

*Tenth quarterly
accession watch report*

**“TESKOTO”
BY THE EU**

september 2011

“TESKOTO” BY THE EU
Tenth quarterly accession watch report

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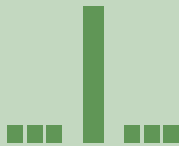
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WHERE ARE WE IN SEPTEMBER 2011?

TESKOTO¹

Ah, Teskoto! When Europe shrieks wildly,
and Fule storms in with thunderous echoes
why do I feel such unearthly sorrow,
why do rivers flood my poor sight,
and why do I want to curl-up and weep like a child,
blur my reason with idle programmes and reforms
then clench my teeth and endure the pain,
without letting out an aching cry...

Ah, Teskoto!

If asked to present the current state of affairs in a creative manner, we would most certainly use verses from Blaze Koneski's "Teskoto" as given above. In September 2011, the Republic of Macedonia has still not resolved the name dispute with the Re-

¹ Teskoto is a Macedonian traditional folk dance. The word Teskoto means hardship and the dance is related to the hardship that Macedonian people working abroad to provide for their families at home

public of Greece, while on 1 July 2011 Poland took the EU Presidency and marked the start of new EU Presidency Troika comprised of Poland, Denmark and Cyprus. Although it promised, the Hungarian Presidency failed to put Macedonia on the EU Council's Agenda in June, however the current Troika's priorities indicate that Western Balkans and Macedonia will not be given advantage over other countries, in particular the countries from EU's New Neighbourhood. Even the Government has no dilemma that Macedonia will not be given date to start accession negotiations until a solution is reached to the name dispute.

Early Parliamentary Elections took place on 5 June 2011, and although assessed as democratic, they resulted with a casualty. On the Skopje square, young Martin Neskovski was battered to death by a member of special task unit "Tiger". Spontaneous demonstrations of young people ensued immediately after they learned of Police's attempts to cover-up the murder. They protested against police brutality. Young demonstrators' requests were ignored in full, and the authorities confirmed their irresponsibility and amoral by keeping Gordana Jankulovska as Minister of Interior in Gruevski's old-new Government.

As soon as balloting pools were closed, the Government crossed swords with its political opponents and critics of governmental policies. First was the arrest of Ljube Boskovski, *United for Macedonia's* leader, notably under the suspicion for election campaign's illegal financing and abuse of office, then the prosecution of Fijat Canovski, in particular by demolishing KOSMOS (residential complex), whose value is estimated in millions of euros. Pressures and discredit of NGO representatives who oppose governmental policies gained in intensity and reached their summit. In that, the lustration process was turned into witch hunt, with an ultimate goal to silence the civil society. Dossier "Dramatist", i.e., the decision taken by the Commission for Verification

of Facts to proclaim Vladimir Milcin a "snitch", in addition to discredit and defamation of Milcin's person and deeds, put a "bull's eye" on the Foundation Open Society – Macedonia. Helsinki Committee was also subject of serious pressures and discredits, in particular following the authentic interpretation of the Amnesty Law adopted by the Parliament in July 2011 when the Committee published a communication that reads: *"On the meeting held on 19.7.2011, the Parliament of the Republic of Macedonia adopted the authentic interpretation of the Amnesty Law and in that demonstrated its power to influence the judiciary for its own benefit and brutally disregarded power-sharing in Macedonia. Obvious is that power-sharing is tailored to the needs of particular individuals"*². Fragile interethnic relations were again in the public eye's focus, since the Democratic Union for Integration (DUI) - disregarding the weight of Prime Minister's promise made during negotiations for the new Government - insisted on Parliament-based verification of its requests prior to the distribution of line ministries. Hence, the Government in resignation presented the Parliament with several important projects (Law on Minority Languages, Law on National Flags, and Amnesty Law) and thereby turned the representative house into a bargain market for political trade-offs.

Media continue to face pressures exercised by executive authorities. A1 TV was closed and went straight to history, but A2 TV emerged as the new target of Government's attacks, reinforced by representatives of associations advocating for the rights of journalists and media workers, such as the Association of Journalists in Macedonia (AJM) and the Independent Trade Union of Journalists and Media Workers (SSNM).

² Helsinki Committee, "Atrocities against humanity cannot be subject to amnesty", available at: <http://www.mhc.org.mk/?ItemID=9B2BC5E4628CAA488CB243379E6F5A02>

This reporting period was marked by the celebration of Ohrid Framework Agreement's 10th Anniversary attended by prominent representatives of the international community, such as EU Commissioner Stefan Fule, James Perdeu, Philip Riker, Pieter Feith, Alain Leroy, Daniel Server, and others.

Macedonia continued to increase its debt, and withdrew a credit tranche in the amount of 220 million EUR from the IMF's Precautionary Credit Line. Such activities resulted in additional burden for citizens by at least 110 EUR per capita.

In the past period, Prime Minister Gruevski met with the most important political figures, starting from President of the European Commission, Jose Manuel Barroso and EU Enlargement Commissioner, Stefan Fule, who visited Macedonia as part of their Western Balkan tour, but also US State Secretary, Hilary Clinton, and US Vice President, Joe Biden. Messages sent by both groups of counterparts were identical: fair and democratic elections, tangible results in public administration reform, judiciary reform and fight against corruption, rule of law, freedom of speech and civil society development. Therefore, the present quarterly accession watch report addresses these areas of concern.

1. MACEDONIA 2020?

Poland took over the EU Presidency on 1 July 2011 and marked the start of new Presidency Troika comprised of Poland, Denmark and Cyprus. These three countries have been working on their joint EU Presidency Agenda from 2008 and their cooperation continues with additional forms on the level of Ministers of Interior and Coordinators on issues related to their individual Presidency Programmes. For the

first time from the establishment of the Troika system, Poland's Prime Minister, Donald Tusk, initiated a meeting with the Prime Minister of the Kingdom of Denmark and the President of Cyprus, which took place on 9 May 2011 in Warsaw. The meeting finalized the 18-months programme and presented the Troika's priorities: new EU Budget, issue of North Africa, Eastern Partnership and fight against unemployment and poverty³.

Obvious is the fact that priorities defined do not consider Western Balkan states "the most pressing issue", and thus Macedonia is treated as leftover from previous Presidencies. The longer we are treated as 'leftover', the faster people forget whose "leftover" we are and more likely is that other Member States will start efforts to solve "other's problems" as part of their EU Presidency. Considering the fact that Macedonia was given recommendation to start accession negotiation as early as the Swedish Presidency, obvious is the declined intensity of presidency-holding country's efforts made for our benefit - hence the conclusion that additional efforts must come from our side.

Unfortunately, EU faces a growing array of problems: financial problems troubling certain Member States threaten to disturb the European Economic and Monetary Union; environmental challenges that must be solved at UN level; global terrorism threats; and recent political developments in Africa; they all seem more pressing compared to Western Balkans and Macedonia.

For the EU equally important is to have a solid financial perspective for the next 7 years. After they defined the priorities for the period 2014-2020, Member-States started negotiations on EU budget funds per priority. In June 2010, Europe 2020 was adopted and is the main strategic document that defines EU's key strategic priorities by 2020.

³ More information is available at: http://pl2011.eu/en/polish_denmark_cyprus_trio

The document is prepared on the basis of analyses and reconsideration of results achieved under the Lisbon Strategy, as well as long and comprehensive consultations on EU level, whereby remarks, comments and proposals were put forward by a broad scope of stakeholders, including EU citizens. At the moment, negotiations are underway for individual budget allocations, expressed as share of EU's budget. This is where Member-States' negotiation skills are put to use, as well as alliance-building around certain issues. For example, considering that Poland is the main factor and lobbyist for the Eastern Partnership which is targeted by a special financial instrument (the European Neighbourhood and Partnership Instrument - ENPI), logical is for Poland to ally with Hungary, Slovakia, the Czech Republic, etc., for the purpose of guaranteeing more funds for EP countries (together with other measures, for example, merging IPA with ENPI, and thereby bring these countries closer to EU in political terms).

EU funds allocated for Macedonia under the Instrument for Pre-Accession Assistance are programmed pursuant to EU priorities. If funds from the current financial perspective (2007-2013) are allocated pursuant to priorities identified in the New Lisbon Strategy, funds for the period 2014-2020 will be allocated pursuant to Europe 2020. It is of key importance for Macedonia to align its priorities with those defined by the EU and adjust them to the country's specific possibilities and needs. Unfortunately, the Government's Work Programme 2011-2015 does not make due consideration of development projected at EU level, which is odd given that the said programme enlists EU accession as one of its priorities.

Europe 2020 is a strategy for smart, sustainable and inclusive growth and defines sector-based flagship initiatives and policies, accompanied with sets of monitoring indicators to measure progress achieved.

Flagship initiatives should catalyse progress under each priority area defined in the strategy and are as follows: 1. "Innovation Union"; 2. "Youth on the move"; 3. "A digital agenda for Europe"; 4. "Resource efficient Europe"; 5. "An industrial policy for the globalization era"; 6. "An agenda for new skills and jobs"; and 7. "European platform against poverty". Immediately after the strategy's adoption, the European Commission (hereinafter: EC) put forward specific proposals for all flagship initiatives.

Should it fail to develop indicators against which progress will be measured, the European Commission would be no better than Gruevski's Government and Europe 2020 would resemble VMRO-DPMNE's Manifesto on Reforms and Development. Fortunately, the Strategy defines 5 sets of measurable EU level targets, those being: education, research and development, climate changes and energy, employment and fight against poverty. These indicators are then transposed on national level, i.e., are assumed by Member States. Measurable targets defined for 2020 include: 1) 75% of the population aged 20-64 should be employed; 2) investment in research and development should attain 3% of GDP; 3) 20/20/20 or reduced greenhouse gas emissions by 20%, 20% increase in energy efficiency and 20% share of renewable energy sources in the final energy consumption; 4) reduced drop rate of early school leavers to 10% from the current 15% and increased share of population aged up to 34 years with completed tertiary education to at least 40%; and 5) reducing the number of people living below the national poverty lines by 25%⁴.

While the Work Programme of the Macedonian Government does not provide references to Europe 2020, let alone anticipate measures to re-

⁴ Conclusions of the European Council from 17 June 2010, Brussels, EUCO 13/10, CO EUR 9, CONCL 2.

structure its developmental policy with the aim to align it with Europe 2020, Serbia has already adopted its Strategy 2020⁵ and is seriously invested in negotiations on the distribution of EU's next 7-year financial framework⁶.

Unclear remains why VMRO-DPMNE persists in its ignorance to align Macedonian priorities with those defined under Europe 2020, especially knowing that later in the process it will be obliged to do so. Namely, all Western Balkan states will have to develop national versions of Europe 2020, as was already done by Serbia. On the request from the EU, the State Statistical Office of the Republic of Macedonia (hereinafter: SSO) started developing statistics to allow EU's unhindered monitoring of pre-accession assistance that will be disbursed from the next financial perspective 2014-2020. Hence, the SSO's website⁷ started collecting statistical data that assist the EU in programming its financial assistance in due course (rather than in fast-track procedures).

2. EURO-ATLANTIC INTEGRATIONS PAWNED WITH DUI

The second Early Parliamentary Elections took place on 5 June 2011, only two months after Macedonia was visited by President of the European

⁵ <http://www.predsednik.rs/mwc/pic/doc/SRBIIJA%202020%20FINAL%2018122010.pdf>

⁶ For example, Serbia is conspiring a new principle for the new financial instrument (currently referred to as Integrated IPA) and titled "absorption", which implies that countries with greater absorption power can benefit from more funding (of course, Serbia refers to itself). This is different from what the EU pursued in the past, i.e., allocated the financial assistance on the principle of per capita.

⁷ <http://www.stat.gov.mk/Dokumenti/strategij/Evropa2020strategija.htm>

Commission, Jose Manuel Barroso. On that occasion, he reiterated the importance of holding fair and democratic elections and called the country to enhance reform efforts in several key sectors.

For the first time in pluralistic Macedonia, diaspora was given the right to vote and was granted three MP seats in the Parliament. Electoral programmes were presented by several coalitions/political parties, five of which had their representatives elected. The winning coalition was led by VMRO-DPMNE, as it secured 438,138 votes (56 MP seats), followed by SDSM-led coalition with 368,496 (42 MP seats) and political parties from the Albanian block, as follows: Democratic Union for Integration (DUI) with 115,092 votes (15 MP seats), Democratic Party of Albanians (DPA) with 66,315 votes (8 MP seats), and National Democratic Rebirth (NDP) with 29,996 votes (2 MP seats)⁸.

Novelty in this parliamentary mix is the fact that smaller political parties failed to secure any MP seats, which means their voice will not be heard until the next Parliamentary Elections. We are yet to see the effects of this election outcome on the democracy in the country, which is still in an early stage of development. Assuming responsibility for the election defeat, leaders of several smaller political parties resigned from their posts and election of new leaders is underway. This explains the absence of any reaction to recent actions taken by the Government.

In the aftermath of Elections, Trajko Veljanovski, MP from VMRO-DPMNE, was again elected Speaker of the Parliament of the Republic of Macedonia. In his inaugural address, Veljanovski repeated his 2008 inaugural commitment "*to make the Parliament a true temple of democracy*"⁹. However in the period from his inaugural speech to the moment when the

⁸ <http://www.sec.mk/ppi2011/>

⁹ <http://www.sobranie.mk/ext/exporteddocumentdownloadwindow.aspx?Id=49c85a67-af7b-4c2a-b386-994791301089&t=doc>

new Government took office, the Parliament was fully subdued to the will of the Government in resignation and worked as an extended hand of executive authorities. Parliament's potential to become true temple of democracy was futile, in particular during this period marked by debates on many disputable solutions that are unprecedented in the history of the Republic of Macedonia.

The old-new Government took office on 27 July 2011. Teuta Arifi, Ph.D., from DUI was appointed Deputy Prime Minister responsible for European Integration, whereas the defence ministry was entrusted to Fatmir Besimi, also from DUI. It seems like Prime Minister Gruevski decided to entrust his Albanian counterpart in the Government with the country's Euro-Atlantic Agenda, and therefore shifted the burden of responsibility for the possible success, i.e., the almost certain failure, of this process.

3. FROM FRAMEWORK MACEDONIA TO ALEXANDER'S MACEDONIA

August was marked by the celebration of Ohrid Framework Agreement's 10th Anniversary. Republic of Macedonia marked this event – which was to a great extent important for the state's candidate-country status – with a series of activities.

The Ohrid Conference organized by the Secretariat for the Implementation of the Framework Agreement and the President of State was attended by prominent international political representatives, while in-country political actors were nowhere in sight. As regards this document's signatories, the Conference was attended by both foreign facilitators, Perdew and Leotard, while Ljubco Georgievski from VMRO-

DPMNE and Arben Dzaferi from DPA did not attend. Prime Minister Nikola Gruevski – although indicated on the Conference Agenda – did not attend as well.

In Perdew's opinion *“the principles underlying the framework agreement are adopted – equal rights and mutual recognition of cultures”*¹⁰, while Francois Leotard expressed his concerns as regards past clashes in Europe and aware of Macedonia's name dispute with Greece offered a piece of advice: *“respect your neighbours regardless of their religion and face, because if Europe has learned something it is that we are always on the brink of disasters, always. We need to look ahead, because we are not protected from going back”*¹¹.

European representatives were invited and attended these events as well. Angelika Beer, in the capacity of Chair of the European Parliament Committee on Conflict Prevention, in her interview for the Public Broadcaster (MTV) reminded that: *“the rights of the Albanian minority were finally put on paper, and later implemented”*. EU Commissioner Fule flew-in from Brussels to honour the celebration of the instrument that enabled the European Union to become an important global actor.

Unfortunately, the attendance of many exceptionally important international representatives failed to trigger the interest of Prime Minister Gruevski to attend the celebration on 13 August,¹² however, when he did appear on the Conference also attended by Enlargement Commissioner Fule, his speech surprised the auditorium as it abounded with criticism on the process that led to the Agreement: *“Consequences of the path chosen to reach the agreement, in addition to human casualties, remain to raise concerns with Macedonians who are today reluctant to celebrate the Agree-*

¹⁰ James Perdew's interview for Deutsche Welle.

¹¹ Interview for MIA and Deutsche Welle.

¹² <http://www.site1.com.mk/dnevnik/makedonija/gruevski-ke-bide-del-od-nizata-aktivnosti-za-odbelezuvanje-na-ramkovniot-dogovor>

*ment, although they respect it. In our memory, the Ohrid Agreement remains to be an agreement signed under pressure*¹³.

To make the surprise complete, President of the Republic of Macedonia, Gorge Ivanov, decided to make a historical review of the Framework Agreement from a ten-year perspective. On that occasion he said: *“Recently we learned about new details which we only assumed had happened. In particular, this concerns the initiation stage of the so-called non-paper which later provided the basis for the contents of the Framework Agreement. When truth surfaces - history makes the final judgement; different interpretations, statements and testimonies will continue in future. On their basis the analysts and historians will make their judgements and will define what really happened in 2001; what were the reasons, what were the consequences”*¹⁴.

On the contrary, Philip Riker - in the capacity of Deputy Assistant to US State Secretary - tried to explain that: *“Ohrid Framework Agreement is a good model, a 21st century solution to prevent civil wars, demolitions and will therefore save many lives. Such suffering was seen in other quarters of this region: the wars in Bosnia and Kosovo. You, in Macedonia, managed to prevent this and should be proud of it. The international community extended a helping hand, but the fact remains that you succeeded in achieving this and that is why we believe that the Framework Agreement is important for the country’s future. Its adherent implementation should pave the road to overcoming challenges and problems that exist in all countries and especially in multicultural environments”*¹⁵.

The Framework Agreement gave Macedonia an opportunity to develop itself as “framework”, peace-making, multi-ethnic state, represented and promoted by the person and deeds of Mother Theresa. Nevertheless, a different option emerged after the Airport and Corridor 10 were renamed back in 2006, i.e., national (read: nationalistic), warrior- and conqueror-like Macedonia, represented by the person and deeds of Alexander the Macedonian.

If we had chosen the first option, today we would be in Brussels on the same table with Catherine Ashton, EU Special Representative for Common Foreign and Security Policy, and as owners of the Framework Agreement we would be designing plans to replicate this instrument - the same instrument indicated by Riker - in Bosnia and Herzegovina, Serbia and Kosovo, and even beyond, in Africa and Asia, for the purpose of building so-called “incomplete states”. In other words, we would be doing what is most needed nowadays – be EU’s right hand in solving global crises and helping EU to attain its strategic goal on becoming a global actor¹⁶.

By selecting the second option we decided to establish ourselves as heirs of Alexander the Macedonian and thus compete with our north and south neighbours in their virility and egoism, constantly complaining that our extraordinary intellect is unrecognized and pursuing Kalimero-politics in the region. In other words, instead of being part of the solution, we are part of the problem, and in that make are best to win the champion position, by competing with Serbia, Kosovo and Bosnia and Herzegovina.

In the last years unfortunately, Macedonian politicians made a U-turn and did not even bother to ask citizens whether they want to take the road they believe is the best.

¹³ <http://www.utrinski.com.mk/default.asp?ItemID=78323731C753464F935A44DADAAE9A5D>

¹⁴ <http://www.president.gov.mk/mk/odnosi-so-javnosta/2010-01-23-10-09-44/564-2011-08-12-12-46-49.html>

¹⁵ <http://www.time.mk/read/NONE/99a2fa2376/index.html>

¹⁶ This instrument’s importance is seen in the fact that under the financial framework 2007-2013, the EU established a new instrument called the Stability Instrument, which is nothing less than an institutionalized version of our Framework Agreement.

4. THE LYNCH CONTINUES

US Administration followed Barroso's suit and also expressed its concerns as regards the state of affairs in Macedonia, in particular related to freedom of speech and freedom of press, as well as civil society.

In our previous Quarterly Accession Watch Reports we addressed the civil society situation in Macedonia with a special emphasis on the enactment of two legislative acts that hold great importance for Macedonia and the civil society sector: Law on Protection against Discrimination and Law on Associations and Foundations. The present report reiterates the conclusion that the commission tasked with awarding the status of public benefit organization is still not functioning, and no preparations have been made to adopt a law on financing public benefit organizations.

Civil society continues to suffer from shattered reputation, with the media playing the major role in that. Newspaper articles do not treat civil society organizations or briefly comment by associating them to one or another political option (for example, "left- or right-oriented" or "pro-governmental/anti-governmental"). Articles covering civil society organizations' "unjustified spending" become daily events and are harmful for the NGO sector as a whole.

Certain media outlets commented the Government's preparations for the 10th anniversary from the signing of Ohrid Framework Agreement, as they stretched for almost two years and consumed as much as 500,000 EUR from the budget - all spent to no avail, i.e., for the purpose of "futile debates"¹⁷. For the second year in a row, the Secretariat for the Implemen-

tation of the Framework Agreement announced open calls on grants for non-governmental organizations to pursue activities related to anniversary celebrations. For that purpose, approximately 40 civil society organizations were awarded 20,000 EUR each.

Such comments provide additional evidence to discredit civil society and raise concerns in regard to grant-awarding criteria applied; names of organizations that benefited therefrom and relevant projects, as well as financial reports on projects implemented.

Of course, the journalists are obliged to be critically-minded and are aware of numerous cases when authorities had abused civil society organizations for their benefit. Fresh are memories related to the adoption of the Law on Protection against Discrimination and Law on Associations and Foundations when the Ministry of Justice established relevant working groups and included civil society representatives therein. However, in both cases, civil society representatives were divided into two groups: those that pushed the Government's programme through and those that opposed it after being manipulated by the former and after learning that their involvement served the purpose of decorum¹⁸.

Same practices are pursued yet again, only now they concern the adoption of the Law on Youth. As was the case before, there are two coalitions established – the coalition "NOW" established by the Agency for Youth and Sports and the coalition comprised of 35 youth organizations led by the Youth Educational Forum (hereinafter: YEF).

YEF's coalition¹⁹ expressed its concerns about the draft-law and identified the shortfalls of the drafting process:

¹⁷ Nova Makedonija, "Celebration of the Agreement... is reduced to debates with already known counterparts, university professors, but also diplomats and international envoys, who all present their own views on the agreement, its importance and the possible future it brings for the country". <http://www.novamakedonija.com.mk/NewsDetal.asp?vest=624119578&id=9&setIzdanie=22313>

¹⁸ For more details on these two laws, see our previous Quarterly Accession Watch Reports available at http://mcet.org.mk/?page_id=120

¹⁹ The entire document is available on YEF's website: <http://www.mof.org.mk/index.php?page=2&cat=-1>

Non-transparent procedure, without public debate and involvement of many youth organizations; the authorities undermined the phase on analysing alternative solutions and drafted the law on the basis of comparative analysis;

Participation of young people in the National Youth Council must not be limited, because, on the contrary, it will result in the State taking full over this body; the law stipulates that majority of council members will be appointed by the Government, which is contrary to recommendations made by the Council of Europe, EU Strategy for Youth (2010-2018) and White Paper on Youth;

The law must be accompanied with relevant budget allocations; anticipated allocation of 100,000 MKD per year is indicative of the unserious approach pursued by the authorities;

The draft-law sets high targets, but fails to provide efficient mechanisms on their attainment;

Numerous irregularities are identified in regard to regulation of youth organizations, as well as unnecessary procedures and unattainable criteria for their registration, which provide unequal and selective application in practice.

This reporting period was also marked by the failed process on appointing civil society representatives in the so-called TAIB Committee²⁰, which is an obligation pursuant to the IPA Regulation. Notably, the call for nominations was announced on 09.06.2011 and was open until 16.06.2011; the results were to be announced on 17.06.2011 at 12:00 hours. The call for nominations served the purpose of selecting four civil society representatives to participate in the Committee and entitled to one vote, with rotating mandates in the duration of 6 months, as well as civil society representatives who will attend TAIB meetings as observers.

Up to present (19 September 2011), the selection process is not completed and there are no feedback information for non-governmental organizations that managed to compile documents needed and called their Executive Boards to nominate the candidates.

Problems related to this call for nominations started as early as its announcement. It was announced by the Secretariat for European Affairs (hereinafter: SEA) and not by the General Secretariat's Department for Cooperation with NGOs. Unclear is also why SEA appears as the leading institution, given that the institutional link between the Government and the civil society is provided by the General Secretariat. Moreover, the General Secretariat holds no authorization to disclose information on this call. In practice, this implies that one should address the General Secretariat for information, and given that it is not authorized to disclose them it refers the questions to SEA, which is most probably the least transparent institution within the Government, in particular after it was chaired by Vasko Naumovski. However, when addressing SEA with the same question, all roads lead to the Cabinet of the Deputy Prime Minister as the final destination of any information requests.

Last but not least important, the reporting period was marked by governmental pressures on critically-minded NGOs, which gained in intensity and severity. Main targets were the Helsinki Committee and the Foundation Open Society – Macedonia (hereinafter: FOSM). In regard to the Helsinki Committee, the Government's weapon of choice was public discredit, which went by smoothly in a controlled media environment. On the other hand, the weapon of choice used against FOSM was the lustration process²¹, which in the opinion of FOSM's Executive Director,

²⁰ Technical Assistance and Institutional Building.

²¹ For more information on the lustration process, see the section titled "Rule of Reason", pg. 14

Vladimir Milcin, presented on the press conference²², is used for the purpose of political lynch against the Foundation.

5. METHODOLOGY

Subject of analysis are the current developments in the country's European integration process, in particular in the context of the Early Parliamentary Elections that took place on 5 June 2011 and in the wake of the European Commission's 2011 Progress Report for the Republic of Macedonia, which will be presented to the Government on 12 October 2011 (hereinafter: Progress Report 2011).

This report is focused on issues indicated by EC's President Barroso, on behalf of the EU, but also identified by the US Administration representatives on their recent meetings with Prime Minister Gruevski and other governmental official, those being: a) rule of law; b) police; c) freedom of speech; d) public administration; and e) corruption and judiciary. Considering that corruption and judiciary are areas addressed by monitoring efforts made by Transparency Macedonia²³, the present analysis addresses the Government's Economic Programme 2011-2015 instead of matters related to corruption and judiciary.

Baseline for the monitoring is documents of the Government of the Republic of Macedonia, the European Union, and media coverage of EU-related events in Macedonia. Main documents subject to analysis are: VMRO-DPMNE's Election Programme titled "*Manifesto for Reforms*

and Development"²⁴; *Government's Work Programme 2011-2015*; "*Action Plan on Activities Stemming from the European Commission's Recommendations*" from August 2011²⁵; "*National Programme for the Adoption of the EU Acquis – Revision 2011*" (hereinafter: NPAA 2011); *EC Progress Report for the Republic of Macedonia for the years 2010 and 2009* (hereinafter: Progress Report 2010 and 2009); *Decision of the Council on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Macedonia*, Brussels, February 2008 (hereinafter: Accession Partnership), and other strategic documents of essential importance in the sectors monitored.

The Macedonian Centre for European Training (hereinafter: MCET) and the Foundation Open Society – Macedonia (FOSM) acknowledge their limited capacity to monitoring certain sectors. However, in order to obtain comprehensive picture of the state of affairs in the country, certain sectors were analysed on the basis of relevant strategic documents published or with the assistance from partner organizations competent in monitoring the relevant sector²⁶.

Free access to information was also used in this reporting period, but certain institutions still refuse to disclose the requested information.

The report covers the period May-August 2011, i.e., 4 instead of 3 months. This was due to the fact that events in this quarter could not be time-defined, for example the establishment of the new Government following the Early Elections.

²² Video from the press-conference is available at: <http://blip.tv/gemklub/episode-5409605>

²³ <http://www.transparentnost-mk.org.mk/novsajt/?p=1670>

²⁴ <http://www.vmro-dpmne.org.mk>

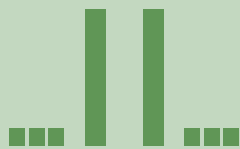
²⁵ <http://www.sep.gov.mk/Default.aspx?ContentID=36&ControlID=Dokumenti.ascx>

²⁶ Section on the Law on Youth was prepared with the assistance of the Youth Educational Forum from Skopje.

Apart from document analysis and desk research, interviews were also conducted with relevant stakeholders and competent institutions.

14 media outlets were monitored as well, those being: seven daily newspapers (*Utrinski vesnik; Dnevnik; Vest; Vecer; Vreme; Nova Makedonija* and *Spic*) and prime-time news programmes on seven TV stations with national and satellite coverage (*A1; Kanal 5; Sitel; Telma; MTV 1; Alfa* and *Alsats*)²⁷.

²⁷ Media Monitoring is a partnership project implemented with the NGO Info-Centre from Skopje.



ANALYSIS

This Quarterly Accession Watch Report analyses the areas indicated as key priorities in the Accession Partnership and marked by continuous underperformance in last several years. These areas were also addressed by President of the European Commission, Barroso, on behalf of the EU, as well as the U S Secretary of State, Hillary Clinton. In hope that the present analysis will contribute to understanding messages and addressing problems, the focus is put on: a) rule of law; b) police; c) freedom of speech; d) public administration; and e) corruption and judiciary. Given that corruption and judiciary are addressed and analysed by Transparency Macedonia, this report will address the Government's Economic Programme 2011-2015.

1. RULE OF REASON

Ancient Romans knew that the force of law could never come from the Emperor's will (*Quod principi placuit legis vigorem habet*), and therefore build their law on the principles of reason²⁸. Rationality of laws is based on the fifth principle (*any law that seems unreasonable or grossly unfair could be set aside*), which provides the basis for the constitutional judiciary to guarantee proper enforcement of laws, in that guaranteeing equality of all before the law. Rule of law is a concept of crucial significance, because - on the contrary - the stronger rules. A state can have a multitude of laws, but they cannot guarantee the rule of law. According to Ancient Romans, the more corrupt the state, the more numerous the laws²⁹.

These principles are also applied by the EU. Rule of law is part and parcel of the political criterion defined on the European Summit in Copenhagen in 1993 and used to assess progress of candidate-countries in regard to their accession process. Fulfilment of the political criterion is almost always *conditio sine qua non*, i.e., an essential precondition to start accession negotiations.

From its independence, the Republic of Macedonia has declared itself a democratic country with rule of law. However, proper enforcement of the law, as never before, raises concerns for all: from citizens

²⁸ Emperor Justinianus Primus defined the five basic principles of the Roman law, those being: 1) All citizens are equal in front of the law; 2) A person is considered innocent until proven guilty; 3) The burden of proof rests with the accuser rather than the accused; 4) A person can be punished for a deed, but not for the thought, or what he/she conspired to do; and 5) Any law that seems unreasonable or grossly unfair could be set aside.

²⁹ *Corruptissima re publica plurimae leges*, translation: the more corrupt the state, the more numerous the laws.

to international community representatives. For the first time, Progress Report 2010 indicated the Minister of Justice³⁰ as the main culprit for selective application of the law, whereas this year EU³¹ and USA³² expressed serious concerns in that regard.

This reporting period was marked by different developments that raise problems in relation to rule of law in the country, and they are duly addressed in this report, as follows: enforcement of the Lustration Law, demolition of the residential complex "KOSMOS" in Skopje, authentic interpretation of the Amnesty Law, implementation of special investigation measures, arrest of United for Macedonia's leader, Ljube Boskovski, and selective implementation of electoral legislation. With such track record on the rule of law, Macedonia risks to lose the recommendation to start accession negotiations.

1.1. Lustration or Stigmatization

The Government uses the Commission for Verification of Facts, better known as the Lustration Commission (hereinafter: Commission) to wage war against its political opponents. In fact, the manner in which facts are verified corresponds with this government's manner of operation – personal stigma and discredit. Even if a person succeeds in proving that he/she did not cooperate with Secret Services, damages have been inflicted and the "snitch" is remembered for this label, be it for a brief period of time.

³⁰ http://ec.europa.eu/enlargement/press_corner/key-documents/reports_nov_2010_en.htm; p. 13

³¹ <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/452&format=HTML&aged=0&language=EN&guiLanguage=en>

³² <http://www.plusinfo.mk/vest/12102/Nikola-Popovski-kriel-vo-fioka-predupreduvachko-pismo-od-Hilari-Klinton>

The Lustration Law does not make any reason when it differentiates between public office and public employment, because such differentiation is impossible. Are higher education managers, faculty staff, journalists, actors, opera or ballet soloists, lawyers, notary officers, executive officers... considered public offices or public employment?³³ Can the Lustration Law limit a person's constitutionally guaranteed right to work³⁴ or can the Commission's decision deprive a person of his/her constitutionally guaranteed right to employment under equal conditions?³⁵ According to the Constitution, every person is presumed innocent until proven guilty³⁶, and proof thereof is determined in court. Hence, only the courts can limit these civil rights. Regardless of the fact that the lustration procedure is frequently contested in front of competent courts, disputable is the fact that the procedure starts with a Commission whose members are appointed by legislative and executive authorities.

While citizens are eager to learn which current public office holders collaborated with Secret Services in the past, the Commission deals only with verification of former public office holders' snitching.³⁷

Lustration as form of witch hunt did not calm down, but rather gained new institutionalized form – to deal with critically-minded NGOs. Namely, on 21 June 2011 media announced that the Commission established that a famous director and university professor had collaborated with the Secret Services. Daily *Vecer* informed that the

person in question is a functionary from FOSM.³⁸ This marked the onset of fierce, although indirect, attacks on FOSM, in particular because of its continuous criticism for governmental policies! FOSM's Executive Director, Vladimir Milcin, on the press conference held on 25 July 2011³⁹, presented his dossier kept by the services, which undoubtedly indicates the fact that he was an object of operative processing, and not a subject of collaboration. At the same time, he expressed his doubts that such actions were a matter of political lynch, whose final target is the Foundation.⁴⁰

According to the Law on Additional Criteria for Public Office Performance⁴¹, the person whose statement on non-involvement with the Secret Services has not been verified is entitled to oral or written complaint against the Commission's conclusion, no later than five days from its receipt⁴². If there is still doubt in the actual truth, the unsatisfied party can motion a lawsuit in front of competent courts. In the reporting period, the court procedure related to this lustration case is pending, and in the meantime new facts emerged that were not taken into consideration during the initial verification of facts.⁴³ According to the Law, and, of course, beyond any common sense, the Commission does not dispose with mechanism to repeat the verification process and establish the facts anew.⁴⁴ Unclear is why the Law does not provide restitution if certain facts had not

³³ <http://0.mk/a52a0>

³⁴ <http://sobranie.mk/?ItemID=A431BEE83F63594B8FE11DA66C97BEAF>; Article 32

³⁵ Ibid 34.

³⁶ Ibid 34; Article 14.

³⁷ <http://www.vesti.alfatv.com.mk/default.aspx?mId=36&eventId=40204>

³⁸ See <http://www.vecer.com.mk/default.asp?ItemID=67038F7F3AF3DE46B471DD59C4ED3354>, last visited on 26 July 2011.

³⁹ Video coverage of the press conference is available at: <http://blip.tv/gemklub/episode-5409605>

⁴⁰ See <http://www.makdenes.org/content/article/24276275.html>, last visited on 26 July 2011.

⁴¹ "Official Gazette of the Republic of Macedonia" No. 14/2008, 64/2009 and 24/2011.

⁴² Ibid, Article 25 paragraph 2.

⁴³ <http://0.mk/e9272>

⁴⁴ Ibid 43.

been reconsidered in the initial decision-taking process. The question is whether the Commission, in the absence of legal possibilities for repeated verification of facts, submitted new evidence in the lawsuit initiated before the Administrative Court, as part of its response to the lawsuit claim which the Administrative Court had forwarded. At the moment, this lawsuit is pending decision by the Administrative Court, irrespective of legal provisions that regulate urgent proceedings in such cases.⁴⁵

In the meantime, matters are additionally complicated with the new initiative motioned in front of the Constitutional Court.⁴⁶ The possible repeated⁴⁷ waiver of certain provisions contained in the Law (the Constitutional Court has previously adopted a waiver decision) will leave legal proceedings underway without formal court outcome. Such outcome will preclude completion of legal proceedings in this case because the Administrative Court will no longer have legal grounds to act in docket “Dramatist”. Following arguments provide evidence in support of the fact that lustration is used as witch hunt:

Lustration Commission is chaired by a member whose term of office has expired more than seven months ago, i.e., longer than the duration thereof. The Parliament has not appointed a new president;

Disputable is the fact that instead of determining actual state of matters, the Commission votes on verification of facts;

At the time of voting, several Commission members did not participate in the decision-taking process or did not attend the meeting⁴⁸;

Dossier of the followed person does not include written document that confirms he was a collaborator to the Secret Services⁴⁹.

As a reminder, first victim of the lustration process was Trendafil Ivanovski, then current President of the Constitutional Court, which is an institution that (on the basis of its jurisdiction) represents the last line of defence for the legal order in the state against the tsunami of regulations tailored to the Government’s liking. In that, the Constitutional Court was and still is a target of continuous attacks by VMRO-DPMNE and high governmental and parliamentary officials from that party⁵⁰. Recently, Ilija Dimovski, in his column at *Dnevnik* (25 July 2011), using his infamous aggressive writing and disrespecting presumption of innocence, wrote: *“the Constitutional Court (that accommodated a judge who was proved to have been a collaborator), upon the initiative of a group of people (including a person for whom a procedure to prove his collaboration with the secret services is underway), revoked the most important sections from the already liberal Lustration Law. This signalled that the structures installed from the former system have no will and no intention to allow real, fair and productive lustration to take place.”* Such behaviour on the part of MPs from the ruling party is nothing else but demonstration of power.

1.2. COSMOS Befitting

Common reason implies constructive approach to law and problem-solving. In this context, two questions are raised: was the local government’s reaction in “KOSMOS” case constructive and was demolition thereof the best solution?

⁴⁵ Ibid 41, Article 28.

⁴⁶ <http://www.vesti.alfatv.com.mk/default.aspx?mId=36&egId=6&eventId=40141>

⁴⁷ Constitutional Court’s decision to revoke certain provisions from the Law on Additional Criteria for Public Office Performance. Decision no: 77/2008-0-1 from 03/24/2010.

⁴⁸ <http://www.utrinski.com.mk/?ItemID=212ABB316D01D64CBD2B5A899891EE7F>

⁴⁹ <http://www.utrinski.com.mk/?ItemID=8B464AA3B0E99048A9A2CA064C82CDFD>

⁵⁰ See “Government ltd”, Seventh Quarterly Accession Watch Report, November 2010, available at: <http://soros.org.mk/dokumenti/sedmi-izvestaj-mk-za-WEB.pdf>, pg. 11.

It has been more than a month from the onset of these events and the public is still not informed whether the construction of this complex has overstepped project design or not⁵¹. The local government claims it had identified a violation to construction dimension by 1 m and 43 cm. However, demolishing a half-constructed building of such dimensions is beyond any reason. Sources from the local government indicate that by means of an enforceable decision, the authorities requested the developer to settle municipal communal fees for the additional area of the building in question, but the later failed to make the payment within the deadline⁵².

Moreover, collection of municipal communal fees was secured by means of a mortgage. If this was the case, why did the local government fail to activate the mortgage?

Rule of law implies equal justice for all; however, in Macedonia some people are more equal than others. While KOSMOS was being demolished on the grounds of non-compliance with the detailed urban plan and the project design, on a different location and concerning a different capital investment, where the Government appears as the investor, changes to the project design and to the main public procurement contract are made beyond any legal procedure, i.e., overnight⁵³. It is a matter of the new building for the Constitutional Court, which should accommodate the statue of Dionysus (god of winemaking and wine, of ritual madness and ecstasy) and four muses. Will somebody explain the Government that Themis or Justitia is the goddess of justice?

Nobody sees any logic behind KOSMOS's demolition, but there are no reactions thereto, in particular by the Parliament or the Council of

the City of Skopje⁵⁴. To make things worse, the local government decided to demolish KOSMOS, but allowed its owner tenure over the land and construction permit, notably to start constructing a new building should he wishes so. The local government will not revoke KOSMOS's construction permit until it collects receivables based on the municipal communal fee⁵⁵, although they are intended to cover costs for infrastructure landscaping. Such fees are also claimed for buildings put into operation, buildings that do exist. In this mayhem, irrelevant is the fact that the local government decided to turn a potentially functional building into meadow. What is important is that the decision on collection of municipal communal fees is still in effect, regardless of KOSMOS's existence.

In this context, it should be noted that during VMRO-DPMNE's previous rule (1998-2002), construction inspectors also demonstrated power and authority. Namely, ten years ago the State had demolished another elite residential complex located in Zlokukani, on the grounds of alleged illegal construction within a protected area from the archaeological location "Skupi". At that time, the developer - Blagoja Nikolvski - attempted to demonstrate the building's legal status before the chief construction inspector, Ljupco Balakovski. As is the current situation, at that moment the State decided that it is better to demolish the buildings. That case was appealed in front of the European Court of Human Rights, whereby the developer was entitled to redress in the amount of 6 million EUR⁵⁶. The only difference today is the fact that the amount of redress in KOSMOS's case will be much higher. Com-

⁵¹ <http://www.vesti.alfatv.com.mk/default.aspx?mId=36&eventId=40496>

⁵² <http://0.mk/5ec3d>

⁵³ <http://www.vesti.alfatv.com.mk/default.aspx?mId=36&eventId=40180>

⁵⁴ <http://novamakedonija.com.mk/NewsDetal.asp?vest=8251183839&id=9&prilog=0&setIzdanie=22365>

⁵⁵ <http://www.opm.org.mk/izdanija/MK/Zakoni/novo/Zakon%20za%20gradezno%20zemjiste.pdf>, Article 46.

⁵⁶ <http://www.utrinski.com.mk/?ItemID=F7F9AD9B30952A44A8289E0B5E686076>

mon denominator in both cases is the fact that indemnity payment falls on the burden of citizens in the Republic of Macedonia, i.e., the taxpayers. In the meantime, many families are deprived of housing.

Fact is that current reality does not resemble any common reason.

1.3. Authentic Amnesia

For a person who has never forgiven any of his opponents, this July Prime Minister Gruevski demonstrated immense mercy and will to forgive. Truth to be told, the arguments he faced were exceptionally strong. In order to form parliamentary majority and government, VMRO-DPMNE needed five MPs. However, a stable government and Badinter majority implied DUI's participation in the government, which was conditioned, inter alia, with amnesty⁵⁷ for crimes against humanity committed by NLA fighters during the 2001 armed conflict.

After an agreement was reached, Prime Minister Gruevski was exempted from taking any actions in that regard. As is the common practice, this was done by the Deputy Prime Minister Naumovski and Minister of Justice Manevski, who presented the Parliament with a proposal on authentic interpretation of the Amnesty Law. Although authentic interpretation is an instrument of the Parliament⁵⁸, the proposal should have been motioned by the courts⁵⁹, in particular those that face difficulties related to the law's enforcement. In this case, the proposal was accompanied with an opinion of the Government of the Republic of Macedonia, signed by Vasko

Naumovski, Deputy Prime Minister for European Integration⁶⁰.

On 19 July 2011, the Parliament adopted the authentic interpretation of the Amnesty Law⁶¹ and thereby ordered the courts to pardon⁶² crimes from the Hague-returned cases. Those that cannot forget tortures, sufferings and lives lost are citizens from Kumanovo, road workers from "Mavrovo" and close family and kin of twelve men kidnapped in the 2001 armed conflict. They decided to motion an initiative on assessing the constitutionality of this act in front of the Constitutional Court.

There are no disputable aspects in regard to this instrument's application. However, the Parliament can resort to authentic interpretation only for the purpose of clarifying legislation with a view to its proper enforcement. Legal theory does not allow authentic interpretation "to establish new rules, i.e., legal provisions cannot be expanded, narrowed, or made precise"⁶³. Legislation cannot be supplemented with new meaning, in particular different from the one stipulated by the original legislator. Therefore, it will be interesting to see the Constitutional Court's ruling in this case "when authentic interpretation goes beyond clarification of legal provisions"⁶⁴.

Criminal acts that have been pardoned on the basis of authentic interpretation are actually acts of exceptionally cruel and inhumane treatment, torture, humiliation, etc. In this form, they are stipulated

⁵⁷ <http://www.plusinfo.mk/vest/9185/Gjorgji-Spasov-Ali-Ahmeti-go-uceni-Gruevski-a-ovoj-morashe-da-prifati-ako-saka-da-formira-vlada>

⁵⁸ <http://www.sobranie.mk/?ItemID=76C9CD82CF519B41A7380D08FBCDD43E>

⁵⁹ <http://www.sobranie.mk/ext/exporteddocumentdownloadwindow.aspx?Id=ac69a185-1ed1-4e06-bf48-987e3105f7f9&t=docx>

⁶⁰ <http://www.sobranie.mk/ext/exporteddocumentdownloadwindow.aspx?Id=6f0a8bc4-65c9-46ed-b91c-beeb0fe43e68&t=pdf>

⁶¹ <http://www.sobranie.mk/ext/sessiondetails1.aspx?Id=1c98671d-11ad-4655-b507-d03764b61529>

⁶² <http://dictionary.reference.com/browse/amnesty>

⁶³ <http://www.dnevnik.com.mk/default.asp?ItemID=877CF761F112F947BC7D097F8E443DE2>

⁶⁴ Ibid 63.

under Article 403-a of the Criminal Code⁶⁵ and considered to be crimes against humanity, a formulation that Macedonia transposed from the international agreements⁶⁶ ratified in compliance with the Constitution.

Making due consideration of crimes' atrocity, the international legislator determined that such acts would not be subject of exemption from criminal prosecution, as well as subject of restrictions as regards criminal prosecution and responsibility⁶⁷. In line with this practice, Article 112⁶⁸ of the Macedonian Criminal Code stipulates that criminal prosecution and execution of sanctions for crimes against humanity shall never be subject of suspended effect. If this is the case, how can a decision be taken to "pardon" these crimes?

Provisions contained in the Criminal Code have the primacy over other legislative acts, unless otherwise stipulated in the Constitution. On the other hand, the Constitution stipulates that international agreements that have been ratified by law become integral part of the in-country legal order⁶⁹, and therefore cannot be altered to the liking of any legislator, but only by means of a decision taken by all signatory countries thereto.

A piece of solace for those in desperation, those who shall never forget: nobody, not even the Amnesty Law or the authentic interpretation thereof can deny the victims' rights and in particular their right to redress for sufferings inflicted⁷⁰.

The Macedonian Helsinki Committee for Human Rights called the authorities to revoke the Parliament's decision on authentic interpretation of the Amnesty Law⁷¹. In the opinion of the Helsinki Committee, despite the victims' guaranteed right to redress, the said decision prevents court resolution for the cases: "NLA Leadership", "Mavrovo Road Workers", "Lipkovo Dam" and "Neprošteno". In that, the Committee also reiterated the fact that Macedonia must comply with its international commitments and that competent authorities must process all cases in a thorough and impartial manner⁷².

1.4. Detention for the Critically-Minded

It has been three months from the arrest of Ljube Boskovski, *United for Macedonia's* leader. According to statements made by competent authorities, the Police charged him with election campaign's illegal funding, where at the time of his arrest 100,000 EURO were found in his vehicle, allegedly intended to settle campaign debts. Ministry of Interior based its charges against Boskovski on operative processing called "Campaign", which had secured evidence on two handovers of illegal funds, notably in the amount of 10,000 EUR and 20,000 EUR, respectively. Handovers took place before the campaign's start, i.e., during the campaigning. Following his arrest, Ljube Boskovski was detained by means of a decision taken by the investigative judge, in duration of 30 days. The detention decision was extended on several occasions, whereby Boskovski remains in custody for over 90 days now.

⁶⁵ <http://jorm.org.mk/zakon-krivicen.shtml>

⁶⁶ Statute of the International Criminal Court, Article 7, available at: <http://www.preventgenocide.org/law/icc/statute/part-a.htm>

⁶⁷ Ibid 66, Article 31.

⁶⁸ Ibid 65.

⁶⁹ <http://www.sobranie.mk/?ItemID=A431BEE83F63594B8FE11DA66C97BEAF>, Article 118

⁷⁰ Ibid 65, Article 115.

⁷¹ <http://www.mhc.org.mk/default-MK.asp?ItemID=9B2BC5E4628CAA488CB243379E6F5A02>

⁷² <http://www.amnesty.org/en/for-media/press-releases/macedonia-time-deliver-justice-victims-war-crimes-2011-09-01>

If evidence on said handovers existed from the start of operative processing until his arrest, what prevented the MOI to arrest Boskovski earlier in the process?

Provided that Boskovski himself did not speak in public of his assumptions that the authorities are intercepting his communications, are following him and are conspiring his demise⁷³, events and actions related to his arrest and beyond the letter of the law represent serious abuse of the investigation procedure and authorization, in particular aimed to “settle the accounts” with political opponents. First and foremost, the manner in which the spectacular arrest was pursued is characterized by serious violations to fundamental human rights. The fact that pro-governmental media were present at the scene and immediately found him guilty as charged, in that failing to respect the underlying principle on presumption of innocence, indicates that they were duly informed by MOI on its planned action. Such behaviour is considered unacceptable according to police professional standards in any country. Moreover, video coverage of Boskovski’s arrest was uploaded on the MOI’s website.

Main problem with Boskovski’s arrest is identified in non-existent legal basis and legal qualification of the criminal act for which he was charged. Amendments to the Criminal Code that stipulate illegal funding of political party campaign as a criminal act were adopted on 13 April 2011⁷⁴, whereas evidence stemming from first operative processing and related to handover of 10,000 EUR date from 12 April 2011⁷⁵. Therefore, the question is raised: Why was Ljube Boskovski intercepted

when there were no legal grounds for such action? Moreover, the criminal act for which he is charged was not stipulated as criminal offence, and did not fall under the scope of actions subject to use of special investigation measures. In that context, Article 14 of the Constitution (*Nullum crimen, nulla poena sine praevia lege poenali*) stipulates that there is no crime, no punishment without a previous penal law⁷⁶.

Furthermore, charging Ljube Boskovski for abuse of office is beyond any common sense. This raises the question whether a political party’s leader - from the opposition nonetheless – can abuse his/her office? Criminal offences and punishment thereof are aimed to protect society from harmful governance and corrupt politicians, hence the question: since when is the position leader of a political party considered a public office?

Illegal activities and actions related to Ljube Boskovski’s campaign financing – if any – are quite vague. However, the fact that they were pursued at times when they were not stipulated as criminal acts results in the inability to criminally prosecute perpetrators thereof. Ljube Boskovski’s responsibility under this case is twofold: political and moral; however, in the course of the last decade, it seemed like all politicians in Macedonia denied any political or moral responsibility for actions they pursued.

The conclusion is inferred that if Boskovski has not committed a criminal offence, but is kept in custody for almost 90 days now, he must have sinned against the government. Boskovski’s sins are seen in his persistent disclosure of new affairs and scandals related to governmental actions and the perpetual criticism of governmental policies. These are the grounds that prevent establishment of the indictment act 90 days following the arrest, although MOI claimed it presented

⁷³ <http://daily.mk/cluster3/c2af00bc949175596c2a40fc7b67c0f1/888471>

⁷⁴ <http://www.sobranie.mk/ext/exporteddocumentdownloadwindow.aspx?Id=46cb1415-84af-412c-a9ec-2f11a011d018&t=doc>

⁷⁵ <http://www.time.mk/read/e535957114/ef037554f9/index.html>

⁷⁶ <http://www.sobranie.mk/?ItemID=A431BEE83F63594B8FE11DA66C97BEAF>

sufficient evidence. Obvious is the fact that criticism of government is sanctioned with detention.

1.5. Macedonian Democradura

Our democradura reality demonstrates that contrary to allegations on Boskovski's illegally financed campaign, the elected government is more equal before the law. The Electoral Code stipulates that a campaign cannot be financed with funds from unidentified sources, whereas funds collected as political party membership fees cannot exceed 5,000 EUR⁷⁷.

According to the incomplete report submitted to the State Electoral Commission, VMRO-DPMNE spent approximately 1.6 million EUR⁷⁸ in the first ten days of campaigning. In the opinion of the political party, large portion of these funds were received as natural persons' donations, some of which contributed as much as 60,000 MKD, but they fail to provide information on the fund-raising form applied. Therefore, several questions are raised:

- Who are the donors and what are the revenue sources that enable them to extent these donations?
- Why does VMRO-DPMNE provide funding sources only for around 140,000 EUR?
- What are the funding sources of the remaining 1.4 million EUR?⁷⁹

In the elections' aftermath, the State Commission on Prevention of Corruption (hereinafter: SCPC) inferred the same conclusions, indicating that threshold on campaign financing has been exceeded, i.e.,

more funds have been spent compared to those available on the bank account of the second political party in the Government - DUI⁸⁰.

As regards the elections, it should be noted that according to the Electoral Code election campaign posters are to be removed no later than 30 days following the elections. Failure to comply with this obligation is subject to fines in the amount of 40,000 to 50,000 MKD⁸¹. If the law is equally applicable to all, who will sanction VMRO-DPMNE for the large number of billboards still present country-wide?

1.6. Conclusions and Recommendations

Promotion of the rule of law implies equal justice for all, respect for human rights, limited authorization and power-sharing, full independence of judiciary, and legal security of citizens. In the reporting period laws were selectively applied, used to impose the will of ruling authorities and sanction those who dared to oppose positions and views expressed by the government. Hence, the following recommendations:

- To discontinue stigma, labelling and personal discredit of political opponents and those who criticize governmental policies. The lustration process – as regulated and enforced at this moment – is in breach of the Constitution of the Republic of Macedonia and thereby violates fundamental human rights and freedoms. Amendments to the Lustration Law to be adopted by the Parliament, in particular aimed to limit its scope of application only to elected and appointed public office holders, as well

⁷⁷ http://www.sobranie.mk/WBStorage/Files/Izboren_zakonik0.pdf, Article 83.

⁷⁸ <http://www.dnevnik.mk/default.asp?ItemID=222DCF3E96577840AD10D5A95E476A2D>

⁷⁹ Ibid 77.

⁸⁰ http://www.dsk.org.mk/index.php?option=com_content&task=view&id=243&Itemid=33, Item 7.

⁸¹ http://www.sobranie.mk/WBStorage/Files/Izboren_zakonik0.pdf, Article 79 and Article 185.

as to guarantee the process's confidentiality in order to protect citizens' rights until the procedure is completed. Government to secure terms and conditions for lustration to be implemented with the aim of preventing former collaborators to perform public offices, rather than to prosecute former collaborators who had performed public offices in the past. Commission for Verification of Facts to continue implementing lustration by verification of facts only after it had collected all documents and evidence necessary to establish the collaboration, and to avoid fact-establishment by majority votes, but rather to seek unanimous vote;

- Government and Parliament to guarantee respect of power-sharing principle and full independence of judiciary. The Parliament should be temple of democracy and it must refrain from using instruments at its disposal (authentic interpretation) to interfere in the work of courts. The Government should not instruct the Parliament to use authentic interpretation in order to extend law's scope of application or to create new rights that are conducive to exercise of political party interests, in particular political parties in the government coalition;
- To discontinue selective enforcement of the law, selective criminal prosecution and pressures. In Macedonia, all are equal before the Constitution and the laws, and nobody can be accused of crime without a violation of penal law as it existed at the time of offense. The Government to guarantee enforcement of law and court verdicts, while VMRO-DPMNE – as the leading political party in the government coalition - must provide an example on compliance with the law. Court proceedings to be free of political and governmental interference. Detention

should be used as last resort and to ensure defendant's presence at court proceedings, rather than as instrument on sanctioning defendants that have been illegally charged;

- Future political dialogue and government and opposition's consent on these issues are of vital importance for the purpose of keeping the recommendation to start accession negotiations and candidate-country status. Any further delay in sector-based reforms would imply additional regress and will endanger the country's EU membership prospects.

2. MEDIA AND THE EU AGENDA

After they became part of our country's EU Agenda, media- and journalism-related developments are duly addressed in the Quarterly Accession Watch Reports. Evidence in support of the fact that 2010 and 2011 are marked by endangered freedom of speech can also be identified in the recommendations made by EU and US representatives. As a reminder, freedom of speech is defined as an element of the political criterion, whose fulfilment resulted in EC's recommendation to start accession negotiations.

Comparative analyses of Progress Reports 2008, 2009 and 2010 indicate that crucial remarks were repeated in most part, but have been widely and (un)consciously ignored by the State. In this context, EC's Progress Reports are persistent in indicating links between TV outlets and political parties, political influence, non-transparent media ownership and concentration, widespread self-censorship and limited freedom of expression, in particular by means of intimidations and political pressures over journalists. On the other hand, the Government

criticizes or ignores⁸² such remarks, and even plays ignorant and hence attempts to teach Brussels on how to achieve truly free media⁸³.

The Resolution of the European Parliament from 7 April 2011 and related to the 2010 Progress Report for the Republic of Macedonia (hereinafter: EP Resolution 2011) expressed concerns about media politicisation and interference in their work, economic dependence and concentration of political power in the media, as well as absence of editorial independence. New formulation used in the EP Resolution 2011 is “*considerable deterioration in media freedom*”, which the MEPs supported with the statement on Macedonia’s significant drop in Reporters Without Borders’ press ranking. Finally, the Resolution urges the authorities responsible to strengthen the independence and freedom of the media, applying equal standards to all⁸⁴, and - for the fourth time in a row - urged them to improve transparency of media ownership⁸⁵.

On his meetings with the Macedonian authorities, President of the European Commission emphasized the importance of the political criterion: “*Political criteria come first to become member of the European Union*”. Furthermore, he described media as “*pillar of democracy*” and added “*media should be protected and journalists must be able to express their views freely*”⁸⁶. Barroso’s message is clear: even if progress is noted under all

other areas, Macedonia cannot move forward in the EU integrations without fulfilling the political criteria. Political criteria are related to state of democracy, including State’s efforts to guarantee freedom of media.

2.1. Conflict Conductive Climate

As regards general social and political climate, the period following NATO Summit in Bucharest when Greece vetoed Macedonia’s membership will be remembered for the outburst of hate speech in TV outlets, newspapers and on social networks. This phenomenon is usually interpreted as the consequence of increased State-sponsored nationalism, in particular aimed to buffer frustrations resulting from Greece’s veto. Politicians, TV programme hosts and journalists contributed to the climate of patriot- and traitor-labelling, in particular by promoting hate speech. Social networks in Macedonia were flooded with conspiracy theories, lists of “Greek henchmen”, “national freaks”, “Sorosoids” and “anti-Macedonian media”, all categorized under the broad category of “traitors”. As an example, a Member of Parliament from the governing party remarked that the civil society sector “*does not serve the political elite, but the foreign factor, which is much worse*”, while Prime Minister Gruevski – in his infamous letter to political party members - called for “*the final battle against the remains of the transition and its politicians, and against the politicians who have left havoc and misery, and brought despondence, crime, lies and misconstrued values*”⁸⁷.

The situation escalated in 2010. This year will be remembered for Prime Minister’s inspirational address on the 20th Anniversary of VMRO-DPMNE. On that occasion, attacking his perpetual opponent Branko Crvenkovski, Gruevski “honoured” critically-minded media such as A1

⁸² Comparative analysis of EC’s 2010 Progress Reports for the Republic of Macedonia, available at: www.mcet.org.mk

⁸³ <http://0.mk/fccaa>

⁸⁴ A remark repeated in Progress Reports 2007, 2008, 2009 and 2010.

⁸⁵ Resolution of the European Parliament from 7 April 2011 on the 2010 Progress Report for the Republic of Macedonia, available at <http://www.hellenesonline.com/go/2011/04/european-parliament-resolution-of-7-april-2011-on-the-2010-progress-report-on-the-former-yugoslav-republic-of-macedonia>

⁸⁶ <http://0.mk/fccaa>

⁸⁷ Black Paper on Hate Speech

TV and *Utrinski vesnik*, and appealed to broad masses “to be reserved toward all information coming from such media outlets”⁸⁸. As demonstrated much later, this statement was a prelude to the open confrontation with Velija Ramkovski’s media⁸⁹, which resulted in the media outlet being closed.

2.2. What happened in the last three months?

In the reporting period, the media war that ensued between the three most popular TV outlets in the state reached its summit. Analysis of media contents during the election campaign showed utter polarization, in particular as regards key media outlets: *A1*, *Kanal 5* and *Sitel*⁹⁰. As a result of the habitual practice exercised by key political actors to boycott media deemed unsuitable, communication was often one-sided and resembled political propaganda. Main TV outlets perceived the elections as means for survival.

Dailies *Vreme*, *Spic* and *Koha e Re* stopped printing by the end of June⁹¹. Only four days after the receivership process was announced, *A1* TV faced its demise as well. Namely, on 30 July 2011, *A1* was presented with the decision taken by the Agency on Electronic Communications

whereby it was denied further use of frequencies granted⁹². According to many experts, this is serious breach to the Broadcasting Law and undermines the Broadcasting Council’s competences.

Independent Union of Journalists and Media Workers (SSNM) reacted to this event and made a reference to Recommendation 2000 (23) of the Council of Europe on independent regulatory authorities in the broadcasting area, according to which these authorities are authorized to grant and revoke broadcasting licenses, whereas the broadcaster’s frequency is a technical aspect of the broadcasting license that enables its performance. SSNM appealed to authorities and indicated that this precedent will seriously harm freedom of expression, independence of media and the broadcasting regulator. Moreover, it reminded that such practices provide for suspended legal state and thereby a model of behaviour that would allow revoking of broadcasting licenses without due adherence to relevant laws, procedures and international standards. SSNM addressed also the Broadcasting Council, in particular with requests to “immediately express its opinion as regards the given situation, to discontinue peep-toying and delaying any actions, as well as to make serious efforts aimed to enforce the Broadcasting Law, because - on the contrary - a regulatory body that cannot enforce the Law and protect the independence of media is of no use and its existence is questionable”⁹³.

Broadcasting Council was next to take the heat. Namely, new amendments to the Broadcasting Law were adopted in a fast-tracked procedure, without consultations and before the new Government took office. Specifically, these amendments expand the number of Broadcasting Council’s members from 9 to 15, and stipulate that they shall be appointed on the proposal of institutions that are controlled by the Government⁹⁴.

⁸⁸ Gruevski’s address at VMRO-DPMNE’s 20th Anniversary, <http://www.mn.mk/aktuelno/2042>

⁸⁹ Truth to be told, the confrontation between VMRO-DPMNE and *A1* TV has a long-standing history. In 2002, one month before its election defeat, VMRO-DPMNE called for boycott of *A1* TV: “Do not read their news, they are conspiracy-prone, anti-Macedonian and promote NLA’s terrorist leader Ali Ahmeti. *A1* TV is transformed into political party branch of SDMS. For months now, *A1* TV promotes the criminal and terrorist leader Ali Ahmeti”: <http://www.a1.com.mk/vesti/default.aspx?VestID=11134>

⁹⁰ Media Mirror: Journalism is Dead - Long Live Propaganda, available at: <http://nvoinfocentar.org.mk/event.asp?site=mm&menu=&lang=mak&id=1421>

⁹¹ <http://daily.mk/cluster3/ae314f7aa004a0431fcb53cf7bfd5dd2/805214>

⁹² <http://www.utrinski.com.mk/?ItemID=4A603FB2CB25BA49A19303284AED1259>

⁹³ <http://0.mk/d52b6>

⁹⁴ <http://www.sky.mk/makedonija/1755-2011-07-18-18-34-11.html>

Association of Journalists in Macedonia (AJM), Macedonian Institute for Media (MIM) and Independent Union of Journalists and Media Workers (SSNM) presented their joint position that amendments to the Broadcasting Law are premature⁹⁵, whereas the Broadcasting Council indicated that new changes proposed are not in compliance with European standards, in particular because the Council's expanded composition will not guarantee its independence⁹⁶.

The ruling party VMRO-DPMNE reacted to all previously indicated opinions and put itself in defence of the Government. Most illustrative was the announcement, wherein the ruling party "*regretfully*" concludes that "*for the second time in the last ten days, the Association of Journalists (AJM) and the biggest opposition party express an identical position*".⁹⁷ Without any attempt to be malicious, the conclusion is that the ruling party has used same methods against AJM as those applied for unfit NGOs.

Truth to be told, EU's Accession Partnership defines a short-term priority as follows "*reinforce the independence and administrative capacity of the regulatory authorities for electronic communications and media*"⁹⁸. Thus, the Government will have hard time explaining to Brussels the positive effects of new legal solutions on the Broadcasting Council's independence, as there are information that Brussels had asked the legal provisions to be reconsidered and a public discussion⁹⁹ to be organized prior to their adoption.

By late June and on the ground of possible layoffs, journalists from the critically-oriented newspaper *Utrinski vesnik* went on strike¹⁰⁰. Such actions were followed by job dismissal decisions for the two most exposed journalist-strikers¹⁰¹. AJM and SSNM¹⁰² called for "Solidarity March" and requested the relevant legislation to be complied with. Nonetheless, in the course of protests additional three journalists were fired from *Utrinski vesnik*¹⁰³. The State Labour Inspectorate deemed job dismissal decisions to be illegally grounded¹⁰⁴. At last, the final attack came with the job dismissal of Tamara Causidis, who was the trade union's leader¹⁰⁵.

2.3. Preaching to the Choir!

Letters and appeals made by OSCE's Representative on Freedom of Media, Dunja Mijatovic, became a daily event in Macedonia. Mijatovic reacted to the closing of daily newspapers *Vreme*, *Spic* and *Koha e Re*, and called the Public Revenue Office "*to demonstrate maximum transparency in calculating the amount of tax debt for Plus Production and allow for a reasonable payment plan that will not hinder the work of media*". Furthermore, she reminded the Government that "*closing critical media never leads to political and economic stabilisation, but to stagnation and the loss of trust in governments and politicians*"¹⁰⁶.

⁹⁵ <http://vest.com.mk/default.asp?ItemID=FA648014566528468DAB34BB17959A05&arc=1>

⁹⁶ <http://daily.mk/cluster3/a65b924f685de93cb44d6933e5d2ca55/834803>

⁹⁷ <http://daily.mk/cluster3/3053395d143af103905737c8602c36e1/839471>

⁹⁸ <http://0.mk/1d3b9>

⁹⁹ <http://www.time.mk/read/d2cc6bb374/d60f986cd1/index.html>

¹⁰⁰ <http://www.netpress.com.mk/mk/vest.asp?id=88251&kategorija=1>

¹⁰¹ <http://daily.mk/cluster3/ac03d38768c4e44150a8102e06a0f7ce/804826>

¹⁰² <http://www.utrinski.com.mk/?ItemID=8321A4C5AEBE284399C2155B2D5F6F46>

¹⁰³ <http://www.novamakedonija.com.mk/NewsDetal.asp?vest=7511846385&id=9&setIzdanie=22322>

¹⁰⁴ <http://www.dw-world.de/dw/article/0,,15254276,00.html>

¹⁰⁵ <http://dnevnik.mk/default.asp?ItemID=00AB1F5750343C438DCBBA85CDA9A616>

¹⁰⁶ <http://www.osce.org/fom/80636>

It was the MPs from the opposition that revealed in public OSCE's letter addressed to the Parliament's Speaker, wherein OSCE reacted to recently-enacted broadcasting legislation¹⁰⁷. The public also learned about Mijatovic's letter addressed to the newly appointed Minister of Foreign Affairs Popovski, in particular as he failed to forward the letter to the media. In her letter, Mijatovic expressed regret that for the fourth time in the last two months she is raising different issues related to on-going deterioration of media freedom, and also referred to the dismissal of Independent Trade Union's president, the Agency for Electronic Communications' controversial decision, as well as to amendments governing the Broadcasting Council and recent developments in MRT's Council¹⁰⁸.

Concerns on media freedom were also expressed by the new US Ambassador Wohlers, in particular indicating that Government's new priority, in addition to independent judiciary and civil society, should also include independent media¹⁰⁹. Similar messages were also sent by Stefano Sannino, Chief of DG Enlargement at the European Commission. During his visit to Skopje, Sannino urged the authorities to improve the state of affairs related to freedom of speech and media, as they condition the repeated recommendation to start accession negotiations¹¹⁰.

International organizations and journalists' federations also appealed against the media silencing. Amnesty International inter-

preted the dailies' shut-down as *"confrontation with the media that are critical of the government, and which has been pursued for over a year"* and called the EU to remind the Macedonian Government that *"membership therein requires strict respect of basic human rights, such as freedom of expression"*.¹¹¹ Similar messages came from the Norwegian Helsinki Committee¹¹², while the European Federation of Journalists protested against journalists' dismissal in a letter addressed to Gruevski¹¹³. *Reporters Without Borders* expressed their serious concerns in the announcement titled *"Disastrous Summer for Macedonian Media"*, notably in regard to steady decline in respect for press freedom in Macedonia, closure of three national dailies, increased control over the Broadcasting Council, as well as pressures exercised over trade unions¹¹⁴.

2.4. Gruevization of Media – a Macedonian Phenomenon

From its beginnings back in 2006, Gruevski's government introduced a novelty in the political marketing arena characterized by expressed media promotion of governmental projects and numerous public opinion polls, which due to their frequency did not resemble public opinion gauging, but were rather used as instrument for public opinion making.

¹⁰⁷ http://www.kapital.mk/mk/dneven_vesnik/71615/go_sokril_li_veljanoski_pismoto_od_obse_.aspx?iId=2286

¹⁰⁸ <http://www.osce.org/fom/81610>

¹⁰⁹ <http://www.plusinfo.mk/vest/8185/Volers-SAD-se-zagrizeni-za-vladeenjeto-na-pravoto-i-slobodata-na-mediumite-vo-Makedonija>

¹¹⁰ <http://www.plusinfo.mk/vest/9706/Sanino-Nema-napredok-kon-EU-bez-nezavisnostudstvo-i-slobodni-mediumi>

¹¹¹ <http://www.plusinfo.mk/vest/7226/Amnesti-Interneshenel-Vldata-se-presmetuva-so-kritichkite-medium>

¹¹² <http://www.plusinfo.mk/vest/11719/Norveshki-Helsinshki-komitet-Vlasta-vo-Makedonija-gi-zamolchuvakritichkite-mediumi>

¹¹³ <http://www.plusinfo.mk/vest/12018/Evropskata-federacija-na-novinari-do-Gruevski-Silno-sme-voznemireni-od-zaplashuvanjetona-novinarite>

¹¹⁴ <http://en.rsf.org/macedonia-disastrous-summer-for-macedonian-17-08-2011,40797.html>

According to expert analyses, strong influence on public perceptions is the cornerstone of VMRO-DPMNE's strategy for staying in power, in particular exercised by enormous budget spending on promotion and marketing which additionally corrupts media owners and sways their editorial policy in favour of the government¹¹⁵.

Evidence in support of this thesis are found in the Annual Reports for 2008, 2009 and 2010 published by Transparency Macedonia (hereinafter: TM)¹¹⁶. Namely, all TM Reports contain findings on non-transparent, irrational and unjustified public spending for the benefit of media outlets whose owners are allied with the Government. In TM's opinion, such practices provide serious pressure on media's objective and unbiased coverage of Government's work, in particular marked by a trend on biased and propaganda-prone coverage. In that, TM explains that enormous funds expressed in millions have been spent for propaganda purposes, in particular by means of poorly disguised ideological messages of the ruling party, distribution of which is pursued without proper criteria in place.

TM's findings for the period leading to the 2011 Early Elections provide intriguing and quite distressing examples. Particular concerns were raised in regard to the emergence of several media owners high on VMRO-DPMNE's candidate lists. Due to the situation of A1 TV and the open media war¹¹⁷, the so-called "zero sum game" characteristic for the Macedonian politics was replicated in the media market. Critically-oriented media are deprived of privileges to benefit from state advertising funds, which resulted also in withdrawal of adver-

tisements from such media by large advertisers, in particular due to fears of political repercussions.

According to TM's analysis, in addition to the problem related to freedom of speech, Macedonia is faced with another problem, i.e., freedom after speech, which alludes to the fear of Government's retaliation. Vehicle of such developments is the Government itself, because it has transformed into a factor that breaches the principle of loyal competition by pursuing selective application of political, financial and legal measures characterized by state-sponsored and business corruption, as well as elements of organized crime. Accordingly, the analysis reports on short-term benefits for the Government and long-term consequences on democracy development in Macedonia.

Representatives of state institutions also identified elements of corruption in the governmental practices. President of the Broadcasting Council, Zoran Stefanovski, stressed the fact that campaigns were broadcasted only in some media outlets: *"In regard to campaigns of public interest, all media should broadcast them and should provide for level playing field among them. The current situation is conducive to executive government's influence on the media, in particular knowing that it implies financial support¹¹⁸."* Under public pressure, SCPC's President, Ilmi Selmani, provided his opinion as well and in that called for establishment of clear criteria for government's advertising in the media, given that in their absence distribution of public funds provides for "legal corruption": *"Until the current practices remain in effect and until the expert public is consulted on this issue, we – the Commission, and I – in the capacity of its President - remain*

¹¹⁵ Story on Macedonian populism: "We want everything!", <http://forum-csrd.org.mk/analysis/populizam.html>

¹¹⁶ Transparency Macedonia's Annual Reports are available at: <http://www.transparentnost.mk.org.mk/novsajt/>

¹¹⁷ <http://www.nvoinfocentar.org.mk/event.asp?site=mm&lang=mak&id=1360>

¹¹⁸ <http://daily.mk/cluster3/500eb330fa88bca3fdbb310d0724a640/594722>

to the position that this is law-enabled corruption”¹¹⁹. **Where do we stand in international reports?** Freedom House’s 2011 report “*Nations in Transit*”¹²⁰ notes that Macedonian media environment suffers from sharp setbacks, in particular: increased number of defamation lawsuits against journalists (170 lawsuits in 2010) and increased fines (the highest one was set in the amount of 30,000 EUR), which are used as pressure tools by politicians, judges and other public officials; self-censorship; government’s advertising and self-promotion, which negatively affect editorial policies. The Report refers to Milenko Nedelkovski as well, in particular due to his list of journalist-traitors and his defamation lawsuit against Zarko Trajanovski. Due attention was given also to the eight journalists fired from Kanal 5, one of which claimed that the chief of Prime Minister’s Cabinet, Martin Protoger, was ordering stories and censoring free speech. This report gives Macedonia the worst rating in the past ten years (4.5)¹²¹. In comparison, in 2011 Albania was rated higher than Macedonia (4), so was Serbia, while Slovenia has the best rating in the region (2.25)

Every year, Freedom House publishes its report “*Freedom of the Press*”¹²², which monitors the media situation in Macedonia. This organization applies a complex methodology framework comprised of 23 methodology questions and 109 indicators divided into three broad categories: the legal environment, the political environment, and the economic environment. Lower number of points is allotted

for a free environment, while higher number of points is allotted for a less free environment. A score of 0 to 30 places the country in the *Free* press group; 31 to 60 in the *Partly Free* press group and 61 to 100 in the *Not Free* press group.

¹¹⁹ <http://a1.com.mk/vesti/default.aspx?VestID=136216>

¹²⁰ Report is available at: <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Macedonia.pdf>

¹²¹ Ratings are based on scale of 1 to 7, where 1 is the best assessment, and 7 is the worst. Macedonia’s best rating was noted in 2002 (3.75).

¹²² Data used are compiled from Annual Reports, available at: <http://www.freedomhouse.org>

Year	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Coefficient	46	50	53	51	49	45	47	47	46	48
Rank	//	//	111/193	107/194	105/	98/195	100/195	98/195	94/196	96/196

Source: Freedom House Reports “Freedom of Press”

The Table above provides overview of Macedonia data in the last 10 years, indicating that the country was always placed in *Partly Free* press group. It should be noted that Macedonia was better ranked in the post-conflict year 2002 than in 2011.

Reporters Without Borders regularly include Macedonia in their reports. It should be noted that their research methodology is based on personal perceptions of interviewees, which results in frequent changes of the country’s ranking position from one to another year. Questionnaires are answered by journalists, researchers, lawyers, and human rights activists. Truth to be told, the year 2010 was marked by a major drop in the country’s rank from 34th to 68th position¹²³, and is the lowest rank noted in the last eight years.

Year	2010	2009	2008	2007	2006	2005	2004	2003
Rank	68	34	42	36	45	43	49	52
Coefficient	18.40	8.75	8.25	11.50	11.50	8.75	11.25	9.67

Source: Reporters Without Borders

In the report “*Macedonia: Ten Years After the Conflict*”, the International Crisis Group (ICG) addresses also the state of affairs in the media environment and states a decline in media independence. Moreover, ICG notes that by pursuing media advertising the Government impacts the media with a view to reduce criticism expressed by politicised outlets. The closing of A1 TV is described as “*selective tax investigation*” which was perceived as an attempt to silence criticism both in the country and abroad. The Report’s section on recommendations calls the Government to discontinue its pressures on the media, whereas EU and USA are requested to encourage media to monitor the work of institutions¹²⁴.

¹²³ Data used are available at: <http://en.rsf.org/press-freedom-index-2010,1034.html>

¹²⁴ Report is available at: <http://www.crisisgroup.org/en/regions/europe/balkans/macedonia/212-macedonia-ten-years-after-the-conflict.aspx>

2.5. What will the Government do?

The Government does not admit that Macedonia has problems with freedom of expression and media, and hence the Prime Minister's statement given before EC's President Barroso: *"maybe it would be good for EU representatives to make a test, i.e., to follow the media and assess whether media and journalism are free in Macedonia or not"*.¹²⁵

However, a close inspection of government's documents provides the conclusion that problems do exist, as seen in the fact that relevant measures have been planned to address them. The Government's Work Programme 2011 – 2015 does not include any actions planned as response to EU remarks on media freedom. Notably, media have been mentioned only in the context of governmental advertising and large number of media campaigns, which in the opinion of many are considered to be the source of declined media freedom.¹²⁶

In the broader context, the Government's document includes a task related to *"maintenance and promotion of EU political criterion fulfilment"*, which includes media freedom. Again, the document does not refer to the HOW, i.e., it does not anticipate specific measures and activities that will contribute to enhanced media freedom.

Freedom of media and freedom of expression are addressed in VMRO-DPMNE's party documents. Notably, Article 8 from its Statute indicates that the ruling party is committed to *"freedom of speech and freedom of press, counteracting any political tutoring over journalism, censorship and interventions in the work of journalists"*¹²⁷. However, this is not the first time for VMRO-DPMNE to say one thing and do the opposite.

¹²⁵ <http://www.vlada.mk/?q=node/6614>

¹²⁶ The Government's Work Programme for the period 2011 – 2015.

¹²⁷ http://www.vmro-dpmne.org.mk/index.php?option=com_content&view=article&id=192:-15102004-&catid=42:statut&Itemid=77

The Election Programme 2011-2015 titled *"Manifesto for Reforms and Development"* reads: *"VMRO-DPMNE's Government respects pluralism of ideas and views that contribute to strengthened rule of law, democracy and civil society, enable check-and-balance of authorities in power, defend and promote human rights, dignity and freedom"*. Moreover, the document anticipates: *"completion of the legal framework that enables conditions for the institutions competent for media supervision and regulation to pursue free and non-selective enforcement of legislation"*, *"full enforcement of the Law on Labour Relations and social rights of journalists"*, whereas transparency in financing has been anticipated with a view to greater media independence and professionalism.¹²⁸

"Manifesto for Reforms and Development" enlists numerous promotion campaigns and advertising activities in both in-country and foreign media, but they are not accompanied with relevant financial frameworks and lack criteria on fund distribution among media outlets.

2.6. Conclusions and Recommendations

Freedom of expression and independent media are defined as indicators on fulfilment of Copenhagen Political Criterion for EU Membership. Messages sent by the international community (not only the EU, but USA as well) are diametrically opposite to those heard in the country. In the last 4-5 months, arbitrary practices reached their summit and almost all stakeholders (media, media workers, AJM, civil society organizations profiled in media matters, Trade Union of Journalist and Media Workers, etc.) expressed their concerns and positions hoping that they will contribute to establishment of order in the media environment.

¹²⁸ Manifesto for Reforms and Development, available at: http://vmro-dpmne.org.mk/Dokumenti/Manifest_za_reformi_i_razvoj.pdf

Recommendations given under this chapter can be divided into three groups, those being: legal framework, media ownership and professional standards.

- **Legal Framework**
New Broadcasting Law to be reviewed, in particular as regards the transposition of the Audio-Visual Media Services Directive. This procedure should include as many as possible media organizations, as well as other actors affected by the new law. In the meantime, all actions related to license issuing and revoking should be halted for the purpose of preventing politically-motivated licensing. Proposal on journalist licensing to be immediately abandoned. A threshold to be set in regard to court-issued libel fines, in particular making due consideration of journalists' salary range.
- **Media Ownership**
Legal solutions are needed on the regulation of allowed media ownership and concentration. In particular, the legislation to provide ownership diversification, whereas capital and media relations to be clearly indicated and therefore transparent. Similar solutions must be developed in regard to printed media which are currently in the grey area of regulation. In regard to printed media and possible concentration, legal solutions are needed to prohibit a given media outlet to own the distribution network, and - if allowed - it should be subject to rigid rules.
- **Professional Standards**
- This section targets journalists, trade unions, professional associations, faculties and colleges. The Police must investigate cases of threats against journalists and in that send a message

that such behaviour will not be tolerated in democratic Macedonia. State Labour Inspectorate should abandon practices on selective media supervision aimed to check whether all journalists receive relevant employment benefits. Trade union to initiate negotiations with the aim to set minimum salary for journalists and media workers and to sign collective agreements.

3. PUBLIC ADMINISTRATION REFORM

Failures of VMRO-DPMNE's previous government in this sector were duly analysed in the Seventh, Eighth and Ninth Quarterly Accession Watch Reports.¹²⁹ The present report addresses plans of the new Government, as defined under "*Manifesto for Reforms and Development*" and the Government's Work Programme 2011 – 2015¹³⁰.

In declarative terms, public administration reform is a priority of Gruevski's old-new government. VMRO-DPMNE's Manifesto promised citizens that public administration reform is a strategic priority in the period 2011-2015, i.e., citizens will benefit from "*transparent and effective operation on the part of the Government and the public admin-*

¹²⁹ "Government ltd", Seventh Quarterly Accession Watch Report, November 2010, pg. 43–61, available at: <http://soros.org.mk/dokumenti/sedmi-izvestaj-mk-za-WEB.pdf>, "The Rebirth is Devouring its Offspring", Eight Quarterly Accession Watch Report, January 2011, pg. 19-29, available at: <http://soros.org.mk/dokumenti/osmi-izvestaj-AW.pdf> and "Fisherman's Tales", Ninth Quarterly Accession Watch Report, May 2011, pg. 37 – 44, available at :<http://soros.org.mk/dokumenti/deveti-izvestaj-mk.pdf>

¹³⁰ The Government's Work Programme for the period 2011 – 2015, submitted to the Parliament of the Republic of Macedonia on 15 July 2011 and accompanied with the Proposal on the Government's composition <http://www.sobranie.mk/ext/exporteddocumentdownloadwindow.aspx?Id=ce2c8d9e-1b5d-44d9-a126-5bbef524cd2c&t=pdf>

istration, as well as better quality services for citizens and companies, as result of thorough reforms”¹³¹. However, the reality is quite different from the public administration reform planned under the Government’s Work Programme.

Strategic objectives defined in the Government’s Work Program include: *“uncompromised fight against corruption and crime and effective enforcement of the law, in particular by means of thorough reforms in judiciary and public administration”*¹³². With that these two extremely important reform processes (judiciary and public administration) have been utterly marginalized and reduced to measures targeting fight against corruption and crime. Other concerns are raised given the section and title dedicated to this matter in the Government’s Work Programme: *Public Administration and Information Society*.¹³³ Again, public administration reform process is marginalized, in particular as it has been directly correlated and defined for the purpose of information technology promotion, which ultimately creates the impression that public administration reform is considered to be a technical matter and that public service reform in Macedonia is pursued exclusively by means of technical solutions. However, this approach fails to recognize and thus properly address other key problems in the public administration, those being: politicization and overstaffing. This provides the conclusion that measures anticipated in the Government’s Work Programme fail to demonstrate actual political will for genuine reforms, in particular as regards public administration’s depoliticization!

¹³¹ Ibid, pg. 7.

¹³² Ibid, pg. 20.

¹³³ The Government’s Work Programme for the period 2011 – 2015, pg. 20.

3.1. Six Years of Renaissance

The analysis of planned reforms, i.e., measures anticipated in the Government’s Work Programme lead to the following conclusion: for most part, measures and activities (such as citizen’s journal, “silence is approval”) are copy-pasted from the Work Programmes of the two previous VMRO-DPMNE governments in 2006 and 2008. In its Accountability Report, the ruling party boasted about their realization (completely different matter is the quality of measures and their actual realization). Majority of measures anticipated are reduced to enforcement of applicable legislation and are considered part and parcel of state administration bodies’ day-to-day duties, which should be implemented regardless of the political party or coalition in power.

For example, they include *“the right to lodge an appeal in second-instance administrative dispute, as a rule and as legislative provision”*¹³⁴. Despite the obvious illiteracy in the formulation¹³⁵, this measure implies running on the spot. Namely, 2005 Law on General Administrative Procedure¹³⁶ stipulated that as a rule *“the concerned party shall be entitled to lodge an appeal against the first-instance decision”*. 2008 amendments¹³⁷ stipulated that the right to appeal against first-instance administrative decisions will be regulated by means of special laws, whereby the right to appeal was made an exception rather than

¹³⁴ The Government’s Work Programme for the period 2011 – 2015, pg. 20.

¹³⁵ An appeal cannot be lodged in administrative dispute, but only against first-instance administrative decision or second-instance administrative procedure!

¹³⁶ Law on General Administrative Procedure, “Official Gazette of the Republic of Macedonia” no. 38/2005

¹³⁷ Law on Amending the Law on Law on General Administrative Procedure, “Official Gazette of the Republic of Macedonia” no. 110/2008, Article 2.

rule. Therefore obvious is the fact that such pompously announced measures are nothing less than correcting previous mistakes!

3.2. Non-silent Administration, Citizens Can Wait

Similar is the situation in relation to the second measure: *“implementing the principle on “administration’s silence” in all aspects possible, in particular for the benefit of citizens and companies”*. As was previously mentioned¹³⁸, legislative changes made in regard to the administration’s silence were adopted in 2008 and 2011, and raise the question: **how does the enforcement of already adopted legislative changes** qualify as reform?! Does this imply that the administration is senile, and we have to remind it on its duties?

As regards the changes anticipated as “reforms”, we would like to remind that in 2008, the Government introduced a new concept called “silence is approval”. In April 2011 this concept was subjected to legal amendments, whereby it was complemented with “innovative reform” called “administration is not silent”, which implies that different state administration bodies (i.e., State Administration Inspectorate, Public Prosecution, Administrative Court) are competent to decide in cases of administration’s silence reported by the citizens, **short deadlines** (3 to 5 days) for citizens to remind the relevant SAB to act in their cases, as well as the **possibility on non-action** on the part of different SABs even after they have been reminded. Skipping a step from this “reform” would in practice mean that silence is rejection, but also implies loss of the right to legal remedy. All these raise serious concerns that citizens will not be able to exercise their rights, in particular due to their

failure to comply with short deadlines or failure on the part of administration bodies to act pursuant to “reformed” procedure.

The anticipated *“establishment of precise and short deadlines for decision-taking in administrative procedure”* will be on the detriment of citizens, which will lose their right to legal remedy when missing one of the deadlines stipulated. As concerns the *“rigid sanctions for administration management in cases of non-compliance with the legally stipulated deadlines”*, common is the impression that already adopted legal solutions are advertised as future reforms. Amendments to the Law on Administration Inspection from April 2011,¹³⁹ already stipulated¹⁴⁰ draconian sanctions (fines) for administration inspections. Another issue is whether these legal provisions will be misused for the purpose of sanctioning “politically unfit” civil servants.

3.3. Senile Citizenry

The Government’s Work Programme anticipates a series of *“projects targeting capacity building of the public administration”*¹⁴¹ which are marked by equally stupid contents. For example, the project *“Citizens Come First”* anticipates *“strict compliance with deadlines for action, as well as sanctions for civil servants and managers of state institutions when they fail to take actions within the stipulated deadline”*. Yet again

¹³⁹ Law on Amending the Law on Administration Inspection, “Official Gazette of the Republic of Macedonia” no. 51/2011.

¹⁴⁰ For example, Article 15, paragraph 4: “The State Administration Inspectorate shall sanction the administration inspector or the authorized official person with a fine in the amount of 3,000 to 6,000 EUR in MKD counter value, provided that the latter - within a period of 30 days following the day when the decision that determined irregularities related to Article 11 and 11-a of the present law became enforceable - has failed to file a request on initiating misdemeanour or disciplinary procedure”.

¹⁴¹ The Government’s Work Programme for the period 2011 – 2015, pg. 21.

¹³⁸ See “Fisherman’s Tales” , Ninth Quarterly Accession Watch Report, May 2011, pg. 37–44, available at: <http://soros.org.mk/dokumenti/deveti-izvestaj-mk.pdf>

measures that imply **enforcement of laws in effect**, i.e., performance of civil servants' duties, are being advertised as reform projects.

Implementation of ISO and CAF Standards is anticipated for the period 2011-2014. In that regard it should be noted that such promises were made as early as the Rebirth 2006¹⁴² wherein the implementation of ISO standards on public administration *"was anticipated to be completed by the end of 2008"*. Moreover, the Government adopted the decision on introducing ISO Standards on Public Administration as late as April 2011 (i.e., two and half years after the initially stipulated deadline)¹⁴³. On the occasion of the decision's promotion, Deputy Prime Minister Pesevski stated that it is expected *"for the process to be successfully completed in the next six months, but not later than a year."*¹⁴⁴

Hence the question: why does the Work Programme anticipate a deadline of 3 years knowing that the process in question can be completed within a year? Answer thereto is obvious and also explains why this project is copy-pasted in all program documents issued in the last several years. Namely, in the absence of capacity and political will to embark serious public administration reforms, the ruling party fills-in pages of the Work Programme related to Public Administration and Information Society by referring to older and marginal projects.

Evidence in support can also be found in the *"Project 15-111"*, also included in the Work Programme and related to *"introduction of the single telephone number for communication with citizens in regard to administrative procedures led by the institutions"* (June 2011)¹⁴⁵. This project is

¹⁴² VMRO-DPMNE's Programme 2006-2010 "Rebirth in Hundred Steps", pg. 87.

¹⁴³ See <http://www.vicpremier-ekonomija.gov.mk/?q=node/206>, last visited on 18 July 2011.

¹⁴⁴ Ibid 140.

¹⁴⁵ The same number is indicated as contact number on the website: <http://www.uslugi.gov.mk/kontakt.aspx>

enlisted in the Government's Work Programme although the telephone number 15-111 had been introduced and is operational for some time now.

Other projects referred to in the Government's Work Programme are also copy-pasted from previous documents. For example, *citizen's journal* has been indicated as a novelty, but was introduced long time ago, just as the project on *evaluating public administration's performance*, which is identical in contents with *"Traffic Lights"* (citizens can immediately evaluate administration's performance by pressing the relevant button), which was pompously promoted on several occasions in the course of 2011. The Work Programme includes yet another project called *"Quality Barometer"*, but unclear remains how this project is different from the abovementioned?

3.4. Government's Interpretation of Brussels' Messages

Unfortunately, measures and activities anticipated in the Government's Work Programme and related to Public Administration and Information Society provide the conclusion that the old-new government has no intention to pursue actual and essential public administration reform. Moreover, it fails to make due consideration of remarks made in this sector and indicated by EC in the Progress Report 2010, as well as statements made by EC representatives throughout 2011¹⁴⁶.

The Government accepted only remarks on non-aligned regulations for public sector salaries, which is addressed by a measure (new legislation!) whose deadline is June 2013. As for the remark contained in the Progress Report 2010 and related to conversion of temporary into permanent em-

¹⁴⁶ During his visit to Macedonia in April 2011 and following his meeting with Prime Minister Gruevski, EC's President Barroso indicated the need for progress in regard to *"political dialogue, judiciary and public administration reform"*. The Press Release is available in English at: <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/253>

ployments in the third quarter of 2010, in particular without providing an open, transparent, competitive and merit-based procedure, the Government's Work Programme instead of discontinuing such practices anticipates *"completing the transformation of fixed-term employments into employments without fix-term contract"* with a deadline December 2012 – ongoing! In practice, this means that public administration's politicization will continue for at least one and half year!

3.5. More than 2,500 temporary employments per year

When discussing the issue of recruitments through Temporary Employment Agencies, it should be stressed that irrespective of EC's indications the Government continues to pursue them, while the number of temporary employees is marked by a continuous increase. According to data obtained on Freedom of Information (FOI) applications submitted (answers were obtained to 89 from the total of 136 FOI applications) in the period 1 January 2010 - 20 March 2011 a total of 1,686 people were employed through Temporary Employment Agencies. One third of them are employed in the City of Skopje (615), followed by the Ministry of Agriculture, Forestry and Water Economy (207) and the Ministry of Information Society and Administration (105).

As was the case before, the response given by the Secretariat for European Affairs imposes a major dilemma as it reads that "38 employees/months" had been recruited at SEA in the form of temporary employments (See Annex 1). This is SEA's second vague response to

our FOI applications¹⁴⁷ and leads to the conclusion that SEA conceals actual data on their employees and is quite skilled in "outmanoeuvring" FOI instruments.

The figure on 1,686 temporary employees at 65% of state administration bodies for a period of 15 months (in average, 140 employees per month) leads to the conclusion that 215 people per month are employed at all SABs in Macedonia. Hence, in average, 2,500 people per year are employed in Macedonia through Temporary Employment Agencies. For illustration purposes, this accounts for almost 25% of the total number of employees in the state administration. Should this trend on increasing temporary employments continue under same dynamics, and should the Government continue to misread Brussels's messages, in particular by converting temporary into permanent employments, likely is that the state administration will double its size in the next three years.

According to data obtained on FOI applications, in the period 1 January 2010 - 20 March 2011 89 SABs (from the total of 136 SABs addressed with FOI applications) have pursued 935 regular employments without fixed-term contracts and 14 regular employments with fixed-term contracts. Majority of them took place at the Ministry of Agriculture, Forestry and Water Economy (172); followed by the Ministry of Transport and Communications (94), the Ministry of Foreign Affairs (62) and the City of Skopje (56) (See Annex 1).

¹⁴⁷ See Fifth Quarterly Accession Watch Report "Who Needs a Parliament", pg. 53.

3.6. Almost 3000 Vacancies Announced before the Elections

Monitoring activities taken in the period leading to the Elections 20 February - 5 June 2011 (i.e., the period from the announcement of Early Elections until the Election Day) indicate the fact that not only did public sector employments continue, but also gained in intensity. In this period, open calls for 2,969 public sector vacancies were published in the printed media, 613 of which were related to civil servant posts. This should not come as surprise given that the ruling party pressured the public sector in order to secure its victory on the Elections scheduled for June 2011. In that context, A1 TV conducted an investigation into this matter. Investigation's results provided evidence that public sector employees were obliged to secure 15 votes for VMRO-DPMNE's coalition, whereas middle management in public administration was asked to secure as much as 30 votes! Distressing is the fact that the Public Prosecutor failed to recognize any legal grounds for raising criminal charges, which was also the case with the State Commission for Prevention of Corruption, notably because it failed to establish abuse of public office and corruptive actions.

3.7. Old habits die hard!

Poor quality of relevant legislation is yet another problem that affects proper operation of the public administration. This problem was duly noted in SIGMA's 2010 Assessment for the Republic of Macedonia¹⁴⁸ (*"The poor quality of legislation is still a common problem"*) and in

the Progress Report 2010¹⁴⁹ (*"The quality of legislative drafting by the central and local administration needs further improvement"*). Unfortunately, the Government's Work Programme does not address this serious problem! Instead, it anticipates a measure which reads: *"alleviating the administrative burden through increased participation of citizens and companies in proposing new legislation"*, which in euphemistic terms is nothing more than pure hypocrisy! Participation of citizens, companies, and other stakeholders in legislation drafting and proposing is a much broader issue than alleviating the administrative burden!

In the broader context, participation of citizens and civil society in legislation drafting is a system bottleneck: (1) draft-laws are not regularly uploaded on the line ministries' websites and on the Single Electronic Register of Regulations (<http://www.ener.gov.mk/>); (2) draft-laws are not disclosed, even as response to submitted FOI applications, whereas public debates became an abstract noun. Hence, the statement included in the Government's Work Program which reads *"e-Democracy website- to enable citizens to comment draft-strategies, regulations, action plans and other acts in the course of their adoption (modern method for public debate)"*¹⁵⁰, anticipated to be completed by December 2011 is utterly dishonest, in particular knowing that existing methods and instruments that are conducive to citizens' participation in policy-making are flagrantly disregarded. This creates a false impression that we are one website short of enabling high quality public debate on draft-documents.

The most recent example that confirms the application of such practices on the part of the new Parliament of Republic of Macedonia is

¹⁴⁸ Available in English language at: <http://www.sigmaweb.org/dataoecd/28/40/46401959.pdf>, last visited on 18 July 2011.

¹⁴⁹ Progress Report for the Republic of Macedonia, SEC(2010)1332, EC, November 2010, available in English language at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf, last visited on 19 July 2011.

¹⁵⁰ The Government's Work Programme for the period 2011 – 2015, pg. 22.

seen in the adoption of amendments to the Broadcasting Law¹⁵¹, in a fast-tracked and non-transparent procedure, and without consultations with relevant professional associations, let alone the media. Such actions were subject to fierce reactions expressed by concerned representatives of the civil society¹⁵² and the EC,¹⁵³ which was surprised to learn that amendments to the Broadcasting Law were pursued without previously organized consultations and public debates with the media.

Poor quality of enacted legislation and major problems related to its enforcement are also a result of inappropriate and incompetent Regulatory Impact Assessment (RIA). In their respective reports, both EC¹⁵⁴ and SIGMA¹⁵⁵ noted the failure to implement this instrument. In addition to addressing this problem as part of our previous Quarterly Accession Watch Reports, the analysis made by FOSM and the Macedonian Young Lawyers Association on the RIA-based legislation drafting process provided the following conclusions: (1) the obligation on publishing draft-laws in the Single Electronic Register of Regulations is not complied with; (2) stakeholders are not included in the drafting

process and their remarks and suggestions are not taken into consideration; (3) RIA implementation plans are incomplete; (4) costs and fiscal implications of draft-laws are not defined, etc.¹⁵⁶

Given the abovementioned, it is our opinion that future public administration reforms must include a component on enhanced quality of legislation drafting, accompanied with compulsory broad consultations with all stakeholders, i.e., inclusive policy-making process which provide participation of the expert and general public, followed by relevant sanctions for failure to do so. Also, this component must include adherent implementation of RIA, for the purpose of enabling better enforcement of legislation adopted and avoiding frequent amendments thereto, as well as for the purpose of guaranteeing greater legal security.

3.8. Conclusions and Recommendations

Despite public administration's importance, in particular its role as a vehicle for implementing activities conducive to Macedonia's EU integration, the Government's Work Programme 2011-2015 does not anticipate anything new that guarantees improvements in this sector. All consecutive programs of VMRO-DPMNE's government copy-paste one and the same projects and pompously announce activities that have already been completed. The good old habit on temporary employments continues, whereby open calls for nearly 3,000 public sector vacancies were announced only in the period leading to the Elections. Both, the Government and the public administration remain non-transparent. A

¹⁵¹ Draft Law on Amending the Broadcasting Law, adopted by the Parliament on its fifth session and available at: <http://sobranie.mk/ext/materialdetails.aspx?Id=46ba5790-0e8f-456c-a1ab-15b6c2eb7746>

¹⁵² See <http://vesti.alfa.mk/default.aspx?mId=36&eventId=39208>, last visited on 19 July 2011.

¹⁵³ See <http://vesti.alfa.mk/default.aspx?mId=36&eventId=39231&egId=6>, last visited on 19 July 2011.

¹⁵⁴ "The Regulatory Impact Assessment is not applied systematically", Progress Report for the Republic of Macedonia, pg. 11, SEC(2010)1332, European Commission, November 2010, available in English language at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf, last visited on 19 July 2011.

¹⁵⁵ "The system of Regulatory Impact Assessment (RIA)...is not yet fully operational. RIAs have been undertaken for only a few laws." 2010 SIGMA Assessment for the Republic of Macedonia, pg. 6, available in English language at: <http://www.sigmaweb.org/dataoecd/28/40/46401959.pdf>, last visited on 19 July 2011.

¹⁵⁶ Analysis of legislation drafting by means of regulatory impact assessment in the course of 2010, developed by MYLA, in cooperation with FOSM, available at: <http://www.soros.org.mk/default.asp?lang=mak&menuid=430>

successful public administration reform requires the implementation of following recommendations:

- Comprehensive and in-depth analysis of public sector's scope is needed in order to determine the number of administration employees. This analysis must show the share of annual budget funds spent on salaries and other costs related to public administration's operation. Moreover, this should provide the baseline for an assessment of public sector employees' efficiency, in particular as the ratio of funds spent and benefits created per individual employee. The analysis should also include a sustainability assessment of administration's scope in the long run;
- The Strategy on Public Administration Reform should be revised and amended¹⁵⁷ in compliance with analysis findings, and by organizing broad consultations with stakeholders, as well as with the expert and general public;
- Measures related to public administration reform and anticipated under the Government's Work Programme 2011-2015 to be aligned with the revised Strategy on Public Administration Reform;
- An action plan should be developed with a view to reduce negative effects of previous politicization and to prevent future politicization of the public administration. The action plan should address the entire public sector and should be developed by a working group, which in addition to public administration representatives, will also include civil society representatives, experts and other relevant actors;

¹⁵⁷ The Strategy was adopted by the Government of the Republic of Macedonia in December 2010. For more comments on the Draft-Strategy, see the Seventh Quarterly Accession Watch Report "Government Ltd", FOSIM and MCET, November 2010, pg. 54-61, available at <http://soros.org.mk/dokumenti/sedmi-izvestaj-mk-za-WEB.pdf>

- Practices on transforming temporary into permanent employments should be immediately discontinued, and their number should be reduced to minimum;
- Non-compliance with the obligation to upload draft-laws in the Single Electronic Register of Regulations and on line ministries' websites should be sanctioned, as well as non-compliance with the obligation on Regulatory Impact Assessment;
- To discontinue practices on fast-tracked and poor quality of legislation drafting. Opinions obtained by consulted entities (in particular the Secretariat on Legislation) and related to draft-laws should be published together with the texts of draft legislation;
- A plan to be developed on capacity building for central and local administration, with a view to improve quality of legislation drafting.

4. POLICE

If in its previous Progress Reports the EC noted progress in regard to Police reform, this year's report will most definitely note a standstill in that regard, or even regress. Namely, the Progress Report 2010 noted progress related to the entry in effect of the Law on Internal Affairs, whose aim is to secure professional and depoliticization of MOI officers, including higher command echelons. Relevant secondary legislation is also in effect, work groups tasked to supervise their enforcement have been established and collective agreements were signed with police trade unions. The Act on Job Systematization has not been adopted, although it was to introduce a merit-based recruitment and evaluation system.

Under this section, the Accession Partnership defines eight short-term priorities¹⁵⁸ and one medium-term¹⁵⁹ priority, but given the fact that this document has been adopted 4 years ago, it is almost absurd to speak about medium-term priorities.

In the previous Quarterly Accession Watch Reports we stated declined dynamics of reforms in this field, in particular following the visa liberalization. The present report infers the conclusion that not only did MOI fail to accelerate the reform dynamics, but it endangered the progress achieved with EU assistance. Unfortunately, large portion of MOI activities concern alignment of the national legislation with the EU *acquis*, and some of them are being postponed from one to another year. Hence, unclear is whether delivery of these activities is delayed or they are pursued in an inappropriate manner because of lack of funds

¹⁵⁸ 1) Further implementation of the Action Plan on Integrated Border Management (IBM), databases on border management-related information; upgrading the equipment for document analysis and border surveillance; implementation of the requirements for submission of travel documents with high quality and further training; 2) adequate funding / training for implementation of police reforms, strengthening the coordination between police and other authorities; strengthening the cooperation between criminal police and public prosecution; 3) development and implementation of the human resources strategy and training and equipment upgrade; 4) further strengthening the fight against organized crime, by means of special investigative measures and proper issuance and monitoring the international arrest warrants (computer crime, child pornography) and creation of an integrated intelligence system among competent authorities in the fight against organized crime, trafficking in human beings, weapons and drugs; 5) strengthening efforts to implement the national action plan against human trafficking and the capacity for investigation of computer crime; 6) implementation of the Readmission Agreement between the EC and the Republic of Macedonia and negotiations with countries of origin for migrants transiting in the Republic of Macedonia; 7) strengthened introduction of legal instruments aimed to guarantee the rights of people in need of (international) protection; and 8) harmonization of the acts on asylum and foreigners with the relevant *acquis*.

¹⁵⁹ Alignment of legislation on asylum and aliens with the relevant *acquis*.

or administrative capacity. NPAA 2011 anticipates measures related to legislation alignment, but fails to include measures for its enforcement.

4.1. Martin Neskovski's Murder

On the night of 5 June 2011, in the midst of VMRO-DPMNE's election victory celebrations on the Skopje square, young Martin Neskovski was killed by a member of special task unit "Tigar". Several days later and only after MOI's failed attempts to conceal the murder as it became clear in public that there are too many eyewitnesses, Igor Spasovski turned himself in and was arrested. The act itself, as well as MOI attempts to conceal the case, triggered the revolt of young people who organized themselves via social networks (Twitter and Facebook) and took the streets to protest against police brutality, insisting on full resolution of the case and requesting responsibility from competent authorities.

Instead of an appropriate reaction, the Ministry of Interior - in the already recognizable style - responded to young protesters' requests with an arrogant letter, which reads: *"Dear all, the Ministry of Interior works in proper manner, and has daily and direct communication with the public, as part of its legal competences. As regards the statement that you referred to, when asked by the media, we expressed our position that if people who protest express their genuine interest in meeting, the Ministry of Interior is open to listen to their complaint, as is the case with all citizens. MOI remains open for cooperation and is available for all citizens. In line with our authorizations, we will do our best to quickly respond to any request you put forward, including a meeting, which was demonstrated with the responses made to previously raised questions."*

¹⁶⁰ As was the case in the past, MOI demonstrated its utter inclination to ignore requests raised not only by young protesters, but by all stakeholders in society.

Newly elected MPs were presented with a list of requirements, those being: 1) to establish a standing parliamentary committee tasked to supervise police operation and fulfilment of professional standards, which should include civil society representatives as well; 2) to adopt relevant amendments to laws and allow participation of civil society in the drafting process, as well as to organize public debates; 3) to reform the Sector for Internal Control and Professional Standards and to establish an external supervisory body; 4) to increase Parliament's control over the Ministry of Interior and to publish monthly briefs thereof on the MOI's website; 5) to increase sanctions stipulated by the Criminal Code, in particular for acts committed by MOI employees, regardless of the fact whether they were committed in the course of official duties or not; 6) to reduce MOI's budget in proportion to any criminal act committed by MOI officers; 7) to guarantee presence of uniformed policeman in cases when special task unit members are in contact with the citizens; 8) to stipulate compulsory performance of community work for all policemen, as well as anger management and psychiatric assistance in the aftermath of any special action, as well as special care for those diagnosed with post-war syndrome and to re-examine terms and conditions under which these people are allowed to possess and operate firearms; 9) independent civil commissions to supervise the recruitment process at MOI in order to check possible criminal background of candidates, and to monitor admission of new students at the Police Academy; 10) to make available in public anonymous profiles and work resumes of police members, including information on

disciplinary measures taken; 11) to re-examine the need of special task units and discharge those for which there are evidence on human rights violations and to change their composition and operation.

A closer look at young protesters' requests provides the conclusion that they do not differ from EU requirements for the Macedonian Police. Evidence in support of this fact can be found in the anticipated outcomes from the project programmed under IPA 2007, which are discussed in detail further in this report.

True face of Macedonian society emerged in the last 3 months, i.e., in the course of youth's protests. Instead of response and taking responsibility, the public was confused with counter-protests organized before the opposition SDSM, by unknown NGOs, which came forth with unknown requests, followed by an ignorant, rude and undermining attitude demonstrated by appointed officials towards the protesters and their requests. The most accountable person in this case, Minister of Interior Jankulovska continued to behave in the style common only to herself and said that MOI works in compliance with the Constitution and the laws in effects, that Martin Neskovski's killer has been arrested and therefore the case is considered closed. Moreover, she referred to the Soros Foundation as the instigator of public discontent and protests, and has established various archi-brigades for that purpose¹⁶¹.

Counter-protests spilled over on Facebook, in particular with the establishment of support group for Igor Spasov, who - according to this group member - is *"2001 veteran who deliberately and selflessly collated his life for the good of the Republic of Macedonia"*¹⁶². Considering that youth protests were organized via social network "Justice for the

¹⁶⁰ Response to the FOI application archived under no.07-53868/1 from 29.06.2011.

¹⁶¹ <http://www.tocka.com.mk/index12.php?ID=44556>

¹⁶² <https://www.facebook.com/#!/groups/igorspasov/>

Murdered Youth”¹⁶³ and given MOI’s unsuccessful attempts to close this network, the appearance of Facebook counter-group does not surprise.

Namely, the counter-group praises Igor Spasov and portrays him as *“defender of the country who sacrificed everything while others were at home in front of their TV sets and listening to facts about young men dying for the Macedonian people”*. He was also portrayed as victim because *“he was shot in the armed conflict”*, and arguments were provided that others *“have no right to call him ‘killer’ if they do not know him”* and are *“not competent to speak of his personality”*¹⁶⁴. Of course, this group’s authors do not forget to label their opponents *“treacherous and petty souls, individuals who disgrace their own people”*.

Another group member, however, referred to *“the truth about the special police officer, Igor Spasov”* and in that claimed that murdered Martin Neskovski was *“registered drug addict and criminal who has not come home for days”*, indicating that his family *“struggled with his behaviour”*. Of course, he did not fail to confirm positions expressed by Minister Jankulovska: *“the truth is not the one as depicted by Soros and the A1 gang”*¹⁶⁵.

Key evidence in support of the system’s failure and its betrayal of both group members is the statement given by Martin Neskovski’s mother at the time she was informed of her son’s killing *“ the state killed my son”*¹⁶⁶.

4.2. IPA

Requests made by young protesters and the EU correspond. Aware of Police’s importance in any society, the EU invested enormous funds and efforts to support police reform. In part, this was due to the obligation to deliver visa liberalization for Western Balkans, in compliance with the Thessaloniki Declaration from June 2003¹⁶⁷ and police’s role in that regard, but also for the purpose of fighting corruption and crime in the region. It does not surprise that the EC, together with the Government, dedicated a large portion of IPA funds to police reform. In turn, this explains the successful track record under police reform, as noted in the previous Progress Reports for the Republic of Macedonia. In other words, when European consultants work with an institution, i.e., the Police, there is no space for political manipulations. Once projects are completed (early 2010), VMRO-DPMNE starts to abuse the police.

The table below provides an overview of EU programmed funds (that are not subject to re-allocation). It enables a precise image on EU’s expectations (defined in a joint effort with the Macedonian Government); hence they are not specific benchmarks as pro-governmental media reported.

¹⁶³ <https://www.facebook.com/#!/groups/134130019998246/>

¹⁶⁴ Slavica Mihajlova, member of the group “Support for the police officer Igor Spasov”, <https://www.facebook.com/#!/groups/134130019998246/> .

¹⁶⁵ Tale Stoev, member of the group “Support for the police officer Igor Spasov”.

¹⁶⁶ <http://www.youtube.com/watch?v=n2cxFdpQSUs>

¹⁶⁷ <http://www.stabilitypact.org/reg-conf/030621-thessaloniki/declaration.asp>

B	Project Title	Amount (in EUR millions)
National IPA		
1	Support for the implementation of the Strategy on Police Reforms - IPA 2007	9.4
2	Further capacity-building for Integrated Border Management (IBM), in compliance with the Schengen standards - IPA 2009	3.57
3	Support for national reforms of the Police and criminal law - IPA 2009	1.026
4	Further capacity-building for the Police and other institutions in the fields of border management, community policing and fight against organized crime - IPA 2010	2.513
5	Developing advanced system on intelligence gathering and analysis, for the purpose of fight against organized crime - IPA 2011	1.4

B	Project Title	Amount (in EUR millions)
Multi-Beneficiary IPA		
1	Regional support for updating, implementation and monitoring of IBM strategies and action plans, as well as development of regional and cross-border initiatives - IPA 2007	1.5
2	Western Balkan immigration and socio-economic development - IPA 2009	2
3	Witness protection in the fight against serious crime and terrorism (WINPRO) – IPA 2009	4
4	Fight against organized crime and corruption: strengthening the prosecutors' network - IPA 2010	5
5	Regional cooperation in the field of criminal justice: capacity-building for fight against cybercrime - IPA 2010	2.5
Total		33

The table above shows that the EU (together with the Government) programmed nearly 33 million EUR, 18 million of which are intended to support national reform projects, while the remaining 15 million target regional projects.

As regards national projects, only the first one (Strategy on Police Reforms) has been completed, and is considered the biggest because of the large support provided (9.4 million EUR). However, the relevant Project Fiche defines its goal as follows: *“to secure professional police service and administration that is able to maintain public order and*

*peace and enforce the laws in effect, in particular by making due consideration of the EU Regulation and best practices, as well as by enjoying broad public trust”*¹⁶⁸. The project includes 3 components and anticipates support on strategic, tactical and operational levels. Project outcomes include: 1) improved, more effective and efficient operation of the Police; 2) improved track record on resolved cases and rapid reaction to events; 3) increased public trust in the Police; and 4) full alignment with the EU in all aspects of police work.

¹⁶⁸ Project goal as defined in the Project Fiche's logical framework.

This project's success was duly noted in EC's Progress Reports 2008, 2009 and 2010. Nevertheless, events that unravelled in the project's aftermath, i.e., once the foreign consultants left the country, such as the clashes in the Parliament, the unauthorized interception of opposition's communications, the attacks on A1 TV, Martin Neskovski's murder and Ljube Boskovski's spectacular arrest create the impression that MOI operates in proper manner only when foreign consultants are present at its premises.

In turn, such behaviour raises concerns as to the effectiveness of EU assistance. For the millionth time, Macedonia has demonstrated weakness and inability of its institutions to properly operate in the absence of the foreign factor. Moreover, such practices impose the need for external supervision over police work, which was one of the key requests put forward by young people who protested against Martin Neskovski's brutal murder.

4.3. The New Mihajlo Manevski

The need for external control over the Police was addressed in the Third Quarterly Accession Watch Report titled "Lisbon-Athens-Skopje"¹⁶⁹ and it continues to raise concerns even today, in particular after the most recent developments in the country. Notably, two years after the Law on Internal Affairs was adopted, police supervision remains unaligned with international standards. The provision stipulating that MOI work will be supervised by the Parliament and the Ombudsman seems illogical. In no case can this represent an independent, unbiased

and efficient mechanism for preventing police power abuse. Moreover, full harmonization with the European Convention on Human Rights (ECHR), recommendations of the Committee against Torture and the Framework Convention on Protecting National Minorities has not been achieved. Not only does the law fail to integrate the proposal of the working group that defines the new supervision concept, but it also ignores current supervisory mechanisms available to the other public bodies such as the Public Prosecution¹⁷⁰, the judiciary¹⁷¹ and the local governments¹⁷². In turn, such environment is not conducive to advocacy efforts targeting the introduction of the European concept on police supervision which implies civil society's involvement, such as the one implemented in Austria.

In particular, Austria has established a special body within its Ministry of Interior, which – in compliance with the recommendations from the Council of Europe – must be independent from any political interference. Moreover, the said body provides a mechanism on civil protection against possible police abuse. The body is called "Human Rights Advisory Board" and is comprised of 11 members: 5 representatives from the government, 5 from the non-governmental sector. It is chaired by a person appointed by the Austrian Constitutional Court. On one occasion, the Board's President, Klaus Gerhard Wielinger, said: "*The Human Rights Advisory Board is independent. It does not depend on the Minister, and as I already said, it needs to achieve a balance between positions held by NGOs and the administration's representatives.*"¹⁷³ In

¹⁶⁹ "Lisbon-Skopje-Athens", Third Quarterly Accession Watch Report, October 2009, pp. 21-22, available at: <http://soros.org.mk/dokumenti/Tret-izvestaj-MK-so-CIP.pdf> and http://mcet.org.mk/?page_id=120

¹⁷⁰ According to the Constitution of the Republic of Macedonia and the Law on Public Prosecution, the investigation is led by the Public Prosecutor.

¹⁷¹ According to the Law on Criminal Procedure, the court assesses the legality of police authorizations.

¹⁷² Local community's role in the appointment of police chiefs.

¹⁷³ <http://www.a1.com.mk/vesti/default.aspx?VestID=139272>

other words, should such or similar external police supervision exist in Macedonia, Martin Neskovski's murder and flagrant violation of human rights in the case of Ljube Boskovski would not have occurred, and even if they did, the requests put forward by young protesters and fellow party members of United for Macedonia would have been taken into considered and the Government would have immediately reacted thereto with appropriate measures. Hence, the conclusion remains that the Government turns a deaf ear to citizens' demands¹⁷⁴.

The above-referred body includes also 6 regional committees, which in fact "perform grassroots work" for the Advisory Board. Each regional committee is comprised of 40 members with different professional background, but none of them comes from the authorities in power. By law, committee members are authorized to visit all police stations, prisons and detention premises and in that request to speak to detainees, make an insight in relevant documents and take any other action deemed necessary with a view to supervise police work in the best manner possible. As part of its visits to police centres, the Board has unlimited possibilities to speak with all people without mandatory presence of a police officer. This means that the decision on whether talks will be conducted with or without the presence of a police officer depends entirely on the interviewee. Committee members are also given unhindered insight in complete documents disposed by police services.

As a reminder, for long time now the Helsinki Committee advocated for detainees from the "Cobweb" affair to be allowed visitors. The same is valid for *United for Macedonia's* leader. To date, detainees were not granted these rights. On the contrary, the Government launched

a campaign against the Helsinki Committee in the pro-governmental media¹⁷⁵.

Many things have changed in Austria after the establishment of this body and its committees, i.e., relevant legislation, behaviour demonstrated on the part of authorities, manner in which detainees are treated, police's treatment of people and its communication with citizens¹⁷⁶.

Austrian Professor Wolfgang Benedek made an analysis on this body's establishment and operation. If competent authorities in our country are more ambitious and express interest in reading this analysis, it is available on the website of the Advisory Board¹⁷⁷.

Finally, let us remind that in its 2009 Progress Report for the Republic of Macedonia, the European Commission noted: "*The Ministry of the Interior's decision to disband temporarily all special 'Alpha' police units, save the one in Skopje, brought a drastic decrease in complaints of ill-treatment*"¹⁷⁸. In its 2010 Progress Report, it noted: "*Allegations of ill-treatment of apprehended persons by the special 'Alpha' police units, which remain in place only in Skopje, persisted*"¹⁷⁹ and reiterated: "*there is still no robust independent mechanism for oversight of the law enforcement agencies. Decisions in this area by the European Court of Human Rights, in particular as regards police brutality toward the Roma, were not fully implemented*"¹⁸⁰. Therefore, one cannot understand why

¹⁷⁴ <http://globalvoicesonline.org/2011/09/02/macedonia-authorities-keep-ignoring-protesters-demands/>

¹⁷⁵ <http://www.time.mk/read/NONE/3a2142f03b/index.html>

¹⁷⁶ For further information on the establishment of the Advisory Board, members and competences, please visit: http://www.menschenrechtsbeirat.at/cms15/index.php?option=com_content&view=category&id=81&Itemid=35

¹⁷⁷ http://www.menschenrechtsbeirat.at/cms15/mrb_pdf/artikel/benedek.pdf.

¹⁷⁸ EC's 2009 Progress Report for the Republic of Macedonia, pg. 15.

¹⁷⁹ EC's 2010 Progress Report for the Republic of Macedonia, pg. 13.

¹⁸⁰ *Ibid*, 177.

did the Prime Minister insist for Gordana Jankulovska to stay in office as Minister of Interior? It remains to be seen whether she is the new Mihajlo Manevski in Gruevski's new government.

4.4. Macedonian Matters

The murder of the young Neskoski, when the police tried to spin the reality, misinform and discredit the protests organized, as well to deny any criminal, moral and political responsibility of other parties involved, provide yet another evidence on the need for reforms¹⁸¹. This was the last straw, especially given that events from January when another special unit member had battered two citizens, one of which was in coma, are still fresh in the public's memory¹⁸².

The law does not provide for any real control of the Parliament of the Republic of Macedonia over the Security and Intelligence Authority (hereinafter: SIA). The law stipulates that SIA should submit to the Parliament Committee its programme and report, but no provisions stipulate the possibility for the committee to give its feedback and propose follow-up actions. In part, this explains the remark contained in the Progress Report 2010: *"The oversight committee on the work of the intelligence agency did not meet and the committee on interception*

*of communications and on local self-government remained among the least active"*¹⁸³. As early as the Progress Report 2009, the European Commission warned that these two committees have held no hearings so far.¹⁸⁴ Forthcoming Progress Report will most likely - for the third time in a row - repeat EC's comment on the inadequacy of these institutions.

These solutions are in discrepancy with the Penitentiary Reform Strategy and the new draft solution incorporated in the Law on Criminal Procedure (LCP). The issue of poorly coordinated reforms at the Ministry of Justice and the Ministry of Interior need to be reiterated since such behaviour is unacceptable in the EU integration process, especially when transposing the *acquis* and assuming obligations in this field. Thus, new members of both parliamentary committees (oversight committee on interception measures taken by the Ministry of Interior and the Ministry of Defence, and oversight committee for SIA and the Intelligence Agency) should make serious efforts and insist on continuous public hearings as regards the work and operation of SIA and the Agency. MOI must not prevent the work of these committees. One of the most urgent activities needed is the issuance of security certificates for MPs who participate in the work of these committees, for the purpose of enabling their unhindered operation.

In December 2008, the Parliament of the Republic of Macedonia ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 4 of the Law on Ratification reads: *"Pursuant to Article 17 of the Protocol, the Republic of Macedonia hereby declares that the Ombudsman of the Republic of Macedonia shall be authorized to act in the capacity of*

¹⁸¹ <http://kvadraturanakrugot.crnaovca.mk/2011/06/17/sluchajot-so-ubistvoto-na-martin-ne-e-razreshen-a-sluchajot-so-postoenjeto-na-neodgovornost-i-nedopirlivost-na-funkcionerite-koi-rakovodat-so-mvr-ne-e-ni-postaven-na-dnevn-red>

¹⁸² In this case, the police officer was prosecuted for infliction of serious physical injuries (the relevant sentence for such crime is 1 to 10 years imprisonment). One month following the incident, the Sector for Internal Control and Professional Standards raised the issue in front of the Commission on Dismissals, which instead of dismissing the special task unit member, offered him a new job as uniformed police officer in the Kicevo police station. More information available at: <http://www.dnevnik.com.mk/default.asp?ItemID=D78E3657B657EB4BB123DD0E37BC38D0>

¹⁸³ EC's 2010 Progress Report for the Republic of Macedonia, pg. 6.

¹⁸⁴ EC's 2009 Progress Report for the Republic of Macedonia, pg. 5.

national prevention mechanism. In cooperation with, and based on previous approvals issued by the Ombudsman, NGOs registered in the Republic of Macedonia and organizations holding the status of humanitarian organizations can assume certain competences defined for the national preventive mechanism". However, two and half years from the ratification of this Protocol, there are no reports issued by the Ombudsman and related to the implementation of this mechanism and *ad hoc* visits made to detention and prison wards at penitentiary facilities. If the Ombudsman increases the transparency of its operations, citizens will be encouraged to resort to mechanisms on protection of their rights that are made available to them.

4.5. What will the Government do?

Pursuant to Article 90, paragraph 2 of the Constitution of the Republic of Macedonia, the Government presented the Parliament with its Work Programme for the period 2011-2015. As part of this document, the Government has committed to create contemporary, reformed, European Police in service of citizens, and to that end it anticipated the following measures: 1) all MOI employees will be obliged to submit declarations on their assets; 2) citizens will be allowed to visit the Sector for Internal Control and Professional Standards established within the MOI; 3) a register will be established and maintained and will include persons sentenced for sexual abuse of children; 4) lectures on traffic behaviour will be delivered at secondary schools; 5) youth at the age of 16 will be allowed to take driving license exams for operating vehicles of B category; 6) electronic IDs will be introduced; 7) new Law on Prevention of Violence and Misconduct at Sport Events will be enacted; 8) a register will be established and maintained and will

include individuals who had disturbed public order at sports events; 9) responsible police officer will be deployed to all schools; 10) 24/7 security video surveillance will be established in most frequented areas throughout the City of Skopje, Kumanovo and Tetovo; 11) most complex police actions taken by the special task units will be managed by a central command centre; 12) "Tetra" project will cover the entire territory with digital radio signal for the police; 13) study visits to neighbourhood countries will be organized for Macedonian police officers; 14) information security system will be introduced; 15) MOI databases will be interconnected to databases kept by other institutions; 16) MOI's website will be modernized; 17) procedures on relevant document issuing will be streamlined; and 18) quality of communication links and information flow will be improved.¹⁸⁵

A closer look at this document reveals that the Government did not plan any activities aimed to improve the present state of affairs in regard to the Police. First, the above-indicated measures are not projects, but rather day-to-day activities of the MOI that have been already planned as part of other projects¹⁸⁶, whose implementation was a commitment assumed by the Government. Second, none of these measures will increase citizens' trust in the Police and will not enable greater civil supervision, initiate discussions at the Parliament or result in the establishment of mechanism that will incorporate citizens' opinions/demands in the police system. On the contrary, activities defined in the Work Programme will further burden the system without producing any significant outcomes.

¹⁸⁵ The Government's Work Programme for the period 2011-2015, pg. 44.

¹⁸⁶ Please see the table on IPA-programmed projects above.

4.6. Conclusion and Recommendations

Likely is that the forthcoming EC Progress Report for the Republic of Macedonia will provide a different assessment on police reforms compared to previous Progress Reports. Once EU projects are completed, fact is that this year the MOI proved to be the main inhibitor of reforms in the field of Justice and Internal Affairs. Consequently, the work of both parliamentary committees was made impossible. MOI's Sector for Internal Control and Professional Standards yet again demonstrated poor capacity to address excessive use of force by police officers. Youth protests seeking justice for Martin Neskovski's death continue and their requests are widely disregarded by the Government. More distressing are the counter-protests and the reinstatement of Jankulovska as Minister of Interior. Special investigation measures, in particular interception, are used to settle accounts with political rivals, even in the course of election campaigns. Recent developments in this sector seriously hinder previously noted progress. Therefore, the Government must immediately take the following steps:

- Security certificates to be immediately issued to the MPs who participate in the work of the oversight committee over SIA and the Intelligence Agency and the oversight committee over interception measures taken by the Ministry of Interior and the Ministry of Defence, for the purpose of unhindered performance of their activities;
- To immediately enact amendments to the Law on Internal Affairs, which - in addition to MOI's Sector for Internal Control and Professional Standards - will enable an independent supervision system over MOI operations, in compliance with the recommendations contained in relevant reports;
- A representative of the Government of the Republic of Macedonia, other than the Minister of Interior, must meet with young protesters, with a view to open dialogue on their requests;

- The Parliament to reconsider the use of special investigation measures in the case of Ljube Boskovski and publish the relevant findings;
- Comparative analysis is needed in regard to bodies tasked to supervise police work, followed by a serious debate on the most appropriate oversight system to be implemented in Macedonia;
- President of the Macedonian Government must reconsider his decision on the re-instatement of Gordana Jankulovska as Minister of Interior.

5. ECONOMY AS TOP PRIORITY

Following the second Early Elections held in June, for the third time in a row the Government's Work Programme copy-pasted VMRO-DPMNE's Election Programme, pretentiously titled *"MANIFESTO for Reforms and Development"*. Such copy-paste exercises clearly indicate the fact that Gruevski's biggest or key coalition partner - Ali Ahmeti's political party - was not consulted when drafting the Government's programme, let alone the smaller coalition partners. Another important fact is that economy remains "top" priority. In an attempt to present his economic achievements as "historic", and in that resorting to the Accountability Report, the Manifesto and ever-present advertisements broadcasted in the period leading to the elections, as well as using the withdrawn tranche from the IMF's Precautionary Credit Line in the amount of 220 million EUR as his greatest argument, Gruevski legitimized his third term of office with the need for "high and sustainable economic growth" and "increased employment".

In continuation, the present analysis provides a brief overview of policies and measures defined under the economy section from the Govern-

ment's Work Programme for the next 4 years¹⁸⁷, as well as an assessment whether and how do these measures make due consideration of the imminent global crisis. Furthermore, the analyses addresses programme's relation to key developmental documents¹⁸⁸ related to EU integration, i.e., whether and how are key developmental priorities and objectives related to EU membership reflected in the Government's Work Programme. Finally, the Government's Work Programmes is analysed against EU developmental documents, in particular the Europe 2020 Strategy¹⁸⁹.

5.1. Pink Forecasts

The Government's Work Programme defines five strategic priorities¹⁹⁰, i.e., transposed the priorities contained in the previous Election Programme – the Rebirth. Unfortunately, it does not address previous

progress achieved in that regard, problems and challenges encountered, as well as lessons learned. This means that either the Government failed to learn anything or failed to do anything, hence the repetition of priorities pursued in the previous 6 years of ruling.

Distressing is the fact that the Government also failed to address current state of affairs in economy: conditions, needs and possibilities. Indicative is also the failure to make due consideration of the fact that global economy is on the verge of yet another economic, as well as social crisis, in particular as the said programme does not refer to such prospects and hence did not design a strategy in response thereto. Although under the section on GDP growth by 2015, VMRO-DPMNE's Manifesto acknowledges the fact that projections made will likely depend on the possible global crisis, the Economic Programme anticipates quite high growth rates and even believes that "*global economy's recovery*" would contribute to increased Foreign Direct Investments (FDI). In that, it is completely dissociated from economic reality and global, and in particular in-country, developments. Inevitable is the impression that the economic team tasked to draft this section wears pink glasses, or the Government - in its distinctive fashion - continues to operate and function for its own purposes, fully ignorant of developments in its surrounding.

In short- and medium-term, full disregard of world crisis on the part of Gruevski's Government can become a serious problem for domestic economy. It seems that the fact that the world is on the brink of another, perhaps more devastating, long-standing and harsh crisis, provides an alibi for Gruevski's undelivered promises, rather than to serve as basis for realistic macroeconomic projections. The Government can all but analyse possible crisis' effects on our economy, at least in short-term, and propose measures to mitigate possible consequences

¹⁸⁷ The Government's Work Programme the period 2011-2015.

¹⁸⁸ European integrations or EU accessions, *inter alia*, implies a complex and demanding exercise of projecting numerous interrelated, coherent and consistent developmental documents. Together they define the country's developmental needs, identify available resources, determine funds needed, policies and instruments, deadlines and responsible institutions and bodies with a view to achieve developmental goals. Their ultimate goal is to channel the energy of all stakeholders in the EU integration process towards a more dynamic development, fulfilment of Copenhagen criteria and eventually – EU membership.

¹⁸⁹ For more information, see the section "Macedonia 2020", pg. 4.

¹⁹⁰ Government's five strategic priorities include: 1. Increased economic growth and employment as a precondition for improved standard of living for citizens and quality of life; 2. Integration of the Republic of Macedonia into NATO and EU; 3. Uncompromised fight against corruption and crime and efficient implementation of the rule of law by means of thorough reforms in judiciary and public administration; 4. Maintaining good inter-ethnic relations based on the principles of mutual tolerance and respect and implementation of the Ohrid Framework Agreement; and 5. Investments in education, science and information technology as elements of a knowledge-based society.

or prevent them, where possible. First and foremost, there is need for different measures aimed to support export-oriented companies from key industries. Support in the form of anti-crisis measures (in consultation and cooperation with business representatives) is needed for companies that supply the domestic market, in particular Small and Medium-Sized Enterprises (SMEs).

At times of serious poverty that affects the population, the Government should make its best efforts to help poverty-stricken people to overcome their hardships. This approach implies different budget projections for the next year and re-allocation of public funds to support anti-crisis measures. Moreover, it necessitates accountable fiscal policy, investments in economy infrastructure, facilitated access to affordable capital, labour market reforms, etc. Minimum efforts needed on the part of the Government are the establishment of a crisis team/committee tasked to follow global economy developments, in particular those in the Eurozone. However, at times of crisis the Government continues to pursue megalomaniac projects and spend public funds without return effects for the domestic economy, and - more distressingly - without reform outcomes.

5.2. Where is the European Agenda?

In addition to fragile and whirlpool-like economic and political circumstances in the broader environment, governmental policies lack another strategic factor: Macedonia's EU integration process. Namely, although Macedonia's accession in the EU was again defined as high priority of the Government, the Work Programme fails to make due consideration of EU Agenda. European integrations are referred only in regard to economic development model, which *"is based on the EU*

Strategy for Economic Development, known as Europe 2020". That is all! On the other hand, goals defined under Europe 2020 imply smart, inclusive and sustainable growth, and are accompanied with sector-based flagship initiatives and policies,¹⁹¹ as well as sets of monitoring indicators¹⁹² to measure progress achieved.

The fact that the Government's Work Programme does not provide any explanation as to the manner in which these goals will be incorporated in the governmental strategies and policies is yet another evidence in support of the statement that EU Agenda is only a declarative commitment. This document does not mirror priorities defined under Europe 2020 and adapted to in-country conditions. Second, unfathomable is also to the manner in which Government's economic policies will contribute to fulfilment of membership criteria related to economy, which in fact are nothing more than attainment of stable, "green" and sustainable knowledge-based economy¹⁹³. Third, there is no vision as to the utilization of EU funds made available to us - as a candidate country - and matching them with public funds, but also with private in-country and foreign capital, for the purpose of achieving more dynamic economic growth, and thereby attaining development levels characteristic for EU Member States and fulfilling economic criteria for EU membership.

Hence, common is the belief that the Government manipulates the public and its constituency, in particular by claiming that EU and EU membership are the country's top strategic priority.

¹⁹¹ For more information, see the section "Macedonia 2020".

¹⁹² For more information, see the section "Macedonia 2020".

¹⁹³ This conclusion is confirmed by EC's Progress Reports, in particular on the fulfilment of economic criteria, which repeatedly criticize government's economic policies as being excessively optimistic, unrealistic and unrelated to the priorities of the Accession Partnership.

5.3. Unrealistic Policies – Unrealistic “Projects”

What does the Government’s Work Programme contain? Notably, the Government pursues its four basic goals related to economic development, increased growth and investments as precondition for job creation and better living standards by implementing a set of “*reform politics and measures*”, those being:

1. Stable Macroeconomic and Fiscal Policies;
2. Tax and Custom Policy;
3. Promoting Business Climate and Competition;
4. Stimulating Investments;
5. Support to SMEs¹⁹⁴.

First reading of reform efforts anticipated provides the impression that they are unrealistic and unsustainable under current economic and social conditions in Macedonia. Moreover, the Work Programme does not address past achievements and problems faced, as well as future challenges. It fails to reflect on unrealized tasks or missteps made, and hence deny any possibility for improved performance on the basis of lessons learned. The long list of wishes (hundreds of measures anticipated) is grouped in five categories. Obvious is that the Macedonian economy can expect little progress, in particular given the inconsistency of Government’s declarative commitments and policies, and incompatibility of policies pursued. In fact, this was clearly demonstrated with past actions taken by the Government.

¹⁹⁴ The Government’s Work Programme for the period 2011-2015, pg. 4.

5.4. Macedonian Mirage

In the section on macroeconomic and fiscal policies, the Government promises high economic growth, i.e., 7% by the end of 2014-2015. Unclear is the baseline used by the Government to make such forecasts. Which industries and/or sectors will contribute to this growth? How does the Government plan to support them, provided they have the potential for such growth? What are chances for success and/or risks of failure? What is the type and amount of in-country and foreign investments that will support such growth? The Government forecasted that by 2015 investments will increase to 650 million EUR. Unfortunately, such megalomaniac projections are based on its assessments related to “*world economy’s recovery, increased trust of foreign investors, as well as incentives offered by Technological-Industrial Development Zone (TIDZ) and industrial zones*”¹⁹⁵.

As a minimum effort, the Government should have reconsidered this year’s figures on FDIs, which are marked by a dramatic decline, and it should have based its forecasts on them, in order to make relevant projections more realistic.

How are continuous warnings related to the fact that the State cannot expect positive changes in regard to FDIs until it becomes a member of NATO and starts EU accession negotiations taken into consideration? Best confirmation of this fact is seen in the case of the Republic of Albania, given the high FDI increase after it joined NATO. Namely, in the period 1995-2004 Albania benefited from investments in the amount of 130 million USD, whereas in the period 2005-2007 they were increased to an average amount of 415 million USD per year. After it became a NATO member, Albania’s FDIs amounted to 988 mil-

¹⁹⁵ The Government’s Work Programme, pg. 4

lion USD in 2008; 979 million USD in 2009; and 1,097 million USD in 2010¹⁹⁶. In Macedonia, FDIs amounted to an average of 152 million USD (1995-2004); were increased to an average of 407 million USD per year (2005-2007); reached 586 million USD in 2008; 201 million USD in 2009; and 293 million USD in 2010¹⁹⁷. Same is true for new EU Member States¹⁹⁸. How long will the Government ignore the reality? Is it unaware of the major investment rule which says that capital is as timid as a hare, goes where it feels protected and stays away from unreliable environments?

5.5. Employment Dreams

As part of its Work Programme, the Government is committed to reduced unemployment, in particular by pursuing increased economic growth, investments and implementation of active employment measures (hereinafter: AEM). Even if government's projections on future growth become reality, unclear remains which sectors and industries will create the number of jobs needed to reduce unemployment to 25%, i.e., by 7% from the current rate. Notably, if the unemployment rate in the first quarter of 2011 accounted for 31.2% (according to the International Labour Organization), or - in absolute figures - there were 294,641 unemployed, an unemployment rate of 25% would reduce the number of unemployed to 236,000, i.e., their number will be decreased

by 59,000 persons i.e., 20% of currently unemployed people¹⁹⁹! This is highly unlikely given that the Government's policy on attracting FDIs targets high-tech and innovation industries, which - by rule - are capital-intensive, rather than labour-intensive industries. In other words, these industries create less new jobs, i.e., use relatively little labour (in particular they rely on highly qualified labour, which is not available in our country), and invest more capital in the manufacturing component (which is also not available in our country!).

On the other hand, active employment measures are also unable to employ enough people and result in an unemployment rate of 25%. This is confirmed by the fact that even after 5 years of implementing these measures²⁰⁰, the number of unemployed is reduced by 2.9%, i.e., from 34.9% in 2007 to 32.0% in 2010²⁰¹. Finally, even if employment measures are surprisingly successful, the effect thereof should be clearly mirrored in the budget of the institution tasked with their implementation, which is not the case in Macedonia.

To make things worse, the Government is unable to utilize EU assistance provided under IPA Component IV (Human Resources Development). Namely, although it is 2011, the Government (i.e., the Employ-

¹⁹⁶ Country fact sheet Albania, source: http://www.unctad.org/sections/dite_dir/docs/wir11_fs_al_en.pdf

¹⁹⁷ Country fact sheet Macedonia, source: http://www.unctad.org/sections/dite_dir/docs/wir11_fs_mk_en.pdf

¹⁹⁸ For more information on FDIs in new Member States, the region and Macedonia, please refer to the last Global Investments Report developed by UNCTAD, available at: <http://www.unctad.org/Templates/Page.asp?intItemID=1465>

¹⁹⁹ Information on the number of unemployed active population and unemployment rate is obtained from the SSO: <http://www.stat.gov.mk/OblastOpsto.aspx?id=14>. Statistics kept by the Employment Agency of the Republic of Macedonia (EARM) for the same period indicate different figures due to different calculation methodology applied. Thus, in the first quarter of 2011, according to EARM, unemployed amounted to 323,183 persons, which mean that according to EARM the unemployment is even higher!

²⁰⁰ Of course, if we accept that all new jobs were created as a result of implemented active employment measures, instead of employments in the public sector, and as a result of employment in the private sector that does not benefit from active employment measures.

²⁰¹ Basic macroeconomic indicators and projections, May 2011: <http://www.finance.gov.mk/node/401>

ment Agency of the Republic of Macedonia) had managed to obtain only one grant for this purpose (around 1.5 million EUR from the total of 9.2 million EUR available for programme years 2007 and 2008, which should have been translated into projects with signed implementation contracts)²⁰².

Incompetence demonstrated by the Central Financing and Contracting Department at the Ministry of Finance (CFCD) – unit tasked with announcement of open calls, project selection and grant-awarding – forced the Government and the EC to amend the Operational Program and reallocate AEM-targeting grants to other measures and activities. The Government's inability and unwillingness to benefit from EU Pre-Accession Funds for the purpose of attaining strategic developmental goals is analysed further in the document.

5.6. Surprised Again?

This section analyses whether economic growth forecasts make due consideration of risks related to new global economic crisis and its effects on the domestic economy? Did the Government develop a relevant response for such scenario? Past experiences related to Government's response to global crises do not allow us to think that it will be able to buffer negative effects thereof on the economic growth in the country.

What are the effects of the responsible fiscal policy the Government speaks of, knowing that in the last three years:

- It pursued continuous loan-taking, and consequently increased the country's total debt to 60% of GDP in the first quarter

²⁰² The principle of IPA programming for Component IV follows the rule n+3, which means that funds programmed in n-year, for example 2007, will be spent in the following three years, or until 2010 the latest.

of 2011, i.e., 4,477.5 million EUR in absolute numbers²⁰³. In turn, this resulted in the country's lowered investment and credit rating, which implies higher interest on future loans and country's lower attractiveness for FDIs;

- It continued to increase the state budget (from 1.7 billion in 2006 to 2.6 billion EUR in 2011) or approximately 40% of GDP²⁰⁴, and thereby, slowly but certainly, gained primacy in all sectors of economy;
- It continued to borrow, both on the domestic and foreign markets, and therefore exhausted the already depleted economy; the Government is utilizing banks' untied funds, both by taking credits from them or stipulating requirements on the reserves they have to keep at the National Bank of the Republic of Macedonia, in particular because of the high-risk economy in the country²⁰⁵.

Under conditions when for the third consecutive year the Government faces problems with servicing its liabilities, while the Pension and Health Insurance Fund suffers from bank account deficits, the most unrealistic assumption made by the authorities in power is the one on increased public revenue with a parallel policy on reduced taxes, customs and excises, employment and health care contributions, which are actually the main source of budget revenue. Moreover, the Government's plans to increase public revenue (perhaps under the assumption that strong economic activity and high investments will fill-in the budget gap?) are accompanied by increased unproductive public spending,

²⁰³ Information is taken from NBRM's quarterly report, source: <http://nbrm.mk/>

²⁰⁴ Budget-related data are obtained from the Ministry of Finance and macroeconomic projections and indicators, source: <http://www.finance.gov.mk/node/849>

²⁰⁵ These conclusions were confirmed by the country's gross foreign debt, which was marked by the highest increase – the country's borrowings attained a share of 60% of GDP. Quarterly Report, July 2011, National Bank of the Republic of Macedonia.

i.e., public and state administration salaries, pension benefits and social transfers.

Given that increase in salaries, pension benefits and social transfers are not associated with a share of increased economic growth or productivity, it is our belief that the increase made is arbitrary, politically-motivated and populist, and is pursued for the purpose of attracting votes, in particular by making promises on future benefits for the beneficiaries thereof. Unclear is whether the Government analysed the effect of increase in salaries and pensions and reduction in contributions, taxes and other charges on the public revenue and public expenditure. It is exactly such reasoning that makes the government's fiscal policy irresponsible towards the citizens, i.e., taxpayers who support the budget and expect the Government to use public funds for the purpose of improving quality of public services and stimulating economic growth, *inter alia*, by means of enhanced public investments in economic infrastructure. Unfortunately, the conclusion remains that the Government uses economic policies and their instruments to redistribute already accumulated wealth to different interest groups, rather than to create new wealth. With that, the Government holds hostage the groups that – in way or another - benefit from state funds.

5.7. Tax and Customs Policy

Under this policy's section, the Government's Work Programme reads: *"Pursuing a responsible and disciplined fiscal policy is the underlying principle of responsible behaviour towards public finances and adequate public spending. Therefore, moderation in public spending and restructuring of public expenditure with the view to increase capital investments remain a key commitment of the new Government."*²⁰⁶

In regard to tax and customs policy, key "reforms" - as the Government likes to call its populist actions - imply continuous decrease of various charges, starting from the profit tax levied to SMEs and ending with employment contributions. On the other hand, the governmental tax policy whose central elements are flat taxes and tax credits for reinvested profits goes in favour of big companies which represent a small portion of the business sector, both in terms of their contribution to GDP and creation of new jobs compared against SMEs. In addition, these companies achieve higher profit margins compared to SMEs which hardly sustain their businesses at times of perpetual economic crisis.

Also, distinction is not made among individual economy sectors and therefore the telecommunications or oil and chemistry industries - on one side - and commercial companies - on the other - are levied tax rates that are identical to those paid by companies in the textile and wood-processing industries, which are labour-intensive and provide significant foreign currency inflow in the state treasury, but are less lucrative compared to the first group of companies.

If the Government wishes to support growth and create new jobs, then it must make proper use of tax policy's instruments. Therefore, a true tax policy reform would imply differentiated taxation bases and promote economy sectors and companies that create new jobs. Populism in declaring Macedonia to have "the lowest taxes in Europe" and being a "tax haven" is also seen in the fact that on one side taxes and other charges are reduced, but on the other side frequent amendments to relevant legislation introduce different new charges that seriously burden entrepreneurs. An illustrative example thereof is seen in the financial obligations stipulated under the Law on Work Safety and Health, in particular as it obliges companies to make annual evaluation

²⁰⁶ The Government's Work Programme for the period 2011-2015, pg. 7.

and assessment of work safety/risks, measure microclimate terms and conditions at work premises, such as dampness, noise, light, heat, etc. According to our calculations, the costs incurred by a non-governmental organization with 5 employees for the purpose of complying with these requirements exceed 2,500 EUR. Calculation of costs incurred by a manufacturing company should be a subject of a comprehensive and in-depth analysis.

Another equally important argument is the fact that the Government - due to its utterly unrealistic budget and fiscal policy - is literally facing monthly troubles related to its insolvency, i.e., inability to service its liabilities. Last year, the Government enacted a law whereby it enabled delayed payment of services performed under public procurements, i.e., public procurement-performing entities can make discretionary-based payments, rather than comply with terms and deadlines agreed. With that, companies that work or wish to work with state institutions are forced to accept pre-defined payment terms that could have negative effects on their liquidity, and thereby their ability to regularly settle liabilities towards workers, suppliers, and the State. Considering the fact that the State is the biggest business and commissioning party in Macedonia, it actually initiates, stimulates and maintains broad insolvency country-wide.

The Government went further this year and decided to do the same with the Value Added Tax (VAT). From the relatively short deadlines on VAT refund, the Government - by introducing the principle "silence is approval" in the work of public administration - plans to extend them to infinity, which in some cases will raise concerns whether refund payments will be made at all. Analysis of this principle's implementation as envisaged by the Government leads to the conclusion that "silence is approval" is yet another manipulation used by the authorities to

demonstrate improved public services and professional administration that performs its duties in fast, quality and cost-effective manner. In fact, this is a time-consuming and complicated procedure with uncertain outcomes (subject to great voluntarism) and high costs (see also FOSM's analysis)²⁰⁷. At this moment, one can only assume possible implications on the companies when exercising their right to VAT refund.

As regards the customs policy, the conclusion inferred is that the Government parlously undermines the spirit of the Stabilization and Association Agreement signed with the EU and the principles of transparency and contract adherence. Hence, the decrease i.e., withdrawal of customs duties and tariffs (an obligation assumed with SAA's second stage of implementation and after the expiration of the transitional 10-year period) is marketed as "custom reform" (such as RIA), whereby the Government advertises its responsiveness to business needs and its commitments to improve the business climate. In reality, from the start of SAA negotiations and its signing - which took place 10 years ago - it was known that from 2011 onwards the Government will revoke all charges levied to products imported from EU, in particular for the purpose of enabling free trade.

What the in-country economy needed was an analysis of effects produced by revoked customs duties for different commodities imported, which on the grounds of being cheaper will directly compete with Macedonian commodities on the domestic market. An analysis of this type would provide arguments to support possible negotiations with the aim to extend deadlines related to customs duties' withdrawal and would enable domestic companies to better adjust to newly created market terms. However, it seems that never-ending are Government's

²⁰⁷ http://www.soros.org.mk/dokumenti/baranje-za-otfranje-na-predlog-zakoni-usoglasuvanje-so-ZOUP_Sobranie-18082011.pdf

attempts to spin negative aspects related to trade and economic liberalization as positive outcomes and take credit for them.

5.8. Business Climatization

The business climate and competition-conducive environment are created by a mix of different economic policies, as discussed above, whose effects are rather obvious. The most illustrative example on the Government's "competition promotion" and development of "positive" business climate is KOSMOS, i.e., the project implemented by a MP from the opposition. The Government is persistent in its efforts to present this case as promotion of rule of law, strict enforcement of laws and respect for level playing market, however, our analysis indicates that, in addition to pursuing political objectives, this is also a matter of protecting the interests of governmental businesses in the construction industry, in particular because they are concerned that this project would have reduced real estate prices in Skopje.

On the account of project's size, likely is that in the medium run such investments would have led to reduced price per square meter of residential/business area, and would therefore significantly decimate monopoly-based gains of several market players. Moreover, if motives behind building's demolition were of legal nature, unclear is why the Government did not appropriate the building and later auctioned it. Such actions would most certainly result in collection of matured receivables, would enable companies to turn around profit and create new jobs, and would create additional budget revenue. On the contrary, the manner in which the situation is being resolved at the moment makes a strong and straight-forward message to all future developers, both domestic and foreign, that capital is not safe in the country unless it brings benefits for the ruling party.

Last but not least, it should be noted that regardless of its commitments to act as partner for the businesses, the Government's efforts fail to create relevant benefits for the state budget, i.e., significant source of budget revenue that could be allocated in support of companies, in particular SMEs, and could thereby facilitate their access to capital, notably by establishing investment funds (or matching funds for the MBDP), and - most importantly - by investing in contemporary economic infrastructure. The state budget does not allocate funds for such purposes, but more distressing is the fact that EU funds are not utilized for that purpose as well (such as Community Programmes, IPA, and the EIB), i.e., to provide direct support for businesses, innovations, knowledge and education, as well as environmental protection and infrastructure. All these lead to the conclusion that the Government is dishonest in its commitment to support the business sector.

In general, governmental policies are more wishful thinking (read: false promises) rather than reality based on attainable goals.

5.9. National Developmental Plan

The Government's Economic Programme - as currently defined and pursued - gives legitimacy to unrealistically projected budget (2012 state budget is projected in an amount higher by 100 million EUR compared to 2011 budget) and public spending on matters unrelated to EU priorities and failing to attain goals defined. In the absence of realistic and measurable goals that would be supported by public spending, the Government's election promises for economic growth and improved living standards are widely unattainable. Evidence thereof is seen in the fact that the Government stubbornly avoids the development of National Developmental Plan (NDP) that would include clear indicators on investment needs with a view to achieve economic, social and territorial cohesion in the country.

The National Developmental Plan (NDP)²⁰⁸ is a medium-term programming document that includes country's strategic developmental priorities. By defining a merit-based list of priority investments, NDP should provide an overview of country's strategy, priorities and programs aimed to promote economic and social cohesion. Moreover, this developmental document is essential for the purpose of indicating medium-term investment plans that should be in part financed by the state budget, as well as with other domestic and foreign funds. At the same time, NDP provides a framework needed for EU consultations and programming of IPA funds made available to our country, i.e., to define target areas that will be supported.

Experiences related to EU enlargement with Central European countries showed that national developmental plans regularly developed by new Member States proved to be an excellent tool for their EU accession process and fulfilment of Copenhagen criteria. Based on state's developmental needs, NDP defines funds required to attain development goals. Thus, required funds can then be matched with EU funds, be it in the form of pre-accession assistance or loans from European financial institutions.

NDP links public spending to planned investments in the country related to its EU accession. In other words, public funds may be allocated to public investments that are co-financed by EU funds and whose implementation will result in fulfilment of country's developmental goals and needs, and thereby in fulfilment of EU membership priorities and standards. This document also provides guarantees that the country, by means of public investments defined under NDP's framework, is moving towards attainment of European standards and level of development

characteristic for Member States. NDP is equally important in regard to programming EU assistance.

Absence or disrespect for the country's NDP is more distressing knowing that this document was first drafted in 2006 for the period 2007-2009, the second version thereof was drafted in 2007 for the period 2008-2013, i.e., overlapped with the programming period for the EU Multiannual Financial Framework 2007-2013. The purpose of this exercise was to enable effective programming of EU assistance for Macedonia, as well as public investments in the said period. Additional concerns are raised with the fact that the first and second NDP are not interrelated, however more distressing is the document's status given that the front page thereof reads "working version".

The only logical conclusion inferred is that Government's Agenda is in discrepancy with the European Agenda, and thus the Government is unwilling to pursue public spending related to attainment of EU priorities, but instead pursues OWN priorities, which – according to governmental officials – were given legitimacy by the voters. In that, they "accidentally" forget that the constituency also voted for ruling party's strategic priorities, which - inter alia - include EU and NATO membership.

From these reasons, Gruevski succeeds to deny any responsibility for his policies' failure, but rather manages to allocate the responsibility thereof to his wrongdoers on call, both external (EU, Greece, or the international community) or internal (traitors, Branko Crvenkovski, journalists, other enemies of the state from the domestic scene).

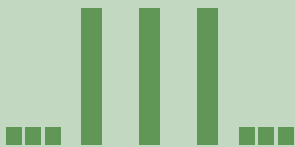
5.10. Conclusions and Recommendations

Analysis of the Work Programme for the period 2011-2015 shows that the Government is yet again boasting with highly-optimistic fore-

²⁰⁸ Definition of NDP is taken from SEA's brochure titled "The Sun, too, is a Star", fourth edition from 2007.

casts on the country's future development. In that, due consideration is not made of the prospects for a new crisis, which in turn results in absence of any appropriate reactions thereto. EU Agenda is widely disregarded under government's projections on economic growth. EU funds awarded as non-refundable assistance are nowhere to be seen in government's developmental documents. Tax and customs policy requires significant improvements thereto, whereas the business climate needs major efforts on the part of the State. In the absence of National Developmental Plan, the Government will suffer major setbacks in programming of and benefiting from EU funds, as well as IFI's developmental credit lines made available to Macedonia. Thus, following actions are needed to improve the situation:

- To immediately establish a working group tasked to draft the new National Developmental Plan for the period leading up to 2013, which would properly reflect EU's current financial framework;
- To undertake an analysis on absorption of funds made available under IPA (5 Components) and on its basis to design a plan on saving programmed funds;
- To undertake an analysis on absorption of funds made available under Community Programmes and to design a plan on improving the absorption rate. Where needed, a Fund should be established for the purpose of disbursing co-funding for projects financed by these programmes and Memoranda of Understanding to be signed for participation in II and III CIP Sub-Programmes;
- To undertake new budgeting process for the year 2012 with a view to enable a development budget that supports reform-oriented economic policies aligned with EU objectives and priorities and adjusted to in-country terms and conditions;
- On the basis of NDP, to undertake an analysis on funding sources (state budget, IPA, Community Programmes, EIB and EBRD, as well as bilateral donors) that could be used to co-finance programmed projects, as well as to finance crucial investments in infrastructure;
- To analyse Europe 2020 Strategy, initiatives and indicators contained therein, and to develop Macedonia 2020 Strategy, which should define clear links between country's development and EU strategic goals and priorities, as has already been done by the Republic of Serbia;
- To closely monitor negotiations on EU's new financial framework 2014-2020 and to make a contribution in regard to areas therefrom that are important for Macedonia; and
- To redefine the Government's Work Programme 2011- 2015, in particular for the purpose to incorporate EU priorities and to define clear indicators for monitoring progress achieved.



CONCLUSIONS AND RECOMMENDATIONS

Analysis of areas targeted with this report and reiterated by EU and USA shows that the Progress Report 2011 will negatively assess Macedonia's progress under the rule of law, freedom of speech and media, public administration, but also the Police²⁰⁹. Equally strong criticism is expected in the fields of judiciary and corruption, which are indicated as bottlenecks in all EC Reports and are defined as key priorities in the Accession Partnership from November 2007.

However, likely is that the recommendation to start accession negotiations with the EU will be repeated for the third time in a row. To a large extent, this leaves space for the ruling authorities to manipulate public opinion. Hence, one might expect that assisted by its media megaphones, the Government will once again succeed in spinning the reality by indicating that Macedonia has fulfilled membership criteria and that Greece is the culprit for the failure to obtain a date to start accession negotiations.

²⁰⁹ Police is addressed under Chapter 24 (Justice, Freedom and Security) and under the political criterion.

To eliminate any possible dilemma, we would like to stress that the forthcoming Progress Report for the Republic of Macedonia will contain the said recommendation, but will be abounding in unprecedented criticism. Last year, the Deputy Prime Minister, Vasko Naumovski, claimed that: *“detailed analyses are made in regard to delivering the accession criteria, also known as the Copenhagen Criteria. Unfortunately, although the European Commission recommended Macedonia to start accession negotiations, such decision was not taken due to another reason that does not pertain to the accession criteria²¹⁰”,* whereas the Minister of Foreign Affairs, Antonio Milososki, stated that: *“the capacity to start negotiations and the preparations made by Macedonia, as well as by the European Commission were hindered by an issue, which does not pertain to the Copenhagen Criteria, but is rather related to the dispute imposed by Greece and concerns our constitutional name.”²¹¹*

Truth to be told, the Republic of Macedonia did not open accession negotiations because of Greece, but true is also that in the last 5 years Macedonia backtracked its reforms. True is also the fact that Macedonia can immediately start accession negotiations should Greece allows that, but only because it fulfils the absolute minimum which - by the way - does not suffice for quality completion of EU accession negotiations.

Statements that - by insisting on solution to the name dispute - the EC oversteps Copenhagen Criteria and stipulates additional requirements for Macedonia are absolutely untrue. Actually, the Thessaloniki Declaration reads: *“Progress of each country towards the EU will depend on its own merits in meeting the Copenhagen criteria and the **conditions set for the SAP** and confirmed in the final declaration of the November*

2000 Zagreb summit”²¹². Therefore the question is raised: Why does the Macedonian Government claim something that is untrue? Is it due to ignorance or for the purpose of manipulating the public? Both reasons are dangerous and can damage the country's international reputation.

In other words, this situation resembles the work of a Teaching Council prior to the school year's end which takes a decision on correcting student's underachievement in order to allow him/her to transfer into next grade, and repeats the same practice for three years in a row. Final outcome of such practices is that the student passes the grade(s), but unless he/she takes immediate actions to compensate knowledge gaps and attends additional classes, he/she will face insurmountable difficulties in future schooling. This is also true for Macedonia. For the third time, the EC will push Macedonia through, but that would be futile unless the Government becomes aware and engages in true reforms instead of pursuing witch hunts, defamation and discredit of politically different-minded.

All these practices on manipulating the citizens in Macedonian result in decreased public support for the country's EU integration process. With the aim to remind the public on last year's events related to the publication of the Progress Report and for the purpose of preventing similar activities to occur this year as well, the following section provides an overview of similarities and differences!

²¹⁰ Nova Makedonija, 3 October 2010.

²¹¹ Vecer, 13 September 2010.

²¹² <http://0.mk/ea13e>

1. AMNESIA? NO, THANKS!

As was the case last year, prior to the publication of this year's Progress Report relevant EU representatives voiced their opinions. Last year, EU Enlargement Commissioner, Stefan Fule expressed his concerns about "... freedom of expression, in particular in the media, and the development of civil society, which are priorities in the accession process" and reiterated that "... in this manner, the entire society can participate in the reform process"²¹³. It can be noted that concerns indicated by Fule last year are repeated this year.

The then current Deputy Prime Minister for European Integrations, Vasko Naumovski, commented the 2010 Progress Report as follows: *"On the road to Brussels, last year Macedonia arrived to Budapest, and this year to Vienna. It did not stay in Budapest, or return to Belgrade"*²¹⁴. EU Ambassador Erwan Fouere, concerned with the government's "pink" interpretation of the Progress Report 2010, at the meeting of the National Council for European Integration, reiterated that: *"In 2009, two chapters were assessed with significant progress, whereas in 2010 there are no chapters under which significant progress has been achieved. In 2009, solid progress was noted in 11 areas, whereas in 2010 the same was noted only under six chapters. In 2009, certain progress was noted in 20 areas, while in 2010 this number accounts for 19 areas. The last category is limited, partial or unequal progress, which in 2009 was noted only in four areas, and in the Progress Report 2010 it was recorded under as high as eight areas. This is the reality"*²¹⁵.

²¹³ Dnevnik, 10 November 2010.

²¹⁴ Dnevnik, 12 November 2010.

²¹⁵ Vest, 11 November 2010.

The next day, Deputy Prime Minister Naumovski, accompanied by more than hundred senior officials, on the press conference organized at the Government as a response to Fouere's analysis stated that: *"In 2010, progress was made under each of the 33 chapters in total. Deadlock was noted in zero of the 33 chapters, while no progress or regress was noted in zero of the 33 chapters. The EC clearly and undoubtedly says that in the last year Macedonia continued to move forward"*²¹⁶. What a strange statement! The analysis thereof shows that either Deputy Prime Minister Naumovski did not consider Fouere to be a representative of EC, which is absurd, or his statement was a vain attempt to address Prime Minister Gruevski and explain the reasons behind the "negative" Progress Report (i.e., to explain that Fouere has erroneously read his own report).

Learning on the past experiences, the Prime Minister avoided smart-talking with EC (this task was entrusted to Naumovski, MPs from the governing coalition and President Ivanov). Last year – as was the case in 2009 – the Prime Minister said: *"Apart from the positive assessments, it is natural for any Progress Report to also contain remarks. On their basis, we will infer the lessons and develop an action plan on improvements..."*²¹⁷. Unfortunately, the action plan he referred to is nowhere to be seen, both last and this year.

No public discussion was organized on findings contained in the Progress Report 2010, although promised by the Government and the Parliament (the latter also promised to make a half-year review and analysis of progress achieved). On the first day after the Progress Report 2010 was published, President Gjorge Ivanov invited Ambassador Fouere to his residence and asked for an explanation as to the fact

²¹⁶ Dnevnik, 12 November 2010.

²¹⁷ MTV, 8 November 2010.

that the Progress Report 2010 replaced the formulation “Macedonian language” with “state language”. Media outlets were right in their comments: *“It seems unlikely that this year the public will engage in discussions as regards the remarks contained in the Progress Report. Although nobody managed to read the entire contents thereof, someone has already made sure that public’s attention is diverted to other trivia”*²¹⁸.

Although there were no discussions, VMRO-DPMNE’s attacks did not cease. Namely, after the publication of our Accession Watch Report in the wake of EC’s Progress Report, the media reported that: *“Yesterday, VMRO-DPMNE’s attacks on NGOs that criticize the work of the government continued. VMRO-DPMNE spokesman Aleksandar Bicikliski targeted the Macedonian Centre for European Training (MCET) and claimed that it is established and managed by SOROS and SDSM: All MCET-published reports are financed by SOROS Macedonia and in their contents resemble SDSM’s bulletins”*²¹⁹.

In addition to civil society organizations, such attacks targeted prominent persons from the international community, who were accused of having worked for the benefit of the opposition, i.e., for Branko Crvenkovski (they include: EU Ambassador Fouere, MEP Zoran Thaler, and others). Facebook has become the key medium used for defamation, hence: *“yesterday, the spokesman of the Government, Martin Martinovski, insulted and mocked the EU Ambassador, despite warnings made by the EU Council’s President, Herman van Rompuy”*²²⁰.

²¹⁸ Dnevnik, 11 November 2010.

²¹⁹ Spic, 9 November 2010.

²²⁰ Dnevnik, 12 November 2010.

2. WHO WILL WRITE ABOUT EU

What is different this year? First - the media. Notably, if last year the media started publishing articles on EC’s Progress Report two months before its publication, this year the intensity thereof is significantly decreased. In part, this is due to the fact that the reporting period was marked by numerous unlikely events (amnesty was granted for the Hague cases, prominent individuals were lustrated, KOSMOS was demolished, the leader of *United for Macedonia* was arrested, Martin Neskovski’s murder, the flamboyant celebration of 20th Anniversary from the independence, etc.), and in part due to the fact that - unlike last year - almost all media outlets that criticized the government were closed (*A1, Vreme, Spic, Koha e Re*).

Following are last year statistics²²¹. In the period September - November 2010, a total of 346 articles related to the Progress Report were published. 203 thereof (59%) were in the printed media, and 143 (41%) were posted on electronic media. Most articles were published in the newspaper *Utrinski vesnik* (11%), *MTV 1* (11%) and *Vecer* (11%). Distribution of articles published in daily newspapers was the following: *Utrinski vesnik* - 38 (11%), *Vecer* - 37 (11%), *Vreme* - 28 (8%), *Nova Makedonija* - 25 (7%), *Dnevnik* - 25 (7%), *Spic* - 23 (7%), *Vest* - 17 (5%), *Koha* - 10 (3%). Distribution of broadcasting coverage on TV outlets was the following: *MTV 1* - 39 (11%), *Alsat M* - 21 (6%), *Sitel* - 20 (6%), *Kanal 5* - 20 (5%), *Telma* - 15 (4%), *A1* - 14 (5%) and *Alfa* - 14 (4%). According to genres, the distribution of published articles/broadcasting coverage was the following: reports - 279 (80.7%),

²²¹ Media Monitoring Report for the period 1 September - 30 November 2010 is available at: <http://www.nvoinfocentar.org.mk/reports.asp?site=mm&menu=1.3&lang=mak&year=2010>

statements - 29 (8%), comments - 13 (4%), interviews - 11 (3%), columns - 9 (3%), news - 4 (1%) and analyses - 1 (0.3%). Therefore, the conclusion inferred for this year is that, on one hand, media are much less critical, and, on the other hand, there are fewer articles made in the wake of the Progress Report 2011.

Second, the Sector for European Affairs is no longer chaired by a member of VMRO-DPMNE who would desperately try to win over Prime Minister's sympathy, even at the cost of self-depreciation and embarrassing the country.

Third, the European Commission does not have its representative in Skopje, because Ambassador Sorensen was appointed EU representative to Sarajevo. Unclear (and unserious) are the reasons that led to this situation, especially knowing that the position in Sarajevo had been vacant for almost a year. Equally confusing is the timing of EU's decision to withdraw its Macedonia-based Ambassador at the moment when Union's presence was most needed, i.e., during the elections. Namely, although Ambassador Sorensen was present in Macedonia on the Election Day, and although ODIHR monitored the elections, the question raised is whether the situation would have been any different if the political parties did not know that the Ambassador would soon be transferred to Sarajevo. Unfortunately, this question remains unanswered. It will be interesting to see who will present the Progress Report to the Prime Minister this year. Will this task be delegated to the second person at the EC Delegation in Skopje, or - in the absence of an EU Ambassador - the report will be presented to the Deputy Prime Minister for European Integration, Teuta Arifi, instead of the Prime Minister. It is our hope that this will not be the main topic discussed by the media (just as last year primacy was given to the omission of Macedonian language), in particular to defocus the public attention from actual problems.

Finally, the fourth difference is in the attacks and discredits targeting civil society representatives which began earlier this year. The lustration process launched the "stymie" of all organizations linked to the Foundation Open Society - Macedonia by partnership projects, whereas others were targeted with different spins. For example, in the case of the Helsinki Committee, the Government went on a limb and said that the Macedonian Helsinki Committee had lied about or hidden the fact on its non-alliance with the Helsinki Committee in Finland, which had abused funds several years ago. Since the spin was unsuccessful, the Government resorted to its back-up plan (media megaphones) and plotted around the resignation of the organization's president. Be that as it may, the message was sent: the Government is prepared to deal with possible criticism following the report's publication.

3. BACK TO BASICS

In order to understand messages from Brussels, one should be acquainted with the instruments used by the EC to monitor progress achieved by countries with which it has entered certain political agreement²²².

Rare are the occasions when the Progress Report deals with a country's "failure to deliver". The reasons thereof differ, but the main one is identified in the document's purpose. Notably, the EC develops Progress Reports for two reasons, first, to inform its Member States on the state of affairs in the country that aspires to become a member, so they can

²²² For more information, see previous Quarterly Accession Watch Reports: First Quarterly Accession Watch Report titled "The Government should Work 24/7 on the U Agenda" and Sixth Quarterly Accession Watch Report titled "About the Less Less Positive Things", available at: http://mcet.org.mk/?page_id=120.

make informed decisions related to the country in question, and second, to inform EU citizens, in particular given that their opinion is of crucial importance in the final stage of EU accession.

This shows the complexity of EC's task in drafting Progress Reports. All parties concerned have certain expectations and they all have to be managed: 1) the Government of the country in question expects to be delivered "positive" report, because that would support its reform efforts (in the case of Macedonia that is the solution to the name dispute); 2) certain interest groups in the country and beyond expect to see as many criticism as possible in their area of operation, because that would give them a tool for lobbying and pressure with authorities, in particular aimed to introduce changes needed; 3) Member States and EU citizens expect a realistic reflection of the actual state of affairs, notably because the report is their main source of information for making political decisions related to the country in question.

This shows EC's serious treatment of Progress Reports, hence the understandable use of diplomatic formulation when delivering criticism, in particular for the purpose of making it sound "less positive" rather than "negative". This is how the EC balances its findings.

It is not by accident that this task is conferred to the EC. This is the only institution that acts as independent consultant. The EC is tasked with implementation of EU enlargement policy, i.e., to bring as many candidate-countries as possible closer to EU, since its success is measured on the basis of actual enlargement achieved. On the other hand, the EC is obliged to inform Member States (through the Council) and EU citizens (through the European Parliament) on the preparedness of individual candidate-countries to access the Union.

A brief analysis of annual Progress Reports reveals that that the EC uses applies neutral phrases, as it expects the governments to recognize criticism without "scaring" EU citizens (and Member States) on

the possible future membership of that, still unprepared country. They key to the right interpretation of these phrases lies in the verbs used. Notably, in all its documents the EC used "positive" and "negative" verbs. The most frequently used positive verbs are: *welcomed*, *noted*, *acknowledged*, *encouraged*, etc. The negative verbs are: *urged*, *stressed*, *reiterated*, *reminded* and *recalled*, *underlined*, *underscored*, *pointed out*, *step up*, etc. Even the Macedonian translation of these verbs also implies their negative context.

4. TOO MANY QUESTIONS, TOO LITTLE ANSWERS

Post-election Macedonia is quite different from before, in particular as regards the distribution of line ministries between the coalition partners. VMRO-DPMNE's leader, i.e., the Prime Minister Nikola Gruevski decided to entrust his Albanian counterpart in the Government (DUI) with the country's Euro-Atlantic Integration. Hence, Fatmir Besimi was appointed Minister of Defence and Teuta Arifi will chair the sector on European integration.

Why not? Within any coalition government, the political parties rally around joint concepts. Hence, it does not matter which line ministry is entrusted to any of the coalition partners. If this was not the 6th year of Nikola Gruevski's rule, one would not consider such distribution of line ministries unusual. However, because we know more after these 6 years, inevitable are the questions: 1) Why did the Prime Minister confer these important sectors to DUI, given the Government's second priority reads "*integration into EU and NATO*"?; or 2) Why did DUI accept to be a "vehicle" of Macedonia's Euro-Atlantic integration?

The common tread under these two questions is the resolution of the name dispute with the Republic of Greece. NATO, as well EU integration cannot be pursued without prior resolution to the name dispute with Greece, as indicated by Brussels on too many occasions.

Does this mean that VMRO-DPMNE decided to involve DUI in finding the solution to the dispute? Such reasoning must be duly respected, but past experiences related to VMRO-DPMNE's Government indicate that "finding a solution" is nothing but a catch phrase intended for international use, which loosely translated in the country means "we will not change the country's constitutional name", notably because "our southern neighbour has the problem with the name, and not we".

Recently in an interview for Plusinfo²²³, Radmila Sekerinska from SDSM asked the Prime Minister whether the name solution has already been agreed, and in that warned him not to keep silent if such events had occurred. Would that mean that the name solution had been part of "pre-nuptials" agreed between DUI and VMRO-DPMNE? If yes, this explains recent actions taken by Teuta Arifi, in particular the letter she addressed to Theodoros Pangalos, Vice President of the Greek Government. According to Arifi *"the letter was written for the purpose of establishing a region free of prejudices, it is a letter of good intentions"* ... and added that *"the Albanian factor does not exert pressure, but makes a maximum contribution not only in terms of fast resolution of the name dispute, but also to accelerate the EU integration process."*²²⁴ However, the opposition fears that the name solution has already been agreed and therefore urges the Prime Minister not to keep silent, especially since it his obligation to organize a successful referendum and assume the accountability for the outcome.

²²³ <http://www.plusinfo.mk/mislenje/298/Ako-Gruevski-go-promenil-imeto-ne-smee-damolchi-i-da-se-krie>

²²⁴ <http://www.plusinfo.mk/vest/13736/Arifi-se-dopishuva-so-grchkite-kolegi>

Nevertheless, as long as Prime Minister Gruevski does not intent to solve the name dispute with the Republic of Greece and continues to feign cooperation before the international community, Macedonia's Euro-Atlantic integrations will remain blocked. The only difference is that this time the culprit thereof will be identified in DUI, immediately after Greece. In this case, DUI would not be able to justify itself – as was the case previously - and claim that Gruevski is unwilling to solve the name dispute, in particular because during the negotiations around the Government's composition it was fully aware that NATO and EU integrations are only possible if the name dispute is resolved. The responsibility for such failure will be on the burden of DUI.

In her interview, Radmila Sekerinska also referred to name dispute-related statements as being: *"intentional and for the benefit of the European Commission's Progress Report"*²²⁵, i.e., Gruevski "buys time" to keep the recommendation on the start of accession negotiations. In that, he uses annual changes to the office Deputy Prime Minister for European Integration as a guarantee for EC's recommendation, irrespective of various outlandish matters that take place in the wake of the Progress Report's publication. Notably, for a Government that is not prone to frequent changes in its composition, the changes of Deputy Prime Ministers for European Integration is unsettlingly frequent: first, it was Gabriela Konevska Trajkovska, followed by Ivica Bocevski, Vasko Naumovski, and now Teuta Arifi. The impression is obtained that the Prime Minister is skilled in assessing his European counterparts and therefore makes purposeful rotations on the position Deputy Prime Ministers to elude constructiveness. Actually, political culture and manner of Brussels-based officials prevent them to hold

²²⁵ <http://www.plusinfo.mk/mislenje/298/Ako-Gruevski-go-promenil-imeto-ne-smee-damolchi-i-da-se-krie>

the newly appointed Deputy Prime Minister responsible for the state of affairs at the moment he/she took office, and in the spirit of future cooperation they are prone to modest wording in the Progress Report.

5. FIRST STEPS

The initial impression of Teuta Arifi's performance as Deputy Prime Minister is outstanding. She already made actions that changed public's perception of this office's holder. First, she attended the meeting of the Commission for European Affairs at the Parliament and reiterated her availability to MPs (contrary to the behaviour of Vasko Naumovski, who did not attend meetings of the National Council for European Integration, let alone of the Commission for European Affairs, despite his official duties²²⁶).

The new Deputy Prime Minister, Teuta Arifi, held meetings with the representative from EC's Directorate General on Enlargement, Stefano Sannino, aimed to make final consultations prior to the cut-off date for the Progress Report 2011. These consultations were translated into a short-term Action Plan that would enable better coordination of activities taken by line ministries and aimed to promptly deliver latest results. Such actions on the part of SEA should be given due respect, in particular because they come after five years of standstill. However, referring to the action plan as Sannino's list leaves the wrong impression on new requirements being delivered by the EU.

When addressing the Commission for European Affairs, Teuta Arifi promised to make SEA a transparent institution. First improvements already took place: access to documents was improved, while the said Action Plan was uploaded on SEA's website. Moreover, she promised to develop 3-month analyses on the accession process, which is significant improvement as regards SEA-issued documents. Truth to be told, SEA used to develop monthly briefs that enabled smooth monitoring of Macedonia's EU integration process. It is our hope that the Deputy Prime Minister will succeed in delivering monthly briefs that are a useful tool for civil society organizations profiled in accession watch matters.

In an attempt to keep the recommendation to start accession negotiations, this October Teuta Arifi, in cooperation with the Association of Journalists in Macedonia (AJM), organized a public discussion on the state of affairs in the media. Unfortunately, this event followed the adoption of the Broadcasting Law, which increased the number of Broadcasting Council's members despite the disapproval and appeals expressed by AJM and the Macedonian Institute for Media (MIM). The fact that the Minister of Interior, Gordana Jankulovska, attended this event as the representative of the Government raises doubts in the true intentions of competent authorities.

At last, the fact that the Deputy Prime Minister decided to tour the region is also considered positive trend the Macedonian public has not seen for a long time now. Politicians' portrait of the region is rather vague and there is a need for group of leaders who would pay greater attention to the regional dimension of the much-desired progress towards the European Union. In fact, regional efforts are more resonant in Brussels.

²²⁶ "The National Council for EU Integration suffered from uneven support from the government, which on occasion failed to provide materials and reports or the presence of ministers", 2010 Progress Report for the Republic of Macedonia, pg.6, available at: http://www.sep.gov.mk/content/Dokumenti/MK/mk_rapport_2010_mk.pdf

6. RECOMMENDATIONS

On 12 October 2011, the European Commission will repeat the recommendation for the Republic of Macedonia to start accession negotiations, although the Progress Report will be abounding in unprecedented criticism. Unlike last year, it is our hope that the Deputy Prime Minister Teuta Arifi will not try to persuade the public that the Progress Report is positive, but rather acknowledge the need for immediate interventions in certain sectors. In fact, she already stated that the Report will reflect the reality in Macedonia.

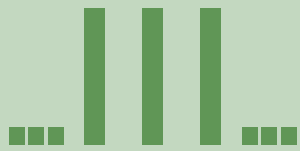
For the purpose of attaining better results under the European Agenda, in the aftermath of the Progress Report 2011, the Government should implement the following recommendations:

- **To thoroughly analyse the Progress Report 2011** and compare it against report findings from the previous three years. Chapter-based working groups responsible for the development of the National Programme for the Adoption of the Acquis to analyse relevant chapters of last 3 Progress Reports and design relevant measures and actions aimed to address remarks contained therein. All measures and activities to be translated into an **Action Plan**, which is to be submitted to the Parliament of the Republic of Macedonia. In the meanwhile, SEA's representatives should attend all public debates organized around findings contained in the Progress Report 2011, including the findings of civil society organizations;
- SEA must continue the cooperation with AJM, in particular with a view to define joint **activities aimed to improve freedom of expression and media**. The recently enacted Broadcasting Law should be reconsidered and adequately amended, with the support of relevant stakeholders. SEA should advocate with the European Commission in order to secure financial support for the media, for example the non-programmed funds available under IPA 2008 and 2009. When programming IPA funds for the period 2012-2013, the Government to guarantee that the media receive **adequate support**;
- **To immediately open EU integration process** to all stakeholders in society, in particular the civil society organizations profiled in EU integration-related issues. SEA should **secure participation of interested organizations in the relevant working groups** established per NPAA chapter, hence guaranteeing that this year the document is adopted in an inclusive manner, unlike previous practices. The process to be fully open, and not limited, and the best way to do that is to announce an open call for all organizations that believe they can make a contribution thereto;
- **Macedonia's EU Agenda needs a new stimulus** both from the Government and the Parliament. EU Agenda to be promoted on local level, which can be done by local NGOs with the **financial support** from the Government, i.e., SEA. Past activities related to promotion of Macedonia's EU integration were insufficient, whereas the name dispute with Greece had only increased the need for implementation of more activities in that regard. SEA should take enhanced efforts to adopt a **financial framework** on public benefit organizations. In the same context, SEA should focus on establishing a separate **fund on institutional support** for public benefit organizations, notably for the purpose of implementing EU-funded projects;

- **Regional activities** to continue and to be intensified. Special attention should be given to projects initiated through the Regional Cooperation Council (RCC), as well as future projects related to **Europe 2020**. Republic of Macedonia should initiate the establishment of a **Regional Working Group** that would join the debates and discussions on EU's new financial perspective for the period 2014-2020. Western Balkan countries have an interest in lobbying for funds from the new EU budget. The concept on the so-called integrated IPA could be significantly improved with joint efforts and unison message to Brussels. This can be best achieved if Macedonia organizes a **regional conference** on which Western Balkan states and Turkey can discuss the new Enlargement Strategy, together with their relevant country Progress Reports. Such an event could also result in the establishment of a regional group;
- Led by SEA, the Government of the Republic of Macedonia must immediately develop **Macedonia 2020 Strategy**. This should be a participatory process and should include consultations and dialogue with all stakeholders. The most desirable scenario would be to include the above-indicated working groups – which do not include only representatives from the public administration – in the drafting of Macedonia 2020 as early as the analysis of the Progress Report 2011. This document is of strategic character and therefore its adoption cannot be rushed, i.e., it must be a subject of previously defined **minimum requirement on consultations**;
- The Government of the Republic of Macedonia, and in particular SEA, must lobby for a **new Accession Partnership**. Given that the

last Accession Partnership is dated November 2007²²⁷, Macedonia (and other Western Balkan states) must insist on new Accession/ European Partnership that would provide better dynamics of the EU reform process. Joint efforts made by Western Balkans and related to incorporation of freedom of expression and media under key priorities is also desirable. This is particularly important for Macedonia and the new Deputy Prime Minister, as it would clearly distinguish between results achieved during her term of office and those achieved by her predecessors.

²²⁷ The Accession Partnership from February 2008 is practically the same with the one from November 2007, the only difference is that key priorities correspond to the level of benchmarks.



ANNEX

TABLE 1 –
RECRUITMENTS AT THE GOVERNMENT AND THE PARLIAMENT (01.01.2010 – 20.03.2011)

STATE ADMINISTRATION BODIES	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contract	Regular employments with fixed-term contracts	COMMENT
Ministry of Information Society and Public Administration	105	6	13	
Ministry of Foreign Affairs	7	62	0	
Ministry of Agriculture, Forestry and Water Economy	207	172	0	
Ministry of Transport and Communications	122	94	0	
Ministry of Education and Science	32	43	0	
Ministry of Local Self-Government	7	5	0	
Ministry of Economy	5	26	0	
Ministry of Health	6	2	1	
Ministry of Justice	No response	No response	No response	
Ministry of Environment	No response	No response	No response	

STATE ADMINISTRATION BODIES	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contract	Regular employments with fixed-term contracts	COMMENT
Ministry of Labour and Social Policy	No response	8	0	
Ministry of Interior	No response	0	0	
Ministry of Culture	No response	No response	No response	
Ministry of Defence	No response	No response	No response	
Ministry of Finance	No response	59	0	
Secretariat for Implementation of the Ohrid Framework Agreement	No response	No response	No response	
Secretariat for European Affairs	38	1		Incomplete response on new regular employments; FOI appeal was lodged
Government of the Republic of Macedonia	No response	No response	No response	Instead, a letter was submitted on the power-sharing principle
Parliament of the Republic of Macedonia	60	43	0	38 temporary employments were transformed into regular

TABBLE 2 –
RECRUITMENTS IN THE JUDICIARY (01.01.2010 – 20.03.2011)

COURTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Judicial Council				
Supreme Court	0	9	0	
Appeals Court Skopje	2	0	0	Temporary employments were transformed into regular
Appeals Court Gostivar	4	0	0	Temporary employments were transformed into regular
Appeals Court Bitola	No response	No response	No response	
Appeals Court Stip	0	0	0	
Basic Court Skopje 1 Skopje	0	13	0	
Basic Court Skopje 2 Skopje	2	46	2	
Basic Court Berovo	0	No response	No response	
Basic Court Bitola	7	0	0	Temporary employments were transformed into regular
Basic Court Vinica	1	1	0	

COURTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Basic Court Veles	0	No response	No response	
Basic Court Gevgelija	1	0	0	
Basic Court Gostivar	0	No response	No response	
Basic Court Debar	1	0	0	
Basic Court Delcevo	0	No response	No response	
Basic Court Kavadarci	2	0	0	Temporary employments were transformed into regular
Basic Court Kicevo	0	1	0	
Basic Court Kocani	0	0	0	
Basic Court Kratovo	0	1	0	
Basic Court Kriva Palanka	1	0	0	
Basic Court Kumanovo	No response	No response	No response	
Basic Court Krusevo	0	0	0	

COURTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Basic Court Negotino	1	0	0	Temporary employments were transformed into regular
Basic Court Ohrid	0	0	0	
Basic Court Prilep	0	1	0	
Basic Court Radovis	0	0	0	
Basic Court Resen	1	0	0	Temporary employments were transformed into regular
Basic Court Sveti Nikole	1	0	0	Temporary employments were transformed into regular
Basic Court Struga	0	0	0	
Basic Court Strumica	0	0	0	
Basic Court Tetovo	3	0	0	Temporary employments were transformed into regular
Basic Court Stip	2	2	0	

TABLE 3 –
RECRUITMENTS AT LOCAL GOVERNMENTS (01.01.2010 – 20.03.2011)

LOCAL GOVERNMENTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
City of Skopje	615	56	0	
Aracinovo	6	No response	No response	
Aerodrom	0	22	0	
Berovo	2	5	0	
Bitola	29	1	0	
Bogdanci	3	4	0	
Bogovinje	No response	No response	No response	
Bosilovo	2	3	0	
Brvenica	No response	No response	No response	
Butel	10	3	0	

LOCAL GOVERNMENTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Valandovo	No response	No response	No response	
Vasilevo	4	1	0	Temporary employments were transformed into regular
Vevcani	0	4	0	
Veles	17	0	0	
Vinica	No response	No response	No response	
Vranestica	No response	No response	No response	
Vrapciste	No response	No response	No response	
Gazi Baba	9	10	0	
Gevgelija	No response	No response	No response	
Gjorce Petrov	4	5	0	
Gostivar	59	17	0	
Gradsko	0	1	0	

LOCAL GOVERNMENTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Debar	11	0	0	
Debarca	0	1	0	
Delcevo	9	3	0	
Demir Kapija	No response	No response	No response	
Demir Hisar	0	0	0	
Dojran	No response	No response	No response	FOI response covered only one month when there were no employments
Dolneni	No response	No response	No response	
Drugovo	No response	No response	No response	
Zelino	0	1	0	
Zajas	No response	No response	No response	FOI response covered only one month when there were no employments
Zelenikovo	No response	No response	No response	FOI response covered only one month when there were no employments

LOCAL GOVERNMENTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Zrnovci	0	2	0	
Ilinden	20	11	0	
Jegunovce	0	1	0	
Kavadarci	11	4	0	
Karbinci	No response	No response	No response	
Karpos	No response	No response	No response	
Kisela Voda	15	7	0	
Kicevo	0	13	0	
Konce	5	0	0	Temporary employments were transformed into regular (2)
Kocani	81	6	0	
Kratovo	0	0	0	

LOCAL GOVERNMENTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Kriva Palanka	4	1	0	
Krivogastani	0	1	0	
Krusevo	2	0	0	
Kumanovo	No response	No response	No response	FOI response covered only one month when there were no employments
Lipkovo	No response	No response	No response	FOI response covered only one month when there were no employments
Lozovo	No response	No response	No response	FOI response covered only one month when there were no employments
Mavrovo and Rostuse	No response	No response	No response	
Makedonska Kamenica	13	1	0	
Makedonski Brod	0	7	0	
Mogila	5	4	0	
Negotino	No response	No response	No response	

LOCAL GOVERNMENTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Novaci	3	2		Temporary employments were transformed into regular
Novo Selo	1	0	0	
Oslomej	0	0	0	
Ohrid	6	28	0	
Petrovec	No response	No response	No response	
Pehcevo	1	3	0	
Plasnica	0	0	0	
Prilep	6	1	0	
Probistip	8	4	0	
Radovis	1	4	0	
Rankovce	6	4	0	
Resen	0	17	0	

LOCAL GOVERNMENTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Rosoman	3	0	0	
Saraj	No response	No response	No response	FOI response covered only one month when there were no employments
Sveti Nikole	No response	No response	No response	FOI response covered only one month when there were no employments
Sopiste	No response	No response	No response	
Staro Nagoricane	5	0	0	
Struga	26	6	0	
Strumica	0	21	0	
Studenicani	No response	No response	No response	
Tearce	7	19	0	FOI response is unclear whether these recruitments were made in the period subject of inquiry or concern the total number of employees in the municipal administration

LOCAL GOVERNMENTS	Recruitments through Temporary Employment Agency	Regular employments without fixed-term contracts	Regular employments with fixed-term contracts	COMMENT
Tetovo	No response	No response	No response	FOI response covered only one month when there were no employments
Centar	27	16	0	
Centar Zupa	2	0	0	
Cair	20	10	0	
Caska	1	2	0	
Cesinovo-Oblesevo	1	1	0	
Cucer Sandevo	0	4	0	
Suto Orizari	No response	No response	No response	
Stip	No response	No response	No response	