praised. The realisation of capital investments is assessed as significantly below the expected level, despite acknowledging that the transfer of funds planned for capital investments to current expenditures was needed to deal with the crisis.

The Report notes that the country is late with the adoption of the new Budget law, the measures to combat the informal economy and an operational state aid registry, which would improve the economic governance.

The recommendations from the Economic and Financial Dialogue between the EU and the Western Balkans and Turkey, as before, are partially implemented.

The functioning of markets is still hampered by the “chronic” problems of the economy. With regard to commodity markets, the EC requires the Government to take actions to reduce parafiscal charges, transparency and predictability in legislation changes and to adopt a serious approach in tackling informal economy. The Report observes positive labour market trends, in particular addressing long-term issues like the relatively high level of inactive population, especially women and youth unemployment. However, long-term unemployment caused by the lack of skills in demand and informal employment remain issues that require deeper systemic changes. Financial markets are seen as stable. The high percentage banks hold as major players in the financial market and lack of progress in terms of financial diversification and intermediation are pointed out.

The assessments of the **Economic criteria – sub-criterion capacity to cope with the competitive pressure and market forces within the Union**, remain unchanged. The country has a moderate level of preparation and has made some progress.

The Report reiterates findings on the low budget dedicated to education and the poor educational outcomes. The EC suggests to speed up the implementation of education system reforms and a larger budget for vocational and higher education. The country does not have significant increase in R&D investment, which remains significantly below the EU average.

Investments in infrastructure remain low, and the Report indicates the need for accelerated realisation of new and renewal of the old infrastructure. The EC also points to the need for modernization of the transport and energy network, i.e. implementation of the main corridors 8 and 10, gasification and projects for renewable energy sources. In terms of digital infrastructure, there is a need for greater access to broadband, but also to e-services and digital skills.

In the **Chapter 5. Public procurement**, as in last year’s report, the EC assesses the country as moderately prepared. Limited progress is observed in the implementation of the by-laws of the Law on Public Procurement, and in additional staffing with appropriate staff. The recommendations from last year’s report have not been fully implemented and remain valid.

Capacities of key institutions, contracting authorities and economic operators have to be further enhanced through continuous training. In this report, the EC emphasizes that the national authorities should implement more effective anti-corruption measures into the procurement cycle.

Emphasis is placed again on ensuring the efficient implementation of the public procurement legal framework, but also on the development and adoption of the Law on Public-Private Partnerships, the Law on Concessions and the bylaw on low-value e-marketplace.

The EC has a remark on the co-ordination among key players in public procurement and emphasises the need for strengthening their capacities and independence to implement the principles of transparency, free competition, equal treatment and non-discrimination. Concerns are evident when it comes to control of the public procurement procedures through efficient follow-up and the reporting of irregularities, cases of conflict of interest and fraudulent practice.

The **Chapter 18. Statistics** is one of the chapters that continuously marks progress and is at a relatively good level of preparation - moderate. The Commission considers that good progress had been made in the preparatory work and conduct of the population census, for which the necessary legal framework and methodology were adopted. Improvements are noted in all statistical areas and in further aligning sectoral statistics with EU standards.

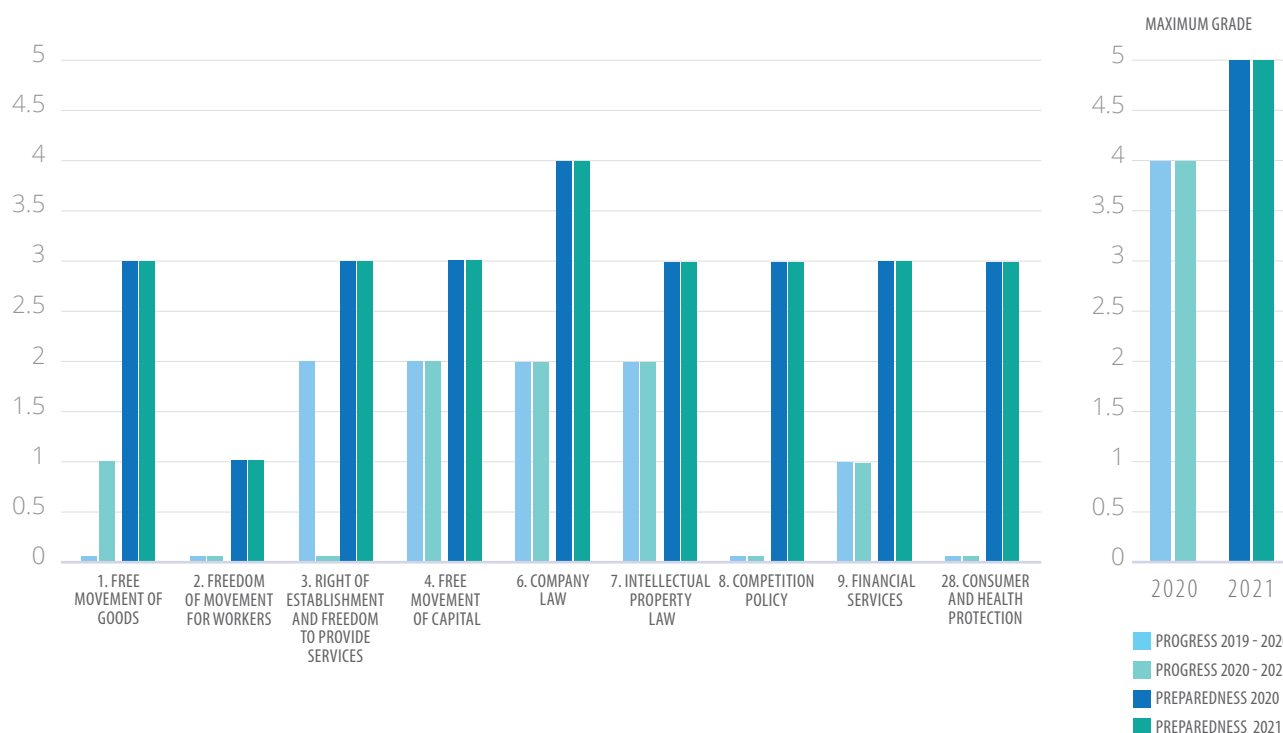
As in last year's report, continued efforts are needed to improve the scope and data quality of macroeconomic and social statistics. Having in mind that last year's recommendations have been partially implemented, the need for their implementation remains. In the forthcoming period, it is necessary to process and publish the results of the population census, to continue to align financial accounts and quarterly national accounts with the European System of Accounts 2010 (ESA 2010), and to ensure adequate staffing and sufficient financial resources for the State Statistical Office.

This year the progress in **Chapter 32. Financial control** is limited, lower than "some progress" a year earlier. From the aspect of public internal financial control (PIFC), there have been delays in the implementation of the strategic documents, due to the crisis with COVID-19 and limited resources. The new Law on Public Internal Financial Control has not been adopted yet. It is positive that the Central Harmonization Unit (CHU) continues to play the role of coordinating the development of financial management, control and internal audit in the public sector, but there are concerns about the weak administrative capacity.

Regarding *external audit*, the work of the State Audit Office (SAO) was positively assessed, as it continued to upgrade human resources and adopted several important strategic documents. Moreover, the Commission assesses that the quality of the work of SAO is largely harmonised with the INTOSAI standards.

## Cluster 2. Internal Market

### PROGRESS AND LEVEL OF PREPARATION, 2020 AND 2021



- The level of preparation to assume EU membership obligations for most chapters remains moderate (with the exception of Chapter 2. Free movement of workers with an early stage of preparation and 7. Company law with a good level of preparation).
- The Report finding of no progress for four of the nine chapters in this cluster is a matter of concern.
- Progress since last year is insignificant.
- On several issues the Commission expresses concern or establishes non-compliance with the SAA.
- Most of the recommendations in this cluster are repeated (22), six are modified, and only two are new, which indicates a low level of implementation of last year's recommendations.
- For most of the chapters, the recommendations are entirely repeated (Free movement of goods, Free movement of capital, Financial services, Consumer and health protection) or amended and/or specified (Free movement of workers, Competition policy, Intellectual property law). New recommendations are introduced for two chapters (Right of establishment and freedom to provide services, Company Law).
- This cluster has the most recommendations related to compliance with the *acquis*, which indicates problems with prioritization, but also with capacity for alignment with the *acquis*.



## Overview of recommendations

Repeated	Changed	New	Legislative	Implementation (general)	Institutions	Other
22	6	2	13	12	3	0

Unlike last year when there was no progress, this year limited progress is observed in **Chapter 1. Free movement of goods**. Progress has mainly been noted in terms of: started screening of national legislation on non-customs barriers; the adoption of a new General Product Safety Law (but it is necessary to adopt bylaws and technical regulations for compliance with the *acquis*); the adopted Strategy of the Standardisation Institute (SI) 2020-2022, as well as the newly procured equipment of the Bureau of Metrology.

In addition to weak human resources of key institutions (Bureau of Meteorology, Market Inspectorate), subject of criticism are:

- The reduced number of conformity assessment bodies (192 compared to 232 last year);
- Absence of a national certification and testing system for personnel for conformity assessment;
- Lack of real progress in aligning with the *acquis* in the harmonized area, despite the fact that several bylaws were ready in 2020;
- Lack of product safety conformity assessment for products imported from non-EU countries;
- Lack of progress in aligning with the EU *acquis* on toys and medical devices (still pending in Parliament).

The recommendations from the previous year remain unchanged, referring to the harmonization and implementation of the EU *acquis* and the improvement of the administrative capacities, while no new recommendations have been added.

**Chapter 2. Free of movement for workers** remains at an early stage of preparation, and no progress has been made this year either. Last year's recommendations are almost entirely repeated.

While the alignment of legislation recommended by the EC to allow EU citizens labour market access is common for the later stages of accession, there is no excuse for not concluding new bilateral agreements on social security coordination and for not taking actions to prepare for the obligations arising from EU membership in this chapter.

As opposed to some progress in **Chapter 3. The right of establishment and freedom** to provide services last year, now there is no progress. The recommendations are largely repeated.

The Report is critical of the actions that are (not) taken to implement the Law on Services, including the establishment of a Point of Single Contact for services.

The Commission also criticizes the reinstalling of the monopoly position of the Post of the Republic of North Macedonia, reminding that according to the SAA, the state has an obligation to gradually align with the *acquis*. The Report recommends for the Post to establish a system for cost accounting and accounting separation, but also to implement the recommendations of the State Audit Office. The need to strengthen the capacities in the Ministry of Transport and Communications, as well as in the Postal Agency are also noted.

The assessment of non-compliance with the *acquis* on mutual recognition of professional qualifications remains; the electronic database of regulated professions has not been completed, and the list of regulated professions has not been updated.

For **Chapter 4. Free movement for capital**, the Commission's assessments significantly differ for the different areas within the Chapter.

The Report finds continuing restrictions in the area of *capital movements and payments*, despite the liberalisation provided by the second phase of the SAA. It is therefore recommended to finalise a roadmap for the application of EU rules regarding the movement for capital and payments in accordance with the SAA obligations.

Although the new *Law on Payment Systems and Services*, drafted in order to comply with the *acquis*, is in government procedure, the Report commends the preparation of bylaws and other actions by the NBRNM towards harmonisation in accordance with the requirements of the Single Payment Area EUR (SEPA).

The Report is positive with respect to the efforts to further align the legislation on *combating money laundering* and terrorist financing with the *acquis* - a draft law aligned with the *acquis* has been *prepared*, and a strategy and action plan adopted. The steps taken for improvement of the institutional framework and the administrative capacities are also positively assessed. The Report presents the cases of suspicious transactions, but also the indictments and one verdict in 2020.

**Chapter 6. Company law** has maintained a good level of preparation since 2015. In the area of *Company law*, some progress has been made towards its harmonization with the EU *acquis*, through the adoption of the latest amendments to the Law, aimed at aligning the legislative framework with the EU Directive on cross-border mergers, thus fulfilling the last year's recommendation. Further alignment with the 2019 EU *acquis* on use of digital tools and cross-border operations, and with the rules on the encouragement of long-term shareholder engagement.

The EC also recommends to adopt legislation on accounting incorporating the latest EU *acquis*, and the new legislation on *audit*.

**Chapter 7. Intellectual property law** remains moderately prepared since 2015.

Despite the adopted amendments to the Law on *Copyright and Neighbouring Rights*, the issue of collective rights management system has not been addressed. As for the area of industrial property rights (IPR), the assessment remains that the existing strategy and harmonization of the legislation with the EU *acquis* on design needs to be fully implemented.

The establishment of an information platform for law enforcement bodies to exchange IPR-related data is still ongoing. The last year's report found the Platform important to create credible enforcement record and gather reliable statistics on the institutional proceedings of IPR infringements.

The Report is positive on *enforcement*, noting further progress in the fight against counterfeiting and piracy and protection of the interests of rights-holders, including through the seizure of counterfeit goods.

No progress has been noted this year either for **Chapter 8. Competition Policy**. The recommendations are repeated, with one change - the need to strengthen the capacities is reiterated, but the independence of the Commission for Protection of Competition (CPC) is not mentioned, as was the case in the previous two years.

While the *legal framework* is largely in line with that of the EU, the lack of sufficient human and financial capacity presents a major problem in the implementation of competition policy.

The institutions still do not always inform the CPC about the state aid they provide, nor do they always consult it.

In this Report, the Commission reiterates more rigorously the warnings on cases for which it had already "expressed concern" on compliance with the SAA: the Law on Financial Support for Investments, the financial support of Skopje and Ohrid airports, and the adoption of the Law on Strategic Investments without prior notification to the CPC.

The Report also notes that the country did not provide enforcement data for public enterprises.

The assessments “moderately prepared” and “limited progress” for **Chapter 9. Financial services**, are repeated.

The need is pointed out to educate and better inform consumers in order to protect their rights. The remark that steps for establishing a financial ombudsman have not been initiated is raised for the first time; however, arguments to establish such an institution as an obligation arising from the *acquis* are missing.

The findings that restrictions on investments of the pension funds in foreign markets are non-compliant with the *acquis* and the second phase of the SAA are reiterated.

Criticism has also been expressed regarding the uninitiated processes of adoption of domestic legislation aligning with several European directives (Solvency II, Financial Securities Directive, Settlement Finality Directive).

**Chapter 28. Consumer and health protection** shows no progress this year either. In the area of *consumer protection*, weaknesses in implementation and actual consumer access to mediation and compensation are observed again, in addition to the need to align domestic legislation with the *acquis*.

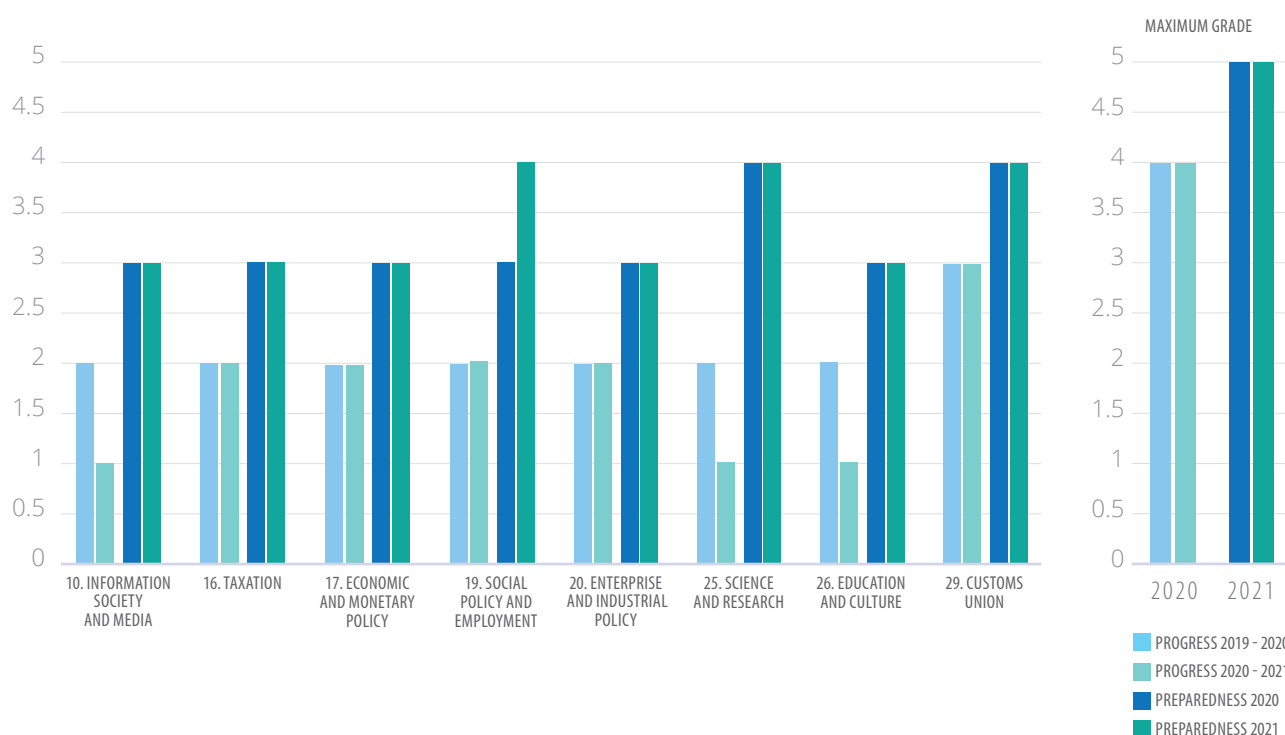
In the area of *public health*, it is concluded that access to medical services is limited and is often charged without reimbursement. The Report also points out that the salary increase is not a sufficient mechanism to retain medical staff, and its outflow continues.

The Commission presents the cooperation of the national authorities with the EU institutions and bodies in dealing with the consequences caused by COVID-19 in a positive light.

According to the Report findings, alignment with the *acquis*, programs and strategies development, and implementation in the areas covered by this Chapter (tobacco control; infectious diseases; blood, tissues, cells and organs; inequalities in health; cancer screening; medicines for human and veterinary use; mental health, health promotion and nutrition, and physical activity) has been slowed down and faced with challenges, which is likely correlated with the burden on health policies and the health system due to the COVID-19 crisis.

## Cluster 3: Competitiveness and inclusive growth

### PROGRESS AND LEVEL OF PREPARATION, 2020 AND 2021



- The EC assessment on compliance of this cluster is relatively high - moderate for most chapters, and good preparedness is highlighted in Chapters 26 and 29.
- However, the assessment of the progress, except in Chapter 29, is "some progress" (2) or "limited progress" (1).
- Lack of independence (chapters 10, 17, 19), coordination (chapters 10, 19), institutional capacities (chapters 10, 16, 19, 25, 26), resources (chapters 10, 19, 20, 26) and efforts to implement laws and policies (Chapter 10) are observed.
- Non-compliance of the legal framework with the EU *acquis*, although not dominant in this cluster, is noted in chapters 10, 17 and 20.
- The identified lack of dialogue in the decision-making processes is a matter of concern (chapters 10, 19, 20).
- The EC considers the investment by the state insufficient, and that the EU programs and funds are insufficiently visible and used (Chapter 25).
- Many of the recommendations are repeated (12), a significant number of them have been changed, but new ones are also presented, which indicates a "mixed" track-record in the implementation of the recommendations.

## Overview of recommendations

Repeated	Changed	New	Legislative	Implementation (general)	Institutions	Other
12	11	4	3	17	6	2

In **Chapter 10: Information society and media progress** this year is assessed as limited, compared to last year when there was some progress. Last year's recommendations are completely repeated and no new ones are added, although the recommendation for the public broadcaster is now extended to the Agency for Electronic Communications.

Regarding the *Digital Agenda*, the implementation of the Regional Roaming Agreement and the finalization of the multi-year efforts for the introduction of the number 112 European emergency number have been noted.

In terms of electronic *communications and information technology*, the EC notes greater coverage and increased use of Internet services, but concerns about digital literacy remain an overall challenge. The halting of the efforts for the adoption of the Law on Security of Networks and Information Systems has been singled out. The Commission remains concerned about the independence in the media sphere, including the continued use of discretion to control media outlets and cut funding to the public broadcaster and regulators, contrary to the legal framework. The need for further alignment of the Law on Electronic Communications and the Law on Audio and Audio-visual Media Services with the *acquis* remains.

Regarding *information society*, the ICT strategy has not yet been adopted. Interoperability systems remain a challenge due to the lack of equipment, but even more so due to a clearly marked lack of willingness to use this equipment. Efforts for coordination and modernization are stagnating as shown by the failure to establish the announced Agency for Digitalization and Registers.

Progress in *audio-visual policy* remains slow due to the non-appointment of members to media regulators and councils, as well as the unresolved copyright and other rights related to cable operators. On the other hand, the Report notes the continuing proactive approach of the regulatory body regarding warning against discriminatory language, hate speech and other cases of unprofessional journalistic reporting. Transparency of media ownership for online media is lacking. The EC notes that the fight against disinformation and media illiteracy is so far mainly led by associations.

**Chapter 16. Taxation**, as in the previous two years, remains moderately prepared and has made some progress.

Regarding *indirect taxation*, the reduced VAT rates are reported as response to the crisis related to COVID-19. Long delays in VAT refunds are less common, but only 38% of claims are repaid within the legal deadline.

The calendar of planned changes of tax legislation is expected to improve the tax policy transparency.

In terms of *administrative cooperation and mutual assistance*, North Macedonia has not yet committed to the OECD standard for automatic exchange of financial account information, so the EC includes it as a new recommendation for the country in this year's report.

The Commission points out that the PRO needs to improve its business processes, to implement a new integrated IT tax system, to improve compliance risk management as a core function, and further expand e-services to improve *operational capacity and computerisation*. Regarding the fight against the informal economy, the only step singled out in the Report is the VAT refund.

The level of preparation (3) and progress (2) for **Chapter 17. Economic and monetary policy** remain unchanged for the third year in a row. Two of the three recommendations have not been implemented and are repeated. The recommendation on the economic measures to deal with the crisis caused by COVID-19 is implemented accordingly, but is complemented by a recommendation to give support to households, as well as to continue such support until a stable recovery course has been achieved, followed by a focus on creating fiscal stabilizers and debt reduction.

The alignment of legal framework for monetary policy with that of the EU is at advanced stage. However, after the 2019 recommendation, the Report notes second year in a row that there is no progress in ensuring the financial and institutional independence of the NBRNM in accordance with the *acquis*. The NBRNM is again commended for ensuring price stability.

On economic policy, the EC presents, with a positive tone, that the plan for accelerated growth would focus on the mobilization of private investment capital.

The need to develop capacities for structural reforms' social and environmental impact assessment, as defined in the Economic Reform Program is reiterated. However, it is positive that the EC considers that North Macedonia has the highest level of implementation of the guidelines adopted at the Joint meeting between EU and the Western Balkans and Turkey in May 2020.

In **Chapter 19. Social policy and employment**, progress is limited, as it was last year.

The recommendations regarding the activation measures for long-term unemployed, for increasing the capacities of the State Labour Inspectorate and for the social dialogue, are entirely repeated, with a suggestion that the assistance given to the vulnerable groups in the society be linked to the activation measures.

Lack of implementation capacities and coordination between institutions remain the main problem in most of the areas covered by this chapter.

A generally positive tone prevails in the assessment of the developments related to the Youth Guarantee and to deinstitutionalization, while a generally negative tone is used for labour legislation, employment policies and social dialogue.

Regarding labour legislation, the poor implementation and low capacity of the State Labour Inspectorate remain as key issues, which in this report are placed in a more direct correlation. The preparation of the Law on Labour Relations is mentioned in a positive light, as an open and participatory process.

Regarding *health and safety at work*, in addition to the lack of inter-institutional cooperation and coordination, the insufficient administrative capacity to implement the provisions that are already in force has been clearly added.

Concerns have also been expressed on social dialogue about the decline in trust in trade unions. Due to this, as well as the absence of social dialogue in the private sector, the EC assesses the overall capacity for social dialogue in the country as weak. The EC recalls that the provisions for the replacement of striking teachers are still in force and are contrary to ILO Convention 87 on Freedom of Association and the Protection of the Right to Organise.

Regarding *employment policy*, the Report focuses on the Youth Guarantee and the results of its implementation and on activation measures for which it again notes that the criteria need to be revised in order to increase accessibility for vulnerable groups, such as Roma. Unlike last year, this year there is no progress in the preparations for participation in the European Social Fund. On social policy, last year's findings are generally repeated, with strong concerns about the poverty rate and people at risk of poverty in the country. Developments regarding deinstitutionalization are positively assessed.

The EC reiterates its findings on *gender equality*, as it did last year, with an additional finding of a widening employment gap between men and women.

The Report notes the adoption of the *Law on Prevention and Protection against Discrimination*, the election of members of the Commission for Prevention and Protection against Discrimination (CPPD) and their commencement of work.

**Chapter 20. Enterprise and industrial policy records** a moderate level of preparation and some progress third year in a row. The Commission is introducing a new recommendation for the renewal of the strategy and action plan for formalising the informal economy, and requires special attention on the business environment. It recommends development of measures to increase the capacity of domestic companies to integrate into global value chains.

It is noted again that the Plan for economic growth has no indicators to measure and evaluate the state intervention results. The strategies for attracting foreign investments, for supporting innovation and export have expired.

The main source of financing for the private sector are loans, and the country needs to take steps to promote other available EU financial instruments. Parafiscal levies remain an obstacle for doing business.

Domestic legislation remains inconsistent with the Late Payments Directive.

The EC recommends to provide equal conditions for market participation, and to systematically include the private sector in consultations.

**Chapter 25. Science and research** is at a good level of preparation, and limited progress has been observed. The recommendation to invest more in *research and innovation*, and to further promote European programs to increase participation, such as Horizon Europe and other EU financial instruments remains. Two new recommendations call for an evaluation of the impact of the measures from the implementation of the Innovation Strategy 2014-2020, as well as for the completion of the smart specialization strategy and its integration with other research and development policies.

The low percentage of investments in research and innovation (0.4% of GDP) and the low participation of the private sector in the support of research and innovation (0.1% of GDP) remains as a remark. The lack of evaluation of the Innovation Strategy (in the Report referred to as the “Research and Innovation Strategy”) is also remarked.

The participation in the *Horizon 2020* Program and the *European Research Area* has improved, but remains low (success of 11.7% compared to the average of 12.1%). The volume of research cooperation with other countries also remains low. The capacity for inclusion in the European Research Area remains low compared to the European average, especially in terms of the amount of funds allocated for cooperation.

In this report, the EC also addresses the Economic and Investment Plan for the Western Balkans, recommending an increase in the budget in the area of investment in research and innovation.

It is also noted that the preparation of the *Smart Specialization Strategy* is underway, but delayed.

Progress in **Chapter 26. Education and culture** has been assessed as limited for the fourth year in a row and is one of the chapters in which the EC recommendations are slowly being implemented. The recommendations regarding the increased support for training and professional development of teachers and access to quality education, especially for children with disabilities and children from the Roma community, have been repeated since 2016 and remain completely the same. The recommendation for implementation of a new strategic framework for education remains exactly the same, but this year the implementation of the reform for vocational education and training is added, which so far has not been part of the key recommendations.

In terms of *education*, in general, the focus of this year's report is on several reforms for consolidation with the legislative framework. Unlike the previous report, where the tone was more critical about politicization, corruption and inaccessibility in education and focused on making recommendations, in this year's report the tone is more descriptive and focused on what has been achieved. The Report addresses in particular the amendments to the laws on primary and secondary education concerning inclusiveness and quality education for all, and the Law on Adult Education. In addition, the concept of inclusive education, which was adopted in 2020, and the new concept of primary education of 2021, which emphasizes inclusiveness, gender sensitivity/equality and inter-culturalism as key principles, are described in a positive tone.

The formation of inclusive teams in primary and secondary schools, the awarded scholarships for children with disabilities and children from the Roma community, as well as the engagement of Roma educational mediators are also mentioned in a positive light.

The level of enrolled students in the first year of studies is low, as is also the level of enrolled children of preschool age.

The country's participation in the Erasmus + program is recognised as active.

The cultural institutions lack capacity, and the policy implementation efforts are seen as reduced. The focus is on the protection of cultural heritage, such as Ohrid and the Old Skopje Bazaar.

**Chapter 29. Customs union** is one of the few chapters that continuously marks good progress and has a good level of preparation. Existing recommendations regarding the application of IT systems and the full implementation of CEFTA Protocol 5 have been complemented with new recommendations.

The EC assesses the North Macedonia's *customs legislation* is highly aligned with EU law. It notes the regular alignments with the EU Combined Nomenclature, as well as the application of Additional Protocol 5 on trade facilitation, including the application of the concept of authorised economic operators.

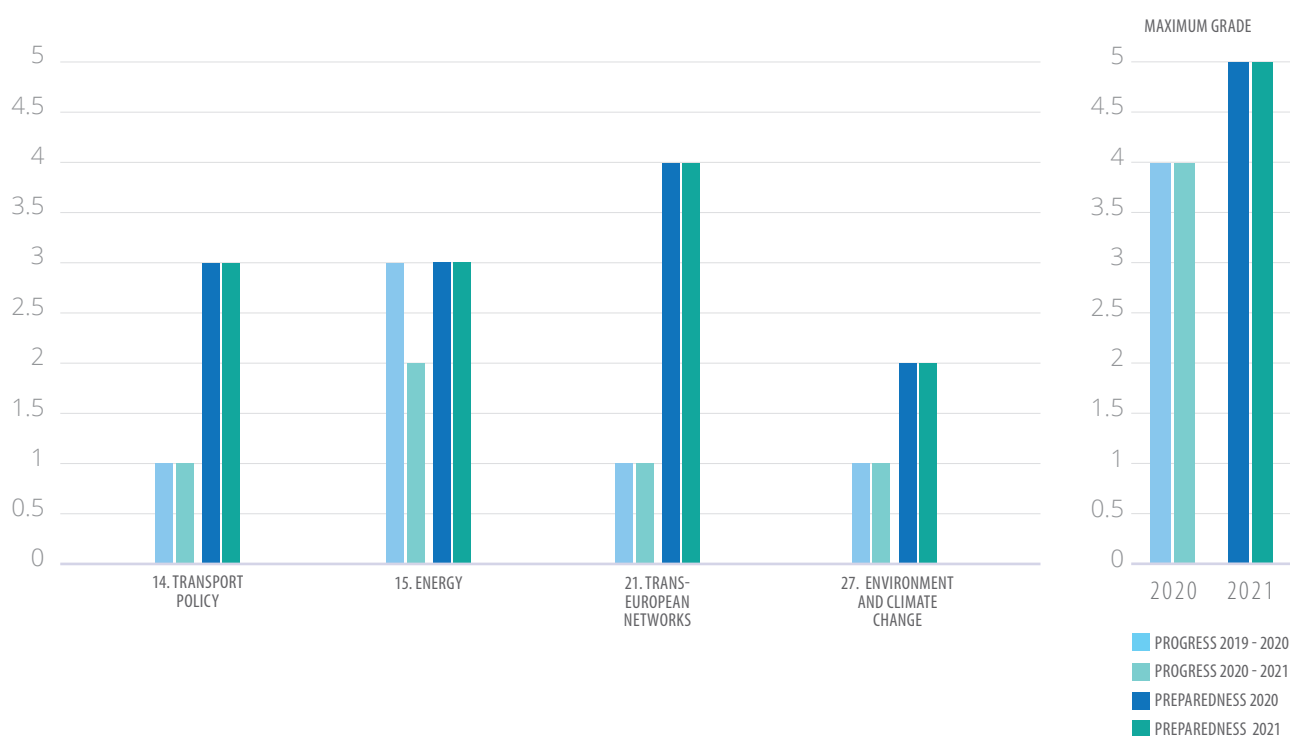
The EC positively *assesses the administrative and operational capacities* of the Customs Administration (CA), including the standards of professional integrity and anti-corruption. Furthermore, it ascertains the electronic systems functionality, effective data exchange, as well as maintenance of the systems. In addition, it commends the active role of the CA in establishing the "green corridors".

The assessment of the participation of the CA in international operations for combating illicit trade and counterfeiting, the participation in international projects, as well as the cooperation and exchange of information with other CAs in the region and international organizations are positively assessed, as well.



## Cluster 4: The Green Agenda and sustainable connectivity

### PROGRESS AND LEVEL OF PREPARATION, 2020 AND 2021



- Most chapters are moderately prepared, but the most complex Chapter 27: Environment is at “some level of preparation”, and for many years in a row marks only limited progress. Both chapters 14: Transport policy and 21: Trans-European networks have made limited progress for two years in a row. Only in Chapter 15: Energy moderate progress been made, following good progress last year.
- It presents a challenge to follow the new *acquis*, but also to implement the transposed legislation.
- The low administrative capacity to implement sectoral reforms is worrying.
- There is a need for additional funding to implement laws and policies.
- The assessments for this Cluster are particularly worrying because of its relevance to green investment and infrastructure development.
- The fact that almost all recommendations are repeated illustrates the low level of implementation. Most of the key recommendations in the cluster refer to implementation (5), institutional strengthening (4), while three refer to harmonization of legislation.

## Overview of recommendations

Repeated	Changed	New	Legislative	Implementation (general)	Institutions	Other
10	1	1	3	5	4	0

**Chapter 14: Transport policy**, despite its moderate level of preparation, once again has limited progress, which is concerning. The key finding of the Commission that “for years, the transport sector has lacked administrative and operational capacity and, in particular, the political will to carry out the necessary sectoral reforms” is also highly worrisome.<sup>14</sup> Last year’s recommendations are repeated.

In the *general transport acquis*, although a strategic framework has been developed, an action plan for the National Transport Strategy for the period 2018-2030 has not been developed yet. Operational and administrative capacity for all modes of transport remain weak. The finding that these shortcomings hinder the proper implementation of the Green Agenda for the Western Balkans in the field of transport is a matter of concern, implying also inadequate capacity to use the funds from the Western Balkans Investment Plan related to this area.

The *Road transport legislation* is assessed as largely in line with the *acquis*, though EC emphasizes the failure to keep up with the pace of changes of the *acquis*. There are still areas which need to be aligned with the *acquis*. The Report is critical of the lack of a national system for continuous data collection on road accidents, and insists that action plans for road safety inspection and audit be implemented, including the adoption and implementation of a road maintenance plan. The Interbus protocol for regular and special regular services has not been signed, and it is necessary to harmonize it with the penalties for violating the European Agreement on the work of the crews of vehicles engaged in international transport. The need to strengthen the administrative and technical capacities of the State Transport Inspectorate is emphasized once again.

The EC stresses that the *railway transport sector* needs to be transformed, but that decisions on the future of this traffic are constantly postponed. The need for full implementation of the legislation on railway traffic safety is emphasized, and the remark that the independent body for investigation of railway accidents has not been established is repeated.

It was assessed that a good level of compliance with the *acquis in air transport* is maintained.

On the other hand, it is pointed out that we still do not have a strategy for intelligent transport systems with associated resources, as well as that a multimodal node should be established near Skopje.

**Chapter 15: Energy** has made some progress, as opposed to good progress last year. The recommendations are repeated.

The adoption of the Five-Year Program for Implementation of the Energy Development Strategy and the Integrated National Energy and Climate Plan is welcomed and is considered a step towards the implementation of the Green Agenda in the Western Balkans.

Regarding *security of supply*, the Commission recommends immediate supply of coal for TPP Bitola. At the same time, it concludes that oil reserves are half of what is recommended, which can be risky.

The assessments on the *internal energy market* are positive, due to the harmonization with the EU Third Energy Package for gas and electricity. Most of the key requirements of the *acquis* are met, but alignment with the EU Regulation on the integrity and transparency of the wholesale electricity market remains. The finding that political interference is hampering the independence of the Energy Regulatory Commission, although functional, raises concerns.

<sup>14</sup> Progress Report North Macedonia 2021, p. 90.

The action plan for *renewable energy* is in line with the targets, but is not implemented. The Commission recommends the Government to reconsider the feed-in tariffs for small hydropower plants, and also to remove the capacity cap per type of renewable energy technology.

Although the Law on *Energy Efficiency* transposes the energy efficiency and the energy performance directives, implementation legislation is lacking due to limited human and technical capacity at the Energy Department of the Ministry of Economy and the Energy Agency. The Fourth Energy Efficiency Action Plan has not yet been adopted. An electronic system for issuance, transfer and cancellation of guarantees of origin has not been established, and the Provisions for biofuel sustainability have not been harmonized either. In addition, it is recommended to establish an Energy Efficiency Fund.

Despite the compliance in the field of *nuclear energy, nuclear safety and radiation protection* and the adopted National Radioactive Waste Management Policy, there is no long-term and safe radioactive waste storage facility.

On **Chapter 21: Trans-European networks**, preparation is good, mainly because there is no substantive acquis to transpose in this chapter, but progress is limited.

Last year's recommendations are repeated, while a new recommendation is introduced urging for immediate improvement of the implementation of Railway Corridor VIII, due to the delayed construction of the railway to Bulgaria (only 28% of Phase 1 completed). This is ascribed to the lack of an appropriate staff retention policy for large infrastructure projects. It is good that the protocol for the railway border crossing with Kosovo has finally been signed, but such an agreement remains to be finalized with Greece. Regarding gas interconnections, the Government is taking measures to provide financial resources for the construction of an interconnection line with Greece, Serbia and Kosovo, and the work is continuing on the gas pipeline Negotino-Bitola and Skopje-Tetovo-Gostivar.

The complex **Chapter 27. Environment and climate change** remains lagging behind, especially in implementation, so the Commission urges the country to increase its ambitions for the Green Transition, also in the context of the Green Agenda for the Western Balkans. Last year's recommendations are repeated, while one of the recommendations is modified and refers to the waste management system.

This Chapter is again assessed as the weakest in terms of administrative capacity, with emphasized lack of human resources at all levels. Greater involvement of civil society organizations in public consultations and increase of transparency and access to information is advised.

Air pollution in large cities remains a serious concern, as both implementation and resources are limited, while cross-sectoral cooperation and coordination between central and local governments is poor. The same is valid for waste management. In addition, although laws have been enacted incorporating the principles of circular economy, the drafted National Waste Management Plan (2021-2031) and the first National Waste Prevention Plan (2021-2027) have not been adopted. The establishment of a regional waste management system has been delayed for some time, while illegal landfills are a serious problem.

Regarding *water management*, progress has been made in the construction of the waste water treatment plant in Skopje, as well as in the implementation of the EU Floods Directive. The implementation of water management plans is an issue.

In terms of *nature protection*, a series of activities are presented - identification of potential NATURA 2000 sites, declaration of Sharr Mountain as a national park, applications for the lists of the Ramsar Convention and UNESCO. However, the conclusion that nature protection funds are provided mainly by donors raises concerns. The Report warns that the implementation of UNESCO recommendations for the Ohrid region is severely delayed and suggests serious attention by the authorities.

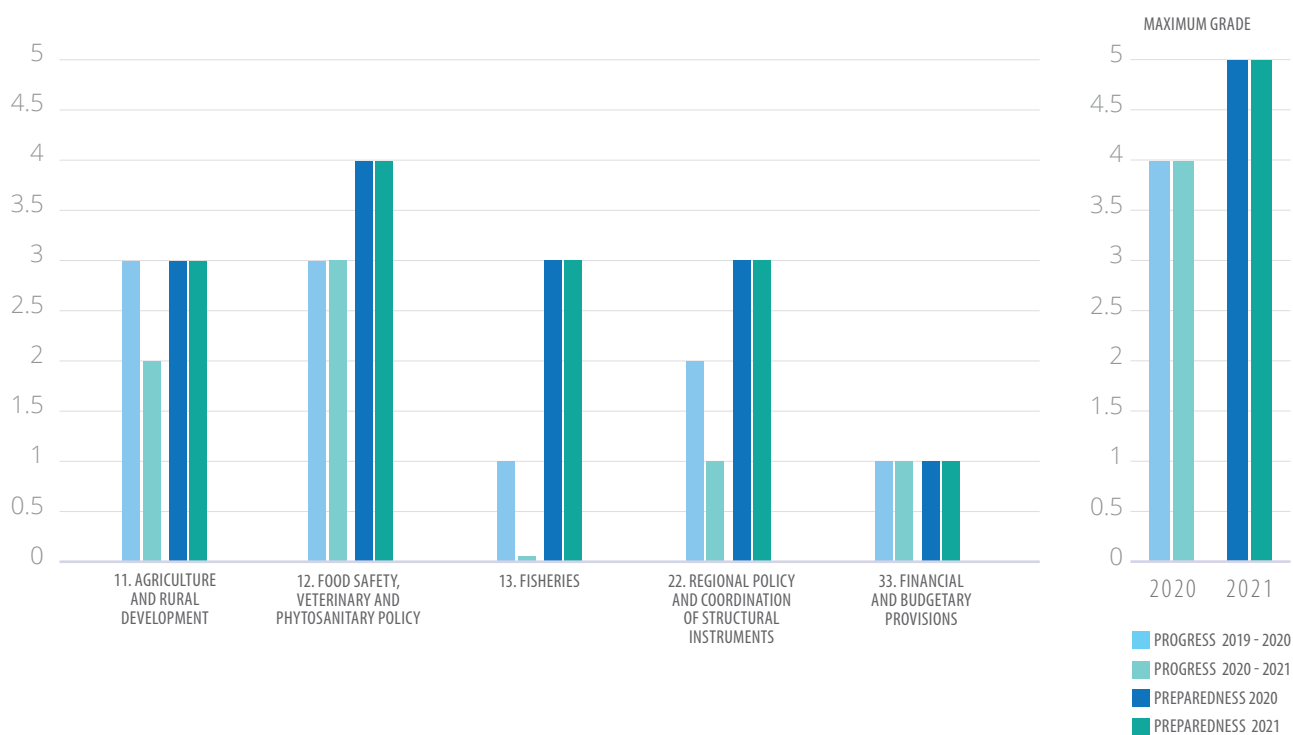
In the field of *industrial pollution and risk management*, the alignment with the *acquis*, as well as implementation, lags behind, and stagnation is observed in the areas of chemicals and of *noise* pollution.

In the area of *civil protection*, the assistance and cooperation with the EU Civil Protection Mechanism in relation to wildfires in the country are mainly presented. The need for enhanced cooperation and coordination between the Protection and Rescue Directorate and the Crisis Management Centre is pointed out.

Alignment with the *climate change acquis* is *low*, and human and financial resources are assessed as “very limited”. Nevertheless, a long-term climate action strategy with an action plan has been adopted.

## Cluster 5. Resources, agriculture and cohesion

### PROGRESS AND LEVEL OF PREPARATION, 2020 AND 2021



- In this cluster, the most complex Chapter 12. Food safety, veterinary and phytosanitary policy has the highest level of preparation - good, and progress is continuously assessed as good, as well.
- Chapters 11, 13 and 22 are at a moderate level of preparation, while Chapter 33 is at an early stage. However, unlike chapters 22 and 33, which show only limited progress, Chapter 11. Agriculture and Rural Development has made some progress (compared with good progress last year).
- The most concerning are the findings about the reduced capacity for using EU funds and the delay in the implementation of the most important infrastructure projects.
- Most recommendations at cluster level are slightly reformulated and/or are the same. New recommendations are presented only in Chapter 12 (2) and Chapter 22 (1). Most of the recommendations refer to implementation.

## Overview of recommendations

Repeated	Changed	New	Legislative	Implementation (general)	Institutions	Other
6	7	6	3	8	3	5

In **Chapter 11. Agriculture and rural development**, regarding horizontal issues, the adoption of the National Strategy for Agriculture and Rural Development for the period 2021-2027 is positively assessed. Control and payment systems in agriculture are in place, but additional resources for some of them are needed, as well as upgrading of advisory services.

In the area of the *Common Market Organization (CMO)*, certain activities for harmonization with the *acquis* are observed, such as special programs for wine and honey and school programs for fruits and vegetables, but also preparation of a special Law on CMO.

On *rural development* the finding on good progress in the use of IPARD II funds is positive. However, *quality policy* has been criticized for the slow implementation of quality schemes and insufficient capacity.

The established legislative and institutional framework for *organic production* is assessed as complete, and potential is seen for further development of this sector, including with the support of IPARD III.

**Chapter 12. Food safety, veterinary and phytosanitary policy** is one of the few chapters at a good level of preparation, but also continuous good progress. Good level of preparation and progress have been noted for almost all areas within this chapter.

The new Food Safety Strategy for the period 2021-2025, the functionality of the National Food and Feed Alert System and the Internal Audit and Training Systems of the Food and Veterinary Agency (FVA), resulted in a positive assessment in the area of *general food safety*.

The *veterinary policy* area notes harmonization with the *acquis* on the control system of the internal market and import of animals and animal products, certification, computer system and border control points, as well as their implementation. Good progress has also been made in controlling animal diseases. According to the RES Animal Health Code, the country is recognized as plague-free in sheep and goats. However, there is insufficient capacity of the FVA for data analysis, verification and analysis and conduct of veterinary analysis for risk assessment. There has been no improvement in the functioning and security of the animal identification and registration system, nor in the capacity for further alignment and enforcement with EU law on zoo-technical issues.

Good progress has been made in *placing food, animal feed and animal by-products* on the market with the adoption of implementing legislation harmonized with EU law. Good progress has also been made on *food safety rules*.

With regard to specific rules on feed, the legislation has yet to be harmonized with EU law.

In 2021, the progress in terms of *phytosanitary policy* is assessed higher than before - as good progress. In this regard, the adoption of the new Law on Phyto-Pharmacy is emphasized, as well as the improved implementation.

Despite the fact that only a small part of the *acquis* is applicable to North Macedonia, the Commission notes that in **Chapter 13. Fisheries**, the national legislation does not keep pace with the changes of the relevant *acquis* or is not in line with the *acquis*. Compliance with the EU eel regulation is not ensured. The need to strengthen the capacities for policy formulation, implementation and enforcement is emphasized. Strengthening of inter-institutional coordination, including with environment authorities, is advised.

The Report is particularly critical of the capacities to control illegal fishing, and regarding data collection systems for fisheries and aquaculture.

With regard to *international agreements* on fisheries management, the Commission notes that the cooperation agreement with Albania, concluded at the end of 2020, should be in line with the International Agreement for the protection and sustainable development of Prespa Park, which includes all countries sharing the Prespa Lake Area.

In **Chapter 22. Regional policy and coordination of structural instruments**, on a *legislative level*, the preparation of the organic budget law and the adopted amendments to the Law on Balanced Regional Development are noted. The *institutional framework* is deemed established and functional, but the administrative capacities continue to deteriorate. The workload analysis highlighted a shortage of 82 employees in the operating structures.

Contrary to the finding that the process of sectoral policy-making and strategic planning has been strengthened, the *programming* of multi-annual program for transport and environment was delayed, thus increasing the risk of decommitment of EU funds.

Despite the finding of improved participation in the bilateral dialogue with the EU in *monitoring and evaluation*, the level of implementation of the recommendations of the IPA monitoring and sectoral committees is criticized. The EC urges to improve monitoring and supervision of infrastructure investments.

Lack of staff seriously affects financial *management and control capacities*, although it is considered that the systems are established on a sound basis. This has a particular impact on the implementation of the multi-year program for environment and transport, with delays in the implementation of all flagship initiatives.

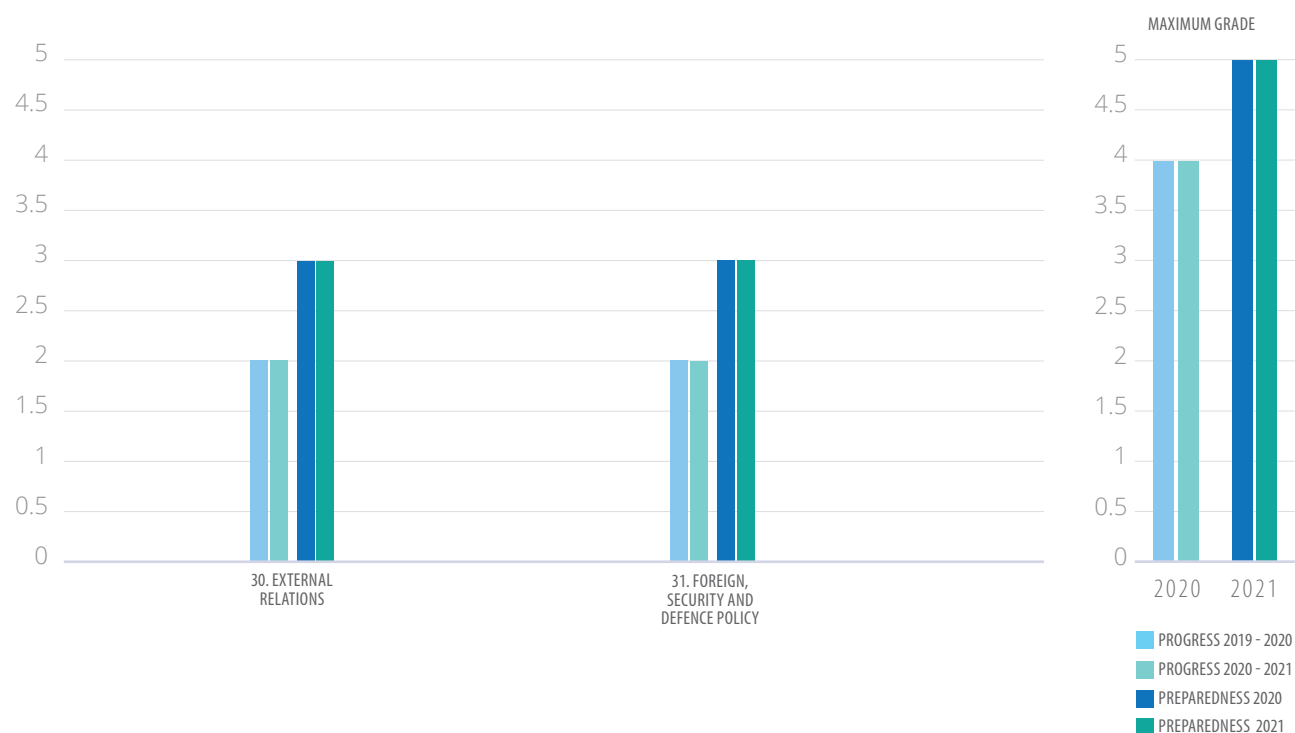
The quality of the *audit* by the IPA Audit Authority is assessed as good, but this is not the case for the implementation of the audit recommendations.

Preparation for **Chapter 33. Financial and budgetary provisions** is still at an early stage and progress is limited. Both recommendations from the previous report on aligning the legal basis for areas relevant to the implementation of the own resources system and improving administrative capacity and coordination mechanisms among key system stakeholders are repeated.

Additional harmonization of national accounts and calculations for gross national income (GNI), as well as the digitalization of the processing of customs declarations and excise documents are positively assessed.

## Cluster 6. External relations

### PROGRESS AND LEVEL OF PREPARATION, 2020 AND 2021



- The EC assessment for this cluster is moderate preparation and some progress since last year.
- The assessments for all chapters are identical to those from last year's report.
- The recommendations are mainly amended or new, indicating partial progress.



## Overview of recommendations

Repeated	Changed	New	Legislative	Implementation (general)	Institutions	Other
1	2	1	1	2	1	0

In **Chapter 30. External relations**, in the area of *common commercial policy*, the EC determines that North Macedonia continued to coordinate its positions and align closely its policies with those of the EU, including within the WTO. The institutional capacity to fully participate in the EU commercial, development and humanitarian policies is still considered insufficient, so it is recommended to enhance the overall administrative capacity regarding trade policy, the Central European Free Trade Agreement (CEFTA) and work in the WTO framework.

Following the positive assessments of the implementation of the Common Regional Market 2021-2024 and of Protocol 5 on the implementation of CEFTA, it is now recommended to implement CEFTA Protocol 6 on trade in services, and negotiate and adopt CEFTA Protocol 7 on dispute settlement.

The system for export control of *dual-use* goods and technologies is functional.

Still, there was no progress in *development policy and humanitarian aid*. The country is encouraged to establish a policy framework in the areas of development and international cooperation as well as humanitarian aid towards non-EU countries in line with the applicable EU policies and principles.

For **Chapter 31. Foreign, security and defence policy**, the most significant assessment is that the country has improved its alignment rate with relevant High Representative statements on behalf of the EU and Council Decisions - 96%. The dialogue on CFSP and CSDP is continuous. The assessments on the participation of North Macedonia in the international framework for non-proliferation, as well as on the active cooperation with the international organizations are also positive. In addition, the participation in EU crisis management missions and operations under the CSDP has increased.

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## GOOD NEIGHBOURLY RELATIONS AND REGIONAL COOPERATION

In the Conclusions of this year's Enlargement Strategy, the Commission reiterates that the postponement of the start of negotiations with both countries (North Macedonia and Albania) negatively affects the credibility of the EU. It therefore calls for the bilateral issues between Bulgaria and North Macedonia to be resolved as a matter of priority, for the Member States to complete the discussion on the negotiating framework and for the first intergovernmental conferences to be held before the end of this year. This insistence is supported by the assessment that the country has met the conditions for holding the first intergovernmental conference. However, the text reiterates the last year's balanced wording "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 sides", referring to all parties equally, whether or not they are members of the EU.

In the Report, the Commission first mainly registers and explains the activities at regional level in the Western Balkans.

It is assessed that North Macedonia "has maintained its engagement" in regional initiatives.

The Report factually registers the "Open Balkans" initiative, which caused special attention during the promotion of the Enlargement Package and especially in the debate in the European Parliament.

The Commission assesses that the country has remained committed to bilateral relations with other enlargement countries and with neighbouring EU Member States. While the assessment on the relations with all other countries from the enlargement process is that they are good, i.e. active, the texts on relations with Bulgaria and Greece are more specific. However, are they primarily focused on registering events and are using mainly neutral formulations. Regarding the relations with Bulgaria, it is stated that "a special focus was placed on overcoming the unresolved bilateral issues with Bulgaria ... and on the efforts to unblock the official start of the accession negotiations", which, however, remained blocked. It is concluded that the implementation of the Prespa Agreement with Greece has continued, but at a slower pace.

## CONCLUDING REMARKS AND RECOMMENDATIONS

We make the concluding observations and recommendations on the basis of this analysis, but also on the basis of cumulative observations from the analyses that we have been continuously conducting for the last ten years. Hence, the nature of these concluding observations and recommendations has a wider scope.

We emphasize that we still consider as valid the recommendations from our last year's analysis.

- In a situation of blocked beginning of negotiations, uncertainty of the accession process and reduced credibility of the EU, which resulted in reduced transformative power of the EU in the candidate countries, the key issue is how to strengthen the momentum for EU-related reforms and convergence between national policies and legislation with the EU *acquis*.
- A tendency of divergence, instead of convergence between the national agenda and that of EU reform is observed.
- The exceptional focus on the very launching of the negotiations and on issues not related to the *acquis* disregards the expected protracted nature of the accession process and reduces the political capacity of the country to implement substantial reforms related to EU accession.
- Imposed bilateral issues have the potential to hold hostage the entire accession process. It is therefore necessary to build a realistic and balanced approach to the overall process and to release energy and build capacity to deal with the requirements arising from the EU *acquis* (as opposed to those that do not arise from the *acquis*).
- The results presented in the EC reports do not correspond to the strong declarative commitment and direction of the country towards EU-related reforms. Alignment with the *acquis*, which was a strong point of Macedonia's European integration process, is slowing down and in many areas failing to keep pace with changes in the *acquis*.
- Therefore, a radical turn is needed in the approach to the accession process in our country, based on a clear assessment of the requirements of the *acquis* and realistic setting of priorities in accordance with national interest for democratic and sustainable development. The dichotomy in the approach to national and EU policies needs to be overcome and addressed in a complementary and long-term manner.
- Prioritization, sequencing and the capacity to implement reforms are crucial, primarily taking into account the needs of citizens and the business sector for democratization and development.
- We emphasize last year's recommendation "To launch a comprehensive review of the capacities for incorporating the EU accession requirements in the national reform agenda, including the instruments for follow-up, i.e. implementation of the recommendations of the Report (NPAA, action plans, government programs, etc.), and taking into account the tools that will be necessary in accordance with the new enlargement methodology (roadmaps, etc.), as well as the use of pre-accession funds. These instruments need to be properly embedded in a consistent system and process of national policy-making. The analysis should lead to clear priorities in real time that will enable long-term, balanced, and stable progress on the overall reform agenda related to EU accession."
- The lack of capacity to create reforms, relying exclusively on foreign technical assistance for strategic issues and planning jeopardizes the success of reforms, which can only be sustainable with domestic ownership.
- The horizontal problems that characterize the public administration - the low quality of the processes of strategic planning, policy making and coordination, regulatory impact assessment, legislative drafting, the non-comprehensive consultation process, as well as the low capacity for project implementation have a serious impact on the accession process, but also on the use of EU funds. In addition, partisanship and clientelism present key problems for functioning of the institutions. Therefore, political will is indispensable, while systematic addressing these issues is a matter of priority.

- The character and long-term nature of the accession process does not justify the use of the “European flag” for the adoption of laws by shortened procedure in Parliament. There is time, and a detailed debate is needed on how to achieve alignment with the *acquis*. That, of course, implies a responsible attitude by the opposition.
- Given the reduced capacity also for checking compliance with the *acquis* at normative level, a detailed review of the application of instruments and mechanisms for compliance with the *acquis* is necessary.
- Having in mind the increasingly emphasized regional approach in the accession process, participation in regional cooperation should be seen as complementary to the accession process, and it is advisable to rationalize the appropriate mechanisms.
- The Stabilisation and Association Process and the SAA remain the valid political, legal and institutional framework in the relations with the EU. However, a more systematic effort to exploit all the possibilities of the SAA, and a more careful and serious approach to potential violations of the SAA are indispensable.
- It is necessary to increase the transparency of the process of adoption of the *acquis* and to make the databases for harmonization of the national legislation with the *acquis* available to the public again.

## Annex: Level of preparation and progress

CLUSTER	CHAPTER/CRITERIA/AREA	LEVEL OF PREPARATION						PROGRESS	
		2015	2016	2018	2019	2020	2021	2019-2020	2020-2021
1. FUNDAMENTALS	FUNCTIONING OF THE DEMOCRATIC INSTITUTIONS AND PUBLIC ADMINISTRATION REFORMS								
	• PUBLIC ADMINISTRATION REFORM	3	3	3	3	3	3	2	2
	23. JUDICIARY AND FUNDAMENTAL RIGHTS	2	2	2	2.5	2.5	2.5	3	2
	• FUNCTIONING OF THE JUDICIARY	2	2	2	2.5	2.5	2.5	3	2
	• FIGHT AGAINST CORRUPTION	2	2	2	2	2.5	2.5	3	2
	• FREEDOM OF EXPRESSION	2	2	2	2.5	2.5	2.5	1	1
	24. JUSTICE, FREEDOM AND SECURITY	3	3	3	3	3	3	3	2
	• FIGHT AGAINST ORGANISED CRIME	2	2	2	2	2	2	2	2
	FUNCTIONING MARKET ECONOMY	4	4	4	4	4	4	1	2
	THE CAPACITY TO COPE WITH COMPETITIVE PRESSURE AND MARKET FORCES WITHIN THE UNION	3	3	3	3	3	3	2	2
	5. PUBLIC PROCUREMENT	3	3	3	3	3	3	2	1
	18. STATISTICS	3	3	3	3	3	3	3	3
	32. FINANCIAL CONTROL	3	3	3	3	3	3	2	1
2. INTERNAL MARKET	1. FREE MOVEMENT OF GOODS	3	3	3	3	3	3	0	1
	2. FREEDOM OF MOVEMENT FOR WORKERS	1	1	1	1	1	1	0	0
	3. RIGHT OF ESTABLISHMENT AND FREEDOM TO PROVIDE SERVICES	3	3	3	3	3	3	2	0
	4. FREE MOVEMENT OF CAPITAL	3	3	3	3	3	3	2	2
	6. COMPANY LAW	4	4	4	4	4	4	2	2
	7. INTELLECTUAL PROPERTY LAW	3	3	3	3	3	3	2	2
	8. COMPETITION POLICY	3	3	3	3	3	3	0	0
	9. FINANCIAL SERVICES	3	3	3	3	3	3	1	1
	28. CONSUMER AND HEALTH PROTECTION	3	3	3	3	3	3	0	0
3. COMPETITIVENESS AND INCLUSIVE GROWTH	10. INFORMATION SOCIETY AND MEDIA	4	4	3	3	3	3	2	1
	16. TAXATION	3	3	3	3	3	3	2	2
	17. ECONOMIC AND MONETARY POLICY	3	3	3	3	3	3	2	2
	19. SOCIAL POLICY AND EMPLOYMENT	3	3	3	3	3	3	2	2
	20. ENTERPRISE AND INDUSTRIAL POLICY	3	3	3	3	3	3	2	2
	25. SCIENCE AND RESEARCH	4	4	4	4	4	4	2	1
	26. EDUCATION AND CULTURE	3	3	3	3	3	3	2	1
	29. CUSTOMS UNION	4	4	4	4	4	4	3	3
4. GREEN AGENDA AND SUSTAINABLE CONNECTIVITY	14. TRANSPORT POLICY	3	3	3	3	3	3	1	1
	15. ENERGY	3	3	3	3	3	3	3	2
	21. TRANS-EUROPEAN NETWORKS	4	4	4	4	4	4	1	1
	27. ENVIRONMENT	3	2	2	2	2	2	1	1
5. RESOURCES, AGRICULTURE AND COHESION	11. AGRICULTURE AND RURAL DEVELOPMENT	3	3	3	3	3	3	3	2
	12. FOOD SAFETY, VETERINARY AND PHYTOSANITARY POLICY	2	2	4	4	4	4	3	3
	13. FISHERIES	3	3	3	3	3	3	1	0
	22. REGIONAL POLICY AND COORDINATION OF STRUCTURAL INSTRUMENTS	3	3	3	3	3	3	2	1
	33. FINANCIAL AND BUDGETARY PROVISIONS	1	1	1	1	1	1	1	1
6. EXTERNAL RELATIONS	30. EXTERNAL RELATIONS	3	3	3	3	3	3	2	2
	31. FOREIGN, SECURITY AND DEFENCE POLICY	3	3	3	3	3	3	2	2





