

Conclusions on the former Yugoslav Republic of Macedonia

(extract from the Communication from the Commission to the European Parliament and the Council "Enlargement Strategy and Main Challenges 2011-2012", COM(2011)666 final)

The former Yugoslav Republic of Macedonia continues to sufficiently meet the **political criteria**. The country has continued accession-related reforms, though core challenges remain. The parliamentary elections in June were generally in line with international standards. The new governing coalition was formed swiftly. Some progress has been made in the fields of the judiciary and public administration, notably as regards the legal framework. Further efforts are needed to ensure effective implementation, in particular concerning freedom of expression in the media, judicial and administrative reform and fighting corruption. Dialogue between the government and the opposition needs to be strengthened in order to ensure the smooth functioning of institutions.

The Ohrid Framework Agreement (OFA), which has reached its tenth anniversary, continues to be an essential element for democracy and rule of law in the country. There has been some progress on implementing the Law on languages, on decentralisation and on equitable representation. Continued efforts are needed to address ongoing challenges such as education and to ensure harmonious relations between all communities.

There has been an improvement in the conduct of elections which were competitive and well-administered throughout the country. The government needs to address the gaps and implement fully the conclusions and recommendations of the OSCE/ODIHR election observation mission. The resources of the parliament need to be increased to allow it to fulfil its role. The boycott by the opposition hampered the functioning of parliament from January until the elections. Following the elections the opposition is present in the new parliament. Some progress has been made on the reform of parliament. Implementation of the Law on languages and the rules of procedure has moved forward. Political dialogue needs to be further strengthened.

The government coalition has overcome difficulties and strengthened its internal cooperation. The new government has given fresh impetus to the EU reform process. As regards local government, the financial framework for local service delivery needs to be more transparent and equitable.

There was progress as regards the framework for public administration with the creation of a Ministry responsible for public administration reform. E-government services have advanced to improve services to citizens. However, there was limited progress on overall implementation of the reforms. Significant further efforts are needed, notably as regards recruitment policy and respect for the principles of transparency, professionalism and independence of the civil service. The amendments to the Law on general administrative procedures do not ensure effective provision of administrative services and protection of citizens.

A wide-ranging legal package was adopted to strengthen the efficiency of the judiciary, parts of which will enter into force between 2012 and 2015. A High Administrative Court has been created, filling a gap in the judicial system. The voting rights of the Minister of Justice in the Judicial Council have been abolished in order to strengthen independence of the judiciary. Further steps are needed to improve independence and professionalism in practice, in particular through recruitment practices. Implementation of previous reforms needs to be strengthened.

Further amendments were made to the legal framework for anti-corruption policy. GRECO recommendations were addressed and systematic verification of asset declarations has begun. A track record on handling high-level corruption cases has yet to be established and

verification of conflict of interest declarations needs to be systematised. Transparency of public expenditure and of the funding of political parties remains insufficient. Corruption remains prevalent in many areas and continues to be a serious problem.

The legal and institutional framework for **human rights and the protection of minorities** is broadly in place. *Civil and political rights* are respected in general and limited further progress was made. Certain prisons were renovated but the country has yet to develop an effective national strategy for the prison system. Deficiencies with regard to combating impunity within the law enforcement agencies remain. A dialogue has begun regarding serious concerns about lack of freedom of expression in the media. Editors and journalists reported increasing political pressure and intimidation. The closure, on charges of tax evasion, of a major television channel and three newspapers which are critical of the government has raised concerns about the proportionality and selectivity of the procedure, reducing the diversity of the media landscape. In this context, journalists and editorial policies are easily influenced, resulting in widespread self-censorship. The public broadcaster is failing to play its statutory role.

Economic and social rights are broadly in place, and some further progress was made. New criteria for representative participation of social partners were applied. The National Council for Prevention of Juvenile Delinquency and the Commission for Protection against Discrimination have come into operation. The Law on anti-discrimination remains to be fully aligned with the *acquis*, notably as regards discrimination on grounds of sexual orientation. The capacity of the Anti-discrimination Commission needs to be strengthened.

Some progress was achieved in the area of *cultural rights and minorities*. The 10th anniversary of the Ohrid Framework Agreement provided a good opportunity for enhanced dialogue between the communities in the country. The President of the Republic and the Prime Minister both participated in events marking this milestone. In parliament, implementation of the Law on languages moved forward. Representation of the ethnic Albanian community in the civil service is in line with its proportion of the population and the representation of the Roma and Turkish communities increased. Integration of the Roma in the education system improved, with increased enrolment in secondary and university education. Continued efforts are necessary to foster trust, especially in the areas of education, culture and language. Roma continue to face very difficult living conditions and discrimination.

Regarding **regional issues and international obligations**, the country maintained full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). In July the Parliament adopted an Authentic Interpretation of the Amnesty Law which stated that the amnesty should cover the suspects of all cases that will not be processed by the ICTY. As regards the International Criminal Court, the bilateral immunity agreement with the United States does not comply with the EU Common Positions and guiding principles. The country needs to align with the EU position.

The country has continued to participate actively in regional cooperation initiatives, including the South-East European Cooperation Process (SEECP), the Regional Cooperation Council (RCC) and the Central European Free Trade Area (CEFTA).

The former Yugoslav Republic of Macedonia is an active partner in the region and continued to develop relations with neighbouring and other enlargement countries. Relations with Greece continued to be adversely affected by the unresolved name issue. The country remains engaged in talks, under the auspices of the UN as well as through direct meetings of the prime ministers, in order to resolve it. Actions and statements which could negatively impact on good neighbourly relations should be avoided. Maintaining good neighbourly relations, including a negotiated and mutually acceptable solution to the name issue, under the auspices of the UN, remains essential.

The former Yugoslav Republic of Macedonia has improved its **ability to assume the obligations of membership**. It made some progress on fulfilling the priorities of the Accession Partnership. However, the country continues to face major shortcomings in implementing and effectively enforcing legislation. Adequate human and financial resources for full implementation of the *acquis* are lacking.

The **economy** of the former Yugoslav Republic of Macedonia started to recover in the second half of 2010, benefitting from external demand and increased investment, in particular in construction. In late 2010, the government agreed with the IMF on a pre-cautionary credit line. This should strengthen international markets confidence. Structural reforms have continued. However, high structural unemployment, in particular among the young and poorly educated, remains a major cause of concern. Institutional capacities of the public administration and of regulatory and supervisory agencies are still inadequate.

As regards the **economic criteria**, the former Yugoslav Republic of Macedonia continues to be well advanced. In some areas, it has made further progress towards becoming a functioning market economy, notably by facilitating company registration, accelerating judiciary procedures, improving the functioning of financial markets, further simplifying the regulatory framework and improving communication with the business community. The country should be able to cope with competitive pressures and market forces within the Union in the medium term, provided that it vigorously implements its reform programme in order to reduce significant structural weaknesses.

The country has maintained a broad consensus on the essentials of economic policies. The economic dialogue with the business community has improved. The stance of monetary policy, based on the de facto peg to the euro, supported growth and contributed to macro-economic stability. Fiscal policy maintained its stability orientation. Some further progress has been achieved in facilitating market entry and in simplifying the regulatory framework. The duration of bankruptcy procedures has been further reduced and real estate registration is practically completed. The financial sector started to recover from the global financial crisis. Competition in this sector has slightly improved, as well as the level of financial intermediation

Weaknesses in the rule of law continue to impede the proper functioning of the market economy. Public administration efficiency is still low, reflecting heavy procedures, weaknesses in staffing and a high turnover of officials. Some regulatory and supervisory agencies continue to lack the necessary independence and resource allocation to fulfil their functions effectively. Contract enforcement is still difficult, which hampers the business environment, in particular for small and medium sized enterprises. The quality of education and of the human capital is low. Physical capital needs further modernisation and deepening. The quality of fiscal governance has remained low, partly due to a strong short-term orientation of public spending. As a result, progress with reducing the very high structural unemployment has remained very limited. Public sector debt has increased, reflecting continued fiscal deficits and increased external lending. The informal sector remains an important challenge.

There has been some progress in the area of *free movement of goods*. The budget for the implementation of the comprehensive strategy on the horizontal institutions has increased however the framework legislation is still not fully aligned with the horizontal *acquis*. There was little progress in the area of *freedom of movement for workers* and alignment with the

acquis is still at an early stage. In the area of the *right of establishment and freedom to provide services* the country is on track, particularly in the area of postal services. The level of coordination among the various bodies responsible for authorising cross-border services has also improved. On mutual recognition of professional qualifications, the country is at an early stage. Progress on *free movement of capital* was focused on enforcement in the area of combating money laundering and financing of terrorism. There are restrictions on short-term portfolio investments and on cross-border payment transfers, pending the passage to the second stage of the Stabilisation and Association Agreement.

There has been progress in the area of *public procurement*. Procurement procedures are more transparent and enforcement was stepped up. The legislation on concessions and Public Private Partnerships remains to be aligned with the *acquis*. Administrative capacity in the field of remedies and concessions, as well as at the level of contracting authorities, remains weak.

Good progress was made in the area of *Company law*, especially on further legislative alignment with the *acquis*. The legal framework in the area of auditing remains only partially aligned. Some progress was made in enhancing the legal framework for *intellectual property*. The track record on investigation, prosecution and judicial handling of piracy and counterfeiting is not satisfactory and the level of awareness of intellectual property rights among the public remains low.

Some progress was made in the area of *competition*. The enforcement record has quantitatively improved in the field of mergers and State aid, but remains weak in the field of cartels. The quality of the decisions in the area of State aid needs to be further improved. The Commission for Protection of Competition does not have adequate budgetary resources and staff in the area of anti-trust and mergers.

There was overall good progress in the area of *financial services*. Risk based supervision is gradually applied. New legislation has been introduced regulating financial services such as leasing and non-banking financial companies.

Progress was made in the field of *information society and media*. Alignment with the EU *acquis* is advancing and most of the key competitive safeguards were introduced. The capacity of the Broadcasting Council to monitor the market effectively remains inadequate.

Further progress was achieved in the field of *agriculture and rural development*. Key support policies for agricultural and rural development are gradually being aligned with EU requirements. Alignment with the *acquis* requires continuing sustained efforts. Administrative capacity remains a concern throughout the sector. There was good progress in the area of *food safety, veterinary and phytosanitary policy*, in particular with respect to the adoption of new framework legislation. Administrative capacity of the Food and Veterinary Agency remains however insufficient to ensure proper implementation of the *acquis*.

In the area of *transport policy*, progress was noted in particular regarding use of tachographs. Remaining challenges are related in particular to the still insufficient administrative capacity of the regulatory and safety transport authorities. The safety certification procedures need to be introduced.

Good progress was made in the *energy sector*, in particular the enactment of the new framework legislation and the resolution of the long-standing dispute with the distribution system operator, a major EU investor. An effectively functioning electricity market has yet to be established, and conditions for competition ensured. The financial independence of the radiation protection regulator is still not secured.

Limited progress can be reported in the field of harmonisation of *taxation legislation* with the *acquis*. Operational capacity for the administration of taxes continued to improve. Effective means to combat tax fraud have yet to be introduced and a code of conduct for business taxation is not yet in place.

There was significant progress in the area of *economic and monetary policy*, especially in adoption of the relevant central bank legislation. The quality of the pre-accession economic programme has improved. There was good progress in several areas of *statistics*; substantial efforts are still needed to improve in particular economic statistics.

Limited progress was noted in aligning with the *acquis* on *social policy and employment*. The implementation of the framework law on anti-discrimination has commenced. Full alignment with the *acquis* remains to be achieved. The high unemployment rate and the low labour market participation remain worrying. Inclusion of Roma, people with disabilities and other socially excluded people is slow. Effective employment and social inclusion policies are should be further implemented, and the social dialogue should be further strengthened. The overall administrative capacity is not sufficient.

Progress was good but uneven in the field of *enterprise and industrial policy*. There have been some achievements in simplification of the legislation and administrative procedures for business operation and reduction of business costs. Enterprise support measures remain scattered within several programmes.

In the area of *trans-European networks* further progress was made. The country continues developing its transport, energy and telecommunications networks and participates actively in the South East Europe Transport Observatory and the Energy Community. The implementation of corridor X remains delayed as additional time was needed to establish the financial framework.

Some progress was noted in the area of *regional development and coordination of structural funds*. There has been some progress in the implementation of the IPA components concerning operational programme for the regional development and human resources development. Inadequate expertise and insufficient institutional coordination has led to considerable delays. It is necessary to strengthen ownership of the programme implementation by the authorities.

Some limited progress can be reported on independence and efficiency of *the judiciary*, including the amendment of the Minister of Justice's role on the Judicial Council and the establishment of the High Administrative Court. Further efforts are needed as regards the evaluation and security of tenure of judges. Some limited progress was made on *anti-corruption policy*. Legislative alignment has continued and systematic verification of asset declarations was introduced. A track record in handling high level corruption cases has yet to be established. As regards *fundamental rights*, while the legal and institutional framework is broadly in place, better implementation is needed. A dialogue has been launched to address serious concerns regarding freedom of expression in the media. Some progress was made as regards cultural rights and minorities. The Ohrid Framework Agreement remains an essential element for democracy and rule of law in the country.

In the area of *justice, freedom and security*, good progress can be reported on external borders and Schengen, judicial cooperation and customs cooperation. The border police still lack adequate technical equipment, budgetary means. Some progress has been achieved on migration, visa policy, police cooperation and the fight against organised crime. The implementation of the police reform has continued, however structural problems, understaffing and lack of budgetary provision still persist. Implementation in the field of asylum remains insufficient, including on the provision of legal aid, interpretation and access to social rights.

Concerning European standards on *science and research* progress was noted. The national strategy for 2011 – 2020 was adopted. The participation rate in the Seventh EU Framework Research Programme has further increased. The administrative capacity to support participation in the framework programmes is weak. Some progress can be reported concerning European standards in the areas of *education, training, youth and culture*. The

country improved its performance in relation to the Education and Training 2020 common benchmarks. The Lifelong Learning and Youth in Action programmes remained suspended. Increasing interaction between the ethnic communities in education remains a challenge.

Some progress can be reported in the field of the *environment*, especially as regards transposing the EU *acquis* into national legislation and in ratifying multilateral environmental agreements. Significant efforts to implement the national legislation are required especially in the areas of water management and industrial pollution control. Regarding *climate change*, little progress has been made on aligning with and implementing the EU climate change *acquis*. Further efforts are required to strengthen institutional capacities and inter-institutional cooperation. There was some progress in the area of *consumer and health protection*. Efforts are still hampered by the limited financial resources and weak operational structures.

Good progress was made in the area of *customs union*, both on customs legislation and on administrative and operational capacity.

Progress was made in the area of *external relations*, notably in the alignment towards the common commercial policy.

There was also progress in the area of *foreign, security and defence policy*. The country took measures to ensure better coordination between the competent authorities in the implementation of international restrictive measures. It aligned with all EU declarations and Council decisions and showed continued commitment to participate in civil and military and crisis management operations.

Progress in the area of *financial control* was related mainly to legislative alignment, and efforts are called for to ensure its implementation, especially in relation to the establishment of Financial Management and Control systems. The State Audit Office's administrative capacity has been further strengthened; however its independence remains to be anchored in the Constitution. There is no particular progress to report under *financial and budgetary provisions*. Overall there are no significant divergences between the systems in the country and the EU in terms of basic principles and institutions for the underlying policy areas that might affect the correct application of the rules on own resources. The administrative framework for the application of the own resources framework is still not in place.