

MACEDONIA AND THE EU: THE RISK OF THE *STATUS QUO*

EPI publishes this commentary shortly after the publication by the European Commission of the Enlargement Strategy and Progress Reports for the Western Balkan countries in the process of EU accession on October 12, 2011 and following the first reactions in the Republic of Macedonia on the Report.

Still, the "Western Balkans" is moving on

Two countries in the region are making key moves - Montenegro, having received a recommendation for accession negotiations and Serbia, proposed for candidate status, with an additional condition for starting negotiations - normalisation of relations with Kosovo.

Croatia – the second country in the Stabilisation and Association Process - is in the final phase of its accession process.

The *status quo* remains for the other countries in the region, including Macedonia, which has maintained the recommendation for negotiations.

With this year's Enlargement Package, the European Commission manages to ensure credibility of the process in a difficult time in the European Union for making decisions on enlargement. The setting of the agenda, the time, and the dimensioning of the rewards and punishments, which have always been in the hands of the EU, become even more powerful tools in this wave of enlargement. Aiming to maintain the influence in the region, and in the same time addressing the concerns of Member States for future enlargement with "unprepared" candidates, the EC responds with new elements in the Enlargement Strategy. Thus, with this year's Strategy the political criteria are largely integrated in the negotiations. The first and the last chapter to be opened and closed will be Chapter 23 - Judiciary and Fundamental Rights and Chapter 24 - Justice, Freedom and Security, which will be continuously monitored based on specific benchmarks and action plans.¹ The political criteria are increasingly becoming "catalyst of the negotiations". Dialogue on the rule of law will be further intensified, reflecting the "continuous priority of the reform of the judiciary and public administration, fight against organised crime and corruption"². Additionally, freedom of expression in the media has been identified as a serious problem for the whole region.³

This approach further increases the impact of the European Commission and the Member States on the political reforms in the accession countries. Despite of the growing *acquis* in the areas related to political criteria, the challenge will remain the management of the reforms, which largely relies on best practices. The additional focus on public administration, which is basically in competence of the

¹ European Commission, Brussels, 12.10.2011, COM (2011) 666 final, Communication from the Commission to the Council and the European Parliament – Enlargement Strategy and Main Challenges 2011-2012, p. 23.

² Ibid.

³ Ibid, p. 6.

Member States, brings along challenges of ensuring the principles of cooperation and the aims of the common EU policies, while avoiding undue transplantation of inadequate models.

It remains unclear to what extent the Union will maintain the leverage on reforms throughout the region, if the main incentive - accession perspective – is not feasible in a certain time-frame, and conditions that do not derive from the Copenhagen criteria, but are actually externalised interests of the Member States prevail. On the other hand, the success of internal political forces in the countries in the enlargement process will be measured by their readiness to subordinate short-term political gains and unite efforts based on a common vision for the future of their countries and the region.

The Republic of Macedonia: the Recommendation remains, but the message is warning

The Report reiterates the key assessment from the previous two reports that the Republic of Macedonia "sufficiently fulfils the political criteria".⁴

Following "substantial progress" in 2009, in 2010 the EC considered that "further progress was made, but at an uneven pace".⁵ This year it was assessed that "core challenges remain".⁶ They lie in the implementation of the adopted legislation, freedom of expression in the media, independence of judiciary, public administration reform, fight against corruption.

The "credit" for maintaining the recommendation of membership, goes to the well administered elections and the efficient formation of the new government. However, (relying on the OSCE-ODIHR reports) even the good assessment of the elections is marred by the strong statement for "credible allegations of insufficient separation between state and political party, and pressure on civil servants".⁷

The comparison of assessments in the reports on political criteria since the recommendation for negotiations (for the period 2009-2011) shows significant decline of the assessments of progress in 2010 compared to 2009, while in 2011 they are very similar to 2010 (Annex 1: Table 1)⁸.

In brief, the status and assessments on progress could be described as *status quo*. However, the problem is that maintaining such *status quo* actually means regress. Why? Weak progress refers to areas that are benchmarks for negotiations - political dialogue, judiciary, public administration, fight against corruption. Benchmarks are mostly related to the rule of law - a priority area especially in this Enlargement Strategy, to which not only the Commission, but the Member States pay special

⁴ Ibid, p.26.

⁵ European Commission, Brussels, 9.11.2010, [COM (2010) 660], Communication from the Commission to the Council and the European Parliament – Enlargement Strategy and Main Challenges 2010-2011, p.35.

⁶ European Commission, Brussels, 12.10.2011, [COM (2010) 666], Communication from the Commission to the Council and the European Parliament – Enlargement Strategy and Main Challenges 2011-2012, p. 26.

⁷ European Commission, Brussels, 12.10.2011 SEC(2011) 1203, Commission Staff Working Document, Republic of Macedonia, 2011 Progress Report, p.7.

⁸ The unified expressions that the EC uses in the annual reports to grade the assessment of progress (in the conclusions of each area) allow for quantification and comparison. According to our methodology, the expressions are quantified in the following manner: 0: No progress; 1. Little/initial/limited progress; 2. Modest/partial/some progress; 3. Progress/further progress; 4. Good/visible/sustainable progress; 5. Significant/essential/important progress.

attention. In addition, the freedom of expression in the media has been indicated as the most critical area.

In the second Copenhagen criteria - economic - the assessment also remains the same as in 2009 - that Macedonia is "very advanced" in becoming a functional market economy.⁹ However, there is no assessment that this criterion is met. Again the obstacles for functional market economy are found in the area of the rule of law - inefficient public administration, high turnover of officials, lack of independence of some regulatory and supervisory bodies, etc.¹⁰

As to the third Copenhagen criterion - the ability to assume the obligations of membership (popular as the *acquis communautaire* criterion), progress is insignificantly higher this year (Appendix 2, Figure 1)¹¹. The assessment of overall alignment with the *acquis*, understandably, gradually increases (Appendix 2, Figure 2)¹². However, what is important is the statement that, despite the formal compliance of laws and regulations, implementation and enforcement remain a problem.¹³ This again indicates to essential issues with the rule of law.

The inadequate government response to the issues noted last year resulted in raising more critical tones on Macedonia this year, with a clear emphasis that there was "little progress" in the speech of the Enlargement Commissioner Štefan Füle.¹⁴ This could be expected, knowing the logic of previous enlargements - every problem that is not addressed, is more accentuated the following year. The criticism should not have come as a surprise, because of the permanent dialogue between the Government and Brussels.

Instead of appropriate action – inappropriate reaction

It is a fact that with the present *status quo*, the leverage of the EU accession process on internal reform in the Republic of Macedonia is diminishing. This has also been recognised by the EC: "the advancement of the accession process of the Republic of Macedonia into the next phase will be useful impulse for the reforms and the inter-ethnic relations, thereby positively contributing on the region *per se*".¹⁵

⁹ European Commission, Brussels, 12.10.2011, [COM (2010) 666], Communication from the Commission to the Council and the European Parliament – Enlargement Strategy and Main Challenges 2011-2012, p. 40.

¹⁰ Ibid. p.41.

¹¹ The overall grades are not an arithmetical average of the chapters, but are weighed based on the extensiveness of the *acquis* and complexity of different chapters.

¹² In this criterion, besides the assessment of progress since the previous year, the EC gives an appraisal of the overall level of alignment with the *acquis*, which we quantify in the following manner: 0 – Not initiated; 1 – Early stage/very early stage/initial stage, 2 –Not very advanced/slowly advancing/advancing; 3 – Moderately advanced; 4 – Advanced/at an advanced stage; 5 – Very advanced. It should be taken into account that the quantification cannot be perfectly precise, as progress and level of alignment of separate sections within chapters differ.

¹³ European Commission, Brussels, 12.10.2011, [COM (2010) 666], Communication from the Commission to the Council and the European Parliament – Enlargement Strategy and Main Challenges 2011-2012, p. 41.

¹⁴ Speech by Commissioner for Enlargement Štefan Füle at the Press Conference on the publication of the Enlargement Package, 12.10.2012
http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/fule_speech_12_oct_2011_en.pdf

¹⁵ European Commission, Brussels, 12.10.2011, COM(2011)666 final, Communication from the Commission to the European Parliament and the Council "Enlargement Strategy and Main Challenges 2011-2012", p.14.

However, apart from the Progress Report itself, a cause for even more concern is the reaction of the Macedonian Government following the publication of the Report. Contrary to the statement of Deputy Prime Minister Arifi that the Report was positive and “reflecting our reality”¹⁶ and the official statement by the Ministry of Foreign Affairs¹⁷, the Prime Minister harshly reprimanded Commissioner Füle of “overstated criticisms” regarding the judiciary, the public administration and the freedom of the media¹⁸. These different positions on the Progress Report, even within the governing coalition, and particularly after the national census was interrupted, are not a solid ground for a consensual approach which is critical in this serious stage of the accession process.

Thus, immediately after the publication of the Progress Report, we are faced with inappropriate reaction, instead of appropriate action.

Two opposing views are emerging: the first one – that the overall assessments in the Report are decreased in order to increase the pressure on resolving the name dispute, and the second – that the resolution of the name dispute would lead towards opening of accession negotiation and would encourage the internal cohesion for reform.

In this vicious circle, the Republic of Macedonia is at a risk of losing the positions on two fronts – in the name dispute and in the process of further democratisation of the country. On the other hand, it is exactly democratisation and the culture of dialogue that provide credibility to the Republic of Macedonia in the undeniably legitimate action for the name and the identity.

In this situation, the Republic of Macedonia cannot afford to lose its allies.

Finally, the European Commission recommended opening accession negotiations in 2009, as well as candidate status for EU membership in 2005 - the latter consensually granted by the EU Member States.

¹⁶ Statement by the Deputy Prime Minister of the Government of the Republic of Macedonia Ms. Teuta Arifi after the publication of the EC 2011 Progress Report (according to MIA, 12.10.2011, *Arifi: The Report is positive, the negotiations are still conditioned with the resolution of the name dispute*, <http://www.mia.com.mk/default.aspx?vId=87573364&lId=1>)

¹⁷ <http://mfa.gov.mk/default1.aspx?ItemID=318&id=1356>

¹⁸ Statement by the Prime Minister of the Government of the Republic of Macedonia Mr. Nikola Gruevski after the publication of the EC 2011 Progress Report (according to MIA, 12.10.2011, *Gruevski: Besides the blockage due to the name dispute, we are continuing with the reforms and the Euro-integration*, <http://www.mia.com.mk/default.aspx?vId=87554357&lId=1>)

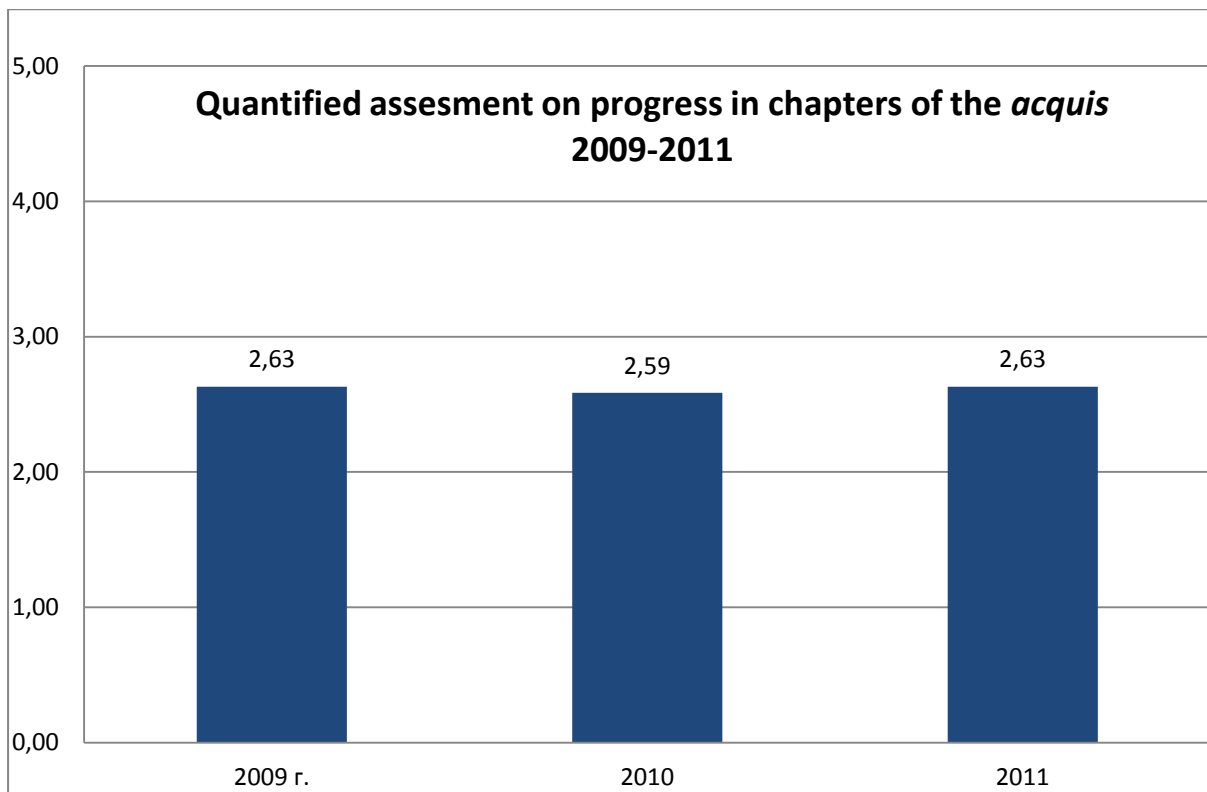
Table 1: Assessment of progress in Political Criteria in the EC Progress Reports 2009-2011

	<i>2009</i>		<i>2010</i>		<i>2011</i>	
<i>1.1. Democracy and the Rule of Law</i>						
Implementation of the Ohrid Framework Agreement	Progress	3	Some progress	2	Some progress	2
Elections	Good progress was made in the conduct of elections, which met most international standards.	3	The government followed-up the 2008 and 2009 elections and the ODIHR/OSCE Recommendations.		Progress in the conduct of elections. The elections were competitive, transparent, and well-administered throughout the country.	3
Political dialogue	Good progress	4	Some progress	2	Political dialogue needs to be further strengthened	2
Parliament	Good progress	4	Further progress	3	Some progress	2
Government	The government coalition has been stable and functioned effectively.	4	The government coalition continues to be stable and to resolve differences through Cooperation.	3	The government coalition has overcome difficulties and strengthened its internal cooperation	3
Public Administration	Some progress	2	Some progress	2	Progress in the legislative framework, the progress in implementing the reforms was limited.	2
Judiciary	Further progress	3	Limited progress	1	Limited progress	1
Fight against corruption	Good progress	4	Some progress	2	Limited progress	1

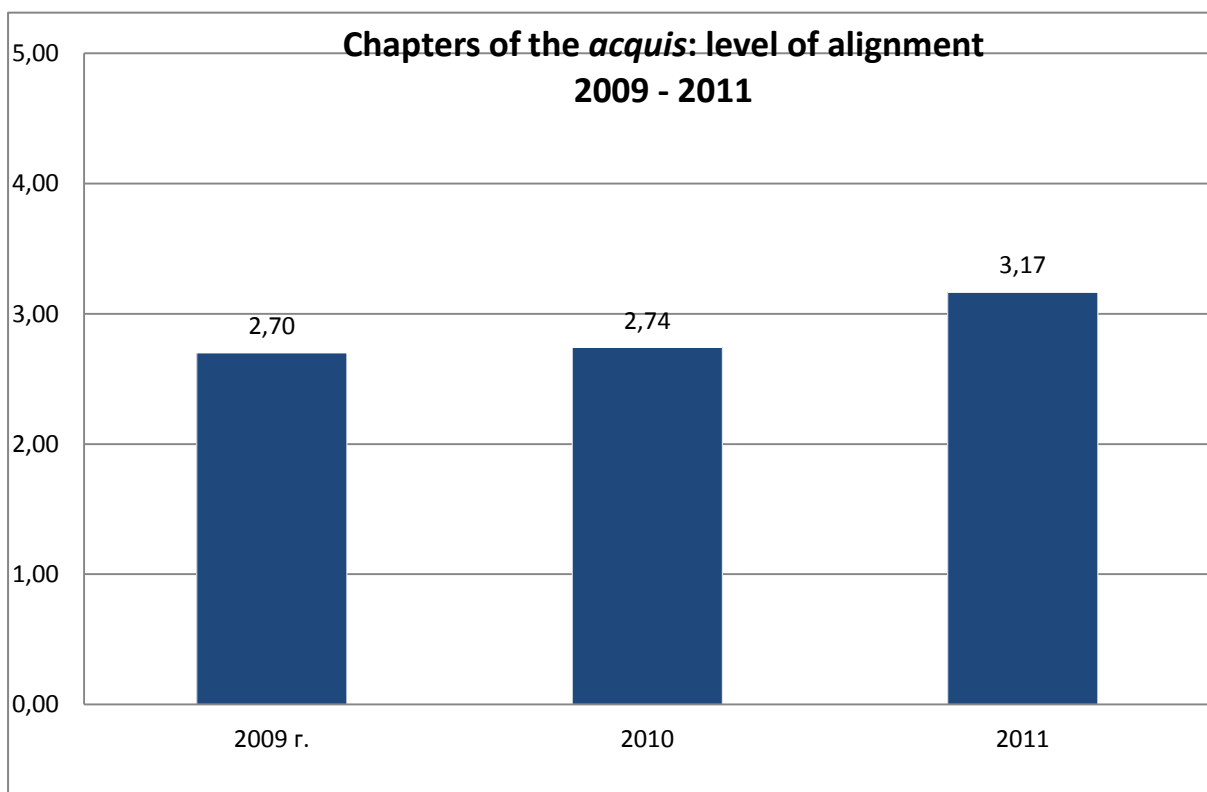
	<i>2009</i>		<i>2010</i>		<i>2011</i>	
<i>1.2. Human right and protection of minority rights</i>	The legal and institutional framework for the protection of human rights and minorities is broadly in place. Limited progress in the implementation and promotion of human rights.	1	Limited progress in the promotion and enforcement of human rights. The legal framework is broadly in place, however the institutional framework is not completed.	1	Limited progress, the implementation of legal framework was uneven.	1
Civil and political rights	Some steps have been taken to strengthen civil and political rights. The country is moderately advanced in this area.	2	Civil and political rights are broadly respected, limited further progress was made.	1	Civil and political rights are broadly respected, further progress was limited.	1
Economic, social and cultural rights	Some steps have been taken to strengthen social and economic rights; the country partially meets its objectives in this area.	2	Social and economic rights are broadly in place, there was limited further progress.	1	Social and economic rights are broadly in place, and some further progress was made.	2
Minority rights, and protection of the minority and cultural rights	Some progress	2	Progress	3	Some progress	2
<i>1.3. Regional issues and international obligations</i>	Participating actively in regional cooperation and further developing its bilateral relations with its neighbours. The name issue continues to affect relations with Greece.		Active partner in the region. Bilateral relations with neighbours further improved, but relations with Greece continue to be affected by the unresolved name issue.		Constructive partner in the region. Bilateral relations with neighbouring and other enlargement countries continued to improve. The name issue continues to affect relations with Greece.	
General assessment regarding political criteria	The country sufficiently fulfils the political criteria		Continues to sufficiently fulfil the political criteria		Continues to sufficiently meet the political criteria	

Annex 2

Graph 1



Graph 2:



ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

Progress and level of alignment regarding chapters of the Acquis 2009-2011

Chapter	Progress			Level of harmonisation		
	2009	2010	2011	2009	2010	2011
1. Free movement of goods	2	4	2	2	3	3
2. Freedom of movement for workers	2	1	1	1	1	1
3. Right of establishment and freedom to provide services	2	2	3	1	2	1
4. Free movement of capital	2	3	2	2	2	3
5. Public procurement	4	3	3	4	3	5
6. Company law	4	4	4	3	3	3
7. Intellectual property law	2	2	2	3	3	3
8. Competition policy	2	2	2	3	3	3
9. Financial services	2	4	4	3	3	3
10. Information society and media	3	3	3	3	3	3
11. Agriculture and rural development	3	3	3	1	2	3
12. Food safety, veterinary and phytosanitary policy	2	2	4	2	2	4
13. Fisheries	2	2	2	2	2	3
14. Transport policy	4	2	3	4	4	4
15. Energy	2	2	4	2	3	3
16. Taxation	4	1	1	3	3	3
17. Economic and monetary policy	2	1	5	3	2	4
18. Statistics	4	4	4	4	4	4
19. Social policy and employment	1	1	1	3	1	2
20. Enterprise and industrial policy	3	2	3	3	3	3
21. Trans European Networks	3	2	3	4	3	4
22. Regional policy and coordination of structural instruments	2	2	2	3	3	3
23. Judiciary and fundamental rights	3	1	1	3	3	3
24. Justice, freedom and security	4	3	3	4	4	4
25. Science and research	2	2	3	4	3	2
26. Education and culture	2	2	2	4	3	3
27. Environment	3	3	2	3	3	3
28. Consumer and health protection	2	2	2	3	2	3
29. Customs Union	5	2	4	4,5	4,5	4
30. External relations	2	3	3	4	4	4
31. Foreign, Security and Defence Policy	2	4	4	4	5	5
32. Financial control	2	2	1	2	2	2
33. Financial and budgetary provisions	2	2	1	3	3	3