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## NATIONAL CONVENTION ON THE EUROPEAN UNION IN THE REPUBLIC OF NORTH MACEDONIA (NCEU-MK)

# CLUSTER 1 “FUNDAMENTALS”: THE RULE OF LAW AS AN IDEA AND AS A PRACTICE IN THE REPUBLIC OF NORTH MACEDONIA

## POLICY PAPER



SKOPJE, 2024

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## CONTENT

1. INTRODUCTION .....	7
2. POLITICAL AND ECONOMIC CONTEXT FROM THE PERSPECTIVE OF EUROPEAN INTEGRATION .....	9
3. CHAPTER 23 – JUDICIARY AND FUNDAMENTAL RIGHTS: THE JUDICIARY WITHIN THE SEPARATION OF POWERS IN DEMOCRATIC SOCIETIES .....	18
4. THE CHALLENGES IN CHAPTER 24 – JUSTICE, FREEDOM, AND SECURITY .....	29
5. FIGHT AGAINST ORGANIZED CRIME, FINANCIAL FRAUD, AND CORRUPTION .....	39

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## INTRODUCTION

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This document serves as the conclusive analytical publication stemming from the National Convention on the European Union in the Republic of North Macedonia (NCEU-MK), encapsulating the discussions held throughout 2023 on various pertinent topics. The document was conceived as a unique outcome of the European Union-funded initiative within the Open Partnership Framework, bearing the same name. NCEU-MK serves as a citizen-driven platform for inclusive dialogue, engaging diverse stakeholders to formulate collective recommendations on critical matters for social development and advancement in the accession negotiations for European Union membership of the country.

Throughout 2023, NCEU-MK has undertaken initiatives outlined in Cluster 1 “Fundamentals” of the existing negotiating framework. These efforts aim to foster heightened appreciation for the rule of law as a cornerstone for embracing European values, and as a prerequisite for progress across all clusters of the negotiation process. The primary information source utilized in crafting the publication was the structured dialogue, consisting of expert presentations and discussions among both domestic and foreign participants during the working sessions. The dialogue encompassed discussions on the following chapters: Chapter 23, focusing on Judiciary and fundamental rights; Chapter 24, addressing Justice, freedom, and security; Chapter 5, concerning Public procurement; Chapter 18, pertaining to Statistics; and Chapter 32, centered on Financial control. The lively discussions involving all stakeholders served as a sort of clinic where diverse approaches to specific issues were compared, providing the opportunity to trace the roots of problems, and enabling further analysis through the utilization of additional sources of information.

Actively engaged in the structured dialogue platform of NCEU-MK were representatives from a spectrum of entities including civil society organizations, senior officials from line ministries, Members of Parliament, judges, prosecutors, academia representatives, chambers of commerce, and other stakeholders. This varied composition played a pivotal role in fostering intersectoral collaboration among institutions during the reform process at various levels. Throughout 2023, the three working groups within Cluster 1 convened six dialogue sessions, alongside one plenary conference. More than three hundred participants attended all of these events.

In addition to dialogue serving as a primary source for developing the content of the publication, analyses of specific public policies and various documents (such as reports from international organizations, research

findings, media reports, and other sources) were utilized to elucidate challenges within the realms of justice, corruption prevention and combat, organized crime, security matters, and other pertinent areas within Cluster 1. Thus, the publication reflects a portion of the discourse present in the public sphere, encompassing reactions and responses to the issues mentioned.

Additionally, the publication incorporates fresh perspectives on the European integration process to offer a comprehensive overview of both current and future initiatives by the European Union aimed at invigorating reform efforts in Western Balkan countries. An initiative like the Western Balkans Growth Plan has notably altered the landscape of EU integration process, injecting fresh energy that has spurred governments, civil society organizations, the business sector, academia, and other stakeholders to engage in exploring opportunities for "integration before full membership." The publication outlines the fundamental pillars and objectives of this rather ambitious plan, notable for its emphasis on "bottom-up growth," which leaves an impression of incompleteness. Nevertheless, such an approach distinguishes the plan by offering opportunities tailored to the capacities and specific requirements of the Western Balkans Region.

Among the contents lies the concept of the rule of law within the European Union. This includes the new Mechanism for the rule of law in the EU, introduced to ensure the effective implementation of legal obligations by Member State governments to act in accordance with the EU law. The Republic of North Macedonia is already engaged in preparatory activities for inclusion in this Mechanism. This participation would greatly aid in fulfilling the Roadmaps for the rule of law, as integral components of the negotiation framework for Cluster 1, "Fundamentals." Addressing the deficiencies identified in the screening process and delineating future specific steps outlined in the "Roadmaps" constitutes a complex endeavor that necessitates inclusiveness and transparency. The success of this process hinges upon the stakeholders' comprehensive understanding of their responsibilities and active engagement throughout. NCEU-MK will continue its future activities with its mission to democratize the European integration process by creating conditions to transfer collective knowledge from the expert to the wider public in the country.

The list of participants who made significant contributions to the publication is extensive. Certain participants and their perspectives on specific issues are referenced in the publication. We extend our gratitude to all participants for their time and for approaching the discussions with professionalism and seriousness.

We extend our special gratitude to the institutions that actively participated in NCEU-MK:

- The Ministry of Justice, which a Memorandum of Cooperation was concluded with;
- The Ministry of Interior, whose officers displayed great commitment in contributing to the elaboration of issues in this domain, as well as for the cooperation extended by senior officials at the Ministry;
- The Office of the Deputy Prime Minister responsible for good governance policies, demonstrating openness to collaboration;
- The Assembly of the Republic of North Macedonia, providing steadfast support to NCEU-MK since its inception seven years ago;
- The Secretariat for European Affairs, emphasizing the significance of consultations to adhere to the topics outlined in the negotiating framework;
- Special contribution to the dialogue was made by the representatives of the judiciary institutions who significantly contributed to the dynamic of the dialogue by means of their experience and acquired knowledge through practice.

## **1. POLITICAL AND ECONOMIC CONTEXT FROM THE PERSPECTIVE OF EUROPEAN INTEGRATION**

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The European Union has consistently shown support for the European perspective of the Western Balkan countries since the Thessaloniki Summit in 2003.<sup>1</sup> The EU's enlargement policy remains a priority in its foreign policy and geostrategic investment for stability, despite the increasing global challenges, divisions, and military conflicts in Europe. The European Council further confirmed and reinforced this policy by initiating negotiations with Ukraine, Moldova, and Georgia.<sup>2</sup> The Western Balkan countries, having held candidate status for a considerable time, have been assured of the potential for a prompt accession, contingent upon a thorough evaluation of tangible advancements in the rule of law and the protection of fundamental rights.

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<sup>1</sup> EU – Western Balkan Summit, 21 June 2003.

<sup>2</sup> European Council Conclusions, 14 December 2023.



Since 2005, the Republic of North Macedonia has held the status of a candidate country for EU membership and holds the distinction of being the first nation in the region to sign a Stabilization and Association Agreement (SAA).<sup>3</sup> Throughout the process of preparing for EU membership, significant compromises were undertaken to achieve peaceful resolutions to political crises and underlying conflicts. Besides substantial political adjustments, the country now confronts fresh political challenges. In July 2022, the Negotiating Framework or the so-called "French proposal" was adopted<sup>4</sup>, and with the holding of the Intergovernmental Conference, the Republic of North Macedonia officially started negotiations with the EU – however, conditional on a previous amendment to the Constitution to meet the points of the Annex Protocol imposing the special requirements set forth by neighboring Bulgaria.<sup>5</sup> During a preliminary assessment (2022/23) to determine how well national legislation aligns with European standards, the review process identified strengths in administrative procedures. However, the draft report for Cluster 1, "Fundamentals," highlighted the need for significant reforms in upholding the rule of law, delivering justice, and guaranteeing equal treatment under the law.<sup>6</sup> The country must demonstrate unwavering political commitment to adopting a new value system where the rule of law guides individual and institutional behavior. Experts stress that accession negotiations demand a strategic, systematic, consistent, and enduring approach that cannot be exploited for short-term political gain. These fundamental shortcomings should have been eradicated long ago; this is the final chance for reform.<sup>7</sup>

Cluster 1 also includes chapters in the economic field through which the institutional inputs for the rule of law should be strengthened, that is, prevention and fight against corruption and fair distribution of public resources. To meet the economic criteria in Cluster 1, the following chapters are included: Chapter 5 (Public Procurement), Chapter 18 (Statistics), Chapter 32 (Financial Control). Although little attention is paid to Chapter 18, it is necessary to underline its significant role during the negotiation process where a sound statistical database will be necessary to reflect the process of convergence towards the European Union in all clusters.

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<sup>3</sup> Law on ratification of the Stabilization and Association Agreement, 12 April 2001.

<sup>4</sup> Council conclusions on North Macedonia and Albania, 18 July 2022.

<sup>5</sup> The very condition for the official opening of Cluster 1 is the proposed amendments to the Constitution that imply the inclusion of the Bulgarian minority in the Constitution Preamble. After long discussions and activities at the Assembly of the Republic of North Macedonia, the Proposal to initiate amendments to the Constitution of the Republic of North Macedonia was formally discussed at an Assembly session (no. 123 of 18 August 2023). See more here.

<sup>6</sup> Cluster 1 Screening Report – Fundamentals.

<sup>7</sup> Dragan Tilev, Screening report to be used to accelerate reforms, Economy and Business, October 2023.

The existing negotiation framework incorporates horizontal strategies aimed at preventing and combating corruption. These strategies, with the exception of Cluster 1, are uniformly applied across all clusters. As per the public opinion surveys conducted by the Regional Center for Cooperation in 2023, half of the Macedonian population expressed support for EU membership. However, data from the entire Western Balkans region indicates a declining trend in support, with a decrease of three percent.<sup>8</sup>

National-based surveys indicate a stronger level of support, with approximately 60% of Macedonian citizens favoring their country's integration into the European Union. They view the European Union as a bastion of the rule of law and a leading global economic power. Additionally, they consider the European Union to be a significant bilateral economic partner. This demonstrates the citizens' recognition of the potential benefits and opportunities that EU membership could bring to the Republic of North Macedonia.<sup>9</sup> Despite the fact that citizens' expectations from the EU were higher in the past compared to the present, there remains a steadfast belief that the country should persist on its journey towards full EU membership. These expectations from the citizens validate the continued efforts by the European Union and other contributing factors to support the development of the Western Balkans' population. This not only contributes to peace and stability but also enhances the development prospects for the entire continent. This underscores the enduring hope and commitment towards a unified and prosperous future within the European Union.

### **1.1. Political polarization and its consequences**

Currently, the public sphere is heavily influenced by electoral rhetoric and public discourse that carries a strong political undertone.<sup>10</sup> The current political environment, which has been ongoing for an extended period, has now reached a peak of severe political polarization. This is further exacerbated by the inability to achieve a political consensus on constitutional changes and other crucial public interest issues. In this highly polarized landscape, there have been no substantial initiatives for political dialogue. Des-

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<sup>8</sup> BalkanBarometer | Welcome (rcc.int), 2023.

<sup>9</sup> Institute for Democracy "Societas Civilis", Skopje: Decline in support for EU membership of the country, only 24 percent of citizens support constitutional changes.

<sup>10</sup> According to the so-called Przhino Agreement (2015), the outgoing elected political government is dissolved a hundred days before the parliamentary elections in order to form a caretaker government that would include representatives of the opposition and organize and conduct the upcoming elections. Such a government is called a *caretaker* or *interim government*. The aim is to prevent possible inconsistencies and electoral fraud by the outgoing government.

pite the regular shifts in ruling coalitions, political stability has remained intact. The constant political maneuvering and focus solely on the party-based redistribution of state ministries and high-ranking positions have come at a cost borne by the citizens. Reforms have hit a standstill and have been sidelined in terms of political interest. The decline in living conditions, alarming instances of high-level corruption, and inappropriate use of public funds have escalated the citizens' discontent, leading to a steady decrease in their trust in institutions.

The conflict in Ukraine has had a significant impact on the citizens of the Republic of North Macedonia. They have been consistently voicing messages of peace, denouncing the war, and expressing solidarity with the Ukrainian citizens who are directly enduring the harsh realities of this devastating conflict. The economic repercussions of the war were swiftly felt by the citizens of the Republic of North Macedonia, manifesting in the form of escalating prices, an energy crisis, inflation, and other severe consequences. In early 2023, the economy was grappling with monetary instability, characterized by double-digit inflation. However, as the year progressed, the inflation rate was brought down to 9.5%, and the gross domestic product (GDP) experienced a growth of 1.9%.<sup>11</sup> In the past three years, the Government has been confronted with the dual crises of the Covid-19 pandemic and the war in Ukraine. In response to these challenges, it has implemented a multitude of intervention measures. These measures aim to mitigate the impacts of these crises, counteract the diminishing purchasing power of citizens, and curb the increasing poverty rates. The implementation of intervention measures in the economy and the state's regulation of prices for essential products have sparked fresh debates about the country's economic structures and market dynamic. The reduction in prices of staple food items such as bread, cooking oil, and rice has been offset by significant price hikes in other products, which also form part of the average consumption basket.

## **1.2. The concept of the fundamental values of the European Union**

The European Union is founded on shared values held by all Member States. Their commitment to these values, demonstrated through the adoption of EU law, signifies mutual trust. This certainly leads Macedonian citizens to inquire about the specific nature of these European values. The response can be swift if the general provisions set out in the Treaty of Lisbon (2009) are implemented, where it is noted: "The Union is founded on

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<sup>11</sup> The highest inflation in the country was recorded in June 2022: 16.8%. Quarterly Report, November 2023, National Bank of the Republic of North Macedonia.

the values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities.”<sup>12</sup> The full scope of values that guide European societies cannot be fully enumerated here, as they touch on various aspects of daily life for European citizens in areas such as education, healthcare, employment, family, gender equality, social issues, environmental protection, work ethic, relations with neighboring countries, treatment of foreigners, and more.<sup>13</sup> Values are seen as essential for promoting social cohesion and unity, and serve as a means to address diversity and encourage solidarity among Member States. They hold significance in the daily lives of citizens but can also be utilized in an abstract sense to shape political environments.

The importance of the rule of law as a fundamental value was highlighted in the EU enlargement policy, specifically emphasized in the Negotiating Framework for Croatia, as well as in the candidate countries of the Western Balkans (designated as Chapters 23 and 24). This shift in the negotiating framework occurred following the accession of Romania and Bulgaria to the European Union. The revised methodology focused on negotiating chapters, leading Croatia to be one of the initial countries to successfully complete negotiations under all thirty-five chapters. Following suit, Montenegro and Serbia began negotiations using the same approach. In 2020, under the German Presidency of the Council of the EU, the negotiating framework was further revised. The updated version organizes the chapters into six clusters. While the cluster negotiation approach primarily pertained to Albania and North Macedonia, it was also adopted by other countries already engaged in the negotiation process. The six clusters in the revised negotiating framework may not have a specific hierarchy, despite being arranged by ordinal numbers. However, the explanatory section of the Framework underscores the particular significance of Cluster 1, labeled “Fundamentals”. This cluster encompasses chapters that embody the principle of “Fundamentals first,” emphasizing their exclusive importance in the negotiation process.<sup>14</sup> The principle of “Fundamentals first” specifies that the key areas to address are the rule of law, functional democratic institutions, economic management, professional public administration, development of good neighborly relations, and resolution of mutual disputes. The goal of reorganizing the nego-

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<sup>12</sup> Treaty of Lisbon, Konrad-Adenauer-Stiftung Office in the Republic of North Macedonia, Skopje, 2010.

<sup>13</sup> Values in the EU policies and discourse. A first assessment, Les Cahiers du Cevipol 2016/3 (N° 3) 2016.

<sup>14</sup> Cluster 1 covers the following chapters: Chapter 23 - Judiciary and Fundamental Rights; Chapter 24 - Justice, Freedom, and Security; Chapter 5 - Public Procurement; Chapter 18 - Statistics; and Chapter 32 - Financial Control.

tiating framework was for candidate countries to prioritize reforms to adopt and uphold fundamental European values, particularly adhering to the rule of law. Cluster 1, "Fundamentals," is uniquely significant as negotiations commence and conclude with this cluster. The entire negotiation process involves a concept of "turning back" (reversibility), meaning that progress in Cluster 1 is crucial for advancing negotiations in the other clusters.

The rule of law, a fundamental value of the European Union, serves to uphold universal principles through the legal system. Within the negotiating framework, emphasizing the rule of law aims to promote a deeper level of democratization in candidate countries and underscore the significance of governments' political approaches and adherence to political criteria.<sup>15</sup>

The legal principle of the rule of law encompasses the following elements: 1) legality, 2) legal certainty, 3) prevention of arbitrary exercise of executive powers, 4) presence of independent and impartial courts, 5) efficient judicial review incorporating respect for fundamental rights, and 6) equality in the eyes of the law.<sup>16</sup> The belief is that EU Member States have common legal traditions and have already integrated these principles into their national legislation. The European Union through Regulation 2020/2092<sup>17</sup> defines the rule of law, specifying the legal meaning. The Regulation defines the legal obligation that should be ensured by the governments of the Member States to act under the enacted laws.

Following the completion of the screening for Cluster 1 and the receipt of the Draft Report by the European Commission, the country developed a "Rule of Law Roadmap" outlining the primary reform priorities in Chapter 23, Judiciary and Fundamental Rights, and Chapter 24, Justice, Freedom, and Security. The report, as well as other assessments, concluded that the Republic of North Macedonia has a relatively high level of compliance (around 50%) with common European legislation (Acquis Communautaire). However, a significant issue was identified in the lack of respect for enacted laws and the non-transparent procedures in their adoption. Therefore, serious concerns have been raised about the lack of commitment by key institutions to upholding the rule of law, leading to their failure to act in accordance with laws. These criticisms primarily target the justice system, which faces significant challenges related to the integrity of judges and prosecutors,

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<sup>15</sup> Ibid., p. 41

<sup>16</sup> Laurent Pech, *The Rule of Law - a Well-Established and Well-Defined Principle of EU Law*, Springer Link, Volume 14, pp. 107–138, (2022).

<sup>17</sup> Regulation (EU, Euratom) 2020/2092 of The European Parliament and of The Council, 16 December 2020, Article 1. This Regulation establishes the rules necessary for the protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States.

their impartiality, and susceptibility to corruption. Surveys conducted in 2023 revealed that citizens have an extremely negative perception of the justice system due to issues such as political interference, nepotism, political favoritism, corruption, clientelism, and other societal problems. This kind of environment does not meet the necessary standards for the effective implementation of European Union law as such.<sup>18</sup>

### **1.3. The role and importance of civil society associations in the accession negotiations for membership of the European Union.**

The government and relevant institutions bear primary responsibility for the European integration process. However, the European Union's enlargement policies emphasize the crucial role of civil society organizations and other stakeholders. European integration is a process that should engage all citizens, as they need to understand and adhere to European standards while also learning to become active participants in civic life. The involvement of civil society organizations in formulating, monitoring, and implementing public policies not only enhances the democratization of the negotiation process but also provides additional support for institutions during these negotiations. In 2023, the Government made efforts to develop a draft model for civil society participation in the EU Accession Dialogue, showcasing a commitment to engaging with various stakeholders in the European integration process.<sup>19</sup> It is anticipated that the Government will continue its efforts to finalize and implement the document, with the aim of transitioning from a practice of merely stating openness to one of genuine and equitable collaboration with relevant civil society organizations. This shift would enhance the effectiveness of the European integration process and ensure broader participation from various stakeholders in shaping public policies.

According to the Balkan Public Barometer, half of the citizens in the Republic of North Macedonia acknowledge civil society organizations as crucial actors in driving progress in the European integration process.<sup>20</sup> Civil society organizations are recognized for their valuable expertise in the field of EU integration, but there is a perception that they are not sufficiently coor-

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<sup>18</sup> Brussels Declaration, 13 December 2023, EU-Western Balkans Leaders' Meeting.

<sup>19</sup> The Secretariat for European Affairs created the Draft Strategy of the Macedonian Model of Cooperation and Communication between the Public Administration and Civil Society Organizations (in accordance with the Decision on the Establishment of a Negotiating Structure for the Accession of the Republic of North Macedonia to the European Union), which contains 3 main models. This model was presented and discussed with representatives of civil associations in March 2023.

<sup>20</sup> Balkan Public Barometer (2022), RCC – Sarajevo.

minated and integrated into platforms that would amplify their collective voice. Nevertheless, it is important to acknowledge the inadequate implementation of the Government's Strategy for Cooperation and Development of Civil Society for 2022-2024, as well as the lack of activity from the Government's Department for Cooperation with Civil Society Organizations. This inactivity is result of associations boycotting the department due to the diversion of the initial budget intended to support civil society for other (political) purposes.

#### **1.4. Western Balkans Growth Plan**

The European Union's updated approach to the accession of the Western Balkans emphasizes the necessity for more extensive reforms to attain the required level of socio-economic convergence. This is a crucial aspect in advancing the integration of Western Balkan countries with the EU.<sup>21</sup> Until citizens experience tangible benefits during the EU membership accession dialogue, they may remain unconvinced of the positive impacts of the process. To address this, the EU has been developing a financial support package for Western Balkan countries focused on economic convergence. This initiative aims to narrow the economic and social disparities between candidate countries and current EU Member States.<sup>22</sup> The growth plan presents an opportunity for Western Balkan countries to enjoy the advantages of the EU even before joining as full-fledge members. This can be achieved through expanding economic growth that benefits the region.

The new Growth Plan for the Western Balkans is designed around four key pillars, focusing on:

1. Improving the economic integration of the Single European Market through the application of European standards (rules).<sup>23</sup> The regional common market is open, which means that there will be no barriers for certain economic sectors, nor barriers for all neighboring countries in line with the Common Regional Market. Regarding the common market, seven priority actions are proposed, namely: (1) free movement of goods, (2) free movement of services and workers, (3) access to the Single Euro Payments Area (SEPA), (4) facilitation of road transport, (5) integration and

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<sup>21</sup> New Growth Plan for the Western Balkans, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 18 November 2023.

<sup>22</sup> Commission presents a new Growth Plan for the Western Balkans including €6 billion in grants and loans to accelerate economic convergence with the EU, 8 November 2023.

<sup>23</sup> The internal market: general principles.

decarbonization of energy markets, (6) digital single market, and (7) integration into existing industrial food supply chains.

2. Strengthening the economic integration of the Western Balkans through the Common Regional Market where EU rules and standards will be applied, which could contribute to a new value in their economies of 10%.
3. Accelerating fundamental reforms, especially in Cluster 1, and the Western Balkans' commitment to improving sustainable economic growth by attracting foreign investment and strengthening regional stability.
4. Increasing financial assistance to support reforms through a special financial instrument for the implementation of the Reform and Growth Plan for the Western Balkans for the period 2024 – 2027.<sup>24</sup> The receipt of money from these funds is conditioned by attaching results for implemented specific socio-economic and other reforms in the field of fundamental values. Also, the use of these funds will take place according to a pre-prepared annual agenda, which will incorporate the recommendations of the last annual report made by the European Commission, as well as according to an economic reform program that each country will prepare, and will be pre-consulted, evaluated, and approved by the EU.<sup>25</sup>

The leaders of the Western Balkans have expressed particular satisfaction that, on the occasion of the Growth Plan discussions, they were able to focus on economic topics rather than major political issues where there may be significant differences.<sup>26</sup> The general conclusion regarding the Growth Plan is that the EU has taken concrete steps and provided a model for the implementation of European directives prior to accession. This approach could have a positive impact on economic convergence in the Western Balkans and could significantly accelerate the European integration process for candidate countries in the region.

The Growth Plan is not just a strategy for economic development and investment support in the Western Balkans. It also offers a beacon of hope for establishing financial discipline and the rule of law in the region.

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<sup>24</sup> EUR 6 billion of which EUR 2 billion in grants and EUR 4 billion in concession loans.

<sup>25</sup> Ibid.

<sup>26</sup> Statement by the President of the Republic of Serbia, Aleksandar Vucic, at the meeting of Western Balkan leaders in Skopje on the occasion of the Growth Plan of the European Union. Radio Free Europe, 22 January 2024.



## 2. CHAPTER 23 – JUDICIARY AND FUNDAMENTAL RIGHTS: THE JUDICIARY WITHIN THE SEPARATION OF POWERS IN DEMOCRATIC SOCIETIES

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The judiciary is one of the primary pillars that should be implemented in societies that identify as democratic, as it is one of the primary principles. In Cluster 1, Chapter 23: Judiciary and Fundamental Rights has a particular significance. This chapter is unique in that it is based on principles such as independence, impartiality, fulfilled justice, respect for fundamental rights, and the fight against corruption rather than having a legislative framework (Hard Acquis). Aside from the introduction of advanced levels of digitization (a crucial tool), other factors that help achieve the values of Chapter 23 are: genuine accountability of all stakeholders in the judiciary; precise and clear legal and regulatory arrangements; adherence to the law; timely and high-quality court case resolution; appropriate distribution of court cases; and judicial and prosecutorial personnel who show their integrity in their judicial practice.

Negotiations in Chapter 23 will proceed well, according to Kristijan Turkalj, if the following conditions are satisfied.<sup>27</sup>

- Political consensus is the agreement that is formed when all parties involved in addressing important political issues that need to be managed work together to reach a consensus.
- Sincere commitment to the reform process is essential, as empty words and flimsy reform implementation do not really advance the cause.
- Enhancing administrative capability, particularly by hiring committed and knowledgeable administrative staff, is crucial for the quick and efficient execution of necessary changes.
- The negotiators' abilities in communication and bargaining (negotiating teams), and
- Relevant and comparable data that demonstrate the degree of convergence and actual changes.

This chapter's negotiation process is contingent upon both internal and external elements for its success. It is important to remember that other EU components are also involved in the negotiation process, in addition to the European Commission. Additionally, geopolitical processes that alter

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<sup>27</sup> Kristijan Turkalj, negotiator for Chapters 23 and 24 for the Republic of Croatia, State Secretary at the Ministry of Justice, and former Acting Minister of Justice. Presentation at the 11th session of the Working Group – 3.

enlargement goals and direct attention toward regions more crucial to Europe's strategic positioning have a major impact on the negotiation process.

In contemporary democratic societies where institutions and laws have the authority to regulate, fundamental rights hold a particular significance. Many conventions, protocols, directives, declarations, and other non-binding agreements provide the core principles, which governments should incorporate into their legal frameworks. Anti-discrimination laws, the right to a fair trial, the right to a trial within a reasonable time frame, the protection of personal information, and related laws are all given special attention.

The views of Macedonian citizens indicate that obtaining justice is a difficult task. The judiciary has been recognized as a domain where many external power centers of influence converge to press for impunity, particularly for those convicted of crimes promoting the interests of political, economic, and other nouveau-riche elites. Even after two decades of arduous reform efforts, the court system represents a sector that has not attained the required degree of independence and impartiality.<sup>28</sup>

In its 2023 Report, the European Commission analyzes the state of the judiciary and concludes that there has not been any development at all. The court system in the Republic of North Macedonia is as ready as it was the year before. The state of affairs in this field is of grave concern to the European Commission.<sup>29</sup>

### **2.1. What is happening with the judicial authority?**

The degree to which the chosen tactics for judicial reform are being implemented successfully is one particular question that is critical to the reforms' advancement. The State Audit Office's assessments indicate that a defining characteristic of the actions and initiatives outlined in the Action Plan for implementing the Strategy for Judicial Sector Reforms 2017–2022 is their lackluster efficacy. This source claims that the institutional and legal frameworks are both inadequate. In particular, the body in charge of execution did not operate according to the guidelines established in the protocols, judgments, and papers. The auditors stress the importance of precisely defi-

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<sup>28</sup> Aleksandra Deanoska Trendafilova, "Election and Promotion in Judicial Institutions – Through Greater Transparency and Quality to Increase Citizens' Trust in the Judiciary". National Convention on the European Union in the Republic of North Macedonia (NCEU-MK), "Third Book of Recommendations", 2024, Skopje.

<sup>29</sup> Report of the European Commission on the Republic of North Macedonia.

ning the designated bodies' competencies.<sup>30</sup> 52 percent of the 130 planned initiatives were therefore fully implemented. This highlights deficiencies in the following areas: the measures' inadequate definition; the lack of quantifiable and clear indicators of their level of implementation; the implementation's unrealistic deadlines; the assessment of the required financial resources and the lack of a clear source of funding for the measures; and the poor coordination of institutions and competent bodies for the measures' implementation and other activities.<sup>31</sup>

The reason the new Justice Sector Plan (2024–2028) differs from the old one is that it addresses the issues that arose during the old strategy's incomplete execution. One may always point to the complexity of the nation's sociopolitical backdrop as the cause of the Strategy 2017–2022 implementation shortcomings. These arguments, however, fall short of explaining the actions of judges who misapply their judicial authority. When judges and prosecutors use legal tools to challenge executive branch actions that deviate from the law, public confidence in the judiciary will grow. The judicial branch really has the power to regulate the executive branch when it operates in an unbiased and independent manner. But the question remains of whether judges function as the executive branch's servants or as a distinct body of government. The executive branch easily dominates the judiciary and achieves a condition of impunity without great difficulty; therefore, it is not surprising that there is an imbalance of power in favor of this branch given the mindset of judges and prosecutors. However, blaming external (political) factors alone for the judiciary's problems does not give the whole story. In fact, a qualitative examination (case studies, in-depth interviews, biographical analyses) is needed to address a number of issues surrounding judicial appointments, including hiring practices, knowledge levels, career pathways, and the methods by which integrity is developed. It will also be beneficial to comprehend their daily activities and initiatives.

Persistent analyses use the hierarchical line as a lens through which to view the issue of responsibility in the legal system. Consider the following query: What are the responsibilities and qualifications of the presidents of the courts and prosecutor's offices? What role does that play? Are persons in these positions ignorant of the work that judges and prosecutors conduct in their courts, or are they unaware of the honesty of the judges and prosecutors that they are responsible for overseeing?

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<sup>30</sup> Final report on the conducted performance audit "Effectiveness of the Implementation of the Judicial Sector Reform Strategy 2017 – 2022 and Implementation of the Strategy Action Plan" – State Audit Office, December 2022, Skopje.

<sup>31</sup> Ibid., p. 7.

## 2.2. Judicial Council of the Republic of North Macedonia - Hidden Curriculum in Decisions on the Selection and Advancement of Judicial Staff

In 2023, the European Union, as well as the general public and experts, took notice of the actions and decisions made by the Judicial Council of the Republic of North Macedonia. The Judicial Council is a crucial institution in the judiciary since it makes decisions about the hiring of new judges, their promotion to higher courts, and their disciplinary responsibility and removal. As a result, it is in charge of setting the standards (ratings) in this field.

With the start of a process to remove the legitimately elected Council president through an unlawful and opaque process, the judicial Council's problems gained momentum.<sup>32</sup> Contrary to the mandate of the law, a new president was chosen during that same session in secret. Based on the analyses, the Judicial Council is primarily criticized for opening its doors to high business and political influence. This creates a paradoxical situation whereby the Council appears to be a bastion of corruption rather than a place where a war against corruption would be declared, and a body where the corrupt can easily manipulate it.<sup>33</sup>

The European Union conducted an assessment mission with the goal of narrowing down and expediting the Judicial Council's structural reform. The mission's report outlines forty practical short- and long-term actions. The following are some of the suggested changes that are deemed more significant: (1) modifying the members' mandates; (2) altering the Council member election process; (3) encouraging transparency; (4) strengthening the Judicial Council's financial independence; and (5) involving civil society in both the member election and work monitoring processes. It is especially stressed how crucial it is to lay out the processes for choosing and removing the Judicial Council president.

Numerous other initiatives stressed how important it is to change the Judicial Council in this way. Thus, in the research paper "Percentage of the risks of corruption in the judiciary" (June 2023), 62% of the judges interviewed said that the Judicial Council is not effective in protecting judicial

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<sup>32</sup> On 26 April 2023, at a session of the Judicial Council of the Republic of North Macedonia, Vesna Dameva was dismissed from the position of President of this body. Five months earlier (November 2022) Pavlina Crvenkovska, then President of the Judicial Council, resigned from her post on the grounds that certain judicial-business elites tried to exert pressure and influence her. Read more.

<sup>33</sup> An OSCE analysis of the risks of corruption in the judiciary in the Republic of North Macedonia, conducted in 2023, according to an anonymous poll involving 212 judges and 83 public prosecutors.

independence, and only 26% agreed that the Judicial Council is effective in that.<sup>34</sup> The judges who responded to the survey made clear that they are under pressure, that members of the Judicial Council as well as business leaders are extorting decisions from them. Biased forensic expertise, lawyers abusing procedural rights, inadequate indictments, uneven cooperation between the prosecution and other investigative bodies, judges being relocated for specific cases, and close relationships between judges, prosecutors, and lawyers are a few of the problems that contribute to the ineffectiveness of the court system in the country.

Particularly in the work of the Judicial Council and the Council of Public Prosecutors, the civil sector has demonstrated a high degree of attention in keeping an eye on developments within the judiciary. Civil platforms made public appeals to the government and judicial authorities on the Judicial Council current developments, urging them to observe the rules of procedure, particularly those pertaining to the publicity of the proceedings. Thus, the Judicial Council's accountability and the causes of the low level of public trust were discussed within the framework of the National Convention on the European Union in the Republic of North Macedonia (NCEU-MK). It was determined that there was a lack of accountability in the relationship between the Supreme Court of the Republic of North Macedonia and the Judicial Council, and that future efforts to attain more accuracy should address this issue of accountability.

One of the two most significant institutions in the state with the authority to prosecute crimes and corruption is the Council of Public Prosecutors of the Republic of North Macedonia. The issue of inadequate coordination between the relevant authorities—whose collaboration is essential in the fight against corruption—was frequently brought up in the NCEU-MK dialogue.<sup>35</sup> Prosecutor Lenche Ristoska offered the following perspective at one of the NCEU-MK working sessions: "The major goals of the Council of Public Prosecutors, which were to professionalize prosecutions and isolate political and other undue influences, have not been met. It should therefore be reformed in the sense of becoming a sort of ad hoc body that convenes as nee-

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<sup>34</sup> Ibid.

<sup>35</sup> The manner of operation of the competent institutions for prosecuting corruption came to the fore in the clash between the Prosecutor's Office for Prosecuting Organized Crime and the Financial Police Administration. By order of the Head of this Prosecutor's Office on 18 July 2023, a search raid was carried out in the premises of Financial Police Administration after receiving an anonymous tip about abuse of office, exposure to external influences, and receiving bribe by the Director. While the Director resigned his post without any other legal consequences, the Head of the Prosecutor's Office was suspended from work for overstepping her authority. During the investigation of the case, the claim came to light that in the country it is not possible for those who commit crime to fight it.

ded. For as long as the process of appointing prosecutors is based on outside standards and maintains a clientelist connection, the prosecution will be a case of influence trading".<sup>36</sup>

In the same period, the Coalition "All for Fair Trials" issued a press release outlining the Code of Ethics for Public Prosecutors. The code prohibits public prosecutors from making public comments on cases they are currently managing as well as from discussing judiciary decisions in public. According to the press release, "Public processes, accountability, and openness in line with democratic values and good governance standards, among other things, imply that everyone can debate any person's judgments and viewpoints. Otherwise, it is impossible to resist the perception that the Council is only using these prohibitions as a means of undermining public prosecutors and shielding itself from criticism from its own citizens".<sup>37</sup>

Regarding the changes to the Criminal Code of the Republic of North Macedonia in a summary procedure, the civil platform "Blueprint Group" sent numerous press releases voicing grave concerns about the decrease of punishments for offenses of criminal association and abuse of office.<sup>38</sup> Furthermore, senior judges and prosecutors who work for the judiciary have openly and repeatedly stated in surveys and other research projects that the members of the councils, despite the fact that the majority of them are elected by other judges and prosecutors, alienate themselves from their voters and are hesitant to defend them from outside pressure and undue political influence.

### **2.3. The challenges of recruiting and retaining qualified personnel for the justice system and the performance of the ACCMIS system**

Concern over the optimization of staff in the court system has grown. Experts first raised the matter with the public at the end of June 2022, when many judges' and prosecutors' mandates ran out owing to retirement. The issue of not having enough judges has existed since 2023 and has impeded the efficient operation of lower courts with basic jurisdiction. The Law on

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<sup>36</sup> 11th Session of Working Group 3, 26 April 2023, "Regulation, pragmatic context, and effects vis-a-vis Chapter 23 and the responsibility of the relevant entities in the administration of justice in the Republic of North Macedonia".

<sup>37</sup> Report on the 78th session of the Council of Public Prosecutors of the Republic of North Macedonia held on 27 April 2023.

<sup>38</sup> Reaction to the amendments to the Criminal Code in a fast-track procedure.

Courts<sup>39</sup> allows judges to work in other courts in the country as necessary, but the issue arises from insufficient human resource planning.

Outdated information technology and a lack of IT specialists have been shown to affect the courts' Automated Court Case Management Information system (ACCMIS) functionality. As a result, this has led to disrupted archiving of cases and then to their storage in basements. Judges and prosecutors are also required to fill vacancies in the nation's outlying courts. The Judicial Council allegedly does not frequently inspect the work of the courts, according to the same source.<sup>40</sup>

As per the experts at NCEU-MK, "it should be understood how vital it is in the Republic of North Macedonia to make a good selection of judges as such, but if the judiciary does not wish to truly choose the best professionals, then they will not be elected." Disregarding the ranking lists of candidates for promotion is a particularly concerning practice in the court system, and there is a clear inclination to use different strategies to get around the selection of candidates who are higher on the selection lists. The process of delaying the election is frequently employed in conjunction with the so-called enacted "Badinter's double majority voting method," which multiplies the votes of Council members who are members of ethnic communities that comprise more than 20 percent of the population by having them vote separately. As a result, "it really irritates me when someone who is placed 151<sup>st</sup> on the candidate selection list beats out the other 150 better applicants to obtain a job he doesn't really deserve at all."<sup>41</sup>

In order to distribute court cases according to their complexity and urgency, and the standards for evaluating judges and court presidents, the ACCMIS must ensure complete functionality and compatibility. The trial judges' productivity might be improved with the ACCMIS system. But in order to perform this function, it urgently has to be upgraded with modern IT technologies to increase its performance. Additionally, by inputting more information about the court cases, the system may be improved to help distribute the cases based on factors like urgency, complexity, and other considerations (about the parties, injured parties, witnesses, forensic evidence, trial lawyers, and other relevant case information).<sup>42</sup>

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<sup>39</sup> Law on Courts, Official Gazette of the Republic of Macedonia no. 58/06, 62/06, 35/08, 150/10, 83/18, 198/18, and 96/19.

<sup>40</sup> Ministry of Justice, June - 2023, Minutes of the performed supervision over the functionality of the Automated Computer Case Management Information System (ACCMIS).

<sup>41</sup> Kristijan Turkalj, expert, negotiator for Chapters 23 and 24 for the Republic of Croatia, State Secretary at the Ministry of Justice in the Republic of Croatia and former Acting Minister of Justice, address at the 11th session of WG-3 (25 April 2023).

<sup>42</sup> Judge Olja Ristova, Basic Criminal Court in Skopje.

## 2.4. Chapter 23, Judiciary and Fundamental Rights through the Lens of the National Convention on the European Union in the Republic of North Macedonia<sup>43</sup>

The Republic of North Macedonia is a candidate country for EU membership, and the National Convention on the European Union (NCEU-MK) is a democratic forum established by citizens to promote structured discussion on important topics pertaining to the Accession Negotiating Framework. NCEU-MK has dedicated itself to Chapter 23, Judiciary and Fundamental Rights, over the last six years.<sup>44</sup> The topics were chosen for inclusion in the National Program for the Adoption of EU Law (NPAA) 2021–2025 based on their gravity and importance within the context of negotiations as evidenced in the reports of the European Commission (following at each level),<sup>45</sup> and in other relevant documents. It appears that the same questions have permeated every conversation from this point in time, regardless of the subject matter discussed. Recurring themes can give the impression that the issues are unmanageable and insurmountable. The following were among the frequently discussed topics in the NCEU-MK expert-structured dialogue: the judiciary's screening process; the way and process of hiring new employees; the seizure of proceeds from criminal activity; the issue of the judiciary's staffing levels and quality; the judiciary's reliance on funding; the evaluation process; identifying the complexity of cases and tracking and managing their progression; digitization in the judiciary; and other pending matters.

The NCEU-MK experts reject the widely held belief that "vetting" is the real answer and cure-all to the problems facing the court system today. They contend that the legal obligation to certify the work of judges and prosecutors rests with the administration and oversight bodies of the legal system. Who else can create order in the work of judges and prosecutors if these institutions are unable to do so? If there is a desire to do so, the current institutions could do a thorough deep "vetting" of the judiciary through their regular constitutional and legal obligations. Consequently, the suggestion to establish ad hoc mechanisms (separate commissions or working groups) was not considered a suitable resolution, as this process could take on a political aspect. However, it would also absolve the accountable institu-

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<sup>43</sup> Aleksandra Deanoska Trendafilova, Professor at the Faculty of Law "Iustinianus Primus" and coordinator of NCEU-MK WG 3: Judiciary and Fundamental Rights.

<sup>44</sup> The National Convention on the European Union in the Republic of North Macedonia started its activities in 2017. It has established 6 working groups covering 9 chapters: Agriculture and Rural Development (Chapter 11), Social Policy and Employment (Chapter 19), Environment (Chapter 27), and all chapters of Cluster 1.

<sup>45</sup> The National Program for the Adoption of EU Law (NPAA) 2021-2025.



tions of liability, as the ad hoc bodies would cease to exist when the impact of their actions is assessed.

The Public Prosecutors' Council of the Republic of North Macedonia (PPC) has comparable authority and functions to other judicial system organizations. Nonetheless, the PPC is sometimes referred to as a "weak link" in the nation's judicial system, particularly when discussing Chapter 23 and Chapter 24 at NCEU-MK sessions (judiciary). These chapters' considerations hint to a state with strong formal organizational structure and typically acceptable regulations. There were, meanwhile, some points of view expressed during the discussion that the legislation itself needed to be strengthened and its regulatory authority clarified.

Answers to the current state of the judiciary as a whole should be sought from judges and prosecutors as well as from members of the Council of Public Prosecutors and the Judicial Council. Although the Constitution of the Republic of North Macedonia and other legal acts<sup>46</sup> guarantee the independence of the justice system as such, there is still a lack of laws that would directly provide for judicial independence, i.e., that would protect judges from attempts to influence them. It is likely that there is also a lack of practices in the national context that would confirm that the legislative and executive branches of government treat the judiciary as *an independent judicial branch of government*.<sup>47</sup>

During the NCEU-MK meeting, it was proposed that public opinion polls indicating the general public's low assessment of the justice system should be cited with caution. These opinions lead to the inclusion in the polls of people who have little prior knowledge of the legal system, which causes many of them to give arbitrary answers.<sup>48</sup> However, the results of public polls can be regarded as trustworthy instruments because they are based on individuals' opinions about how certain justice system institutions function, with an emphasis on evaluating the processes' legality and fairness rather than just the results.<sup>49</sup> Analyzing how the general population

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<sup>46</sup>The Constitution of the Republic of North Macedonia and other legal acts: the Law on Courts, the Law on the Judicial Council of the Republic of North Macedonia and the Law on the Council for establishing facts and initiating a procedure for determining responsibility for a judge. The by-laws of these bodies, such as rules of procedure and regulations, are an additional tool, which in practice facilitates and enables judicial independence.

<sup>47</sup>Institute for Human Rights, Basic analysis of the work of the Judicial Council of the Republic of Macedonia.

<sup>48</sup>Margarita Caca Nikolovska, Director of the Institute for Human Rights – discussion at the 10th session of the Working Group 3, 4 April 2022.

<sup>49</sup>Kristijan Turkalj, expert, negotiator for Chapters 23 and 24 for the Republic of Croatia, State Secretary at the Ministry of Justice in the Republic of Croatia and former Acting Minister of Justice, address at the 11th session of WG-3 (25 April 2023).

views corruption in a particular nation can help determine how corrupt a nation is. Since a large percentage of mistrust severely erodes public confidence in institutions, it is regarded as a significant problem. The criminal justice system depends heavily on public confidence in the judiciary, according to the European Court of Human Rights.<sup>50</sup>

## **2.5. Statute of limitations of court cases and corruption in the judiciary**

One of the main issues with the Macedonian legal system is the obsolescence of court cases, which is caused by lengthy court hearings. In cases of high-profile corruption, the statute of limitations is a very crucial subject.<sup>51</sup> Because the first-instance decision was of low quality, it is customary in appellate courts to reverse judgments and remand them for a retrial. Abuse is an issue when court proceedings are made to become obsolete in this way.

It is impossible to avoid using the example of the passing of the Law Amending the Criminal Code while discussing the obsolescence of court proceedings.<sup>52</sup> The maximum legal penalties for abusing authority and position as well as the penalties for engaging in criminal association have been lowered under this law. A number of significant high-profile corruption cases on the day of its enactment automatically resulted in the offenders' release.<sup>53</sup> It was clear that laws were being used to further high political and business objectives. The law was enacted quickly—nearly in secret—under the pretext of the "European flag," indicating its importance and priority for the nation's EU integration process. However, the European Union responded a few days after the Law was adopted, expressing dissatisfaction over the absence of thorough consultations with domestic stakeholders and talks with the European Commission prior to the Law's actual enactment. The "European flag" should only be used in accordance with rules that essential-

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<sup>50</sup> Action Plan and Program for Prevention and Fight against Corruption, 2022, Supreme Court of the Republic of North Macedonia.

<sup>51</sup> Muhamed Halili, Co-Chair of Working Group 3, Vice-President of the European Movement in the Republic of North Macedonia.

<sup>52</sup> Law Amending the Criminal Code, Official Gazette of the Republic of North Macedonia no. 188/2023, of 7 September 2023.

<sup>53</sup> According to the reports of the Coalition "All for Fair Trials", there will be an obsolescence of criminal offenses for criminal association and abuse of office and authority. Almost all court cases are cases initiated and prosecuted by the former Special Public Prosecutor's Office (SPO), which then covered over 80 suspects and defendants, while all cases became obsolete just in one single day due to the new amendments to the Criminal Code of the Republic of North Macedonia.

ly seek to reconcile national legislation with EU law (EU Acquis). "North Macedonia is committed to promoting the rule of law and fighting impunity, so penalties for corruption activities must be effective, proportionate, and dissuasive," the same reaction said.<sup>54</sup>

The examinations of judicial corruption have identified numerous sources of this tendency. We highlight some of the more noteworthy ones, including:<sup>55</sup>

- Indirect corruption of judges whose children or other close relatives are trial lawyers or work in law firms that deal with the judge's cases.
- Judges whose children or other close relatives work as attorneys in the same district or city where these judges work and specialize in the same law area in which these judges handle cases.
- Judges with a direct connection to litigants - who are prone to accept bribes.
- Judges who are close to trial lawyers, intentionally allowing lawyers to use their intimate friendship to give litigants the idea that they have connections that can benefit them and influence judgments in their favor. Attorneys charge a lot of money for this link to the judge; the money is either split between the attorney and the judge, or the judge receives remuneration in the form of costly gifts, trips, and other bribing items.
- Direct corruption among judges in collaboration with the court administration, where a court clerk close to the judge negotiates and approves compensation with the parties for a favorable court ruling.
- Direct corruption of the judicial administration, which appears as a factor in the court verdict and for a reward reportedly given to the judge vow to press for the settlement of the dispute for the advantage of the party. Some of them, for minimal payments, exert influence within the court so that the parties are able to exercise some rights more quickly, while others are unable, and other court decisions, though enforceable, are not executed and therefore become obsolete.
- Direct manipulation of trial lawyers who convince parties that they should pay more than the standard legal fees to bribe the judge (essentially, the lawyer takes the money) - the judge is merely one component of the made-up scenario.
- Corruption in recruitment and advancement in the judiciary.

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<sup>54</sup> Statement by Ana Pisonero, Spokesperson at the European Commission.

<sup>55</sup> *Ibid.*, pp. 7-13.

Although the Action Plan correctly locates existing practices in the court system and defines them as sources of corruption, it lacks concrete indicators for preventing and combating corruption in the judiciary as such.

### **3. THE CHALLENGES IN CHAPTER 24 – JUSTICE, FREEDOM, AND SECURITY**

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Chapter 24, Justice, Freedom, and Security is significant for the Republic of North Macedonia since it establishes the basis for state sovereignty and the adoption of democratic norms. Any progress and effective implementation of the law in this area means improved personal and collective security, the formation of healthy relationships in society that contribute to the creation of well-being, and a more positive image of the country before the European family of states and the international community.<sup>56</sup>

Throughout the historical development of the European Union, the field of security was an area of unification and an area around which national interests intertwine.<sup>57</sup> While Member States are responsible for some national security matters, the European Union's Common Security Policy now handles a large portion of them. It is concerned with matters that require cooperative action by the Member States. The application of Chapter 24 criteria is strongly tied to Chapter 23 (Judiciary and Fundamental Rights), which, along with election procedures, effective governance, and the combat and prevention of corruption, serves as the political criterion for the rule of law.

Political will is essential for implementing security changes, but so is a strong and well-integrated administrative capacity of law enforcement

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<sup>56</sup> Trpe Stojanovski, 2020, Mapping institutions in the areas of justice, freedom, and security, Analysis, EuroThink - Center for European Strategies, Skopje, 2020.

<sup>57</sup> Magdalena Lembovska, Justice, Freedom and Security - A Guide through the Policies, Institutions and Legislation of the European Union, EuroThink - Center for European Strategies, Skopje, 2021. Justice and Home Affairs are part of the policies formalized by the Maastricht Treaty on the European Union. This integration accelerated with the Treaty of Lisbon when EU member states transferred most of their competences to it in the fight against crime and against other security threats that have cross-border elements. The EU acts in areas of security where joint rather than single action is more appropriate. The principle of subsidiarity is at the center of the domain of freedom, security, and justice.

agencies and other competent authorities that must meet the requisite criteria.<sup>58</sup>

Many worldwide publications reveal our country's achievements and flaws in order to raise standards in this field. However, reference documents, according to which negotiations will take place, including in this chapter, are the "Rule of Law Roadmap," which should address the identified shortcomings in the Report on the conducted screening of the Republic of North Macedonia in relation to Cluster 1, and the EC Progress Report on the Republic of North Macedonia. According to the legal experts, "roadmaps should not reflect the ideal conditions to which we strive and demonstrate the intellectual skills of the creators but should be a realistic reflection of what should and can be done given the existing capacities." Delivering what is specified in the roadmaps is imperative during the negotiation process.<sup>59</sup>

The Report of the European Commission on the Republic of North Macedonia analyzes the situation in Chapter 24 - Justice, Freedom, and Security and concludes that the nation is fairly prepared to apply EU legislation.<sup>60</sup> When the earlier reports are compared, the same rate of advancement—that is, the same qualification in relation to the results obtained—is observed.

With almost six years of experience in NCEU-MK, Working Group 4 (Justice, Freedom, and Security) has aided in advocating and promoting European security policies by viewing them through the lens of the global geopolitical environment. During the twelve sessions of this working group, the following topics were covered: standard operating procedures for border control, immigration, and asylum; internal police control mechanisms; combating organized crime and terrorism; financial investigations and money laundering; collaboration in the fight against human trafficking; safeguarding vital infrastructure; and other pertinent topics. Different viewpoints on these matters may be expressed, expert evaluations with suggestions for enhancing national capacities and convergence to European standards could be encouraged, and all thanks to NCEU-MK's dialogue-structured methodology.

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<sup>58</sup> European Commission, Draft report on screening of the Republic of North Macedonia for Cluster - 1, Fundamentals, p. 69.

<sup>59</sup> Kristijan Turkalj, expert, negotiator for Chapters 23 and 24 for the Republic of Croatia, State Secretary at the Ministry of Justice in the Republic of Croatia and former Acting Minister of Justice, address at the 11<sup>th</sup> session of WG-3 (25 April 2023).

<sup>60</sup> Report on the Republic of North Macedonia for 2023, European Commission, dated 8 November 2023.

### **3.1. National challenges regarding the European Union policies in the field of migration and asylum**

Migration is a major focal point in Chapter 24, and the European Union has initiated an innovative endeavor to develop a comprehensive and unified approach for handling migration and asylum in Europe. This undertaking considers previous experiences with significant waves of migrants and considers the current global geopolitical context. The revised components of the EU's migration policy include guidelines and regulations governing legal and illegal migration, as well as standardized criteria for addressing asylum-related concerns.

Based on the assessments conducted by the European Commission, the Republic of North Macedonia plays an active role in overseeing migration flows along a significant route for various irregular movements. Nevertheless, the issue of migrant smuggling remains a critical challenge.<sup>61</sup> The national laws in this domain are largely in line with the standards set by the European Union. However, it is advised to maintain an initiative-taking stance by consistently registering migrants and enhancing the safeguarding of sensitive profiling information. Additionally, a systematic approach should be taken to combat migrant smuggling, while aligning the national legislation with the EU's list of third countries that necessitate a visa.

The European Union mandates the implementation of a "Refugee Integration Strategy" and a "Contingency Plan for the Management of Large Migration Flows" as per their guidelines. Regarding the already adopted strategic documents for dealing with illegal migration<sup>62</sup>, it is imperative to take initiatives to increase the level of their implementation – an aspect that is related to the institutional capacities of the country. The issue of insufficiently trained personnel in migration management remains a tangible problem, necessitating the allocation of additional resources in terms of technical expertise, funding, and other forms of support. Specifically, challenges lie in ensuring suitable accommodation facilities for migrants in line with international guidelines, enhancing conditions within reception centers for foreigners, and implementing a systematic process for registering migrants.

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<sup>61</sup> The mission of FRONTEX significantly contributes to the prevention of migrant smuggling - a business activity from which individuals earn 1000 euros each for illegal transportation through the territory of the Republic of North Macedonia. Only from the beginning of 2023 until April, a total of 1,849 illegal migration attempts were prevented, which is about 300 attempts less than in the same period from the previous year. Many of the migrants on their journey become victims of traffic accidents, injuries, and some end up dying due to inadequate transport conditions. Radio Free Europe, 8 May 2023.

<sup>62</sup> National Strategy for Integrated Border Management 2021 - 2025 with Implementation Action Plan (2022 - 2025), Migration Policy Resolution 2021 - 2025, Migration Profile 2021, and National Strategy for Diaspora Cooperation 2019 - 2023.

In relation to national laws, it is advisable to review the legislation concerning legal migration, particularly the Law on Foreigners and the Law on Employment and Work of Foreigners<sup>63</sup>. The focus should be on aspects such as family reunification, rights of highly skilled individuals, and the protections afforded to seasonal workers. In context of illegal migration, it is necessary to introduce legal amendments pertaining to penalties for employers, provision of free legal aid, and the establishment of defined procedures for facilitating migrant returns.

Within the dialogue that was conducted in Working Group 4 (Justice, Freedom, and Security), the NCEU-MK experts recommended that the competent institutions have a regular participation in EMPACT-activities<sup>64</sup> (2021-2025) and its Operational Action Plan to combat migrant smuggling,<sup>65</sup> then in the continuous international exchange of information with EUROPOL<sup>66</sup>, EUROJUST<sup>67</sup>, SELEC<sup>68</sup>, the Joint Operations Center in Austria and other partner organizations, but also to organize joint trainings to strengthen the capacities of law enforcement services and judicial authorities, especially for public prosecutors and judges.

NCEU-MK suggests that the nation establish suitable circumstances to facilitate the execution of the recently introduced migration policy outlined in the new European Union Pact on Migration and Asylum.<sup>69</sup> New regulations will be adopted in these areas as part of the European Union Accession Dialogue. To maintain the institutions' interest in this goal, it is recommended to hold public debates between the institutions and other stakeholders, including at the regional level. These debates will help in ensuring that these principles reach the general public.<sup>70</sup>

The European Union Action Plan for the Western Balkans represents both a collective challenge and a shared responsibility. Its objective is to enhance cooperation between the EU and the Western Balkan countries in

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<sup>63</sup> Law on Employment and Work of Foreigners, Official Gazette of the Republic of North Macedonia, no. 217/2015.

<sup>64</sup> European Multidisciplinary Platform Against Criminal Threats.

<sup>65</sup> National Strategy for Combating Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025), Government of the Republic of North Macedonia, National Commission for Combating Trafficking in Human Beings, and Illegal Migration.

<sup>66</sup> European Union Agency for Law Enforcement Cooperation.

<sup>67</sup> European Union Agency for Criminal Justice Cooperation.

<sup>68</sup> The Southeast European Law Enforcement Center.

<sup>69</sup> Communication from the Commission on a New Pact on Migration and Asylum, September 2020.

<sup>70</sup> Between January and November 2022, almost 130,000 attempts of irregular border crossing were reported by FRONTEX at the external borders of the EU towards the Western Balkans. That is three times higher than in the same period in 2021.

the areas of migration and border management. During the "European Union – Western Balkans" Ministerial Forum on Justice and Home Affairs, the countries from the Western Balkans expressed their willingness to implement the Plan.<sup>71</sup>

The Action Plan for the Western Balkans outlines twenty operational measures grouped into five pillars. These pillars include: (1) enhancing border management along migration routes, (2) implementing expedited asylum procedures and supporting reception capacity, (3) combating migrant smuggling, (4) enhancing cooperation on readmission, and (5) achieving compliance with visa policies. The EU will provide financial support for the aforementioned measures. According to the Action Plan, between 2021 and the present (2023), the Instrument for Pre-accession Assistance (IPA) allocated a total of 201.7 million euros to support migration management, with a particular emphasis on combating migrant smuggling, strengthening border management, and enhancing judicial and police cooperation. Additionally, the European Commission has expressed its willingness to further increase financial assistance in 2023 and 2024 to address the region's needs. The European Union Action Plan serves as a significant contribution for Western Balkan countries that have been prioritizing the alignment of their migration legislation. This plan plays a crucial role in strengthening the management of migrant crises in the region. As a result of these efforts, a Declaration was issued during the meeting of the EU leaders and the Western Balkan countries on 13 December 2023. This Declaration acknowledged the progress achieved through the collaborative and coordinated actions taken to address the overall migration pressure along the Western Balkan route. This recognition highlights the significance of joint efforts in effectively managing migration challenges in the region.

#### - **Access to the asylum system**

During one of its working sessions, the NCEU-MK analyzed the status of asylum in the country, particularly focusing on the trends in the number of asylum applications and assessing the alignment of the national asylum system with the standards set by the European Union.<sup>72</sup> Based on the data provided, it can be inferred that there has been an increase in the

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<sup>71</sup> The EU Action Plan for the Western Balkans was presented on 6 December 2022 at the EU-Western Balkans Summit, and on 8 December at the Justice and Home Affairs Council.

<sup>72</sup> Recognizing the importance of the new policy of the European Union, NCEU held a special session, where through dialogue of all stakeholders, concrete recommendations from the 12th session of Working Group 4 (Justice, Freedom, and Security) held on 4 September 2023 on the topic "North Macedonia and the European Union through the lens of the new migration and asylum policy" were defined.



number of asylum applications, surpassing the previous year by 100 requests. Interestingly, even though individuals granted subsidiary protection enjoy certain advantages, they tend to leave the country and proceed towards their ultimate destination. As it stands, the Republic of North Macedonia continues to serve as a transit country for migrants. Notably, a significant development in context of temporary protection is the Government's decision to establish a formalized system for granting temporary protection to individuals arriving from war-torn Ukraine.<sup>73</sup>

In order to reach the EU standards in this area, Working Group 4 recommends the adoption of the Roadmap for cooperation between the Republic of North Macedonia and the Asylum Agency of the European Union (EUAA),<sup>74</sup> as well as ensuring its subsequent implementation, which will then contribute to the incorporation of European standards and best practices in the national asylum system. Cooperation with the EUAA is crucial for enhancing the capacities of various institutions including the Ministry of Interior, the Ministry of Labor and Social Policy, the Administrative Court, and the Higher Administrative Court. While significant progress has been made in aligning national legislation with the European Acquis in the field of asylum, further amendments to the Law on International and Temporary Protection and the Law on Personal Identification Number are still necessary. Additionally, continuous monitoring and analysis of new EU acts, particularly those related to the reforms outlined in the new Migration Pact, are essential to stay updated with developments in this area..

### **3.2. Counter-Terrorism and Hybrid Threats**

According to the 2023 report by the European Commission, substantial progress has been observed in the country's efforts to collaborate in the fight against terrorism. Noteworthy achievements include the implementation of the Joint Action Plan for Combating Terrorism and the establishment of the National Strategy for Combating Terrorism (2023-2027)<sup>75</sup>. To complement the strategic approaches, the country has introduced the National Strategy for the Prevention of Violent Extremism (2023-2027). The report further emphasizes the importance of implementing the adopted strategic documents to facilitate progress. In relation to the Cluster 1 screening, the European Commission's report highlights that the national legislation is partially in line with the relevant EU measures concerning this domain. It also

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<sup>73</sup> Official Gazette of the Republic of Macedonia, no. 168/23.

<sup>74</sup> European Union Agency for Asylum.

<sup>75</sup> The Joint Action Plan on Combating Terrorism in the Western Balkans, signed in Tirana, October 2023.

urges the adoption of legislation pertaining to critical infrastructure protection and measures associated with explosive precursors.

During the expert discussions held by NCEU-MK, significant emphasis was placed on ensuring the safeguarding of critical infrastructure within the country.<sup>76</sup> The dialogue and recommendations provided by relevant institutions and stakeholders in the security sector play a crucial role in advancing public policies. They contribute not only to monitoring these policies but also to their effective implementation. This collaborative effort assists in promoting and strengthening the overall effectiveness and impact of public policies in this particular domain. By fostering ongoing discussions and offering valuable recommendations, these institutions and stakeholders are instrumental in shaping the landscape of policies and their practical execution.

A dedicated special session of the National Convention on European Union in the Republic of North Macedonia (NCEU-MK) was convened with the specific purpose of addressing the issue of hybrid threats as such.<sup>77</sup> The dialogue on this subject was instigated by the circumstances that the country encountered towards the conclusion of 2022.<sup>78</sup> Irrespective of their origin, hacker attacks targeting critical computer systems possess the potential to inflict more harm than traditional military assaults. Considering the devastating consequences they can yield, the European Union has placed significant emphasis on addressing the challenges associated with such threats. These initiatives resulted in the EU Council Recommendations on a coordinated approach to strengthen the resilience of critical infrastructure<sup>79</sup> and the Resilience of Critical Structures Directive,<sup>80</sup> as well as the revised Directive on the security of network and information systems.<sup>81</sup> In the context of hybrid threats, the complexity and sophistication of which is constan-

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<sup>76</sup> A special session was held entitled: "Preventing and Combating Terrorism: The National and European Perspective in Identifying and Protecting Critical Infrastructure", 10th session of NCEU-MK, held on 22 December 2022. For more information on this, see: NCEU-MK "Second Book of Recommendations", Skopje, 2023.

<sup>77</sup> 11th session of the Working Group 4 (Justice, Freedom, and Security – Chapter 24) held on 24 April 2023 on the topic: "Increasing the resilience of institutions to deal with hybrid threats".

<sup>78</sup> From October 2022 to April 2023, 584 bomb hoaxes were registered; more than 720 buildings were the target of these deliberate hoaxes, sent from over 60 different email addresses.

<sup>79</sup> Council Recommendation on a Union-wide coordinated approach to strengthen the resilience of critical infrastructure of 8 December 2022, *OJ C 20*, 20 January 2023, p. 1.

<sup>80</sup> Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC.

<sup>81</sup> Revised Directive on the Security of Network and Information Systems (NIS2 Directive) *OJ L 333*, 27 December 2022, pp. 80–152.

tly on the rise, the European Union has pointed to the need to implement the EU Strategic Compass on Security<sup>82</sup> and Defense and the EU Security Strategy.<sup>83</sup> The Commission services and the European External Action Service (EEAS) collaborated to establish dedicated hybrid tools. These tools serve as a comprehensive framework to effectively counter hybrid attack campaigns. They facilitate a coordinated and well-informed response, encompassing a wide range of internal and external tools and measures that are relevant to addressing hybrid threats. By utilizing these specialized tools, the EU aims to enhance its ability to effectively respond to and mitigate the impacts of hybrid attacks.

The European Union's conceptual approach to resilience and hybrid threats has been expanded upon through collaborative efforts by the Joint Research Center (JRC) and the European Center of Excellence in Countering Hybrid Threats (Hybrid CoE). Their joint publication, titled "Hybrid Threats: A Comprehensive Resilient Ecosystem (CORE)," was released in April 2023. This report contributes to the ongoing development of a comprehensive framework that addresses and builds resilience against hybrid threats.<sup>84</sup>

The Common Framework for the EU response to hybrid threats is an essential document within the European Union. It highlights the significance of adopting a comprehensive approach that involves coordinating various factors, policies, and instruments.<sup>85</sup> In 2015, the European Commission, as part of the EU Intelligence and Situation Center (INTCEN)<sup>86</sup>, established a small entity known as the Hybrid Fusion Cell (HFC). Its primary responsibility is to analyze hybrid threats, providing a shared foundation for decision-making by the EU highest body, the European Council. Due to the severity and frequency of the emergence of hybrid threats in 2017, the European Centre of Excellence was established to counter hybrid threats with the support of NATO<sup>87</sup> and the EU, and during 2018 the Joint Communication was adopted to increase resilience and strengthen capabilities to address hybrid threats (2018), as well as an Action Plan against Disinformation (2018) in line with the relevant Council Conclusions (2019).<sup>88</sup> In the Strategic Agenda for the

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<sup>82</sup> Council Document 7371/22. EU Strategic Compass for Security and Defense.

<sup>83</sup> COM 2020 (605). EU Security Union Strategy.

<sup>84</sup> Aho A., Alonso Villota M., Giannopoulos G., Jungwirth R., Lebrun M., Savolainen J., Smith H., Willkomm E., Hybrid threats: A comprehensive resilience ecosystem, Publications Office of the European Union, Luxembourg, 2023, doi:10.2760/37899, JRC129019.

<sup>85</sup> Ibid. Joint Framework for Addressing Hybrid Threats-JFAHT

<sup>86</sup> European Union Intelligence and Situation Center.

<sup>87</sup> European Center of Excellence for Countering Hybrid Threats in Helsinki.

<sup>88</sup> Joint Communication on Increasing Resilience and Bolstering Capabilities to Address Hybrid Threats (2018), Action Plan against Disinformation (2018), in line with the relevant Council Conclusions (2019).

period 2019-2024, there is a strong emphasis on the attainment of enhanced security through improved coordination and cooperation at both national and international levels. This will be accompanied by the allocation of sufficient resources and the enhancement of technological capacities within the institutions.<sup>89</sup>

The consideration of the documents and activities leads to the conclusion that there is a need for increased commitment to enhance resilience, security, and continuity in addressing hybrid threats. The utilized techniques and methods primarily focus on multidimensional approaches, incorporating coercive and subversive measures, conventional and unconventional tools, as well as tactics for destabilization (including diplomatic, military, economic, and technological aspects). The intention behind these measures is to create challenges in detection, aiming to internally destabilize and undermine the authorities of specific states, which have been thoroughly analyzed for vulnerabilities.

### **3.3. Border management**

The partnership between the Republic of North Macedonia and the European Union is centered around addressing illegal migration and cross-border crime through sustainable solutions. One significant symbol of this partnership is the Agreement signed between the Republic of North Macedonia and the European Union. This Agreement pertains to the operational activities carried out by the European Border and Coast Guard Agency within the Republic of North Macedonia's borders. By signing this Agreement, both parties demonstrate their joint commitment to effectively manage and secure the country's borders while combatting illegal migration and cross-border criminal activities. This partnership emphasizes the importance of international cooperation in maintaining security and stability within the region.<sup>90</sup> The Agreement, which paved the way for increased collaboration, enables the execution of collective endeavors within our nation's borders, thereby bolstering security. After the entry into force of the Agreement<sup>91</sup>, a joint operation began on 19 April 2023 with the sending of 110 officers in support of border control and the management of illegal migration and cross-border crime along the border with Greece.<sup>92</sup> Nevertheless, engagement with FRON-

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<sup>89</sup> A new strategic agenda for the EU, 2019-2024, European Council, June 2019.

<sup>90</sup> Border security and dealing with illegal migration was the subject of discussion at the 7th session of Working Group 4 (Justice, Freedom, and Security): "Waiting for FRONTEX – Border Security through the Lens of Different Migration Flows," 18 December 2019.

<sup>91</sup> The agreement with FRONTEX entered into force on 1 April 2023.

<sup>92</sup> Report on the Republic of North Macedonia for 2023, European Commission, of 8 November 2023, p. 60.

TEX should extend beyond mere involvement in collaborative operational endeavors. Pursuant to Regulation 2019/1896, it should be consistently enhanced through the interchange of information and analytical outputs, active participation in FRONTEX's risk analysis network, assistance in the repatriation of migrants, training initiatives, as well as endeavors in research and innovation.<sup>93</sup>

In this aspect, the European Commission acknowledges that the existing legislative framework partially conforms to the pertinent legislation of the European Union. A considerable portion of alignment, particularly pertaining to the removal of internal border controls, will occur subsequent to EU accession, while another portion will follow Schengen accession. Presently, the European Commission determines that legal modifications are necessary to ensure harmonization with Passenger Name Record (PNR)<sup>94</sup> data, imposing amendments to the Law on Border Control.

Considering that the "Schengen acquis" is the most comprehensive component of the European Union's common legislation, the Republic of North Macedonia should proactively make arrangements for its adoption and implementation following its accession to the EU. Drawing upon the experiences of other nations currently engaged in accession negotiations with the EU, the adoption of the Schengen Action Plan will indeed become imperative throughout the accession process.

Considering institutional capacities, the directives set forth by the European Commission leave no room for ambiguity: "The Republic of North Macedonia must devote sufficient financial resources and human resources, alongside suitable IT systems adhering to EU standards, to ensure the efficiency of the National Coordination Center and the external borders sector." Some of the recommendations listed in the European Commission's Report correspond to the recommendations of the NCEU<sup>95</sup>, as the Report noted: "Acknowledging the significant role of digitalization in migration and asylum management, concrete measures are required to attain the essential interoperability and compatibility between national information systems and those existing in EU Member States. This will facilitate a faster and comprehensive integration of the country. To this end, operationalizing the Mas-

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<sup>93</sup> Regulation 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard.

<sup>94</sup> Passenger Name Record - Directive 2016/681 on the use of passenger name record (PNR) data for the prevention, detection, investigation, and prosecution of terrorist offenses and serious crime.

<sup>95</sup> 12th session of Working Group 4 (Justice, Freedom, and Security), Topic: "North Macedonia and the Western Balkans through the lens of the new EU policy on migration and asylum."

ter Plan for Upgrading the Information and Communication Infrastructure becomes imperative, as it will support the process of identifying and registering mixed migration flows and ensure future connectivity with EU information systems. The plan has been developed in collaboration with FRONTEX under the IPA II project 'Regional Support for Sensitive Migration Management in the Western Balkans and Turkey.'<sup>96</sup>

A crucial aspect of European legislation concerning external borders pertains to document security. The European Commission has determined that the residence permit and ID card currently fail to meet EU standards, primarily attributed to the absence of a chip within the card. Consequently, it becomes imperative for state authorities to undertake legal reforms and allocate financial resources to ensure compliance with EU standards, enhancing document security.<sup>97</sup>

## **4. FIGHT AGAINST ORGANIZED CRIME, FINANCIAL FRAUD, AND CORRUPTION**

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### **4.1. Organized crime**

Organized crime typically encompasses illicit markets, including but not limited to drug production and trafficking, human trafficking, migrant smuggling, firearms trafficking, financial fraud, and various other unlawful activities. Among the Western Balkans region, human trafficking stands out as the most frequent form of organized criminal activity, accounting for 29% of all reported incidents. However, when it comes to convictions, the highest number of individuals found guilty are involved in drug trafficking and other narcotics-related offenses, constituting 51% of convicted persons.<sup>98</sup> Given the international nature of this crime, combatting it necessitates regional and international collaboration. Past experiences have demonstrated that enhancing effectiveness in combating such crimes can be achieved by increasing the number of arrests, which subsequently leads to gathering more information about organized groups involved in these illegal activities.

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<sup>96</sup> IPA II project "Regional Support to Protection-Sensitive Migration Management Systems in the Western Balkans and Turkey" (July 2019 – June 2021) – Phase II.

<sup>97</sup> Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third country nationals.

<sup>98</sup> Measuring Organized Crime in the Western Balkans, UNODC, 2020.

The activities of organized criminal groups have a profoundly detrimental impact, particularly through the integration of illegally obtained profits through legitimate financial channels, subsequently disrupting regular economic processes. The criminal economy undermines citizens' trust in institutions, erodes societal values, promotes corruption, and poses a significant threat to national security as a whole. Research data on the Western Balkans highlights that the Republic of North Macedonia is at the forefront in terms of the number of organized criminal groups. In addition to drug trafficking, there is a substantial presence of money laundering linked to financial crimes, tax evasion, smuggling, corruption, online financial fraud, and various similar illicit activities.<sup>99</sup> Based on the Global Organized Crime Index, the Republic of North Macedonia occupies the 93rd position among 193 countries worldwide, the 18th position among 44 European countries, and the 11<sup>th</sup> position among 17 Southeast European countries. Thus, it stands at the apex of this pyramid, indicating a notable presence of organized crime in the region.<sup>100</sup>

Regarding the illicit drug trade, the country remains a significant source and transit point for heroin, witnessing an escalation in its consumption levels. It serves as a crucial entry point for heroin originating from Afghanistan and Turkey, flowing through the eastern borders, and entering the Balkan Route. Disturbingly, drugs are frequently distributed among secondary school students, leading to addiction, and subsequently exploiting these young individuals within the education system as dealers. Apart from organized crime syndicates, some local police officers are also involved in providing protection to drug dealers. Additionally, it is important to highlight that the cannabis trade continues to flourish in the country, representing one of the largest illegal drug markets due to its easy availability and involvement of officials.<sup>101</sup>

An area of particular concern regarding organized crime in the Republic of North Macedonia is the illegal deforestation. While logging predominantly involves individuals seeking financial gain and frequently resorting to bribing forest rangers to exceed permitted limits, larger-scale illegal logging is carried out by wood poachers with assistance from local officials. Political influence and bribery often play a role in facilitating unauthorized logging without proper permits. Furthermore, organized crime targeting natural resources extends to poaching, primarily perpetrated by influential

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<sup>99</sup> Ibid., p. 81 According to this source, 62% of organized crime acts relate to financial crime, 18% involve migrant smuggling, 12% relate to drug trafficking, 5% deal with human trafficking.

<sup>100</sup> Global Organized Crime Index, 2023.

<sup>101</sup> Ibid.

individuals. Unfortunately, due to lenient penalties and the insufficient enforcement efforts by institutions in combating crimes against nature, the sanctions imposed are largely symbolic, if not nonexistent.<sup>102</sup>

Over the past few years, the country has made significant efforts to enhance legislation and bolster institutions in their fight against organized crime. The Ministry of Interior has established a specialized Department for the Suppression of Serious and Organized Crime, along with an internal control and professional standards system. Additionally, the national Public Prosecutor's Office has established the Basic Public Prosecutor's Office for Combating Organized Crime and Corruption. The Skopje Criminal Court holds jurisdiction in this domain, and the existing legislation provides legal instruments for handling cases. By effectively utilizing these tools, substantial progress can be made in combating organized crime and attaining consistent results.

Efforts to combat organized crime heavily rely on the capabilities of the Customs Administration and the Financial Police Administration. It is imperative for investigative processes and the utilization of special investigative measures to be conducted swiftly, accompanied by adequate material and human resources. This entails employing highly motivated and well-trained personnel based on merit. Regional cooperation between police officers and customs personnel holds significant importance, as it can enhance the effectiveness of controlling individuals involved in human smuggling and drug trafficking. Collaborative projects implemented with EUROPOL and the World Customs Organization play a crucial role in capacity building, with a specific focus on combating the illicit trafficking of drugs, counterfeit goods, medicines, medical devices, protective equipment, weapons, explosives, hazardous waste, cultural goods, and tobacco products.<sup>103</sup>

The Republic of North Macedonia has made remarkable progress in ratifying international conventions and pertinent agreements aimed at addressing organized crime. The country actively participates in numerous international and regional networks, such as INTERPOL and the Western Balkans Prosecutors Network. Additionally, it engages within the Convention on Police Cooperation as part of efforts to effectively combat the surge in criminal activities within the region. These collaborative initiatives streng-

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<sup>102</sup> Ibid.

<sup>103</sup> More information about the projects listed.



then the country's commitment to countering organized crime at the global and regional levels.<sup>104</sup>

The assessment of the strategic and legislative framework pertaining to combating organized crime in the Republic of North Macedonia highlights the necessity of adopting a unified approach among law enforcement institutions.<sup>105</sup> In this context, it is highlighted that the professional, responsible, and efficient police organization should continue its ongoing development as a reliable partner for Member States, EU agencies, third countries, and international collaborators in conducting investigations and legal proceedings of a transnational nature. This underscores the importance of fostering trust and further strengthening the police organization's capabilities to effectively collaborate with diverse stakeholders in addressing transnational crime.<sup>106</sup>

To effectively combat organized crime, enhancing coordination among all relevant stakeholders, particularly between prosecutor's offices and the police, is strongly recommended. In this endeavor, the optimal functioning of investigative centers and the National Coordination Center for the Suppression of Organized and Serious Crime is of great importance. By enhancing coordination and maximizing the functionality of these entities, the fight against organized crime can be significantly enhanced.

With regard to specific areas of the fight against organized crime, such as trafficking in persons, arms and drugs, cybercrime, and sexual exploitation of children, it is emphasized that the state authorities need more resources. This includes strengthening the capacity and specialization of personnel, as well as providing the necessary material and technical equipment. These measures are essential for the effective implementation of legislative and regulatory measures in the fight against organized crime.

## **4.2. Tackling and fighting corruption**

Reports of the European Commission on the progress of the Republic of North Macedonia, GRECO recommendations, as well as reports of other relevant organizations continuously point out the gravity of the scale of

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<sup>104</sup> Discussion paper: National Cyber Security Strategy 2023-2026 published on ENER site. Otherwise, the first Cyber Security Strategy with an Action Plan was created for the 2018/2022 period.

<sup>105</sup> Coordinating body made up of senior officials from the Customs Administration, the Financial Police Administration, the Financial Intelligence Unit, the Public Revenue Office, and the Public Prosecutor's Office.

<sup>106</sup> European Commission, Report on the screening of the Republic of North Macedonia for Cluster – 1, Fundamentals, p. 69.

corruption in the country, as well as the weak effects in preventing and fighting this phenomenon. This situation has not been denied by any governmental or civil body. According to the analyses conducted in the national context, corruption in 2023 is the biggest social problem for all Macedonian citizens.<sup>107</sup> According to the same source, the main motivation for gaining power is the rapid and personal enrichment of holders of public office and civil servants, a phenomenon that is confirmed daily by various scandals reported in the media. Preventing and combating corruption is a criterion that is part of Cluster 1 "Fundamentals" but should be equally fulfilled in all clusters of the Negotiating Framework as such.

Discussions concerning corruption, both domestically and internationally, have recently increased in volume and frequency. Positive effects may result from it if society as a whole decides to combat corruption. However, if this important anti-corruption discussion does not result in a decrease in corruption, then there is a serious risk associated with just talking about corruption. There will be less likelihood of success if the reasons for corruption are not understood, or if the many forms of corruption and how institutions operate are not systematically known.

Political discourse regarding the fight and the prevention of corruption is an interesting topic. Political elites acknowledge the existence of corruption, engage in discussions with strong promises to prevent it, but practices demonstrate that political action is in the opposite direction. The political stance regarding the adopted Law Amending the Criminal Code, which reduced the high penalties for abuse of office, is self-evident. Regarding the level of corruption in the country, the experts conclude "that with corruption and organized crime at the level we currently have, membership in the EU is not possible. It is impermissible to talk about European values in the morning and enter into corrupt deals in the afternoon under the pretext of control of state institutions and even worse, under the guise of the 'European flag' urgency sign given to proposed laws. Corruption and the 'European flag' simply do not go together but should exclude each other."<sup>108</sup>

The explosion of corruption scandals in the public domain during this year can be attributed to the encouraging aspect emerging from public debates, fostering a broader front against monopoly power and its abuse. Power in democratic societies, including judicial and legislative authorities, serves as a means to control and limit power, ultimately belonging to the citizens themselves. The debates play a positive role in promoting learning

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<sup>107</sup> Macedonian Center for International Cooperation, "Report on Corruption Assessment in North Macedonia".

<sup>108</sup> Tilev, D., Screening report to be used to accelerate reforms, published in: Economy and Business, October 2023.

and practicing competences and responsibilities, even when they criticize the present situation.

Deeper analyses of corruption show that the main reason for the increase in corruption is the rather ineffective prosecution of the perpetrators.<sup>109</sup> The consequences of impunity weaken institutions that are subordinated to the interests of powerful elites, creating on the one hand a situation of exercising absolute power in the sense that 'no one can do anything to us', and on the other hand, encouraging a fatalistic mentality (apathy) among citizens in the sense that 'we are powerless, we cannot change anything'. Prolonged and unchecked high levels of corruption lead to the depletion of public resources over time, resulting in societal impoverishment and the inability of the public sector to provide essential services such as healthcare, education, security, and judiciary. Consequently, individuals are compelled to address their life issues independently, which perpetuates the perception of corruption throughout society. In 2022, 98 individuals were convicted of abuse of office, regardless of the varying degrees of misused public resources. A significant majority of citizens (as much as 74.4% of respondents) believe that officials are involved in corrupt practices. As per citizens' perspectives, the most corrupt figures are the ministers, judges, MPs, and leaders of political parties.<sup>110</sup>

Corruption index data reveals a widespread exposure of a significant portion of the population to corrupt actions. The question arises: why has corruption become ingrained in society? This issue poses a sociological challenge. However, it is crucial to address the core problem at hand: the prevalence of high corruption. While the impunity associated with high-level corruption often stems from the inefficiencies within the justice system, the issue is multifaceted. In addition to the judges and prosecutors, other relevant institutions must also facilitate and support these corrupt activities for them to persist. Notably, none of the prosecuted cases of high corruption has reached a resolution, highlighting the slow investigative procedures that contribute to cases becoming obsolete. The past years have witnessed the legalization of impunity through the exploitation of loopholes and weak-

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<sup>109</sup> Regarding impunity, "If the prescribed punishments are not used and effectuated, then only the possibility of punishing a few who have sinned will remain. To get to the penalties, we need to have someone who will assess and decide that someone has sinned and that he should pay that penalty. Unfortunately, we are very far away from this." From the presentation of Slavica Grkovska, the Deputy Prime Minister in charge of policies for good governance at the First Session of Working Group 6 - Anti-Corruption (19 July 2023).

<sup>110</sup> Macedonian Center for International Cooperation, "Report on Corruption Assessment in North Macedonia".

nesses in the justice system, as evidenced by the latest amendments to the Criminal Code.<sup>111</sup>

Studies conducted on the Western Balkans indicate that significant progress was made in combating corruption from the early 2000s to the mid-2010s. While there were minor improvements in 2021, a notable resurgence of high-level corruption became evident in 2023, posing a serious challenge.<sup>112</sup> The Republic of North Macedonia ranks 85th among 180 countries in the world on the Corruption Perception Index, scoring forty points out of one hundred (with one hundred indicating the least corrupt). This represents an improvement of two points compared to the ranking in 2020.

The Global Index Report reveals a strong connection between organized crime and corruption, emphasizing the interdependency between the two. In the case of the Republic of North Macedonia, the criminal landscape is defined by various criminal networks operating in illicit markets. The sustained operation of these networks relies on the collaboration of state actors, highlighting the presence of corruption within state structures.<sup>113</sup> Moreover, collaboration with foreign criminal elements, particularly those from neighboring countries, has flourished within these illicit markets. According to the same source, the prevalence of government corruption and the blurred boundaries between public authorities and private sector entities have created an environment where various business sectors have become channels for the circulation of funds derived from illegal activities. One notable example is the construction and land development industry, where bribery of municipal officials to obtain fast-track legitimate documentation and building permits is a prevalent issue. This sector has developed a perception of being heavily influenced by the so-called town planning and land development 'mafia', which significantly contributes to the influx of 'dirty money' acquired through existing illicit markets.<sup>114</sup>

While corruption is a universal issue, it poses a significant obstacle to societal progress in the Republic of North Macedonia. It fosters a sense of hopelessness and apathy among its citizens. The current government's efforts to prevent and combat corruption remain primarily superficial, lacking tangible outcomes. Conversely, the swift and opaque adoption of amendments to the Criminal Code indicates a trend among political actors to promote impunity for certain corruption-related offenses. The Republic of North Macedonia stands out as the country with the highest number of laws

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<sup>111</sup> Amendments to the Criminal Code, 7 September 2023.

<sup>112</sup> Policy Brief: Corruption in the Western Balkans not Abating: What's Next, No 13, January 2022, Regional Anti-Corruption Network SELDI.net

<sup>113</sup> Ibid.

<sup>114</sup> Global Organized Crime Index, 2023.

adopted through a fast-track procedure, as per analyses. Unlike neighboring countries Albania and Serbia, the Republic of North Macedonia has witnessed a larger proportion of new laws proposed as "urgent bills" without comprehensive discussions and multiple readings in its Assembly. In 2022, the Assembly of the Republic of North Macedonia adopted eighty-one laws through the fast-track process, while 113 new laws were passed following the regular parliamentary process outlined in the Assembly's Rules of Procedure. By comparison, Albania passed only three new laws using the fast-track procedure during the same period, while eighty-four new laws were adopted through the regular parliamentary process.<sup>115</sup>

### **4.3. Asset Confiscation**

Asset confiscation serves as a fundamental element shared by Chapters 23 and 24. It plays a crucial role in combating corruption and serves as a key indicator of success in the battle against organized crime. The effective seizure of unlawfully obtained assets, stemming from the abuse of office and embezzlement of government money, not only helps build public trust in institutions but also sends a clear message that crime does not pay off. The suppression of this illicit activity commences with identifying individuals suspected of acquiring assets through illegal means. Subsequently, swift, and efficient financial investigations are conducted, leading to the seizure of unlawfully acquired assets. The process reaches its completion when the proceeds of criminal activities are returned to the government budget, where they rightfully belong.

The Cluster - 1 Screening Report highlights the importance of enhancing capacities for conducting financial investigations concurrently with criminal investigations to facilitate the successful confiscation of proceeds derived from illicit activities. One crucial requirement for achieving this is granting judicial institutions direct access to diverse databases. The lack of such access hampers the timely provision of crucial information, posing risks to the confidentiality of investigations.<sup>116</sup>

The legal framework in this area will be completed by adopting the Law on Asset Recovery Office (ARO).<sup>117</sup> This law will make it easier to find

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<sup>115</sup> Ioana Treneska, Harmonization of National Legislation with EU Legislation: A Comparative Review of North Macedonia with Albania and Serbia, Institute for Democracy "Societas Civilis", 2023.

<sup>116</sup> European Commission, Report on the screening of North Macedonia for Cluster Fundamentals, p. 71.

<sup>117</sup> For asset recovery offices, the abbreviation "ARO" is also used in our language, which comes from the English language "Asset Recovery Offices".

and identify assets and persons who benefited from abuse of office - in the country and abroad. Also, the law will improve communication and obtaining information from foreign authorities. The Decision of the Council of the EU (2007/845/JNA of 6 December 2007)<sup>118</sup> defines the competences and scope of work of the asset recovery offices of the Member States, as well as the manner of cooperation in the monitoring and identification of proceeds of crime or other assets related to crime. The office will assume the responsibility of engaging in collaborative activities with foreign Anti-Corruption and Regulatory Organizations and other relevant foreign authorities. Strengthening and refining the legal framework will be accomplished through the adoption of complementary by-laws, alongside bolstering the personnel and material capacities. Additionally, facilitating access to the databases of competent institutions will be a priority, ensuring comprehensive and efficient information sharing to support the office's endeavors.<sup>119</sup>

In its findings, the European Commission specifically highlights that the Republic of North Macedonia should focus on the following aspects next year:

- Enhance its records pertaining to investigations, criminal prosecutions, and sentencing in cases related to organized crime and money laundering, placing emphasis on confiscating the illicit proceeds of criminal activities.
- Enact and enforce the required legislation to establish the National Asset Forfeiture Office.
- Enhance the capabilities and resources of law enforcement agencies involved in the investigation of organized and serious crime, financial crime, and money laundering by bolstering their human and financial capacities.

#### **4.4. Management of public finances aimed at protecting the financial interests of the state and preventing corruption**

Within the NCEU-MK, through the activities of Working Group 6 - Anti-Corruption, several issues related to the reform of public financial management have been discussed in order to reduce abuse and inappropri-

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<sup>118</sup> Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.

<sup>119</sup> Strategy for strengthening the capacities for conducting financial investigations and confiscation of property (2021- 2023).

ate spending of public funds.<sup>120</sup> During the discussion, but also in the adopted recommendations, the importance of the supervisory role of the Assembly of the Republic of North Macedonia in the management of public finances was pointed out. In order to strengthen the oversight function, it is necessary to improve the legislation, which will define specific legal mechanisms that will enable the Assembly to play an initiative-taking role throughout the current calendar year, i.e., activity in the planning and preparation of the budget, but also in the supervision of the manner of spending public funds. To play this role effectively, experts suggest strengthening the capacity of parliamentarians and Assembly office staff on relevant financial issues. In order for the Assembly to play this role, it is necessary to improve the knowledge and skills of MPs (and Assembly office staff) to understand and analyze budget documents and key macroeconomic indicators. Training on budget planning and monitoring of budget execution can contribute to a higher quality and more informed public debate by parliamentarians on important issues related to public finances.<sup>121</sup> The Assembly's proactive participation in this significant process can also be aided by the MPs' and the Assembly of the Republic of North Macedonia's participation in the early stages of designing the line ministries' draft budgets. Additionally, experts advised enhancing the Assembly's collaboration with independent organizations, particularly with the State Audit Office and the State Commission for Prevention of Corruption. In order to improve the openness and accountability of the public finance management system, the Assembly should establish a procedure for the routine examination of and debate on the reports and conclusions of these independent bodies.

The experts highlighted that implementing systemic changes, including the introduction of a comprehensive balance sheet for the public sector, would significantly contribute to combating corruption and safeguarding the state's financial interests. This measure aims to enhance control and supervision over financial flows, ultimately ensuring greater transparency and accountability. The publicity of revenues and expenditures of state budget resources is an important mechanism. According to Boris Vujcic, "It is harder to steal in the light than in the dark." How should this be done? According to Vujcic, "You need prosecutions, you need to put people in prisons, to confiscate their assets. This is especially important when corruption reigns. That way people will be afraid to practice corruption. If there is a Ministry of Finance, then it is its role. An effective way to do this, as we have seen in Croatia, is for the tax and public revenue office agents to visit people

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<sup>120</sup> The first session of this working group was held on 19 July 2023 on the topic: "Tackling and combating corruption and protecting the financial interests of the state".

<sup>121</sup> Viktor Mitevski, Coordinator of Working Group 6, First session of Working Group 6 - Anti-corruption.

who have bought a Porsche car. How? How much did they pay? How much does it cost? How much taxes they paid. And if they see that there are discrepancies, there will be problems for such car owners."<sup>122</sup>

While conducting analyses on corruption, there arises the question of how it affects the creation of a conducive entrepreneurial environment. Not all inquiries regarding the detrimental impact of corruption on the economic system can be fully addressed. In addition to concerns about the entrepreneurial environment, future focus should be given to corruption in the realm of investments. According to experts from NCEU-MK, attracting foreign direct investments in the Republic of North Macedonia is facilitated through a system of state assistance, which includes the return of a percentage of invested funds or direct aid in the form of tax exemptions specifically aimed at newly created jobs.<sup>123</sup> During the sessions, the discussions should encompass matters concerning the Law on Strategic Investments and the potential risks associated with high-level corruption.<sup>124</sup>

The Law on Games of Chance and Entertainment Games<sup>125</sup> enables activities that increase the risk of corruption due to the high sums of money in circulation in this sector. The available analyses highlight significant political party influence within this sector, accompanied by a lack of transparency in tender procedures, employment practices, and the passing of laws in an unclear manner.<sup>126</sup> It is crucial to highlight that games of chance have a profoundly detrimental effect on both entrepreneurship and social cohesion. When urban areas, and even increasingly rural areas, are dominated by establishments centered around "earning through games of chance" (with their numbers rivaling neighborhood bread shops), it becomes challenging to foster an environment conducive to entrepreneurial initiatives. The prevalence of games of chance, predominantly among young individuals, facilitated by readily available legal access to such activities, cultivates a culture of apathy and contributes to the social isolation experienced by a significant

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<sup>122</sup> Governor of the National Bank of Croatia, presentation at the First Session of Working Group 6 - Anti-corruption, 19 July 2023.

<sup>123</sup> Viktor Mitevski, Coordinator of Working Group 6 - Anticorruption, Association ZMAI. It is regulated by: the Law on Financial Support for Investments, Official Gazette no. 83/18; the Law Amending the Law on Financial Support for Investments, Official Gazette no. 98/19; the Law Amending the Law on Financial Support for Investments, Official Gazette no. 124/19; and the Law Amending the Law on Financial Support for Investments, Official Gazette no. 178/21.

<sup>124</sup> Law on Strategic Investments, Official Gazette of the Republic of North Macedonia no. 14/20.

<sup>125</sup> Law on Games of Chance and Entertainment Games, Official Gazette of the Republic of Macedonia no. 24/11, no. 90/17, and the Official Gazette of the Republic of North Macedonia no. 251/22.

<sup>126</sup> Martina Ilievska, Establishment of a second state lottery, risks of corruption, IDSCS, 2023.



portion of the population. The introduction of a second state lottery further exacerbates the erosion of social values and undermines efforts towards promoting social cohesion.

#### **4.5. Fiscal rules and protection of state interests**

The experts of NCEU-MK discussed how the economic challenges arising from the Covid-19 pandemic have been exacerbated by the ongoing war in Ukraine. They emphasized the importance of departing from traditional fiscal rules during such crises to address the unexpected needs of citizens. The EU's latest fiscal measures prioritize consolidation and the specific targeting of fiscal rules outlined in the Maastricht Treaty, as part of a new fiscal policy aimed at setting a timeline for consolidation.<sup>127</sup> The Republic of North Macedonia has the same fiscal rules that apply to the European Union, that is, the country's external debt should not exceed 60% of GDP, while the budget deficit should not exceed the limit of 3%.<sup>128</sup> Crisis situations and deviation from fiscal rules were aimed at achieving balance in economic structures and maintaining social cohesion.<sup>129</sup>

In the process of fiscal policy consolidation, excessive measures are undesirable, as they can negatively affect the investment climate and thus GDP growth.<sup>130</sup> During and post-pandemic, the Macedonian Government implemented a range of measures to address the economic challenges resulting from the crisis, which led to a departure from fiscal regulations. The implementation of a phased consolidation plan involves implementing fiscal strategies to boost revenue (such as tax increases) and reduce expenses (such as cutting costs or optimizing operations) to bring the country back into compliance with fiscal rules.

Over the past five years, the Macedonian economy has heavily relied on loans and credits, making up 59.1% of GDP. This figure is approaching the upper limit of the fiscal rule, signaling potential risks for the country's financial stability. Experts point out that some governments actively support

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<sup>127</sup> Economic governance review: Council agrees on reform of fiscal rules, European Council, 21 December 2023.

<sup>128</sup> Law on Budgets, Official Gazette of the Republic of North Macedonia no. 203, 19 September 2022.

<sup>129</sup> At the end of 2023, the Law on Solidarity Tax was adopted, which additionally taxed companies that made a turnover of over 10 million euros in 2022 and increased profits by 20% compared to the average of the previous three years. This tax is not part of the tax reform, but it is a one-time legal and regulatory arrangement that is introduced in emergency conditions.

<sup>130</sup> Presentation by Franzi Klužer, Expert, Senior Advisor at the Ministry of Finance of the Republic of Slovenia, at the Second Session of Working Group 6 - Anti-corruption.

a deficit-oriented fiscal system during their term in office, which could exacerbate the situation. In the past five years, the Macedonian government has consistently run an average budget deficit of 5%, and this trend is projected to continue until 2024. This persistent deficit spending reflects a larger trend seen in many European countries, where governments struggle to balance their budgets and reduce reliance on borrowing. It will be crucial for policymakers in the Republic of North Macedonia to address these concerns and implement sustainable fiscal policies to ensure long-term economic stability.<sup>131</sup> Borrowing money can be a positive thing if the interest rates are lower than the rate of economic growth. However, there are many other factors that can affect economic growth. In the case of the Republic of North Macedonia, the country faces challenges such as underdeveloped infrastructure, low levels of innovation and competitiveness, low labor productivity, and low budget expenditures compared to other EU Member States. In order for North Macedonia to converge with the EU, it is essential to make infrastructure investments and increase revenue rates to match those of the EU (over 45%). An investment is considered worthwhile when it has a multiplier effect on growth of at least 1.2%. Unfortunately, in North Macedonia, the investment multiplier is only 0.8%, which means that investments do not lead to significant growth in the country.<sup>132</sup>

It is crucial for each country to establish its own fiscal and monetary policies in order to ensure economic stability and predictability of economic processes. Over the past 30 years, the Republic of North Macedonia has been successful in maintaining a balance in terms of state budget deficit and borrowing. While facing challenges such as the armed conflict in 2001 which led to a significant budget deficit (7.5% of GDP), there have also been periods of surplus, such as in 2008.<sup>133</sup>

Experts believe that enhancing transparency in fiscal processes and adhering to fiscal rules are crucial in promoting political discipline, curbing overspending, and stimulating new investments by economic actors. They recommend that the country should align its fiscal statistics with the European Statistical Agency to ensure greater transparency.<sup>134</sup>

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<sup>131</sup> National Bank of the Republic of North Macedonia, Monetary Policy and Research Directorate, Latest Macroeconomic Indicators, December 2023.

<sup>132</sup> Gligor Bishev, Professor and President of the Fiscal Council of the Republic of North Macedonia, Presentation at the Second Session of Working Group 6 – Anti-corruption.

<sup>133</sup> Gligor Bishev, Professor and President of the Fiscal Council of the Republic of North Macedonia, Presentation at the Second Session of Working Group 6 – Anti-corruption.

<sup>134</sup> According to Sanja Madžarevic Šjuster, World Bank expert on the Western Balkans and the Republic of North Macedonia, the 2018 public finance statistics do not include 12 state-owned enterprises spending 3% of GDP. Presentation at the Second Session of Working Group 6 - Anti-corruption, 2 November 2023.

The relationship between good governance and compliance with fiscal rules is crucial. While some states specifically include these rules within their constitutional framework, NCEU-MK experts emphasize the importance of adhering to fiscal rules regardless of their legal status. While there have been prior attempts to enshrine fiscal rules in constitutions, public pressure halted these efforts. It is essential for fiscal rules to strike a balance between ensuring responsible management of public finances and allowing for flexibility in times of crisis or economic turbulence to prevent adverse effects on the economy.<sup>135</sup> Fiscal rules can effectively guide fiscal policy, even in the face of implementation challenges, as long as they are supported by all stakeholders and have political backing.<sup>136</sup>

Experts of NCEU-MK suggest that establishing a fiscal path can help in adhering to fiscal regulations. This approach, commonly used by Member States of the Union as well, allows for the consideration of specific conditions and requirements of individual states (such as social policies and healthcare) while still ensuring compliance with fiscal regulations.<sup>137</sup> In 2019, fiscal rules were implemented in municipalities in the Republic of North Macedonia, focusing solely on increasing revenue.<sup>138</sup>

Experts suggest that the Republic of North Macedonia needs to implement tax reforms urgently. The country currently has the lowest income rate in Europe, standing at approximately 30% of GDP. Additionally, the aging population poses a challenge as it indicates a further decline in the income rate. It appears that the country is still struggling to recover from the economic crisis caused by the pandemic in 2020/2022. To meet budgetary needs, the country has been relying on borrowing from foreign banks. Unlike its neighboring countries, the Republic of North Macedonia has not been successful in reducing public debt or regulating the budget deficit over the past four years, despite having similar economic structures and traditions.<sup>139</sup> In order to reduce public debt, it is important to: (1) develop a reliable plan for fiscal consolidation to stabilize debt, (2) enhance institutions for effective public financial management, (3) generate revenue through public finances, and (4) eliminate uneconomical spending of public funds. While current debt levels are moderate compared to other European countries,

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<sup>135</sup> Viktor Mitevski, position expressed at the Second Session of the Working Group 6 - Anti-corruption, 2 November 2023.

<sup>136</sup> Sanja Madžarevic Šjuster, presentation at the second session of Working Group 6 - Anti-corruption, 2 November 2023.

<sup>137</sup> Dragan Tevdovski, Professor at the Faculty of Economics, UKIM, Skopje, second session of Working Group 6 - Anti-corruption.

<sup>138</sup> Ibid.

<sup>139</sup> Sanja Madžarevic Šjuster, World Bank expert on the Western Balkans and the Republic of North Macedonia, Presentation at the second session of Working Group-6, Anti-corruption.

experts caution that debt could escalate quickly in the next five years due to increasing financial costs, inflation, and a sluggish GDP growth rate.<sup>140</sup>

Fiscal consolidation is crucial for countries aiming to join the EU, such as the Republic of North Macedonia. When becoming a Member State, they will be required to contribute to the EU budget and have the capacity to utilize European funds through co-financing. Without this capacity (ranging from 25% to 50%), economic growth may be stunted. Croatia's experience serves as a cautionary tale, with initial negative GDP growth (approximately -1%) upon joining the EU due to a lack of absorptive capacity for European funds. However, with time, Croatia now benefits greatly from European grants, with 17% of total investments being financed by EU funds.<sup>141</sup>

The financial experts highlighted the importance of addressing the significant problem of the informal economy, which makes up 33.2% of GDP, surpassing the average of 19.4% among 27 European Union Member States. This results in an annual loss of 1,280,000 euros for the state. The informal economy, also referred to as the gray or black economy, is viewed as a driver of corruption due to its dependence on cash transactions, allowing individuals in positions of power to engage in corrupt practices.<sup>142</sup> The analyses point to the reasons for the existence of the informal economy, but non-compliance with the laws, that is, the low level of the rule of law and lack of trust in institutions, are among the more important ones.<sup>143</sup> However, political will is the most important input to comply with the fiscal rules and all other adopted laws.

#### **4.6. Financial crime**

Financial crime in the Republic of North Macedonia is often perpetrated by individuals associated with organized crime groups, corrupt officials, wealthy transitional nouveau-riche business leaders, and those with connections to global financial networks. These criminal activities encompass a variety of offenses including fraud, tax evasion, terrorist financing, embezzlement, and money laundering. The illicit proceeds derived from

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<sup>140</sup> Ibid.

<sup>141</sup> Sanja Madžarevic Šjuster, World Bank expert on the Western Balkans and the Republic of North Macedonia, Presentation at the second session of Working Group -6, Anticorruption.

<sup>142</sup> Zoran Jovanovski, Economic Chamber of the Republic of North Macedonia, Presentation at the second session of Working Group 6 – Anti-Corruption.

<sup>143</sup> How big is our gray economy? How do key economic policies affect it? - FinanceThink.

these activities pose a significant threat to the country's financial system and economy.<sup>144</sup>

In a discourse on financial crime, specifically tax evasion and money laundering, experts of NCEU-MK highlighted that the digitization of financial transactions and the limitation of cash payments could substantially mitigate these issues. They further noted that the 2019 amendments to the Law on Money Laundering, which lowered the cash payment limit from 15,000 to 2,000 euros, were aimed at curbing the shadow economy. This legislative change is a clear testament to the ongoing efforts to combat financial crime. On 1 January 2019, the cash payment threshold was further reduced to 1,000 euros, and by June, it was lowered even more to a mere five hundred euros. This significant change was met with positive reactions from the European Union and was favorably assessed in the Country Progress Report. However, a swift amendment to the Law was initiated by several MPs, which resulted in the cash payment being increased to 3,000 euros.<sup>145</sup> The issue of political party donations indeed warrants thorough analysis. Donations can foster a cycle of corruption and dependency if there is not sufficient financial oversight over the donation limits, the donors, the expenditure of the donated funds, and the declaration and registration of these transactions. Without proper controls, these donations can inadvertently create a system that lacks transparency and accountability. This highlights the importance of robust financial regulations in maintaining the integrity of political processes.<sup>146</sup> NCEU-MK experts emphasize the importance of a transparent, public record that outlines the financial dealings of political parties as a robust tool for bolstering democracy and the rule of law. By fostering an environment that allows for increased public scrutiny of political funding sources, it is anticipated that there will be an enhancement in public trust in the political system and an overall improvement in the political climate.<sup>147</sup>

The subject of money laundering was indeed addressed during the fifth session of NCEU-MK.<sup>148</sup> During that time, experts endorsed the creation of entities tasked with overseeing the execution of the then-current National

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<sup>144</sup> Law on Prevention of Money Laundering and Financing of Terrorism, Official Gazette of the Republic of North Macedonia no. 151/2022. The novelty of this Law is the regulation of the crypto virtual domain in terms of the risks of money laundering and terrorist financing as one of the significant risks related to virtual or crypto assets, considering their pseudo-anonymous, that is, completely anonymous features, which allow a certain degree of anonymity of the participants in the crypto transactions.

<sup>145</sup> The amendments to the Law were adopted on 27 December 2023.

<sup>146</sup> Bringing the Receipts, Transparency International, 2023.

<sup>147</sup> Viktor Mitevski, Coordinator of Working Group 6, Second session of Working Group 6 - Anti-corruption, held on 2 November 2023.

<sup>148</sup> The session was held on 7 June 2019 on the topic: "Following the money trail: Strengthening the financial investigation mechanism", in the "Book of Recommendations", 2019, p. 130.

Strategy on Money Laundering and Terrorist Financing (2017/2020). They concluded that conducting financial investigations requires the presence of trained and seasoned law enforcement personnel within the relevant institutions. Furthermore, it was advised that these proven staff members should remain in their positions, irrespective of government changes and reshuffling. This recommendation underscores the importance of continuity and expertise in the fight against financial crimes. The session indeed underscored the necessity for enhanced coordination among various institutions, including the Public Prosecutor's Office, the Financial Intelligence Unit, the Customs Administration, and other pertinent bodies. This synchronization is crucial in ensuring a comprehensive and effective approach to combating financial crimes.

Indeed, the issues of money laundering and terrorism financing have become even more pressing in today's digital age due to the rise of virtual currency transactions. These digital currencies, due to their anonymous nature, pose significant risks as they can be exploited for illicit activities. The regulation of virtual currency transactions, including bitcoins and other cryptocurrencies, is an area that requires fortification with suitable regulatory measures and monitoring mechanisms. This is crucial to ensure the integrity of these transactions and to prevent their misuse. Moreover, governments should heighten their vigilance for transactions involving countries deemed high-risk for exploitation.<sup>149</sup>

The latest report made by the MONEYVAL Committee,<sup>150</sup> makes recommendations to strengthen measures in the fight against money laundering, terrorist financing, and proliferation financing. In this context, it is especially important to strengthen the financial investigations and activities conducted by the prosecution in the country.<sup>151</sup> The report indeed acknowledges advancements in the legal framework for combating money laundering and terrorist financing. However, it emphasizes that the impact of these improvements could be amplified by bolstering financial intelligence and fostering collaboration among investigative agencies. The report advocates for a continued shift towards a risk-based approach, the efficacy of which remains uncertain due to the relatively small number of resolved cases. This underscores the need for ongoing evaluation and adaptation of

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<sup>149</sup> Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU (Text with EEA relevance)

<sup>150</sup> Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism.

<sup>151</sup> Anti-money laundering and terrorist financing measures in North Macedonia - Fifth Round Mutual Evaluation Report, May 2023.

strategies to effectively tackle these complex financial crimes.<sup>152</sup> Advancements in transparency within the Central Registry's database of legal entities have paved the way for systematic verification of the data of businesses and their true owners. This is particularly crucial for industries like casinos to ensure that individuals involved in criminal activities are not part of their management. Despite the legal system having measures to penalize offenders, it is observed that the penalties imposed often do not match the severity of the crimes. In instances of money laundering, it is essential to adhere to the 'follow the money' principle to effectively confiscate illicit funds.<sup>153</sup>

The Republic of North Macedonia's government has been consistently revising its laws to enhance the effectiveness of financial fraud penalties and safeguard the nation's financial interests. The existing National Strategy for Combating Money Laundering and Financing of Terrorism (2021-2024) ensures a steady approach, the execution of which is expected to yield improved outcomes in this field.<sup>154</sup> The document highlights the specific susceptibility of the banking industry, emphasizing the importance of tracing the source of funds entering the sector. It also underscores the activities of currency exchange businesses and rapid money transfer services, which predominantly deal with cash transactions.

Enhancing transparency by providing access to public information is deemed crucial in combating money laundering and terrorist financing. While national institutions have advanced in establishing regulations for public information access, their implementation is not yet fully realized across the public sector. The Government and the Assembly of the Republic of North Macedonia have recently shown increased transparency in their operations. Nevertheless, the fight against nepotism, corruption, and political clientelism must persist.<sup>155</sup>

At the beginning of 2024, the relevant public (legal professions, civil associations, media, and other stakeholders) was preoccupied with the new legal and regulatory arrangements to penalize corruption. A deeper elaboration of the Draft Law on Confiscation in Civil Procedure is needed,<sup>156</sup> as

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<sup>152</sup> Determining the risks of money laundering and terrorist financing. In the Republic of North Macedonia, the implementation of the national risk assessment began in November 2018.

<sup>153</sup> MONEYVAL calls on North Macedonia to improve investigation and prosecution to combat money laundering and financing of terrorism

<sup>154</sup> The National Strategy for Combating Money Laundering and Financing of Terrorism, 2021/2024

<sup>155</sup> Anti-money laundering and terrorist financing measures in North Macedonia - Fifth Round Mutual Evaluation Report, May 2023.

<sup>156</sup> Single National Electronic Register of Regulations of the Republic of North Macedonia (ENER), Draft Law on Confiscation of Assets in Civil Procedure.

well as the Draft Amendments to the Law on Restrictive Measures.<sup>157</sup> By proposing these laws, the proposers aim to fill the legal loopholes in penalizing of illegally acquired assets. However, the legal profession community as well as many civil society associations have shown some reservations about these laws due to the continuation of practices to introduce new (parallel) laws for the regulation of criminal offenses. According to law experts, this legal and regulatory arrangement cannot be more effective than the existing laws and regulations already in force, if there is really a will to be implemented. "The government is aware that the fight against crime and corruption is already well regulated in domestic and international law, but it reportedly believes that the legislative changes will contribute to greater efficiency in the fight against these phenomena"<sup>158</sup>.

#### **4.7. State Commission for Prevention of Corruption**

The Republic of North Macedonia's State Commission for Prevention of Corruption (SCPC), as per its official duties, is an autonomous entity tasked with formulating anti-corruption strategies and initiatives, enforcing, and promoting the enforcement of legislation, and fostering the normative and institutional development of governmental bodies. Recent studies on corruption prevention underscore the constructive influence of the SCPC and its members who served the 2017-2023 term, which concluded on 8 February 2024.<sup>159</sup> In the past four years, the SCPC has been commended for its efforts in the European Commission's reports, reflecting its effective work. Simultaneously, it has earned the public's admiration as an institution that was actively striving to combat corruption.

The National Strategy for Prevention of Corruption and Conflict of Interest 2021 – 2025, along with its Action Plan (NS 2021 – 2025), outlines key areas of focus. Notably, the Anti-corruption Review of Laws (ARL) process is emphasized. This process is crucial as it identifies and addresses

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<sup>157</sup> Assembly of the Republic of North Macedonia, Draft Law Amending the Law on Restrictive Measures.

<sup>158</sup> Prof. Dr. Gordan Kalajdjiev's column: Dark days for the constitutional order – analysis of the proposed amendments to the Law on Restrictions, Makfax, 6 February 2024.

<sup>159</sup> Regarding the election process of new members of the State Commission for Prevention of Corruption of the Republic of North Macedonia, there were public reactions from representatives of the civil sector. One of the members of the Commission for the selection of candidates for the new SCPC composition emphasized that the voting process did not take place according to objective criteria, but was orchestrated and non-objective with great political influence. How the candidates' ranking list for the new composition of the State Commission for Prevention of Corruption of the Republic of North Macedonia was made-up, Analysis, 360 Degrees, 29 November 2023.



priority issues that pose a significant risk of corruption. Areas of particular concern encompass employment laws, environmental licensing, and discretionary employment rights. In 2023, a significant development was the introduction of a new electronic system for the SCPC. This system facilitates the submission of asset declarations for officials and public office holders who are subject to the Law on Prevention of Corruption and Conflict of Interest. This is a crucial step in enhancing transparency and accountability.<sup>160</sup>

The SCPC has made substantial advances in enforcing laws to prevent and combat corruption through its work. Its determination to tackle more high-profile corruption cases has been noteworthy. However, this proactive approach has led to criticism from other relevant institutions, which have accused the Commission of exceeding its jurisdiction. Despite these challenges, the SCPC continues its mission to uphold integrity and transparency.<sup>161</sup>

Indeed, no society is immune to corruption and nepotism. However, in the Republic of North Macedonia, these issues have led to a complete disruption of the rule of law. For positive changes to occur, several key issues need to be tackled: (1) Defining and legalizing political responsibility with precision. (2) Enhancing the transparency and accountability of institutions even further. (3) Instituting regular audits and supervision of institutional functions through legalized procedures. (4) Performing an in-depth analysis of the existing criteria for public sector employment and the external influences in the recruitment and selection process. (5) Conducting a qualitative study of instances of minor corruption among public sector employees. (6) Increasing the degree of digitization in public services. (7) Developing specific strategies for the participation of civil society and media in the monitoring and execution of anti-corruption policies.

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<sup>160</sup>Law on Prevention of Corruption and Conflict of Interest.

<sup>161</sup>The occasion was the findings and conclusions of the State Commission for Prevention of Corruption of the Republic of North Macedonia on three major suspicious and high-corruption cases. They were: 1) Non-execution of seizure of assets in the highly publicized "Trust" case (million euros in question); 2) Suspicions of theft of personal data of voters; and 3) Suspicions of corruption in the procurement of expensive foreign-made fingerprint scanners for identification of voters by the State Election Commission of the Republic of North Macedonia worth over 11 million euros. The second and the third case are interrelated. And the final effect on the general public is a strong impression that instead of an anti-corruption front, a front was opened against the very State Commission for Prevention of Corruption. Truthmeter, 21 July 2023.