



***Macedonia -
EU Accession Brief***

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This is the first issue of the Macedonia-EU Accession Brief (MAB). MAB will provide monthly updates of the EU accession process in Macedonia. We are presenting our view on developments in Macedonia relevant for Copenhagen and SAP accession criteria, based on contextual analysis.

For easier orientation, parts of the texts are linked to references on the margins of the Brief. They denote the accession criterion/ chapter to which the text relates. An overview of the complete monitoring structure for accession under the Copenhagen criteria and the SAP is available at http://epi.org.mk/docs/structure_copenhagen_criteria_accession_brief.pdf

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Summary

The European Commission presented the fourth, “different” recommendation for Macedonia to launch accession negotiations in this year’s Enlargement Package. This was mainly a result of the engagement of Enlargement Commissioner Mr. Stephan Füle along several lines: strengthening the Macedonian “success” portfolio through the High Level Accession Dialogue; engagement with both Macedonia and Greece to take positive steps on the name dispute; and political encouragement to the Council to break the impasse on the Macedonian EU agenda. The Government and the Commission presented the report harmoniously, unlike last year. The “new engagement” of the Commission was generally welcome and confirmed in the Parliament’s conclusions on the Report. The Government’s reaction to the Memorandum of Understanding proposed by Greece was restrained, but diplomatically positive. Similar was the official reaction to statements by official Sofia that their support to Macedonian accession was not unconditional.

Expressing readiness to propose a Negotiating Framework including the name issue, the Commission is pushing for a modified Montenegrin scenario – gradual opening of negotiations with parallel efforts to solve “the problem”. The worst scenario is no move at all, the best – unconditional launching accession negotiations. As the latter one is not realistic, the “second best” and still realistic is an invitation to the Commission to prepare a negotiating framework, launch screening and make progress conditional on the progress on the name dispute. It is essential to actually move on with the Macedonian EU agenda, as the stalemate is compromising the credibility of the enlargement process and the Copenhagen criteria, with highly detrimental impact on internal cohesion and democratic reform.

Alongside the atmosphere created with the Progress Report, proclaimed by the Government as “the most positive ever”, the HLAD Agenda continued with controversial discussions in the Parliament on the key HLAD laws, especially the Electoral Code and the Law decriminalising defamation. The internal dialogue was not at the level of the bilateral dialogue Government – EC. Controversies in the Assembly on the Law on Defenders, dividing the government coalition, continued. Although these actions tend to be interpreted as political moves by position coalition partners to maintain voters’ support on ethnic ground, they have a considerable broader impact - further divisions of the society on ethnic lines.

Macedonia made a solid ranking in the World Bank Doing Business Report – overall 23. Concerns on the level of public debt increased, along with the lack of a sustainable public debt strategy – one of the main points of criticism of the EC report in the economic criteria.

Macedonian citizens widely see the threats to reinstall visas for Macedonia by several Member States as discouraging, besides the recognition of the high number of ungrounded asylum applications by Macedonian citizens in several



MS. Stricter measures imposed on and implemented by the Government for border exit control continue to raise concern of ethnic profiling of Roma. Suspension of the visa free regime for Macedonian citizens would have a very negative impact on the accession process. Therefore, joint measures by MS and Macedonia – both long-term and short-term are recommended.

The fourth, “different” recommendation

The fourth recommendation for opening accession negotiations with Macedonia came in a different envelope in this year’s Enlargement package. The EC went further from recommending launching accession negotiations and urged for political engagement of the Member States to break through the Macedonia impasse. It strengthened its portfolio on Macedonia by expressing readiness to propose a negotiating framework, including the name issue, which should be solved “at an early stage of accession negotiations”.¹

This position came as a result of the previous engagement of Commissioner Füle throughout the past year on three fronts: deeper dialogue with the Macedonian authorities on the reform process (High Level Accession Dialogue - HLAD); diplomatic activities with both Macedonia and Greece to create a “new momentum in the negotiations” on the name issue; and political engagement with Member States to create a critical mass for breakthrough in the Council. The completely different “packaging” of this year’s EC Report contributed to a diametrically opposite reaction in Macedonia compared to last year.² The Government did not miss the opportunity to qualify the Report as the “most positive ever” and to welcome the return of the adjective “Macedonian”. The opposition pointed out to noted criticisms, but advocated for accession negotiations, seeing it as a possibility for more European impact on Macedonian reforms. The civil sector, also welcoming the new “window of opportunity”, urged the government to seriously consider the Report and to enter into a substantial dialogue with the NGO sector. In any case, this new activism of the Commission is welcome, as the *status quo* is not acceptable.³ It is essential to actually move on with the Macedonian European agenda, as the stalemate is compromising the credibility of the enlargement process and the Copenhagen

— Main developments:
Enlargement Strategy and Progress Reports 2012

1 http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/mk_conclusions_2012_en.pdf

2 The Government practically refused the findings of the last year’s Commission report, assessing the criticism as overstressed and as a pressure on Macedonia on the name dispute with Greece. The fact that the Commission abandoned using the adjective “Macedonian” was under strong criticism as this was largely seen as taking the Greek side on crucial points of the name dispute.

3 See EPI’s commentary on the 2011 EC Report on Macedonia http://www.epi.org.mk/docs/epi_commentary_ec_report_2011_en_final.pdf



criteria, with highly detrimental impact on internal cohesion and democratic reform.

The main focus of the domestic debate is on two issues: “what is an early stage of the negotiations” and the prospects of the Commission’s proposal at the December summit. While some media rushed to gloriously declare this as a victory of the Macedonian diplomacy and increased pressure on Greece, the prevailing attitudes are those of caution. The Commission is obviously attempting to find a solution that Greece would not block and that would present a sufficient stimulus for the Macedonian authorities. This is rather difficult, as the Greek position is to solve the name issue before Macedonia moves forward in the integration process. The Macedonian position strives to start negotiations and resolve the name issue during the process, based on the last year’s judgement of the International Court of Justice that Greece should not obstruct Macedonian integration in international organisations under the provisional reference “former Yugoslav Republic of Macedonia”.

The EC attempt is, at least in procedural terms, based on the last year’s Montenegrin case. In this case the screening started, the Commission was invited to propose a negotiating framework, while the official start of the negotiations was postponed until June, subject on a report on the progress on rule of law issues by the Commission. In the Macedonian case, the problem is how to embed the name issue in the accession procedure. Expressing readiness to propose a Negotiating Framework including the name issue, the Commission is pushing for gradual opening of negotiations as stimulus for parallel solution to “the problem”. The prospects of the scenario are still dim, as more apparent reactions of MS are lacking. The worst scenario is no move at all, the best – unconditional launching of accession negotiations. As the latter one is not realistic, the “second best” and still realistic is an invitation to the Commission to prepare a negotiating framework and make progress conditional on the progress on the name dispute. Additionally, the carrot to launch screening is in the game, while the end of screening could denote the end of the “early stage of negotiations”.

For the domestic developments, the real issue at stake is that the name dispute is continuing to overshadow the whole accession process, shaping its political framework, and pushing the Copenhagen criteria to the second plan. The political aspects of the Copenhagen criteria were positioned affront to suit the objective of HLAD; however, the other instruments transferring EU norms into the national legal systems lost their visibility.⁴ A breakthrough on the name issue should have the potential to reset the Macedonian accession process to a “normal track”. The accession impasse lasts too long and the entire process mainly relies on progress made in recycling activities from the political criteria for membership. That is why it is essential to start screening as soon as possible - this action could produce real change at institutional level.

⁴ The Secretariat for European Affairs submitted its last report on the implementation of the NPAA 2012, covering the first trimester of 2012 in May.



Neighbours on the way to the EU

The Greek Memorandum

Following Commissioner’s Füle’s engagement in dialogue both with the Greek and Macedonian government, the Greece presented a proposal for Memorandum before publishing the Report.⁵ The Greek MFA published the Memorandum as soon as it communicated it, indicating the intention to demonstrate activism in the “new spirit”, which obviously prevails over the diplomatic character of the proposal.

Basically, while setting a constructive tone, the Memorandum reiterates the Greek positions on the name issue, extensively drawing on the principles on territorial integrity and inviolability of borders. It reiterates the known “red lines” of the Greek position – geographical denomination and its use *erga omnes*.⁶ The Macedonian reactions to the Memorandum were diplomatically positive, but rather restrained. The Minister for Foreign Affairs Nikola Popovski welcomed it in his “diplomatic diary”, at the same time practically framing the Macedonian response. He invoked the respect of the “rule of law” and “previously undertaken obligations”, referring to the decision of the International Court of Justice as a platform for further deliberation on the name issue.⁷

In the public debate the positive reactions prevailed, although concerns that the acceptance of the Memorandum would undermine the previous bilateral arrangements, such as the Interim Agreement between the two countries in 1995 were rightfully expressed. Still, the Macedonian political leaders missed the opportunity to demonstrate a national consensus over the name issue on this occasion. The Government did not present such an initiative, while, surprisingly enough, the opposition SDUM came forward with a proposal to refuse the proposed Greek memorandum. Thus, it is obvious that both parties will further explore the issue for domestic political gains.

... and the Bulgarian new conditions

As the discussion on the prospects of the Macedonian accession heated up, Bulgarian official representatives were gradually framing their concerns over the bilateral relations into “conditions for support”. This urged Commissioner Füle to visit Sofia on 30 October in an attempt to prevent blockage of the

5 <http://www.mfa.gr/en/current-affairs/news-announcements/foreign-ministry-announcement-regarding-letter-from-foreign-minister-avramopoulos-to-fyrom-foreign-minister-poposki.html>

6 “a solution which should include an agreement on the fact that any proposal should contain a clear and definitive qualifier regarding the name, which will leave no ambiguities as to the distinction between the territory of the former Yugoslav Republic of Macedonia and regions in neighbouring countries, in particular, the region of Macedonia in northern Greece, and that the name agreed upon will be used by all *erga omnes* and for all purposes”

7 <http://www.mfa.gov.mk/?q=diplomatski-dnevnik&language=en-gb>

I.3. Regional issues and international obligations



Commission's proposal on Macedonia and to recommend a more constructive role, "breaking away from the past". MFA Mladenov proposed drafting a plan by the end of the year.⁸ Bulgarian officials have not yet articulated their requirements, but numerous issues are evoked: treatment of Bulgaria in Macedonian history text books, "propaganda in Macedonian media", "treatment of Bulgarian citizens in Macedonia", "joint celebration of national holidays and history", etc. The increased reactions by Bulgaria coincided with the celebration in Macedonia of the Serb victory in the First World War (the 100 anniversary of the battle of Zebrenjak), in the presence of both the Serb President and the Serb Prime Minister. The celebration, even without high level representation on the Macedonian side provoked controversial reactions within Macedonia, as many see the victory for Serbia as contributing to the division of Macedonia during the Balkan wars. In return, the Serb President announced the possibility for the Serbian church to consider the recognition of the Macedonian church as autonomous.

It seems that the more the official representatives of the neighbouring countries (certainly including Macedonian) declare they look into the future, the more they are pre-occupied with the past. With its current dynamics and contents, the European agenda has a limited potential to alter this process. Winning votes for the next elections with a nationalistic rhetoric seems much more lucrative for political agents. On the other hand, initiatives and projects to support joint engagement and broader civil actions in the region envisioning a common European future are extremely limited.

All for accession negotiations, but...

The Report in the Parliament

The traditional debate in the Parliament on the Progress report took place in several committees ending with a plenary debate. The debate was an occasion for the position to re-iterate its achievements and the assessment of the "most positive report", while the opposition, as expected, focused on the critical points. The Parliament consensually adopted conclusions, as negotiated and proposed by the National Council for Euro-Integration.⁹ MPs welcome the fourth recommendation and the new engagement of the Commission, including its "preparedness to propose a Negotiating framework taking into account the need to address the name issue in an early phase of the negotiations".¹⁰ The document also acknowledges the achievements of the HLAD and calls on the Government to urgently prepare a plan to implement the recommendations from the Report. The Conclusions call for mobilisation and involvement of

I. 1.1. Democracy and rule of Law: Parliament

8 <http://www.mfa.bg/en/events/6/1/506/index.html>; http://europa.eu/rapid/press-release_MEMO-12-825_en.htm?locale=en

9 At the joint session of the National Council for Euro-Integration and the Committee on European Affairs civil society representatives also participated.

10 <http://www.sobranie.mk/ext/materialdetails.aspx?id=0f01096d-221c-4cd5-9bbe-51866a942134>



the whole society "ahead of accession negotiations".¹¹ It is certainly positive that the Parliament regularly has a comprehensive debate on the Report and manages to achieve consensus on the follow-up. It would be desirable, though, to implement its declarations, e.g. on inclusiveness firstly in its own practice.

HLAD: a test to the internal dialogue

The positive outcome of this year's report for Macedonia is largely due to the achievements of the HLAD.¹² However, accomplishment of most of the targets is still in process. On the other hand, the rather controversial debate on the key HLAD laws indicates that the level of internal dialogue does not match the satisfaction expressed with the Government – EC dialogue.

The debate on the amendments to the *Electoral Code* in the Parliament continued; the climate is not providing optimism for reaching a substantial political consensus on election rules, which would guarantee trust in the elections outcome. While the Government states that the law implements OSCE/ODIHR recommendations, the opposition states the opposite. The main issues of divergence between the position and the opposition are separating state and party and voting by the diaspora. The opposition claims that legal guarantees that government in power would not misuse the position for advantage in the elections and effective sanctions are lacking. An agreement is not yet reached on the proposal to set up a threshold – minimum number of votes with which a candidate can be elected, to eliminate the disproportion of votes needed for election of an MP.¹³

The parliamentary debate on the Law, which decriminalises defamation (Law on civil responsibility for insult and label) – one of the key points of the HLAD – was highly controversial. Although the Association of Journalists of Macedonia and the Government previously declared agreement on the contents of the Law, the Journalists' Trade Union and several NGOs (joined by the AJM) advocated for amendments mainly of the provisions for court temporary measures, and the possibility to ban internet sites without a court order. The Government stated that Council of Europe experts already gave a positive opinion on the draft and that such measures are comparable to practices in EU Member States. The procedure on the Law evidently showed that a more inclusive internal dialogue was necessary on "benchmarks" in the European agenda.

11 Ibid.

12 In the Enlargement Strategy, the Commission stated that the HLAD served as a "catalyst for accelerating reforms and has contributed to substantial progress in a number of key policy areas" (European Commission, Brussels, 10.10.2012 COM(2012) 600, Communication from the Commission to the European Parliament and the Council Enlargement Strategy and Main Challenges 2012-2013, {SWD(2012) 331}{SWD(2012) 332}, {SWD(2012) 333}, {SWD(2012) 334}, {SWD(2012) 335}, {SWD(2012) 336} {SWD(2012) 337}, p. 13).

13 In the last elections candidates from the diaspora were elected with 548 to 1578 votes, compared to the in-country constituencies where MPs needed ten thousands of votes.

● I.1.1. Parliament



The Broadcasting Council finalised the procedures on conflict of interests in media ownership generally complying with the previously set deadline in the HLAD Roadmap (September 30). It approved the change of ownership of the Kanal 5 TV¹⁴, and cleared the case of Sitel TV¹⁵. It also cleared the case of Kanal 77¹⁶, after some struggle over the application of the rules. The fact that the Council had allowed additional time for achieving compliance with the HLAD targets, when it was supposed to apply the law without delay, indicates to a selective approach towards media, widely considered to be inclined to the Government. Some journalists raised concerns whether these “formal steps” would essentially address the undue political influence on media. Although this step has to be acknowledged as an achievement, now it is necessary to upgrade the “media agenda” in the dialogue between the Commission and the Government and to set more ambitious targets, especially on Government advertising in the media, the position of the Public Broadcaster, media standards and employee’s rights of journalists. The position of the public broadcaster and its journalism standards popped up again in October, when the Broadcasting Council failed to see any responsibility on the side of the Public Broadcaster MTV for published news on the alleged death of a Greek citizen of Macedonian ethnic origin in Thessaloniki, which proved to be false.

In the corruption case Metastasis on bribing officials to grant disability pensions the Skopje Criminal court convicted 12 accused with effective prison, while for 26 others the sentence was suspended. Furthermore, of the two former directors of the Health Fund who were on trial – one was proclaimed innocent; the other one was given suspended sentence. As all these “high-level” cases included spectacular arrests and publicity, concerns on the justifiability of the arrests or the quality of evidence increase.

Still, it is not the HLAD laws are that predominantly occupy the MPs. It is the *Law on Defenders* proposed by VMRO – DPMNE MPs, without the consent of its coalition partner DUI. The law followed as a response to the official honouring of the 2001 NLA victims at the Sklupchane monument by the Minister of Defence Mr. Besimi (from DUI), which had not been agreed with its coalition partner. In turn, VMRO-DPMNE submitted the Law on Defenders, without addressing the status of former NLA members, as requested by DUI. DUI MPs resorted to filibustering – thousands of amendments, reading poetry and fiction... These acts are widely seen as political moves to maintain support by voters on ethnic ground, which leads to further divisions of the society on ethnic lines. Moreover, they manifested serious fragmentation of the institutions on political and ethnic lines. Yet, in the beginning of October coalition MPs smoothly rejected the interpellation on the Government submitted by the opposition, largely relying on the fractions in the government coalition. The potential for manipulation with the public on the basis of nationalism might seem unlimited, but the risk of inter-ethnic tensions is rising and is generally under-estimated.

1.2.2. Civil and Political Rights (freedom of expression)

III. 23. Judiciary and fundamental rights

I.1.4. Anti-corruption policy
III. 23. Judiciary and fundamental rights

I.1.1. Parliament;
I.1.2. Government

14 The previous owner of the TV was a son to a position M.P.

15 The position MP Ivanov resigned as MP, leaving his son as owner of the TV.

16 The owner’s sister is an opposition MP.



Inter-ethnic incidents called “bus-attacks” – fights between groups of young Albanians and Macedonians – continued, a major one on 5 October in Skopje. The police detected the minors and initiated a procedure before the Court. Despite the fact that the police has detected most of the participants, it is obvious that preventive mechanisms are missing and that the overall political climate is susceptible to inter-ethnic tensions.

Two issues related to human rights were topical, indicating that implementation of European standards of human rights continuously deserves high focus: the rights of the LGBT population and women rights. Government public statements actually instigated both debates. The first one was that the Government would not allow gay marriages, although human right defenders have not yet articulated such a request – their main request is to include sexual orientation in the Anti-Discrimination Law. The second one was the speech of the Prime Minister, who appealed for a higher birth-rate. Human rights organisations and women’s organisations rightfully reacted to the role of “birth-giving machines” imposed to women in the rhetoric of the Prime Minister.

Economy: international rankings, domestic concerns

The World Bank *Doing Business Report* ranked Macedonia 23rd of 183 countries, which is confirming the steady improvement of the business climate.¹⁷ Furthermore, Fitch Ratings has affirmed Macedonia’s Long-term foreign currency and local currency Issuer Default Ratings (IDRs) at ‘BB+’, stable outlook, short-term rating at ‘B’ and Country Ceiling at ‘BBB-’. On the other hand, the level of public debt is becoming one of the topical issues, strongly pushed by opposition SDUM. The Government claims that the public debt is 29,8% of GDP and that it is low in comparable global terms. Experts are still divided over the magnitude of the issue – some question the capacity of Macedonian economy to repay the debt, while others claim that the level of debt does not present a major problem. The low quality of public investment and the lack of public debt strategy are one of the most critical points in the EC Progress Report in economic criteria. Both the level of external and internal debt will present major issues, if there is no shift in public spending policy, such as the spending on the project “Skopje 2014”. The results of an opinion poll revealed that public support for the “Skopje 2014” project is shrinking.¹⁸ While those opposing the project remained a majority of 57,5%, those supporting it fell from 39% in 2010 to 26,4%. 88% citizens of Albanian ethnic origin are against it.¹⁹ Nevertheless, the Government is continuing with this project - detrimental both in political and economic terms.

I.1.2. Government
I.2.4. Minority rights and protection of the minority and cultural rights

I.2.3. Economic, social and cultural rights
III. 23. Judiciary and fundamental rights

II. Economic criteria

17 <http://www.doingbusiness.org/rankings>

18 As no official data on the value of the project is available, figures of around 500 million EUR circulate in the public.

19 The pole was done by MNT Brima Galup Intl. in September.

<http://www.time.mk/cluster/f4922d8657/anketa-opagja-poddrskata-za-skopje-2014.html>



Inflation rose to 5,3% in September. The National Bank and most experts assured that this rate was not alarming. However, protests continued, especially on the severe increase of electricity prices. It was expected the energy prices would increase during transition, but this issue has been prolonged for a long time. On the other hand, living standards did not improve in parallel, so that the increase of energy prices hit most of the population.

Approximation continues, but how?

The new *Law on Mineral Raw Materials* transposing the *Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC* is achieving high level of legislative compliance with the Directive. It is, however, strange that the Proposal does not foresee any fiscal implications for its implementation and is not accompanied by RIA, as the transposed provisions clearly entail a broader impact for operators and institutions, and certainly fiscal implications.

The Parliament ratified bilateral agreements on international transport by road – with Latvia and the Czech Republic, continuing the positive trend in bilateral settlement of this type of transport with EU MS. The Parliament also ratified the bilateral agreement with Luxemburg on avoiding double taxation and tax evasion, further improving the bilateral framework for investments with EU MS. In addition, the ratified agreement on police cooperation with Croatia contributes to the promotion of regional cooperation in the field of Justice, freedom and security.

... Return of Visas?

Several Member States threatened to re-instate visas for Serbian and Macedonian citizens, due to the increased number of asylum seekers.²⁰

Reports indicate that mostly Roma citizens seek asylum, motivated by the reimbursement given to asylum seekers and the possibility to stay in the EU MS during the procedure. Pressure on the Government to prevent asylum seekers results in strict border checks and, in numerous cases - ban to leave the country mostly for Roma, thus clearly indicating to ethnic profiling.²¹ 6500 citizens were returned from the borders in the first nine months of the year. Re-instalment of visas for Macedonian citizens would be yet another blow to the Macedonian EU integration process; therefore authorities from both EU and Macedonia should tackle the problem in cooperation, in a more comprehensive and long-term way, taking into account the deep socio-economic and cultural roots of the migration trends. In addition, MS could more effectively prevent the inflow, if the financial benefits and the length of the procedure are no longer motives for the seekers.

27.Environment

III.14. Transport policy

III.16. Taxation

III. 24. Justice, freedom and security

III. 24. Justice, freedom and security

20 The proposal for installing a suspension mechanism is currently under procedure in EP.

21 <http://www.aktiv.org.mk/en/resources/sodrzini-aktiv/144-romite-ja-plakjaat-cenata-na-viznata-liberalizacija>



Abbreviations

AJM	Association of Journalists of Macedonia
DUI	Democratic Union of Integration (Party), Macedonia
HLAD	High Level Accession Dialogue
MIA	Macedonian Information Agency
MFA	Minister of Foreign Affairs
MP	Member of Parliament
NLA	National Liberation Army (Albanians)
NPAA	National Programme for the Adoption of the Acquis
SAP	Stabilisation and Association Process
SDUM	Social Democratic Union of Macedonia (Party), Macedonia
VMRO-DPMNE	Internal Macedonian Revolutionary Organisation – Democratic Party for Macedonian National Unity, Macedonia



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