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Post-monitoring dialogue with “the former Yugoslav Republic of Macedonia”

Report¹

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

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Summary

When the Assembly ended its monitoring of “the former Yugoslav Republic of Macedonia” in 2000, it decided to continue dialogue with the authorities on a number of outstanding issues. In its first full report since then, the Monitoring Committee notes that the 2001 Ohrid Framework Agreement – which aimed at improving the rights of non-majority communities after the interethnic conflict – has brought overall peace and stability to the country over the last decade, though relations between the Macedonian and Albanian communities remain fragile.

Public life remains highly divided along political and ethnic lines. The authorities should thus continue to implement the Ohrid agreement, launch new inclusive policies, pursue decentralisation, and further promote the cultural and linguistic rights of minorities. Political parties should also try to hold a more constructive dialogue, grievances arising from parliamentary procedure and the Electoral Code need to be rectified, and a commission of enquiry should look into the serious incidents in the parliament in December 2012 which sparked a political crisis.

The committee welcomes the legal reforms in “the former Yugoslav Republic of Macedonia”, but urges more work to ensure impartiality and independence of the judicial system so that it inspires public confidence, and expresses concern at the highly controversial Lustration Law. It also calls for improved freedom of the media. Meanwhile, the country’s efforts to reduce corruption, combat discrimination, end ill-treatment and integrate refugees should continue.

Finally, the committee regrets that the name issue continues to delay the opening of accession negotiations with the European Union, as well as the attempts of “the former Yugoslav Republic of Macedonia” to join NATO, and hopes Greece will adopt a more flexible approach.

“The former Yugoslav Republic of Macedonia” faces multi-level challenges to its political stability and social cohesion, the committee concludes, but serious doubts remain as to whether the country has sufficient political stability to carry out the required reforms at a regular pace. In the meantime, the Council of Europe should do all it can to support “the former Yugoslav Republic of Macedonia” and expand co-operation – including by opening an office in Skopje. For its part, the Assembly should pursue its post-monitoring dialogue on the issues raised.

1. Reference to committee: [Resolution 1115 \(1997\)](#).



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A. Draft resolution²

1. “The former Yugoslav Republic of Macedonia” joined the Council of Europe in 1995. In 2000, the Parliamentary Assembly adopted [Resolution 1213 \(2000\)](#) and decided to close the monitoring procedure. Since then, the Assembly opened a dialogue with the Macedonian authorities to monitor the implementation of the remaining issues identified by the Assembly – including the integration of ethnic minorities, education, reform of the judiciary, freedom of expression, asylum and decentralisation – and any other issues arising from the obligations of “the former Yugoslav Republic of Macedonia” as a member State of the Council of Europe. [Resolution 1710 \(2010\)](#) on the term of office of co-rapporteurs of the Monitoring Committee requires the Assembly to debate the report on the post-monitoring dialogue with “the former Yugoslav Republic of Macedonia” in plenary.

2. The Assembly regrets that the name issue continues to delay the opening of accession negotiations with the European Union, as repeatedly recommended by the European Commission since 2009, as well as the attempts of “the former Yugoslav Republic of Macedonia” to join the North Atlantic Treaty Organisation (NATO), despite the ruling of the International Court of Justice (ICJ) of 5 December 2011. The Assembly hopes that Greece will adopt a more flexible approach to this issue. The Assembly also invites “the former Yugoslav Republic of Macedonia” to pursue its dialogue under the auspices of the United Nations with a view to settling the name issue in the near future, and to develop constructive relations with neighbouring countries, thus contributing to the overall stabilisation of the region.

3. The Assembly recalls that “the former Yugoslav Republic of Macedonia” is a complex multi-cultural and multi-ethnic society. After the 2001 interethnic conflict, the signing of the Ohrid Framework Agreement (OFA) aimed at improving the rights of non-majority communities, including those of ethnic Albanians which represent some 25% of the two million inhabitants, while maintaining the State’s unity. The OFA provided, *inter alia*, for constitutional amendments, provisions on language to regulate and expand the use of the Albanian language, especially in communities that are at least 20% Albanian, the introduction of proportional representation in public administration and State institutions, protection mechanisms for minorities in parliament, decentralisation, and the use of a qualified, double majority facility (so-called “Badinter rule”) when the parliament adopts laws that directly concern the rights of national communities. The Assembly acknowledges that the OFA has delivered overall peace and stability in the country over the past decade, and led to substantial reforms.

4. The Assembly notes, however, that, more than 10 years after the OFA, relations between the communities remain fragile. Continuing tensions have led to a number of serious incidents involving members of both the Macedonian and Albanian communities, especially over recent months. The Assembly encourages the Macedonian authorities to continue the effective implementation of the OFA and, in particular, seek to:

- 4.1. call on all political and social stakeholders to refrain from using divisive nationalistic rhetoric and to show respect and understanding for each community’s identity and culture;
- 4.2. pursue the decentralisation process, including fiscal decentralisation; ensure the proper training of members of staff and locally elected representatives, and take advantage of the expertise that could be provided by the Council of Europe in these areas;
- 4.3. present and debate the results of the implementation status of policies arising from the OFA, in order to inspire new inclusive policies and give a fresh impetus to further implement the OFA;
- 4.4. consider new confidence-building measures and inclusive initiatives aimed at fostering a common vision for bringing all communities together and building a prosperous society. In this respect, the Assembly regrets the continuing segregated education, which undermines the cohesion of future generations;
- 4.5. pursue its efforts to promote the cultural and linguistic rights of the least represented communities of “the former Yugoslav Republic of Macedonia”;
- 4.6. with a view to further protecting national minorities, implement Committee of Ministers Resolution CM/ResCMN(2012)13 on the implementation of the Framework Convention for the Protection of National Minorities by “the former Yugoslav Republic of Macedonia”;
- 4.7. resume, without further delay, the preparation and conduct of a census based on a methodology agreed by the key stakeholders, as the results of this census will have a direct effect on all communities.

2. Draft resolution adopted unanimously by the committee on 23 May 2013.

5. The Assembly is convinced that the full implementation of the OFA in a fair, transparent and inclusive manner can contribute to securing peaceful coexistence and ensure the full participation of non-majority communities, including the smallest ones, in public life, and their access to social rights. Continuous efforts, through dialogue and confidence-building measures, are therefore needed to reach this objective.
6. The Assembly believes that “the former Yugoslav Republic of Macedonia” should be supported in its efforts to consolidate democracy. It notes, however, with concern that a series of actions against the media, opposition parties and non-governmental organisations (NGOs) after the June 2011 parliamentary elections gave rise to grave concerns within both the opposition and civil society, which perceived these actions as biased and selective. According to the “Reporters without borders” 2013 World Press Freedom Index, “the former Yugoslav Republic of Macedonia” is ranked 116th out of 179 countries. The Assembly therefore urges the Macedonian authorities to guarantee full media freedom.
7. Public life remains highly divided along political and ethnic lines, which hamper the development of an integrated and cohesive society. Depoliticisation of public life is a challenging issue, which has to be seriously addressed by the authorities and endorsed by all political parties in order to enhance the transparency and efficiency of public institutions, boost the socio-economic development of the country and offer a more promising future for the country’s youth.
8. The Assembly stresses that the efforts of the authorities to put in place merit-based recruitment systems should be reinforced and based on transparent criteria in selection or election processes. In the context of the perceived polarisation and politicisation of society, the ruling parties, which have held a majority both in the parliament and at local level since the March 2013 elections, have a major responsibility for ensuring that an inclusive dialogue is developed with all segments of society and political parties.
9. In this respect, the Assembly deplores the serious incidents that took place in the parliament on 24 December 2012 on the occasion of the adoption of the 2013 budget, which sparked a political crisis, leading the opposition to boycott the parliament early in 2013, until an agreement was signed on 1 March 2013.
10. The Assembly invites the Macedonian authorities and all the stakeholders to fully implement the 1 March 2013 agreement, and in particular to:
 - 10.1. accelerate the setting up of a commission of inquiry to investigate the 24 December 2012 events and debate its findings so as to enable the parliament to amend its Rules of Procedure and working methods accordingly;
 - 10.2. revise the Electoral Code, taking account of all the recommendations to be adopted by the European Commission for Democracy through Law (Venice Commission) in June 2013 and the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR). The Assembly also invites the Macedonian authorities to address the electoral issues identified by the Parliamentary Assembly’s ad hoc committee on the observation of the elections of 2011, in particular the blurring of the line between State and party and the need to strengthen the legal mechanisms for protecting the status of public officials, especially at the local level, in order to deal effectively with the perceived widespread cases of pressure and threats made during the election campaign that individuals would lose their jobs.
11. The Assembly urges the political parties to engage in a constructive dialogue to ensure the proper functioning of the parliament, and the adoption of a code of ethics, and to solicit the expertise of the Parliamentary Assembly to enhance the functioning of the parliament by means of co-operation programmes.
12. The Assembly calls on the Macedonian authorities to secure the freedom of the media, given the weakness of the media sector, the high number of media outlets, the heavy dependence of the media (around 50%) on public advertising, which raises concerns about political interference with the media, insufficient professional standards to enable independent, balanced and investigative journalism, and the challenge posed by the switch to digital broadcasting in 2013.
13. While the Assembly welcomes the decriminalisation of defamation in 2012, it notes, however, that the newly adopted Law on Civil Liability for Insult and Defamation, and the financial compensation to be paid in civil proceedings, could have a serious economic impact on the viability of the media, and might lead to unintended self-censorship. The Assembly therefore urges the authorities to pursue dialogue with associations of journalists, enhance freedom of expression in future legislation, facilitate the setting up a self-regulatory body and ensure that the Broadcasting Council, in its new composition, is seen to be independent and performs its work without undue political interference.

14. Concerning the respect of the rule of law, the Assembly considers that an efficient, independent judicial system is fundamental to democracy. It welcomes the reforms undertaken by “the former Yugoslav Republic of Macedonia” to amend its legislation and implement the newly adopted Criminal Procedure Code. It notes, however, that citizens have little confidence in the justice system, and urges the Macedonian authorities to ensure that the conditions are met for the creation of a non-selective justice system. In this context, the Assembly invites “the former Yugoslav Republic of Macedonia” to reinforce training programmes for judges and prosecutors.

15. The Assembly notes with satisfaction the positive trend observed over the past five years in the Transparency International Corruption Perceptions Index. It considers that the fight against corruption must remain a priority: corruption seriously undermines the functioning of democratic and judicial institutions and public services, and the trust of citizens in public institutions. The Assembly welcomes the adoption of the amendments to the Law on Financing of Political Parties in October 2011, November 2012 and February 2013, and to the Criminal Code in 2011. It encourages the Macedonian authorities to fully implement these newly adopted provisions and ensure the training of all stakeholders. It urges “the former Yugoslav Republic of Macedonia” to amend its legislation to comply with the remaining recommendations of the Group of States against Corruption (GRECO), to strengthen the independence and impartiality of the State Commission for the Prevention of Corruption and to provide stronger legal and institutional protection for “whistle-blowers”.

16. Concerning the protection of human rights, the Assembly encourages “the former Yugoslav Republic of Macedonia” to confront its past and redress unresolved human rights issues, as highlighted by the Council of Europe Commissioner for Human Rights in April 2013. It expresses, however, its concern about the highly controversial Lustration Law, and invites the Macedonian authorities to comply with the decision of the Constitutional Court in the light of the *amicus curiae* brief adopted by the Venice Commission in March 2013.

17. The Assembly calls on the Macedonian authorities to intensify efforts to combat discrimination, in particular against the Roma, pursue local integration programmes and ensure effective access to identification documents, as well as access to health care and social rights. The Assembly recalls that the fight against discrimination should encompass all forms of discrimination, including prejudice against sexual orientation. The Assembly therefore calls on the Macedonian authorities to allocate sufficient financial and human resources to this area and to ensure the proper functioning of the Office of the Ombudsman.

18. The Assembly remains concerned by the measures taken to combat “bogus asylum seekers” – mainly Roma people. The Assembly recalls that the right of the individual to leave his or her country is an established human right, guaranteed by Article 2 of Protocol No. 4 to the European Convention on Human Rights (ETS No. 46), and enshrined in Article 14 of the Universal Declaration of Human Rights. Consequently, the Assembly urges the Macedonian authorities to refrain from any action violating this fundamental freedom and to work on further improving the living conditions of the communities concerned.

19. The Assembly takes note of the efforts made by “the former Yugoslav Republic of Macedonia” to combat torture and ill-treatment. However, it invites “the former Yugoslav Republic of Macedonia” to implement the remaining recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The Assembly welcomes the launching of a joint Council of Europe/European Union programme on “Capacity building of the law enforcement agencies for appropriate treatment of detained and sentenced persons” in December 2012, and calls for further co-operation programmes in the field of human rights.

20. The Assembly welcomes the amendments to the Law on Asylum and Temporary Protection adopted in 2012 and the launch of a “Strategy on Integration of Refugees” (2008-2015). It calls on the authorities to allocate the necessary funds to fully implement the National Action Plan envisaged with a view to consolidating access of refugees to housing, education, health protection, employment and social protection, and to further secure the legal protection and rights of refugees and asylum seekers, in co-operation with the United Nations High Commissioner for Refugees.

21. In conclusion, the Assembly is fully aware that “the former Yugoslav Republic of Macedonia” has multi-level challenges to face to secure its political stability and social cohesion. Its aspiration to further integrate into Europe and fully comply with European standards in the fields of human rights, democracy and the rule of law should be praised and supported. However, serious doubts remain as to whether there is sufficient political stability in “the former Yugoslav Republic of Macedonia” to carry out the required reforms at a regular pace.

22. In the light of the above, the Assembly calls on the Secretary General of the Council of Europe to consider the opening of a Council of Europe office to assist “the former Yugoslav Republic of Macedonia” in pursuing its democratisation efforts, follow current political developments in the country, provide advice and Council of Europe expertise, if and when needed, and generally enhance and co-ordinate co-operation with the Macedonian authorities.

23. In the meantime, the Assembly resolves to pursue its post-monitoring dialogue with “the former Yugoslav Republic of Macedonia” on the issues raised in this resolution. It calls on the President of the Parliamentary Assembly and its rapporteur to seek an early meeting with the President and the Prime Minister of “the former Yugoslav Republic of Macedonia” to discuss the implementation of the recommendations made in this resolution and the progress in the post-monitoring process in general.

B. Draft recommendation³

1. The Parliamentary Assembly refers to its Resolution ... (2013) on post-monitoring dialogue with “the former Yugoslav Republic of Macedonia”. The Assembly believes that the efforts made by the Macedonian authorities to secure the implementation of the 2001 Ohrid Framework Agreement, pursue reforms in the field of democracy, human rights and the rule of law, and proceed with the European integration agenda should be fully supported by the Council of Europe and its member States.
2. The Assembly thus recommends that the Committee of Ministers intensify co-operation activities with “the former Yugoslav Republic of Macedonia”, assist the Macedonian authorities in complying with Council of Europe standards and support the construction of an open, democratic and inclusive society, in particular by supporting confidence-building measures among all communities. This will ensure the functioning of democratic institutions at national and local level, strengthen the fight against corruption and discrimination, and safeguard the independence of the judiciary and the media.
3. Moreover, the Macedonian authorities should be invited to make use of the expertise offered by the Council of Europe, including its European Commission for Democracy through Law (Venice Commission), to ensure full compatibility of the country’s legislation and practice with the Organisation’s principles and standards.
4. The Assembly therefore recommends that the Committee of Ministers and the Secretary General reinforce the Council of Europe’s presence in “the former Yugoslav Republic of Macedonia” and set up a Council of Europe Office, in line with Resolution CM/Res(2010)5 on the status of Council of Europe Offices, in order to, *inter alia*, provide advice, promote and support the policies and activities of national authorities and local partners related to membership of the Council of Europe, co-ordinate activities in the country with other international organisations and institutions and, generally, strengthen ongoing co-operation with the Macedonian authorities.

3. Draft recommendation adopted unanimously by the committee on 23 May 2013.

C. Explanatory memorandum by Mr Walter, rapporteur

1. Introduction

1. The Parliamentary Assembly, in its [Resolution 1213 \(2000\)](#) on the honouring of obligations and commitments by “the former Yugoslav Republic of Macedonia”, decided to launch the post-monitoring dialogue with Macedonia.⁴ Mr Serhiy Holovaty (Ukraine, ALDE), at that time Chairperson of the Monitoring Committee, paid a visit to Skopje on 2-5 November 2008,⁵ following the presentation of the last memorandum on post-monitoring dialogue by his predecessor, Mr Eduard Lintner, in January 2008.⁶ I was appointed rapporteur on 24 June 2010, in accordance with the new rules governing the preparation of post-monitoring dialogue reports since the adoption of [Resolution 1710 \(2010\)](#).

2. I carried out three fact-finding visits, from 26 to 28 September 2011, from 7 to 10 May 2012 and from 31 October to 2 November 2012. My aim was to monitor the implementation of the previously adopted resolution, collect updated information and identify the key areas that ought to be addressed in the ongoing post-monitoring dialogue. In September 2011, I decided to focus on the most recent developments, namely the outcome of the parliamentary elections of 5 June 2011, the situation of the media and the implementation of the Ohrid Framework Agreement (OFA). During my second visit, in May 2012, I had further meetings, in particular with the General Prosecutor. Discussions concentrated on the impact of the 2012 interethnic events, the freedom of the media, the fight against corruption, the situation of refugees and asylum seekers, the lustration process and decentralisation. I therefore had a number of meetings with local authorities and non-governmental organisations (NGOs) in Ohrid, Struga, Vevcani and Tetovo. I could meet neither the Prime Minister nor the President of the Republic during my visits, which is unfortunate. I do hope that this does not reflect a lack of interest in, or commitment from the highest authorities to co-operation with the Parliamentary Assembly with a view to honouring the obligations and commitments towards the Council of Europe, which Macedonia joined in 1995.

3. This report reflects the findings of my visits, which have not been made public so far by the Monitoring Committee. It is also based on reports prepared by the Parliamentary Assembly, the Organization for Security and Co-operation in Europe (OSCE), the European Commission (EC), the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Refugees (UNHCR), the Council of Europe monitoring bodies and the analyses provided by media and think tanks, in particular the International Crisis Group (ICG), which published a comprehensive report on 11 August 2011.⁷ It also takes account of the report published by the Commissioner for Human Rights of the Council of Europe, Nils Muižnieks, on 9 April 2013,⁸ following his visit to Macedonia in November 2012, addressing a number of issues tackled in this report.

4. I would like to take this opportunity to thank the Macedonian delegation to the Parliamentary Assembly and its Secretariat for the excellent organisation of my visits and the constructive atmosphere, for facilitating our contacts with the authorities and for providing useful and extensive comments on my preliminary draft report.⁹ I would also like to thank Ambassador Orav, Head of the Delegation of the European Union in Skopje, Mr Robin Lidell, Head of the Political and Information Section of the EU Delegation, Ambassador Ralf Breth, Head of the OSCE Mission, as well as Mr Domenico Albonetti and Mr James De Witt, from the OSCE Mission, Ms Deirdre Boyd, UNDP Head of Mission, United Kingdom Ambassador Mr Christopher Yvon, and members of the international community for the valuable information provided.

4. The use in the text of the term “Macedonia” is for descriptive purposes and the convenience of the reader. It does not prejudge the position of the Assembly on the question of the name of the State and does not reflect the position of the Council of Europe.

5. See AS/Mon (2008) 31 rev.

6. AS/Mon (2007) 12 rev 2 of 24 January 2008.

7. “Macedonia: ten years after the conflict”, Europe report No. 212 (hereafter the “ICG 2011 report”), www.icg.org.

8. CommDH(2013)4.

9. See AS/Mon (2013) 10, 12 April 2013.

2. The Euro-Atlantic integration process

2.1. The perspective of integration into the European Union

5. Macedonia is seeking to become a member of the European Union. It obtained candidate status in December 2005. The European Union Council of Ministers adopted the Accession partnership in February 2010. In its progress reports of 2009, 2010, 2011, and again in 2012, the European Commission proposed to open accession negotiations with the country.

6. In this context, the European Commission decided to launch a “High Level Accession Dialogue” (HLAD) in March 2012, which should allow a substantial exchange of views and regular technical consultations in five key policy areas – freedom of expression, the rule of law, public administration reform, electoral reform, and economic criteria. This dialogue should focus on chapters 23 (Judiciary and fundamental rights) and 24 (Justice, freedom and security) of future EU accession negotiations and should encourage Macedonia to speed up the fulfilment of its remaining commitments and obligations and avoid losing the momentum of further progress in these key areas and deliver results. Political-level meetings were held on 15 March 2012, 7 May 2012, 17 September 2012 and 9 April 2013. According to the European Commission, there was good overall progress, which was assessed in the latest EC Progress report.¹⁰

7. While the dispute with Greece over the name issue persists (see below), tensions recently arose with Bulgaria. The Bulgarian Foreign Minister, Nikolay Mladenov, sent a letter to his Macedonian counterpart, Nikola Poposki, at the end of November 2012, outlining three steps that they proposed to undertake: 1) the signature of an agreement on good neighbourly relations and co-operation; 2) the building of the necessary infrastructure for enhanced co-operation by establishing working groups to strengthen relations in key areas; and 3) the creation of a high-level council in the form of annual intergovernmental meetings. Despite the fact that Skopje had agreed to these proposals, Bulgaria joined Greece and vetoed the opening of the European Union accession negotiations.¹¹ The visit of Bulgarian Prime Minister Borisov to Macedonia on 16 February 2013 was, however, considered a “significant opportunity” to strengthen political dialogue between the two countries and underline the importance of concrete co-operation in the fields of infrastructure, institutions, communication, trade and investment.¹²

8. Regarding the Bulgarian proposal on the Agreement on good-neighbourly relations and co-operation, the importance of the symmetry, mutual respect and respect for all the national, cultural, linguistic and other specifics was underlined in order to achieve good neighbourly relations.

9. At its 11 December 2012 meeting, the EU General Affairs Council proposed that “with a view to a possible decision of the European Council to open accession negotiations with the former Yugoslav Republic of Macedonia, the Council will examine, on the basis of a report to be presented by the Commission in Spring 2013, implementation of reforms in the context of the HLAD, as well as steps taken to promote good neighbourly relations and to reach a negotiated and mutually acceptable solution to the name issue under the auspices of the UN”.

10. On 16 April 2013, the European Commission released its Spring report on “Implementation of reforms within the framework of the high level accession dialogue and promotion of good neighbourly relations”, which provided additional information with a view to the European Council meeting of June 2013, which should decide whether or not accession negotiations should be opened. I note that special emphasis was put on the full implementation of the “1st March agreement” (see below).¹³

11. The opening of the accession negotiations, a perspective which is welcomed by all communities in Macedonia, would most certainly provide further incentive to carry out the reforms. In the meantime, I can only but encourage the Macedonian authorities and all stakeholders involved in this process to pursue their efforts to reach an agreement on the name issue, which would be a political achievement and would speed up the

10. SWD (2012) 333, “The former Yugoslav Republic of Macedonia” 2012 Progress report, accompanying the document “Communication from the Commission to the European Parliament and the Council”, Enlargement Strategy and Main Challenges 2012-2013, COM(2012)600, 10 October 2012 (referred to below as “EC 2012 Progress report”).

11. Darko Duridanski, “Bulgaria Sets Terms For Aiding Macedonia’s EU Bid”, www.blaknainisght.com, 30 November 2012.

12. AS/Mon (2013) 10, Comments of the Macedonian Government to the preliminary draft report, p. 3.

13. “Report from the Commission to the European Parliament and the Council, The former Yugoslav Republic of Macedonia: implementation of reforms within the framework of the high level accession dialogue and promotion of good neighbourly relations” (hereafter: “EC Spring report”), COM(2013)205 final, http://ec.europa.eu/enlargement/pdf/key_documents/2013/mk_spring_report_2013_en.pdf.

integration process of Macedonia into the European Union and the North Atlantic Treaty Organisation (NATO). I should also add that the issues to be addressed when negotiating chapters 23 and 24 concern standards that are of primary importance for the Council of Europe, as they deal with the judiciary, fundamental rights, justice and fundamental freedoms. The Council of Europe is ready to support the efforts of the Macedonian authorities to comply with European standards in the field of democracy, human rights and the rule of law, and the wide range of areas which are of common interest to the European Commission and the Council of Europe.

2.2. The name issue

12. The dialogue launched under the United Nations auspices by its Envoy, Matthew Nimetz, has not yet been successful; the process should not be slowed down by the current economic and political crisis in Greece. On 17 November 2008, Macedonia brought a case against Greece before the International Court of Justice (ICJ) for “a flagrant violation of its obligations under Article 11” of the bilateral Interim Agreement.¹⁴ On 5 December 2011, the ICJ ruled that Greece had breached the interim agreement reached by the United Nations in 1995, when it blocked Macedonia’s attempt to join NATO in 2008.¹⁵

13. Despite the decision of the ICJ, there has been no progress on the Euro-Atlantic integration process. Macedonia was not invited to join NATO at the last Summit in Chicago in May 2012 and the integration process into the European Union is still blocked. The authorities stress that United Nations Security Council Resolutions 817 (1993) and 845 (1993), as well as the Interim Accord dated 1995, set the framework for this process.¹⁶

14. Discussions on the name issue were recently renewed, after the Minister of Foreign Affairs of Macedonia, Mr Nikola Poposki, and the Minister of Foreign Affairs of Greece, Mr Dimitris Avramopoulos, met in New York in September 2012, where they were present for the signing of a memorandum of understanding. The United Nations Envoy tabled a new proposal in November (the content of which was however not made public). In January 2013, two rounds of talks were held between both parties. A new meeting was to follow in April 2013.

3. Results of the early parliamentary elections of 5 June 2011 and post-election developments

3.1. Results and assessment of the 5 June 2011 parliamentary elections

15. Early parliamentary elections were called after the boycott of the parliament by the opposition in early 2011. The Social Democratic Union of Macedonia (SDSM) had conditioned its return to parliament on the adoption of constitutional amendments to change the composition of the Judicial Council; the unblocking of the financial accounts of A1 TV and other sanctioned media outlets (see below); a new law on the equal distribution of State funds for media advertising; government-opposition consensus for amendments to the Election Code; and the formation of a parliamentary working group to update the voters list. The Prime Minister, Mr Nikola Gruevski, accepted all but the unfreezing of A1’s accounts, which, he said, was a judicial issue.¹⁷ The negotiations between the parties of the VMRO-DPNME coalition government and the opposition, led by the SDSM, on the possibility of the latter returning to the parliament failed. The parliament voted to dissolve itself on 15 April 2011 and called early elections for 5 June 2011.

16. A Parliamentary Assembly ad hoc committee observed the elections and concluded that “the early parliamentary elections were competitive, transparent and well-administered throughout the country, but certain aspects such as the blurring of the line between State and party require further attention”.¹⁸ The ad

14. See the ICG 2011 report: Macedonia argues that Greece breached the agreement by blocking NATO membership after all criteria had been fulfilled. Greece pledged in the 1995 document that it would not block its northern neighbour’s accession to international organisations solely because of the name dispute, but Athens says the decision was made by NATO, whose internal decision-making procedure the ICJ has no authority to judge.

15. The ICJ, however, did not accept Macedonia’s demand that Greece be ordered to end its blockade of Macedonian entry into the EU and NATO and stated (paragraph 168) that “the Court does not consider it necessary to order the Respondent, as the Applicant requests, to refrain from any future conduct that violates its obligation under Article 11, paragraph 1, of the Interim Accord”. As the Court previously explained, “[a]s a general rule, there is no reason to suppose that a State whose act or conduct has been declared wrongful by the Court will repeat that act or conduct in the future, since its good faith must be presumed”. See [Judgment](#) on the application of the interim accord of 13 September 1995 (“*the former Yugoslav Republic of Macedonia v. Greece*”), ICJ, 5 December 2011.

16. AS/Mon (2013) 10, Comments of the Macedonian Government, p. 4.

17. ICG 2011 report.

hoc committee also noted that “[on] election day, voters were able to freely express their choice in a peaceful atmosphere, despite some irresponsible claims of irregularities by political parties. The voting and counting process was assessed as overwhelmingly positive, with no significant differences between Macedonian and ethnic Albanian areas”.

17. The ad hoc committee identified the following issues:

- It regretted that the amendments to the Electoral Code were adopted by the parliament by a small majority on 5 April 2011, only two months before polling day, without obtaining the opinion of the European Commission for Democracy through Law (Venice Commission), and that the opposition parties boycotted the vote.¹⁹
- It pointed out that the accuracy of the electoral rolls remains a recurrent problem identified since 1994.
- It emphasised that cases of intimidation and the exertion of pressure continue to exist from one election to another and that, even worse, threats were made, especially at the local level, that civil servants who support the opposition would lose their jobs. This is extremely worrying in a country where, according to various estimates, unemployment affects more than 30% of the workforce.
- Cases of family voting were noted in 15% of the polling stations visited.

18. The ad hoc Committee made the following recommendations – and I followed their implementation in the course of the preparation of my report:

“51. The ad hoc committee is of the opinion that ‘the former Yugoslav Republic of Macedonia’ should reinforce its co-operation with the Assembly’s Monitoring Committee in the context of the post-monitoring dialogue in order to respond to the following concerns associated with the elections:

– The need to strengthen the legal mechanisms for protecting the status of public officials, especially at the local level, in order to deal effectively with the fairly widespread cases of pressure and threats made during election campaigns that individuals would lose their jobs;

– The need to strengthen the legal mechanisms for protecting the status of public officials, especially at the local level, in order to deal effectively with the fairly widespread cases of pressure and threats made during election campaigns that individuals would lose their jobs;

– The need to ensure the actual implementation of the legal provisions relating to the funding of the political parties’ election campaigns and the media, taking due account of the recommendations of the GRECO [Group of States against corruption] report on ‘the former Yugoslav Republic of Macedonia’, published in March 2010;

– The need to promote a culture of dialogue between the different political forces, independently of ethnic lines, in a search for compromise in order to avoid the frequent boycotts of parliamentary proceedings

52. The ad hoc committee calls on the authorities of ‘the former Yugoslav Republic of Macedonia’ to ask the Venice Commission for an opinion on the Electoral Code, as revised on 5 April 2011, and to request the Venice Commission’s assistance in order to strengthen its internal legal and technical capabilities.

53. The ad hoc committee considers it necessary to prepare and implement electoral assistance programmes, targeted at the problems identified in this report.”

19. The results of the elections led to a more balanced parliament, with a strengthened opposition, and a reduced majority for the ruling coalition. The distribution of seats is the following: Internal Macedonian Revolutionary Organisation – Democratic Party for Macedonian National Unity (VMRO-DPMNE) coalition: 56 (including 3 seats for the diaspora); the Social Democratic Union of Macedonia (SDSM)-led coalition: 42; Democratic Union for Integration (DUI): 15; Democratic Party of Albanians (DPA): 8.

18. See [Doc. 12643](#).

19. The government coalition had passed amendments to the Electoral Code on 5 April 2011, with the aim of implementing the recommendations of the Venice Commission and the Office for Democratic Institutions and Human Rights (BIDDH) contained in the last reports on the observation of the presidential and local elections of 22 March and 5 April 2009. Given the very short time available, the Venice Commission was unable to adopt its opinion on the recent amendments to the Electoral Code. However, according to the ODIHR representatives in Skopje, the amended Electoral Code meets most of the recommendations and, if correctly implemented, will guarantee a sound legal basis for the holding of democratic elections.

20. On 28 July 2011, the parliament elected the new government led again by Prime Minister Nikola Gruevski with 70 votes in favour and 47 against. The DUI managed to obtain five ministries (including the defence and justice ministers) and two vice-prime minister positions (including the vice-prime minister in charge of European affairs). The platform of the VRMO-DPME and DUI coalition announced that it would focus on five priorities: economic development; Euro-Atlantic integration; corruption and organised crime; further implementation of the Ohrid Framework Agreement and investment in education.

3.2. Post-electoral events and developments

21. In the aftermath of the elections, Mr Martin Neskovski died 40 minutes after midnight on 6 June 2011, after having been brutally beaten in the central square of Skopje during celebrations held to mark the election victory of Mr Gruevski's VMRO-DPMNE party the previous day. According to media reports, the police denied their involvement in the event for two days, after which they shared information with the public, which later fuelled suspicions of a cover-up and prompted demonstrations.²⁰ They confirmed the involvement of a police officer in the young man's death, and arrested and suspended a 33-year old policeman, Mr Spasov. He was at the time a member of the special Tigers police unit, tasked with ensuring security in the square for the winning party's celebrations from 8 a.m. until midnight on Polling Day. Later, several thousand young people poured onto the streets of Skopje after news of the fatal beating spread through the social network sites Twitter and Facebook.

22. The protesters demanded a full investigation into the case, sought answers from the Minister of the Interior, Ms Gordana Jankulovska, and also complained that the pro-government media had ignored both the case and the subsequent protests.²¹ The protesters have been regularly demonstrating since then, including during my visit to Skopje in September 2011, to request a full investigation, but also to demand the revision of the law on the police to ensure stricter civil oversight of police work and stricter rules for hiring new police officers.²² Ms Jankulovska recognised that the interaction between the police and the people should be improved and informed me that training was being carried out in this respect. The trial of Mr Spasov started on 2 November 2011. Mr Spasov was convicted and sentenced to a 14-year prison term by the Skopje Criminal Court. The members of the movement "Stop Police Brutality" and Mr Neskovski's family, however, accused the government of a biased investigation, police impunity and intimidation.²³

23. The arrest of Mr Ljube Boskoski, leader of the opposition political party "United for Macedonia" (UM), on 6 June 2011 (one day after the parliamentary elections), in the presence of the media, which could film the arrest, including the seizure of 100 000 euros in cash and a gun from Mr Boskoski's vehicle, raised some questions. The Ministry of Internal Affairs had been investigating Mr Boskoski for several months, including during the campaign period. According to the UM, the arrest was motivated by the government's desire to demonstrate power and to take political revenge, as Mr Boskoski has been highly critical of the government. Mr Boskoski's conviction to seven years' imprisonment for illegal financing of the election campaign²⁴ and misuse of his position was upheld in May 2012 by the Court of Appeal, raising however some concerns about selective justice. In the meantime, Mr Boskoski has been prosecuted for assisting in the killings of Marjan Tushevski and Kiril Janev in 2001, at a restaurant in Skopje.^{25 26}

20. The authorities underlined that the murder was confirmed on receipt of the forensic report and the perpetrator identified in less than 24 hours. The police refrained from sharing with the public information that was not based on evidence. The authorities deplored that this period was widely misused and that appeals made to the public to share information with the police were unsuccessful. Criminal charges were made against Mr Spasov by the Prosecutor on 8 June 2011. AS/Mon (2013) 10, p.4.

21. www.balkaninsight.com, "Macedonian Mother Sues State Over Son's Death", 11 July 2011.

22. Sinisa Jakov Marusic, "Macedonians Protest Over Delays in Neskovski Probe", www.balkaninsight.com, 30 September 2011.

23. [Country Reports on Human Rights Practices for 2011](#), US Department of State Bureau of Democracy, Human Rights and Labor.

24. In this respect, the opposition deplored that "non-covered campaign debt of VMRO-DPMNE", "estimated at 3.5 million euros", remains "an open issue", and "no legal proceeding had been undertaken". AS/Mon (2013) 10, p. 22.

25. For further details, see www.balkaninsight.com/en/article/macedonia-s-boskoski-charged-with-assisting-murder.

26. The opposition party SDSM also highlighted that "the demolition of the construction project 'Cosmos', which was the property of another opposition leader and MP Fijat Canoski, was secured by special police forces, immediately after the elections, without any possibility to appeal the decision ... This was interpreted as an act of revenge following Mr Canovski's decision to leave the governmental [coalition] and join the opposition coalition for the election". AS/Mon (2013) 10, p. 22.

4. Functioning of democratic institutions

4.1. Preliminary remark

24. Politicisation of public life was often mentioned to me during my visits, including by officials, though this cannot be substantiated through official data. Party affiliation seems to be a prerequisite to obtaining a job (even in the private sector) or other benefits. This hampers the good functioning of the country, leaving no alternative for those who fail to be affiliated to a party, but to leave the country. In particular, well-educated young people fuel the Balkan “brain drain” abroad. This, I believe, is a very worrying trend in a country with 30% of its population living in poverty and where the State employs 25% of the total number of employed persons.²⁷

25. In this respect I would like to commend the efforts made by various institutions to introduce merit-based recruitment systems and mechanisms to evaluate the satisfaction of public service users. I was in particular impressed by the efforts launched by the Minister of Information Society and Administration to promote such a system (which, he admitted, clashes with the equal representation principle, see below), but also e-governance, assessment of the functioning of the public administration, etc. However, it will take a lot of educational effort and a change in mentality to ensure that these initiatives are not undermined by a system driven by party affiliation.

4.2. Electoral code

26. The parliament adopted a new electoral code on 9 November 2012. The opposition, however, complained that this new version did not incorporate all the recommendations made by the OSCE/ODIHR and the Venice Commission, and announced that it would launch a new bill to ensure that the remaining recommendations are incorporated in the new electoral code. I had encouraged the Macedonian authorities to seek again the opinion of the Venice Commission on the draft revised electoral code, to ensure that issues such as the accuracy of the voters list, the allocation of funds to the media during electoral campaigns or the representation of minorities in parliament are in compliance with Council of Europe standards.

27. I should recall that, in its October 2011 joint opinion on the revised Electoral Code, as amended on 5 and 13 April 2011 by the Macedonian Parliament, the Venice Commission, while recalling that “altering the legal framework so close to an election is not consistent with good electoral practice”, acknowledged that “the amended Code is improved and provides a solid basis for democratic elections, mainly in accordance with international standards”. However, the issues of thresholds for campaign donations, publication of election results, complaints and appeals procedures, and the system and arrangements for out-of-country voting would need further consideration.²⁸ The Venice Commission also underlined that “to ensure the integrity of the electoral process, as well as to enhance public confidence, it is essential that the Code be implemented in good faith and with a high level of political maturity”.²⁹

28. Concerns were also raised about the accuracy of the voters list and the inclusion of citizens living abroad. Some interlocutors mentioned the figure of 1.8 million registered voters, whereas Macedonia only has about 2 million inhabitants. I was informed that, in 2009, the Ministry of Interior set up a working group to prepare and update methodology for the electoral list. It concluded its work in December 2012 after inspecting the registered deaths for the period 1950-2011, updating the registry of the unique identification number and checking those persons who did not submit a request for the issuing of a new biometric identity document.³⁰ Despite these efforts to update the registry³¹, the accuracy of the voter lists was still raised as a problematic issue by international observers during the March/April 2013 local elections. The OSCE/ODIHR reiterated the “longstanding concerns among many Election Observation Mission interlocutors regarding the accuracy of voter lists”, which “increased on the first round election day after a number of voters were not found on voter lists despite possessing valid biometric identification documents”.³²

27. 115 000 people were working in the public sector in 2009, and up to 165 000 in 2012 when 625 000 people were employed in total. In Saska Cvetkovska, BIRN, ‘[Want to Work? Join the Party: Contacts Trump Merit in Balkan Job Market](http://www.balkaninsight.com), www.balkaninsight.com, 13 December 2012.

28. I was informed that the issues of thresholds for campaign donations and regulation of out-of-country voting remain subject to review by the working group in charge of the election legislation that works within the Ministry of Justice, until full implementation of the remaining recommendations. AS/Mon (2013) 10, p. 5.

29. CDL-AD(2011)027, paragraph 99-102.

30. AS/Mon (2013) 10, pp. 5-6.

31. According to the data provided by the authorities, there were, in February 2013, 2 430 091 citizens, including 1 915 553 adults and 120 888 persons (including 105 153 adults) who reported a stay longer than three months in Macedonia.

29. In November 2012, the Electoral Code was amended in order to, according to the authorities, fulfil “the priority recommendations in the Final Report of the monitoring mission of OSCE/ODIHR, as well the priority activities assessed in the Roadmap of the Priority Goals for 2012 adopted on the High-level Accession Dialogue”.³³ These changes aimed to develop mechanisms for protection that would provide sufficient separation of the State and party structures; ensuring the use of legal mechanisms for protection against illegal financing of the election campaign, increasing transparency of the accounts and activities of the bodies related, directly or indirectly, to the political parties; or when already under their control, ensuring a proactive and effective role for the bodies competent for surveillance, investigation and establishment of the regulation of political financing; ensuring transparency in publishing the election results; and allowing additional regulations of the complaint procedures.³⁴ The opposition, however, challenged the Electoral Code as revised in November 2012, arguing that not all of the OSCE/Venice Commission recommendations were integrated into the electoral code, and questioning the legitimacy and fairness of the local elections planned for spring 2013. Following my proposal, the Monitoring Committee decided, at its meeting on 13 November 2012, to request an opinion on the revised electoral code, which is expected to be adopted at the June 2013 meeting of the Venice Commission. At the same time, I note that the Law on the Funding of Political Parties will have to be upgraded to comply with the GRECO recommendations (see below), and the voters list will have to be completed, even though the census foreseen in 2011 was not carried out and is not on the agenda in the coming months.

4.3. Functioning of the parliament

30. During my fact-finding visits in 2011 and 2012, Mr Trajko Veljanoski, Speaker of the Parliament, underlined the good atmosphere in the parliament following the elections and expressed his satisfaction that the parliament is functioning properly, he stressed that the boycott by the parliamentary opposition in spring 2011 had not prevented the parliament from drafting and adopting legislation.

31. The Law on Parliament adopted in August 2009 and Parliamentary Rules and Procedures approved in September 2010 to a large extent guarantee the rights of the opposition, which can now table items on the parliament's agenda. Two oversight hearings and 14 public hearings with members of the government were organised in 2011.³⁵ In 2012, eight public debates, one public discussion and one oversight debate were organised.³⁶ For example, a hearing was organised in September 2011 on the issue of freedom of the media at the request of the opposition.

32. Progress has also been observed in relation to the use of the Albanian language in parliament: draft laws and all material used in the parliamentary procedure are translated into Albanian. Albanian can be used in oral procedure in committees and hearings. The parliamentary television channel is interpreted into Albanian and since July 2011, all officials elected or appointed by the parliament may use Albanian when addressing the parliament and its bodies.³⁷ The representatives of the Democratic Party of Albanians, however, deplored that, when chairing the plenary sessions, deputy speakers could not address the parliament in Albanian.

33. The parliament has taken measures to strengthen its institutional capacity, in particular through the establishment of the Parliamentary Institute foreseen in the 2009 Law on the Parliament. However, in November 2012, the Parliamentary Institute was not yet operational and the recruitment procedure was not completed. By March 2013, however, the selection process and election of civil servants to managerial posts in the Parliamentary Institute was reaching its final phase and was to continue immediately after the local elections.³⁸ The operational budget of the parliament increased by 40% in 2011, leading to the creation of 30 permanent posts in the parliament and the renovation of the building.³⁹

34. Members of the opposition I met complained about the domination of the government over the parliament, the lack of parliamentary debates, the adoption of many laws under urgent or shortened procedure, thus reducing the legislature to a “voting machine”, and the rejection of amendments proposed by

32. OSCE/ODIHR [Statement of preliminary findings and conclusions](#), Municipal Elections, Second Round, 7 April 2013.

33. AS/Mon (2013) 10, p. 5

34. Ibid.

35. EC 2012 Progress report, p. 7.

36. Additional information by the Speaker of Parliament, AS/Mon (2013) 10, p. 17. In addition, since July 2011, MPs from the opposition proposed 60 items which were included in the agenda of the parliament and debated in working bodies, according to the rules of procedure of the parliament.

37. EC 2011 Progress report, p. 6.

38. Additional information by the Speaker of Parliament, AS/Mon (2013) 10, p. 17.

39. EC 2011 Progress report, p. 6.

the opposition. The parliament passed for example 142 laws between 6 and 26 April 2011, with, I understand, little or no time for debate. Moreover, the Constitutional Court annulled provisions in nearly 25% of cases in 2009-2010 in which laws were challenged, which was often due to drafting errors.⁴⁰ This figure decreased to 15% in 2011⁴¹, which is a positive trend. During my second visit, in May 2012, the opposition complained of the limited role of parliamentary debate and had decided to freeze its participation in the co-ordination meetings of the political groups.⁴²

35. I note that the Code of Ethics for parliamentarians remains to be adopted. I was informed that a working group was established to that end.⁴³ Considering the highly politicised context in Macedonia, such a code would be very useful, and could give rise to an exchange of best parliamentary practices. The Parliamentary Assembly could also provide its expertise on this issue if requested to do so by the Macedonian authorities.

36. During my three visits, I noted that the parliament was functioning in a satisfactory way, despite the many tensions that arose among political parties, including in the ruling coalition during the discussion on the law on the defenders (see below). However, in the end, the parliament proved to be a forum where discussions and negotiations could be handled, and I commended the Speaker of the Parliament for this situation.

37. The situation has, however, deteriorated in recent months: during the discussions on the 2013 budget in December 2012, the government sought the parliament's approval to raise two fresh loans from the World Bank (40 million euros) and Deutsche Bank (250 millions). The opposition resisted, claiming that the government had already raised the debt too high and was just aiming to boost spending and foster support to the government ahead of the local elections of March 2013, instead of cutting costs. The opposition blocked the work of the parliament's Committee on Financing and the Budget by tabling over 1 200 amendments. To bypass them, the government filed and voted the new draft at a plenary session on 24 December 2012, a move considered as illegal by the opposition. According to media reports, the SDMS members initially tried to block the door to the main assembly hall to prevent the members of the ruling coalition from entering. The security service was called to intervene as MPs from the ruling parties entered the hall through a back door. The Speaker was reported to have been evacuated. Journalists, who had refused requests by the security officers for them to leave the hall until normal working conditions were resumed, were removed from the parliament, provoking an angry response from the media and journalists' associations.⁴⁴ The 2013 budget was then adopted within minutes by the parliament in the absence of the opposition. The Prime Minister denounced what he called an attempted "coup d'état".

38. Outside the parliament, thousands of protesters gathered, leading to clashes between protesters from the opposition and supporters of the majority, injuring 18 people, including 11 police officers and, according to media reports⁴⁵, three opposition MPs. Since then, the opposition has launched a series of protests, called for civil disobedience and announced that it would boycott the parliament and the March 2013 local elections.

39. The opposition announced on 9 January 2013 that it would take part in the local elections, provided that three conditions are met:

- a) Three key ministerial posts should be changed (namely the Minister of the Interior, the Minister of Justice and the Minister of Finance);
- b) General elections should be organised in March 2013, with an increased international monitoring that should also review the electoral roll;
- c) A new head of the national broadcasting service, MRTV, should be appointed to ensure impartial media coverage during the elections.

40. ICG 2011 report.

41. EC 2012 Progress report, p. 9.

42. The Speaker of the Parliament recalled that the presence of the President of the Parliament, the vice-presidents and the co-ordinators of the parliamentary groups at co-ordination meetings is compulsory, according to the rules of procedure. He indicated that the vice-president of the opposition and the co-ordinators of three opposition parliamentary groups boycotted the co-ordination of 17 April 2012 as the items proposed by the opposition were not on the agenda of the session, and continued to boycott these meetings after these issues were put on the agenda, thus failing to meet their legal obligation. AS/Mon (2013) 10, p. 17.

43. The Speaker considered, however, that the adoption of the Code was impossible, as long as the opposition continued to boycott the co-ordination meetings. AS/Mon (2013) 10, p. 17.

44. See [Joint statement of the media organisations in Macedonia](http://www.balkaninsight.com/en/article/tensions-rise-as-macedonian-parties-confront-over-budget) released on 26 December 2012 and www.balkaninsight.com/en/article/tensions-rise-as-macedonian-parties-confront-over-budget.

45. www.balkaninsight.com/en/article/macedonian-opposition-to-continue-protests.

40. I criticised this latest development and expressed my concerns about both the forced eviction of parliamentarians and journalists from the parliament as well as the subsequent boycott launched by the opposition. I urge all political parties to pursue dialogue, and contribute, in a constructive way, to the work of the parliament. Neither the boycott of the parliamentary work nor the adoption of legislation in the absence of the opposition is an appropriate way to conduct parliamentary affairs or meet the expectations of the citizens. I also expressed my worries that this atmosphere was developing ahead of an electoral campaign, which should allow citizens to elect their local representatives.

41. On 1 March 2013, a joint EU delegation to Skopje (Commissioner Mr Štefan Füle, European Parliament Rapporteur, Mr Richard Howitt, and former European Parliament President Mr Jerzy Buzek) mediated an agreement with the two main political parties of Macedonia. This agreement⁴⁶ included a number of proposals aimed at solving the political crisis, and committed all parties to:

- 1) supporting the State's strategic priorities by means of a cross-party Memorandum of Understanding (or a parliamentary resolution) confirming support for the Euro-Atlantic integration agenda, and a commitment to refrain from action undermining this goal;
- 2) resuming normal political life and ensuring that all parties return to parliament and participate in the scheduled local elections;
- 3) supporting immediate key reform measures, notably to improve the functioning of parliament, to convene an ad hoc Commission of Inquiry to investigate the 24 December 2012 events;
- 4) launching electoral reform, after the local elections;
- 5) enhancing freedom of expression, for example, a resumption of dialogue with journalists, led by the Association of Journalists, and other confidence-building measures;
- 6) agreeing an election calendar relating to the registration of the lists of candidates for the local elections;
- 7) meeting immediately after the local elections to discuss the internal political situation, including the findings of the Commission of Inquiry;
- 8) continuing the discussions, in good faith, on all options, and without prejudice for defining the timing of the next parliamentary elections, on the basis of the implementation of OSCE/ODIHR recommendations, so that the results can be taken into account in the next European Commission Progress Report.

42. I have taken note of the explanations provided both by the ruling majority and the opposition concerning the "24 December 2012 events" in the comments they provided me with in April 2013. I shall refrain at this stage from taking a position, but I will emphasise that these events were quite serious; they must be carefully investigated and learned from. I urge the authorities to speed up the launch of the work of the Inquiry Commission, and ensure that it will be able to work independently, and that the results of this investigation will be debated in parliament. I also call on all political parties to engage in a constructive dialogue to enable the parliament to function properly and carry out the reforms expected by its citizens. I also expect the "1st March agreement" to be fully implemented by all parties.

5. Implementation of the Ohrid Framework Agreement, 10 years later

5.1. The Ohrid Framework Agreement

43. The Ohrid Framework Agreement (OFA), signed on 13 August 2001, stopped the fighting between the Albanian National Liberation Army (NLA) and the State security forces and provided for significant reforms to improve the rights of the ethnic Albanians, some 25% of the two million inhabitants, while maintaining the State's unity. These included changes to key passages of the constitution, including its preamble, to promote the concept of equal citizenship over the preferential status formerly given to ethnic Macedonians; provisions on language to regulate and expand the use of the Albanian language, especially in communities that are at least 20% Albanian; proportional representation in public administration and State institutions; protection mechanisms for minorities in parliament and decentralisation.⁴⁷ It also required the use of a qualified majority

46. http://ec.europa.eu/commission_2010-2014/fule/headlines/news/2013/03/20130301_en.htm.

47. ICG 2011 report.

(so-called “Badinter rule”), namely a double majority requiring: 1) a majority vote; and 2) a majority vote from non-majority communities when the parliament adopts laws that directly concern the rights of national communities as specified in the 2007 Law on the Inter-Community Relations Committee.⁴⁸

44. The implementation of the OFA is supervised by the Secretariat for the Implementation of the Ohrid Framework Agreement (SIOFA), led by the DUI. I had two meetings with the Deputy Minister, Musa Xhaferi, to discuss the State of progress and have his views on the possibility of an overall assessment and benchmarking of the OFA implementation. The Deputy Minister announced in November 2012 that the SIOFA had then produced a report on the implementation status of all policies deriving from the Ohrid Framework. This document, though not made public at that time, has been agreed by all ruling parties and constitutes a first review of the progress made and should provide useful analysis and recommendations to further implement the OFA. The first phase of the OFA review was published on 11 April 2013.⁴⁹

45. One has to acknowledge that the OFA has provided peace in the past ten years. That said, respect for and protection of minorities and cultural rights could be enhanced. Equitable representation is progressing and, according to the figures given by the Minister of Justice and the Minister of Interior during my visit, 13% of the staff in the judiciary and 22% in the police are from non-majority communities. The government has also undertaken steps to foster interethnic integration in the education system. Nonetheless, the integration of ethnic communities remains limited and greater dialogue is needed to foster trust, especially in the areas of culture and language.

5.2. The OFA implementation mechanisms

46. *The Parliamentary Inter-Community Relations Committee*, established in 2002 by a constitutional amendment and regulated by the Law on the Inter-Community Relations Committee of 2007, comprises 19 members⁵⁰ appointed by the parliament and should examine issues relating to inter-community relations, make assessments and propose solutions which the parliament is obliged to take into consideration and decide upon.⁵¹ However, it seems that it has rarely met since 2008, because of quorum difficulties.⁵² I hope that the new, more pluralistic parliament will find a way to revive the work of this Committee and allow it to play its full role, also by ensuring better co-ordination with the municipal-level interethnic committees.

47. *The Agency for Realisation of the Rights of the Communities* was set up in July 2008, in accordance with the Law for the Promotion and Protection of the Rights of the Communities who are less than 20% of the total population of the country. The Agency, which started to work on 25 November 2009, is in charge of monitoring the implementation of the above-mentioned Law and of enhancing the protection of those minorities which represent less than 20% of the country's population. Ms Babic-Petrovski, Manager of the Agency, described the Agency as an independent, advisory body with an educational role, while regretting its limited budget, the lack of financial and human resources⁵³ and insufficiently defined competences. The activities of the Agency include the monitoring of the situation of small communities in the field of employment, education, information and protection of cultural heritage, the setting up of databases (on equitable representation, employment of members of minority communities in public administration, NGOs dealing with the protection of communities, school attendance of children belonging to minority communities, etc.) and promoting cultural programmes on the public broadcasting service (which has dedicated its second programme to communities). Concerning the census then in preparation, Ms Babic-Petrovski pointed out the lack of information, the need to restore confidence between the authorities and the local communities, and the need to better organise the census with a view to obtaining relevant figures that could be used for the 10 years to come.⁵⁴

48. See the [Law on the Inter-Community Relations Committee](#) published in the Official Gazette of the Republic of Macedonia, No.150 of 12 December 2007.

49. EC Spring report, p. 6.

50. Seven MPs from the Macedonian community, seven MPs from the Albanian community and one MP each from the Turkish, Vlach, Roma, Serbian and Bosniak communities.

51. See the [parliament's website www.sobranie.mk](#). See also the UNDP report, “Results of a Participatory Assessment National and Local Capacities for Strengthening Inter-Ethnic Dialogue and Collaboration” (“UNDP report”), September 2010, p. 13.

52. ICG 2011 report.

53. The authorities pointed out that resources have been strengthened. The Agency now has 10 staff members. See AS/Mon (2013) 10, p. 7.

54. Further details on the activities of the Agency, with the support of the OSCE Mission and the IPA project, were provided by the authorities. See AS/Mon (2013) 10, pp. 7-8.

48. The *Ombudsman* monitors the protection of people from discrimination and the respect for equitable representation.⁵⁵ His reports, also addressing the issue of equitable representation in public institutions,⁵⁶ are submitted to the parliament. Mr Ixhet Memeti considered that these reports have contributed in particular to a better integration of people from minority communities. While the implementation of the adequate and equitable representation principle has improved, a large number of institutions, including public enterprises, have not reached the compulsory level of adequate and equitable representation, or do not apply it sufficiently, especially at managerial level. The representation of small minorities still remained an issue.⁵⁷ The Ombudsman concluded that “ensuring a real balance between the number of employees and the representation of the members of all communities may contribute to building multi-ethnic loyalty and tolerance, and at the same time it may represent a type of prevention due to the elimination of discrimination on ethnic basis”.⁵⁸

49. At local level, Article 55 of the Law on Local Self-Government makes provision for establishing *Commissions for Inter-community Relations (CICRs)* in municipalities where at least 20% of the population belongs to a certain ethnic community. CICRs are composed of an equal number of representatives from each community in the municipality. By law, CICRs review issues that refer to relations among the communities represented in the municipality. They provide opinions on, and propose ways to resolve problems that arise between communities. The municipal council is obliged to review CICR opinions and proposals and take decisions.⁵⁹ Mr Trajanovski, President of the Association of Units of Local Self-Government (ZELS), stressed that 35 municipalities have established CICRs, while only 20 of them were compelled to do so by law. A survey carried out by the UNDP reveals, however, that the composition, the functioning and the practice of CICRs may vary from one municipality to another. In addition, the UNDP identified a lack of clarity, at national and local level, over who is in charge of enforcing the law and uncertainty over the consequences of violating the law and concluded that “to date, research has identified that ‘the Badinter principle’ has not been applied in a majority of cases where it should have been, for reasons ranging from the interpretation of what constitutes a ‘cultural’ or ‘language’ issue to opposition to the use of the regulation”.⁶⁰

5.3. The decentralisation process

50. I also examined the state of progress of the decentralisation process, as decentralisation was one of the main demands of the Albanians in 2001. The OFA stipulates transfer of State competences to municipalities in the areas of public services, urban and rural planning, environmental protection, local economic development, culture, local finances, education, social welfare and health care. Key laws have been passed, including on local self-government (2002) and territorial organisation (2004). A total of 123 municipal borders were redrawn to consolidate municipalities, give them greater power and achieve more balanced ethnic representation.

51. Under the current law, there are 84 municipalities and the city of Skopje is a separate unit (with 10 municipalities). Two important laws – on illegal buildings and on construction – are in force since July 2011. These allow municipalities to manage local land, though the central government retains significant responsibilities, including management of agricultural land, forests and water resources, which are important sources of revenue. The Equal Regional Development Law (2007) obliges the government to commit 1% of gross domestic product to regional development, provides the basis for regional development and allows municipalities to group together to apply for development funds, but it has not been implemented.⁶¹ In September 2011, the President of the Association of Units of Local Self-Government highlighted the need to receive more resources from the central State, an increased share of VAT (from the current 3.5% to 6%), an increased share of income tax (30% instead of the current 3%), etc. He welcomed the adoption of the Law on

55. The Ombudsman noted a significant increase of citizens' complaints. He now receives 4 000 complaints a year and establishes approximately 1 000 violations of human rights annually. His areas of concern include the judiciary, public administration, employment, social and consumer rights. He pointed out that his recommendations are followed by the authorities in 90% of the cases, while mentioning a deep conflict with the Minister of the Interior.

56. In 2011, 972 out of 1 082 institutions contacted by the Ombudsman submitted data. [Ombudsman's annual report 2011](#), p. 37.

57. From a total of 972 institutions which submitted data, in 845 there is not a single Bosniak employee, in 737 not a single Roma employee, in 730 not a single Vlach employee, in 676 not a single Turk employee, in 622 not a single Serbian employee, in 495 not a single Albanian employee and in 32 institutions not a single Macedonian is employed. [Ombudsman's Annual report 2011](#), p. 35.

58. [Ombudsman's Annual report 2011](#), p. 37.

59. UNDP report, p. 6.

60. *Ibid.*, p. 19.

61. ICG 2011 report.

Management of State-Owned land that entered in force in July 2011 and emphasised that all but six municipalities have entered into the second phase of the decentralisation process. In the meeting I had with the Mayor of Ohrid, who is from the opposition party SDSM, the issue of selective allocation of funds to local authorities and limited self-government was raised.

52. In October 2012, all but one of the 85 municipalities entered the second phase of fiscal decentralisation; the share of VAT transferred to municipalities increased to 4%.

53. On 18 October 2012, the Congress of Local and Regional Authorities of the Council of Europe adopted its recommendation⁶² on local democracy in “the former Yugoslav Republic of Macedonia”. I note in particular that the Congress expressed concerns, among others, about the risk of continuous central influence, ambiguity in the law regarding competences, a still strong dependence on government grants, little discretion with regard to local taxes, a comparatively low proportion of own-source taxes in their revenues and limited participation of women in local political life.

54. I very much encourage the Macedonian authorities to implement fully the recommendations of the Congress and use the expertise of the Council of Europe to strengthen local democracy and finalise the decentralisation process, which will remain one of the main pillars of the stability and democratisation of the country.

55. In the context of the political crisis, the local elections had a political significance beyond their municipal scope. As pointed out by the Congress and the OSCE, “the leader of the VMRO-DPMNE coalition described the elections as a referendum on the country’s future, while the SDSM chairperson argued that the results of the elections would determine whether or not early parliamentary elections should be held. In addition, the elections were widely viewed as an important test in the context of the shared ambition of all mainstream political parties to promote the country’s Euro-Atlantic integration”.

56. The local elections of 24 March and 7 April 2013 were seen as “well administrated” by the international observers, including the Congress and the OSCE. The observers noted however that “partisan media coverage and a blurring of State and party activities did not always provide a level playing field for candidates to contest the elections. Interethnic tensions overshadowed the campaign. Election day was calm, although some procedural irregularities were observed.”⁶³ The observers also noted gaps in the Electoral Code, problems in the functioning of the Rules of Procedures of the State Electoral Commission, and issues related to the accuracy of voter lists.⁶⁴

57. The ruling parties won in almost 90% of the municipalities (58 municipalities for the VRMO-DPME-led coalition, and 14 municipalities for the DUI), while the SDSM-led coalition won in four municipalities and the DPA in two municipalities. The Serbian Progressive Party in Macedonia won in one municipality, and two independent candidates won in the two remaining municipalities.⁶⁵

58. Two decisions of the Administrative Court, annulling the results of the elections in the highly disputed municipality of Centar in Skopje (which is hosting the Skopje 2014 project) and in Struga (where a joint Albanian candidate defeated a joint Macedonian candidate) based on the VRMO-DPME complaints, caused controversy. These decisions caused the Head of the Macedonia’s Administrative Court, Isamedin Limani, to resign. Re-voting took place on 21 April 2013 and saw the victory of the opposition candidate Andrej Zernoski, who decided to review the Skopje 2014 project.⁶⁶

5.4. Some considerations about the implementation of the Ohrid Framework Agreement

59. Let me first emphasise once again that the 2001 OFA helped to restore peace and stability to the country. It led to the adoption of major constitutional and legislative reforms aiming at reducing interethnic tensions and promoting mutual understanding and tolerance. The measures adopted since 2001 dealt with decentralisation, non-discrimination, equitable representation, use of languages spoken by at least 20% of the

62. [Recommendation 329 \(2012\)](#) on Local democracy in “the former Yugoslav Republic of Macedonia”, See document [CPL\(23\)2](#), explanatory memorandum, Rapporteurs: S. James, United Kingdom (L, ILDG) and A. Buchmann, France (R, SOC).

63. *Ibid.*

64. The opposition party SDMS considered for its part that, in the light of the “vast number of severe irregularities ... and governmental manipulations and violations of the voters list” it observed, the local elections could not be considered as “free and fair”. AS/Mon (2013) 10, p. 22.

65. Figures provided by the Macedonian delegation on 29 April 2013.

66. In the meantime, the authorities announced that the project had cost 208 million Euros, instead of the 80 million originally foreseen.

population, and so forth. The ratification of the Framework Convention on National Minorities (ETS No. 157) in 1997 also contributed to the protection of national minorities, as pointed out by the Advisory Committee of the Convention and the Committee of Ministers of the Council of Europe.⁶⁷ More than a decade after the signing of the OFA, it might be useful to share some thoughts after the visits I paid to Macedonia, where I had the opportunity to meet a number of stakeholders.

60. The opposition Albanian party DPA considers that the OFA currently offers no political and economic perspective for citizens. The DPA negotiated and signed the OFA 12 years ago. However, it considers that it has not improved the situation of Albanians, and has even worked against advancement of their rights. Mr Aliu, DPA co-ordinator in the parliament, deplored the limited use of the Albanian language and the limited State budget allocated to Albanians who, according to him, contribute more than 30% of the budget, while only 2% or 3% is returned for culture, education, health, or infrastructure expenditure benefiting Albanians. Economic discrimination against Albanians is also denounced by the newly formed party National Democratic Revival (which has two members in the parliament), which calculated that only 4% of public funds are allocated to projects for Albanians.

61. It also seems that some Albanian voices are exploring more radical options, proposing to negotiate an Ohrid-II agreement.⁶⁸

62. As pointed out in paragraph 25 above, the principle of equitable representation sometimes clashes with a merit-based recruitment system. NGO representatives pointed out that minority members recruited in public administration sometimes stay at home, as there is no work for them to do, which leads to the frustration of people who cannot go to work, as well as taxpayers. In addition, they mentioned that recruitment is often politicised. The European Commission acknowledged, in its 2011 Progress report, that “the overall number of civil servants from the non-majority ethnic communities reached 30%” however “the trend of recruiting employees from these communities on a *quantitative basis* without regard to the real needs of the institutions continued. ... A large number of newly recruited civil servants received salaries, even though they were not assigned any tasks or responsibilities and representation of the non-majority communities at senior level remains very low”.⁶⁹ This trend was confirmed in 2012; it was noted that “the trend of recruiting employees on a quantitative basis without sufficient regard to the real needs of the institutions continued. Most of the recruits have not reached their designated institutions while already receiving remuneration by SIOFA. The recruitment procedure for non-majority members is not harmonised with the general recruitment procedures and remains vulnerable to undue political influence”.⁷⁰

63. This situation generates a lot frustration, both in the Macedonian and Albanian ethnic communities. As far as employment is concerned, the reform of the public administration, launched by the Minister of Information and Public Administration, aims at introducing a merit-based system of recruitment of civil servants. From my discussions with Deputy Prime Minister Xhaferi, I understood that this new approach could conflict with the need to ensure the guarantee of positive discrimination, stemming from the OFA; the Minister was particularly interested in collecting examples of good practices developed in other European countries confronted with the same challenges.

64. Other NGOs believe that the OFA should now be considered as being an integral part of the constitution. Attention should therefore be focused on the implementation of the OFA provisions which should be handled by parliament and the public institutions.

65. In this context, I should mention the annulment of the census⁷¹ that was due to be carried out from 1 to 15 October 2011 and monitored by the European Statistical Agency EUROSTAT. The government decided to stop the process after the members of the State Census Committee could not agree on whether citizens who had been living in other countries for more than a year should be taken into account. Mr Aliu had explained to me two weeks earlier that the DPA regretted the lack of preparation for this process to make it valid and acceptable for the Albanian side. Therefore, the DPA proposed changes in the draft law on registration and suggested delaying registration in order to have a political discussion in parliament.

67. Resolution [CM/ResCMN\(2012\)13](#) on the implementation of the Framework Convention for the Protection of National Minorities by “the former Yugoslav Republic of Macedonia”, adopted by the Committee of Ministers on 4 July 2012 at the 1147th meeting of the Ministers’ Deputies.

68. ICG 2011 report.

69. EC 2011 Progress report, p. 10 and p. 20.

70. EC 2012 Progress report, p. 9.

71. The last census was held in Macedonia in 2002. The results of this census showed that 64.2% of the two-million strong population were ethnic Macedonian and 25.3% were ethnic Albanian. Roma, Turks, Serbs and other minorities made up the remainder of the population.

66. During my second visit to Macedonia, I paid particular attention to the impact of the recent interethnic incidents that had occurred in many places since January 2012, with varying intensity. Unfortunately, some of these incidents were serious: in Gostivar, an off-duty policeman shot two ethnic Albanian youngsters, which sparked a number of demonstrations and incidents throughout the country. He was given a life sentence, while claiming he was acting in self-defence.⁷² Near Skopje, five local fishermen, including four young boys, were assassinated in April 2012, on the eve of the Orthodox Easter, a criminal case known as the “Monster case”. On 30 October 2012, after six months of investigation, the organised crime prosecutor filed criminal charges against the six men suspected of direct involvement in the murders. The testimony of a protected witness seemed, however, to be the main evidence in the case, as no murder weapon had been found and two suspects were out of the country, believed to be hiding in Kosovo.*⁷³ The trial started in November 2012. The court accepted, on 20 December 2012, the defence lawyers' request for more time to study the charges. The hearing of the first three defendants, Agim Ismailovic, Fejzi Aziri and Rami Sejdi, started on 9 January 2013. The three of them pleaded not guilty.

67. Several interlocutors emphasised that the events that occurred in several municipalities were not interrelated and should be considered as separate incidents; the murder of the five fishermen was not seen by the authorities as ethnically motivated, but connected to radical Islamism (as Macedonia is a partner of the NATO-led coalition in Afghanistan⁷⁴).

68. However, if one looks at the overall picture, this series of events could be seen as a worrying trend. It seems that interethnic tensions are fuelled by the frustration of both Macedonians and ethnic Albanians about the unsatisfactory implementation of the Ohrid Framework Agreement, high poverty and perhaps exacerbated by the urban “Skopje 2014” project, putting a strong emphasis on Macedonian national history.

69. The Deputy Prime Minister, who is in charge of the implementation of the OFA, was rather critical of the institutional response to these incidents (knowing that citizens do not trust the police or the courts), and the assessment of the seriousness of the situation. He noted that the demonstrators were now voicing religious motivation – a rather new phenomenon in Macedonia.

70. I welcome the fact that thousands of people were allowed to gather in Skopje on 17 March 2012 for a “March for Peace” to protest against this interethnic violence. I remain, however, puzzled by the many subsequent demonstrations, organised both by young Albanians and Macedonians using social networks, to gather parallel protests, which eventually led to sporadic ethnic and religious friction. I believe that strong messages by political and religious leaders are needed to stop this potential escalation of violent incidents. A new political initiative to address the most pressing needs of the population, in particular of young people, and foster social cohesion, is needed.

71. Interethnic cohabitation remains fragile. I should mention, as an example, the recent submission of a draft bill aiming to grant social benefits for those who fought in the Macedonian army in 2001 (and their families), which was submitted after the Minister of Defence (from the DUI party) paid tribute to the Albanian fighters of 2001. The draft “law on the defenders” provoked a lot of debate, shook the ruling coalition, and ended up in a parliamentary row. The DUI had first considered supporting a vote of no confidence, submitted by the opposition (and finally rejected), to provoke early elections, but then decided to submit 15 000 amendments to this law, while the VRMO-DPME did not consider withdrawing its draft law.

72. Despite this tense situation, I urge Macedonian politicians to refrain from further nationalistic rhetoric whenever interethnic incidents – or incidents which might not be ethnically motivated but involve people from both communities – occur. Such statements could have a devastating effect on the overall coexistence of the two communities. The relevant Macedonian institutions now have to carry out investigations, on an efficient, non-discriminatory basis, to ensure that these incidents are fully investigated and the perpetrators prosecuted, and that justice is done. I also expect politicians to take a more proactive stance and value the benefit brought so far by the Ohrid Framework Agreement in maintaining peace. Mutual understanding and confidence has, as yet, not been reached.

72. Information provided by the authorities, AS/Mon (2013) 10, p. 8.

73. * All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

74. As at 3 December 2012, 157 members of the Macedonian army contributed to the International Security Assistance Force. See www.nato.int/isaf/docu/epub/pdf/placemat.pdf. 1 843 Macedonian peacekeepers have been deployed since 2002 in Afghanistan (see www.morm.gov.mk/content/?6265E45FFF197C3C17AE1287EC42D766CC95B01E).

6. Rule of law

6.1. Reform of the judiciary: latest developments

73. A number of reforms have been carried out to increase the efficiency of the justice system. Progress has been made in reducing the backlog of cases.⁷⁵ The total number of pending cases in national courts at all levels decreased from more than 675 000 in 2010 to less than 300 000 by the end of 2011. From 1 July 2012 to 1 March 2013, 324 831 enforcement cases and non-contentious cases were removed from the court system as a result of a transfer of competences to professional bailiffs and notaries.⁷⁶ The Judicial Council adopted in February 2012 guidelines on the minimum number of cases that should be solved monthly by judges in the principal courts, courts of appeal, Administrative Court, High Administrative Court and the Supreme Court.

74. The courts at all levels have continued to publish judgments on their websites (nearly 135 000 rulings were published by 2012), which are an important tool in promoting transparency and access to justice. Macedonia should introduce a merit-based recruitment system in the judiciary. In 2012, it was required under law that 50% of all appointees should be graduates of the Academy for Judges and Prosecutors (AJP). However, in 2011, the Judicial Council gave preference to non-graduate applicants in the appointments of first instance judges, thus not complying with its commitment to merit-based recruitments. Since 2013, all judges elected to the principal courts have completed studies at the Academy for Judges and Public Prosecutors. Furthermore, from July 2013, the election of judges to the higher courts will be subject to several specific qualifications and promotion will be based entirely on merit.⁷⁷ Grounds for the dismissal of judges should also be clear, precise and predictable.⁷⁸

75. Despite some progress, Macedonia will have to face further reforms in the judiciary to increase its efficiency; there are currently 678 judges, a figure which is more than 50% higher than the European average in relation to the size of the population. 80% to 85% of the budget allocated to the court system (29 million euros in 2012, or 0.4% of GDP) is spent on the salaries of judges and administrative staff. The budget of the Public Prosecutor's Office is around 5.3 million euros. The majority (83%) is spent on salaries, and leaving scarce resources for equipment and facilities.⁷⁹

76. In 2010, Macedonia adopted a series of laws to implement a number of measures, including new criteria on the election of judges, a system for the career of judges, redefining the provisions for disciplinary liability and assessment of incompetent performance by judges. This will be done through implementation of objective and measurable criteria, increasing the transparency in the work of the courts, and implementation of new systems for assessment of judges through objective qualitative and quantitative criteria.⁸⁰

77. However, substantial progress is needed to enhance the independence of the judiciary: many interlocutors complained of, or suspected, a selective justice system which disproportionately targeted the opposition (see my previous remarks about the latest cases concerning the media, and the politicians prosecuted, etc.). While it might be difficult to substantiate such allegations, the point is that there is undoubtedly a lot of mistrust by representatives of civil society in the justice system. More efforts therefore should be put into setting up a merit-based system of recruitment, the promotion and dismissal of judges and prosecutors and to ensuring that the institutions guarantee the independence and impartiality of the justice system in practice.

75. According to the figures of the Annual Report 2012 provided by the authorities (see AS/Mon (2013) 10, p. 8), the decrease of lagging cases was as follows: Court of Appeal of Skopje: 9.5% (incoming cases increased by +2.2%); Administrative Court of Macedonia: 11% (incoming cases: +11.5%), the Supreme Court: 32.55% (incoming cases: +22.3%).

76. EC 2012 Progress report, p. 51.

77. In their comments (see AS/Mon (2013) 10, p. 9), the authorities indicated that judges in the Court of Appeal will have had at least four years of continuous work as a judge in the principal courts and the highest marks when assessed by the Judiciary Council, whereas a judge in the Supreme Court must have had at least six years of continuous experience as a judge in the Court of Appeal and be assessed with the highest possible mark by the High Judicial Council in the final year.

78. EC 2012 Progress report, pp. 10 and 51.

79. *Ibid.*, p. 51.

80. Information provided by the authorities, see AS/Mon (2013) 10, p. 9.

6.2. Combating corruption

78. In May 2012, I brought up the issue of corruption with the authorities and the competent anti-corruption bodies. A positive trend can be seen, as the country has moved up 40 places in the Transparency International anti-corruption index over the last five years⁸¹, which was confirmed in 2012.⁸² Amendments were made to the legal framework for anti-corruption policy in line with GRECO recommendations; the adoption of a new Criminal Procedure Code should improve the investigative procedures for complex organised crime and corruption cases; an investigative team should work directly for the Public Prosecutor.

79. However, in its 2011 progress report, the European Commission considered that corruption remains a serious concern. It pointed out that the independence and impartiality of the State Commission for the Prevention of Corruption remains fragile; stronger legal and institutional protection of whistle-blowers was needed.

80. Referring to the 2010 State Statistical Office annual report, Transparency Macedonia alleged that out of €1.5 billion worth of public procurement projects inspected that year, some €500 million worth were deemed “potentially corrupt” by the office, but no investigations were launched or charges pressed.⁸³ A United Nations Office on Drugs and Crime study indicated that the average bribe paid in Macedonia is €470.⁸⁴

81. Measures introduced to combat low-level bribery and corruption and raise the awareness of the general public are to be welcomed.⁸⁵ In addition, substantial reforms in the prosecution system have been introduced and, to be successful, the Public Prosecutor, the State Audit Office and the State Commission for the Prevention of Corruption should not only be provided with the necessary staff and funds, but also show a strong willingness to address the issue of corruption.

82. In this context, particular attention should be paid to the funding of political parties: while the 2004 Law on Financing of Political Parties (as amended in July 2009) provides a legal framework, Transparency International urged the authorities to strengthen existing legal practice and implement the existing penalties, introduce harsher punishment for non-compliance with the relevant legal measures related to donors, implement the GRECO recommendation related to authorisation of one leading institution responsible for the supervision of political finances instead of the existing fragmented and inefficient system.⁸⁶

83. During its plenary meeting in March 2012, GRECO adopted a compliance report on Macedonia related to the third evaluation round, focusing on incrimination and transparency of party funding. I welcomed the decision of the Macedonian authorities to authorise the publication of this report in June 2012.⁸⁷

- GRECO concluded that five of the seven recommendations made in the field of incrimination were implemented satisfactorily and one was dealt with in a satisfactory manner⁸⁸ after the revision of the Criminal Code. It called on “the authorities of ‘the former Yugoslav Republic of Macedonia’ to abolish the possibility given to the courts to restore the seized bribe to the briber”.^{89 90}
- Concerning transparency of party funding, six recommendations had been addressed to the Macedonian authorities. GRECO acknowledged that the amendment to the Electoral Code of April 2011 had brought some progress. However it raised a number of concerns related to financial reporting, the involvement in practice of NGOs, including think-tanks and research institutes established by

81. In 2011, Macedonia ranked 69th out of 183 in the corruption perceptions index of Transparency International, with a score of 3.9/10. See www.transparency.org/country#MKD.

82. In its [December 2012 corruption perceptions index](#), Transparency International ranked Macedonia in 69th position (with a score of 4.1/10) regarding the perceived levels of public sector corruption in 176 countries/territories around the world.

83. www.balkaninsight.com/en/article/macedonia-is-losing-fight-against-corruption-ngo-warns. However, the authorities challenged these allegations. See AS/Mon (2013) 10, p. 9.

84. www.unhcr.org/refworld/country,,,MKD,,4fd5dd2a4d,0.html.

85. This includes a 360° grading of civil servants systems or the introduction of a “smiley-face system” to enable citizens to grade the quality and the behaviour of public servants (by pressing a button on machines with three buttons – red (with a sad face), yellow (neutral), and green (with a smiley face)).

86. www.transparency.org.mk/en/images/stories/legislation_and_practices_in_the_financing_of_political_parties.pdf.

87. Third Evaluation Round, Compliance Report on “the former Yugoslav Republic of Macedonia”, *Greco RC-III (2012) 2E*, 23 March 2012.

88. *Greco RC-III (2012) 2E*, paragraph 62.

89. *Ibid.*, paragraph 35.

90. The Law n°166 amending the Criminal Code, published in the Official Gazette on 26 December 2012, deleted the words “and in the case referred to in paragraph (3) when free of the penalty, can be returned to the person that gave the bribe” in Article 358 paragraph (6) of the Criminal Code. AS/Mon (2013) 10, p. 11.

political parties (which are, *de jure*, no longer authorised by law to campaign for political parties), the need to raise the awareness of political parties about their obligations under applicable political funding regulations.

- In addition, GRECO is concerned that the latest amendments to the Law on the Financing of Political Parties that reduced the reporting obligations of political parties, “will not result in greater transparency on the regular financing of political parties, quite the contrary” (paragraph 55) and the inadequate means of the State Statistical Office to assume a leading role in the effective supervision, investigation and enforcement of political financing regulations (paragraph 56).
- GRECO concluded that Macedonia “has made tangible efforts to comply with the recommendations issued in respect of Theme I – Incriminations. Very limited steps have been taken to meet the concerns raised in respect of Theme II – Transparency of Party Funding; much more clearly needs to be done in this area”. GRECO concluded that the current low level of compliance with the recommendations is not “globally unsatisfactory” and invited the Head of the delegation of “the former Yugoslav Republic of Macedonia” to submit additional information regarding the implementation of recommendation vii (Theme I – Incriminations) and recommendations i and iii-vi (Theme II – Transparency of Party Funding) by 30 September 2013 at the latest.

84. The Law on Financing of Political Parties was further amended in October 2011 (Law No. 148), November 2012 (Law No. 142) and February 2013 (Law No. 23), regulating the allocation of public funds to political parties, the content and modalities for publication of a registry of donations and financial reports, the delivery of donation reports to the Public Revenue Office and the State Audit Office, measures for suspending the payment of public funds to political parties should they fail to comply with their obligation of submission or publication of their annual reports on time, public funding allocated to the setting up of intraparty research-analytical centres, and funding of training for political parties on financial reports, etc. A rulebook for political parties on the form, structure and manner of completing the annual report was adopted by the Minister of Finance on 31 January 2013.⁹¹

85. The Criminal Code was also amended in November 2012 (Law No. 142), providing additional measures to separate executive positions from party positions during elections, further regulate financial obligations during election time, set new deadlines for submitting the final report on election campaigns (30 days after the completion of the campaign); a signed memorandum of co-operation between the State Election Commission, the State Audit Office and the State Commission for the prevention of corruption to exchange information on possible irregularities; measures regulating the partial or total loss of compensation if political parties disregard the limitation on expenditure or obligation to submit a financial report on election campaigns, etc.⁹²

86. While I welcome the changes made in the Criminal Code, the Law on Financing of Political Parties and the Law on the Prevention of Conflicts of Interests, I am rather worried that the entry into force of the new Law on Criminal Procedure (adopted in 2010) was postponed to November 2012, and then to December 2013⁹³ – due to lack of budgetary and human resources and equipment. This will further delay the implementation of the State Programmes for the Prevention and Repression of Corruption and for the Prevention and Reduction of Conflict of Interest and the Action Plan 2011-2015, adopted by the State Commission for the Prevention of Corruption, including the setting up of investigative centres and a judicial police, foreseen by the new Law on Criminal Procedure.

87. I urge the Macedonian authorities to implement fully the GRECO recommendations and thus reactivate the fight against corruption, which is undermining the functioning of democratic institutions. In the context of the high politicisation of public life, special attention should be paid to the fight against corruption in public procurement, which continues to be a serious problem⁹⁴, despite efforts by the authorities to combat it.⁹⁵

91. Information provided by the authorities. Further details are available in AS/Mon (2013) 10, pp. 10-12.

92. *Ibid.*, p. 11.

93. EC 2012 Progress report, p. 57.

94. *Ibid.*

95. The authorities indicated that in the programmes adopted by the State Commission for prevention of corruption in risk areas, attention was paid to improving the public procurement system, preventing the misuse of public assets and goods for political objectives, increasing transparency and reinforcing integrity. On 14 December 2012, a Research Centre was established in the Principal Public Prosecutor’s Office for fighting organised crime and corruption, as the Public Prosecutor will have a leading, investigative role under the new Law on Criminal Procedure. AS/Mon (2013) 10, p. 12.

7. Human rights and fundamental freedoms

7.1. Freedom of expression and media

88. During my visits, I met a number of journalists from various media, who mentioned the large number of media outlets in Macedonia, the difficult working conditions of journalists, the close association of media owners with politicians, the funding of media and the share of government advertising in the media, defamation, self-censorship, etc.

89. Media freedom and pluralism are a matter of concern. As pointed out by the European Commission, the media continue to be subject to interference from political and business interests. Intimidation of journalists and selective enforcement of legislation against media companies are increasing causes for concern. The enforcement track record against illegal media concentrations is poor, hampered in part by the lack of transparency of ownership.”⁹⁶

90. The State has a financial role and is therefore in a position to influence the media, as advertising is a powerful incentive. According to the Broadcasting Council’s analysis, the government spent €17 million on advertising in 2008, and €12 million in 2009 for 658 hours of air time. Local observers say the government and ruling party gave the contracts to “friendly” media. A1 TV, for example, consistently had high viewer ratings, but Macedonian Telecom, of which the government are minority shareholders, withdrew its advertisements in early 2009.⁹⁷

91. We were also told that A1 TV owner, Mr Velija Ramkovski, once a supporter of governing coalitions, got into trouble after his relations with Mr Gruevski deteriorated in 2009. In November 2010, at a politically sensitive time, police raided A1 as part of an investigation into alleged tax fraud by 11 smaller commercial companies registered at its address.

92. In its report on the observation of the 5 June 2011 elections, the Assembly delegation recalled the chronology of the events:⁹⁸

“– On 25 November 2010, representatives of the State Revenue Office, accompanied by the police, raided the headquarters of the television company A1 TV and three daily newspapers, Vreme, Spic and Koha e Re, to investigate alleged cases of tax evasion by those media. Following investigations, these companies’ bank accounts were frozen under a court order.

– The opposition stated that these investigations were politically motivated because the same media had apparently in the recent past not been prosecuted for tax evasion because they had praised the government.

– In December 2010, the main opposition party, the Social Democratic Union of Macedonia (SDSM), organised a major demonstration in Skopje calling for an end to the action against those media and for the release of the people arrested in connection with the investigations, including Velija Ramkovski, a rich businessman and owner of the television channel A1 TV.

– For the opposition, it was a case that involved freedom of expression, while for the authorities it was a criminal matter.

– On 28 January 2011, the SDSM decided to leave the parliament, boycott its proceedings and call for early elections. The other opposition parties followed suit, including the Democratic Party of Albanians (DPA), which had been boycotting the parliament since 2009.

– Negotiations between the parties of the VMRO-DPNME coalition government and the opposition led by the SDSM on the possibility of the latter returning to the parliament failed and on 15 April 2011 the parliament voted to dissolve itself and called early elections for 5 June 2011.”

93. I would like to recall the facts that led to the closure of four media outlets in 2011.⁹⁹ In June 2011, the Tax Revenue Office demanded that A1 TV pay €9.5 million in back taxes; on 12 July 2011, the authorities proceeded with a forceful collection of debt, and, on 26 July 2011, after the Tax Revenue Office declined the request to pay in instalments, a court declared the company bankrupt and appointed a transitional owner.

96. EC 2011 Progress report, p. 62.

97. Figures mentioned in the ICG report.

98. [Doc. 12643](#).

99. Facts and analysis provided by the International Crisis Group.

94. The dailies *Vreme*, *Spic* and *Koha e Re*, owned by the local Plus Production company registered at the same address as A1 and part of the ongoing investigations, were told to pay €1 million in back taxes, and stopped publishing on 2 July 2011, due to lack of funds.

95. On 26 July 2011, a bankruptcy procedure against A1 TV was opened in Skopje Basic Court 2 upon the initiative of the Public Revenue Office. On 29 July 2011, the Agency for Electronic Communications (AEC) issued a decision to revoke A1 TV's licence, without waiting for the decision of the Broadcasting Council. A1 TV stopped broadcasting on 30 July 2011. Around 230 station employees were expected to lose their jobs. The Association of Journalists (AJM) and the Union of Journalists and Media Workers issued joint statements expressing concern for the independence of the media.

96. On 24 August 2011, preparations for launching a bankruptcy procedure against A2 TV were also initiated. However, on 26 August 2011, Mr Tomor Canoski, brother of businessman and MP, Mr Fijat Canoski, gave funds to A2 TV to repay its debt to the Public Revenue Office. The funds were given in the form of a short-term loan, which had to be repaid within one year.

97. I had requested in September 2011 clarification on the closure of the four above-mentioned media outlets. The officials and representatives of the parliamentary majority we met emphasised that the closure was motivated by allegations of tax evasion and could not be considered as an infringement of the freedom of media. This was repeated to me during my second visit.

98. On 14 March 2012, Mr Ramkovski was sentenced to 13 years' imprisonment for tax evasion, criminal association, money laundering and misuse of public office.¹⁰⁰ There is no doubt that tax evasion needs to be targeted and prosecuted. However, the fact that only opposition media have been affected leads to serious concerns and raises the issue of selective justice and prosecution. State authorities should be mindful in a democratic society of the effect such prosecutions may have on media plurality.

99. The representatives of these four media deplored the financial control and the pressure put on company managers and the threat not to give commercial advertising that led to a reduction of revenue. Mr Crvkovski, leader of the SDMS, also denounced the financial and political pressure exerted against critically oriented media when I met him.

100. The OSCE Representative on Freedom of the Media, Ms Dunja Mijatovic, raised different issues related to the ongoing deterioration of media freedom, arguing that "closing critical media never leads to political and economic stabilisation, but to stagnation and the loss of trust in governments and politicians".¹⁰¹ She paid a visit to Skopje on 27 October 2011, urging the authorities to decriminalise defamation (165 cases are currently brought against journalists), to create a self-regulatory body which would help improve professional standards and prevent journalists from filing defamation lawsuits against each other, to improve the implementation of laws on media ownership to avoid illegal cross-ownership and political influence in media outlets, as well as to create provisions on the transparency of government advertising.¹⁰²

101. My meeting with the then President of the Broadcasting Council in May 2012 was very informative: Mr Stefanoski deplored the fact that the political atmosphere had drastically changed after the elections. He regretted the amendments to the Law on Broadcasting Activity adopted on 15 July 2011, whereby 9 out of 15 members of the Council are now politically appointed. Therefore the Broadcasting Council could no longer be considered as an independent body and, he stressed, was no longer complying with Recommendation Rec(2000)23 of the Committee of Ministers of the Council of Europe.¹⁰³ He stated that it is not possible to speak about freedom of media when the government, which is the largest advertiser for media, tries to control the media through financial sponsorship.

102. During my visit in November 2012, the new composition of the Broadcasting Council was again mentioned to me as raising serious doubt about the impartiality of its activities.

100. www.balkaninsight.com/en/article/aa3-years-in-jail-for-macedonia-s-aaa-tv-owner.

101. ICG 2011 report.

102. "Authorities and media must respect role of journalists, says OSCE media freedom representative in Skopje", [OSCE press release](#) of 27 October 2011.

103. [Recommendation Rec\(2000\)23](#) of the Committee of Ministers on the independence and functions of regulatory authorities for the broadcasting sector, adopted by the Committee of Ministers on 20 December 2000 at the 735th meeting of the Ministers' Deputies.

103. I was pleased to learn, however, that the Broadcasting Council took some initiatives to clarify the ownership of the media, avoiding conflict of interest and setting the date of 15 September 2012 to comply with the law. The conflicting ownership of one national television station and two national radio stations by parliamentarians was subsequently cleared: one MP resigned from his political position, one MP decided to sell his radio stations, while another MP modified the ownership of his media.

104. The worrying situation in the media was also reflected in the 2011 European Commission Progress Report on Macedonia: “The media continue to be subject to interference from political and business interests”. In addition, “intimidation of journalists and selective enforcement of legislation against media companies are increasing causes for concern”.¹⁰⁴

105. The Commission's remarks echo similar concerns raised in July 2011 by a number of media watchdogs such as Amnesty International, the Vienna-based South East Europe Media Organization (SEEMO) and the France-based group Reporters Without Borders.¹⁰⁵

106. Discussions had been initiated between the government and journalists. A joint working group of officials and media professionals was formed on 10 October 2011 and tasked with negotiating journalists' demands, which included decriminalisation of libel, strengthening the public broadcasting service and a more equal distribution of government advertising money in the media.¹⁰⁶ However, I learnt during my second visit that the negotiations between the associations of journalists and the government were suspended. Speculation of a drastic increase of libel fines as part of the new media law raised further concerns. Journalists expressed their worries about political pressure exerted on them, precarious working conditions and self-censorship.

107. A memorandum of understanding was finally signed on 13 June 2012 between the government and the Association of Journalists (ZNM), which identified five areas to be discussed, including the decriminalisation of defamation and “insult”, the strengthening of public broadcasting, the transparency of government advertising and improving journalists' and editors' respect for professional standards.

108. I was however informed that, on the same day, the Broadcasting Council decided to withdraw the broadcasting licence of the A2 TV station – the last remaining part of the media empire of Velija Ramkovski – on the grounds that the station failed to include enough news and educational content in its programmes to account for 5% of its air time. The Workers' Union of Journalists described this explanation as “absurd”, as other broadcasters ignore the Broadcasting Council's rules “on a daily basis”.¹⁰⁷

109. More recently, the opposition party SDSM expressed its concerns about the changes of the ownership and editors policy of TV ALFA, and the closure of the pro-opposition weekly and daily magazine *FOKUS*, caused by sudden death of their owner Nikola Mladenov, which, according to the SDSM, remains unexplained.¹⁰⁸

110. The Law on Civil Liability for Insult and Defamation was prepared, in co-operation with the European Commission and with Council of Europe experts, to improve the legislation and ensure that it complies with the Council of Europe standards and case law of the European Court of Human Rights. It was adopted on 12 November 2012 by the parliament, which must be commended for this move. 325 pending criminal charges for libel and defamation against journalists were closed after the entry into force of the amendments to the Criminal Code (Law No.142 of November 2012), leaving it to the plaintiff, within a month after the termination of the criminal proceedings, to initiate a civil procedure for insult or defamation, and seek compensation for the damage.¹⁰⁹ The bill also regulates Internet portals, websites and blogs.

111. This law introduces a maximum fine of €27 000 (ie €2 000 for the author, €10 000 for the editor-in-chief, and €15 000 for the owner of the media outlet) as a “compensation of intangible damage caused by insult or defamation”.¹¹⁰ While this limitation is progress compared to the previous legislation, the high financial sanction could be a deterrent to journalists and media owners. According to some experts, these sanctions might entail a risk of influence by company owners and chief editors on the reporters' work and jeopardise the

104. Sinisa Jakov Marusic, “Macedonia PM's Attack on Journalist Condemned”, www.balkaninsight.com, 19 October 2011.

105. Ibid.

106. Sinisa Jakov Marusic, “Macedonia Starts Talks on Media Grievances”, BIRN, 12 October 2011.

107. www.balkaninsight.com/en/article/last-of-ramkovski-s-media-empire-faces-shut-down.

108. AS/Mon (2013) 10, p. 22.

109. Information provided by the authorities, AS/Mon (2013) 10, p. 13.

110. Ibid.

environment of free journalistic investigation and reporting. Article 8 of the law foresees, however, that the author of a text will not be held responsible, if he/she proves that he/she was ordered to write the text by the company owner or in a case where the text was significantly altered by the editor.

112. I welcome the steps taken by the authorities to ensure the necessary training for the judiciary and journalists¹¹¹ and to translate and publish over 40 key judgments of the European Court of Human Rights relating to Article 10 on the websites of the Ministry of Justice and the Academy for Judges and Public Prosecutors¹¹² to ensure that all judges are able to apply the legislation, including the newly adopted Law on Civil Liability for Insult and Defamation, and ensure freedom of expression in conformity with European standards.

113. My overall impression, after my three visits, was that the media sector remains weak: for the size of the country there is a huge number of media outlets; the funding of the media remains heavily dependent on public advertising, which amounts to 50% of all advertising offered to the media – and raises suspicions about political interference with the media; the professional standards remain insufficient to enable independent, balanced and investigative journalism; the work of the Broadcasting Council, in its new composition, is being questioned as the independence of this body is not seen as guaranteed by the legal provisions. In my view, public broadcasting needs to be strengthened. The switch to digital television in 2013 will pose new challenges and most probably affect substantially the media landscape.

7.2. The lustration law

114. Macedonia is engaged in a lustration process, as recommended by the Parliamentary Assembly.¹¹³ A lustration law was adopted in 2008. In March 2011, the ruling majority widened the time span of the law beyond 1991, challenging, for the second time, the Constitutional Court's decision and broadening the range of professions subjected to check-ups to include journalists, NGOs,¹¹⁴ clergy and members of other professions. In March 2012, this provision was declared unconstitutional by the Constitutional Court, as it obliged people from a wide range of professions to swear that they had not collaborated with the secret police during the communist period and afterwards.

115. The Constitutional Court also shortened the time span of the law that was previously applicable until 2019. The court ruled that it may cover only the communist period from 1945 to 1991 and not the period after the country gained independence from Yugoslavia and became a democratic society.

116. The VMRO-DPMNE submitted a new draft lustration law in April 2012, while the coalition partner DUI made its support conditional on the adoption of a law on rehabilitation of victims of past regimes.¹¹⁵ In the meantime, the composition of the Constitutional Court had been changed, and three new members had been appointed by the government.

117. The Commission on the Verification of Facts (Lustration Commission) had declared, in May 2012, over 30 people to be former informants. However, 15 of them appealed to the Administrative Court in Skopje, which later annulled the decisions of the Commission concerning them.

118. To my surprise, in October 2012, the parliament adopted a new version of the lustration law¹¹⁶ quite similar to the previous one, therefore disrespecting the previous decisions of the Constitutional Court. This law was then, once again, challenged in the Constitutional Court. At the request of the President of the Constitutional Court, the Venice Commission adopted an amicus curiae brief¹¹⁷ on 14-15 December 2012 on

111. By the end of 2012, over 200 judges, lawyers, journalists and other practitioners had participated in training on freedom of expression. In 2013 a specific training programme, focusing on Article 10 of the European Convention and on Human Rights (ECHR) and covering all judges dealing with defamation cases, was being rolled out. EC Spring report, COM(2013)205 final, p. 3.

112. EC 2012 Progress report, p. 53.

113. See [Resolution 1096 \(1996\)](#) on measures to dismantle the heritage of former communist totalitarian systems.

114. For example the Executive Director of the Open Society in Macedonia was arrested and found guilty by the Lustration Committee of collaboration with the former Yugoslav State Security Service. The NGO representatives we met deplored that the process of lustration was being misused against critical opponents.

115. Many of the former rebels that started the 2001 armed conflict are now DUI party members and legislators; they were at the time considered as terrorists and pursued by the police and courts.

www.balkaninsight.com/en/article/macedonian-court-narrows-lustration-law-s-span, 28 March 2012 and <http://www.balkaninsight.com>, Macedonia: New Lustration Law Submitted, 10 April 2012.

116. See document CDL-REF(2012)042rev.

the Law on determining a criterion for limiting the exercise of public office, access to documents and publishing the co-operation with the bodies of the State security of “the former Yugoslav Republic of Macedonia”.

119. The Venice Commission specified that it only intended to provide the Macedonian Constitutional Court with material in respect of the compatibility of this law with the European Convention on Human Rights, as well as elements from comparative constitutional law, in order to inform its own consideration of the case. The final decision regarding the binding interpretation of the Macedonian Constitution and the limitations it puts on the Lustration Law would lie with the Constitutional Court. The Venice Commission also deemed it necessary to recall that “the interpretation of the Constitution by the Constitutional Court is binding on all national institutions from the administrative, judicial and legislative branches, which are obliged to respect it and adhere to it”.

- *As regards the time frame*, the Venice Commission noted that “introducing lustration measures a very long time after the beginning of the democratisation process in a country risks raising doubts as to their actual goals. Revenge should not prevail over protecting democracy. It follows in the Commission’s view that applying lustration measures more than 20 years after the end of the totalitarian rule requires cogent reasons. The Commission recalls nevertheless that every democratic State is free to require a minimum amount of loyalty from its servants and may resort to their actual or recent behaviour to relieve them from office or refrain from hiring them”.
- *As regards the period of the past to be screened*, the Venice Commission considered that the time period to be screened would have to be limited, as the purpose of lustration is to bar people with an anti-democratic attitude from office: “While lustration laws may vary according to the historical developments prevailing in the relevant State, they must be inspired by the principles of rationality and proportionality basing a decision on deprivation of office on a specific behaviour dating back to – at least – 21 years ago and as much as 78 years ago, may – if at all – only be justified on the basis of most serious forms of offences, in particular massive and repeated violation of fundamental rights, which would also give rise to substantial custodial sentence under criminal law” (paragraph 24). The Venice Commission added that “political, ideological and party reasons are normally present in a functioning democracy and may not be used as grounds for lustration measures, as stigmatisation and discrimination of political opponents do not represent acceptable means of political struggle in a State governed by the rule of law”, leaving it to the Macedonian Constitutional Court to assess the legitimacy of the extension of the application of the Lustration Law to acts committed after 17 November 1991.
- *As regard the personal scope of the application of the law*, “the Venice Commission notes that, consistent with the above principles, in a previous decision the Macedonian Constitutional Court found that the State could not go beyond persons employed in the State bodies and those who are on a decision-making position by lustrating members of the universities, religious communities, media, civic organizations (NGOs): such an enlargement of the personal scope of the Law would result ‘in the interference by the State’ in the work of the concerned persons” (paragraph 41). Therefore “the application of lustration measures to positions in private or semi-private organisations goes beyond the aim of lustration, which is to exclude persons from exercising governmental power if they cannot be trusted to exercise it in compliance with democratic principles. The contested connection with the totalitarian regime must be defined in a very precise manner”.
- The Venice Commission also raised concerns about the lustration procedure, namely the absence of the person concerned from the procedure before the Verification Commission, coupled with the publication of this person’s name as a collaborator, which is at variance with the right of defence, notably the right to equality of arms, and the presumption of innocence” (paragraph 65), the lack of precise provisions regarding the procedural aspects of the verification process and the possible appeal about the exercise of the verification powers of the Commission (paragraph 69); the publication of the decision on the Verification Commission’s website before the relevant court decision (as the decision of the Commission may be appealed to court within eight days) (paragraph 73).

120. The Lustration Commission is in a difficult position, as the two members appointed by the main opposition party (SDSM), Janakie Vitanovski and Blagoja Geshoski, resigned on 18 December 2012. They deplored that the Commission is headed by an “illegitimate President”¹¹⁸ and accused the Commission of

117. Document CDL-AD(2012)028, amicus curiae brief on the Law on Law on determining a criterion for limiting the exercise of public office, access to documents and publishing the co-operation with the bodies of the State security (“lustration law” of “the former Yugoslav Republic of Macedonia”), adopted by the Venice Commission at its 93rd Plenary Session (Venice, 14-15 December 2012).

labelling certain people as collaborators, based not only on insufficient evidence, but by ignoring evidence that proved to the contrary.¹¹⁹ The Lustration Commission still has the necessary quorum to continue its work however.

121. It is now up to the Macedonian Constitutional Court to deliver its decision on the Lustration Law – and I expect all branches of the Macedonian institutions to comply with it. I should stress that challenging decisions of the Constitutional Court are a worrying signal in terms of respect of the rule of law. I should also note that a decision deriving from this controversial law is now being challenged at the level of the European Court of Human Rights.¹²⁰

7.3. Torture and ill treatment

122. In 2010, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) visited Macedonia and addressed a number of recommendations and requests for information to the authorities in relation to the law-enforcement agencies, prison establishments, psychiatric institutions and the Demir Kapija special institutions for mentally disabled persons.¹²¹ In January 2012, the Macedonian government requested the publication of the report and submitted its comments on the CPT's observations,¹²² which highlight the initiatives undertaken to improve the system. I should like in particular to mention a project on Reconstruction of Prisons and Educational-Correctional Institutions, which is co-funded by the Council of Europe Development Bank (46 million euros) and the Macedonian government (6 million euros) and the preparation of a National Strategy on Development of the Prison System with IPA funds, as well as a number of projects funded by various States.

123. While some progress has been noted in the prison system, thanks to continued training of prison staff and prison reconstruction, a number of problems remain as prisons are underfunded and understaffed and suffer from poor management, poor material conditions, limited health care provision, a lack of educational and rehabilitation activities, in particular for juveniles, and the lack of an independent inspection mechanism to address violations and punish perpetrators.¹²³

124. I would urge the Macedonian authorities to continue their efforts, and to comply with the remaining CPT recommendations. In this context, I very much welcome the launch of a joint Council of Europe/European Union programme on "Capacity building of the law enforcement agencies for appropriate treatment of detained and sentenced persons" in December 2012. I hope this programme will pave the way for other co-operation programmes and reinvigorate the partnership between Macedonia and the Council of Europe.

125. A landmark decision was also delivered by the European Court of Human Rights, which condemned the CIA practice of renditions and secret detentions. In the case *El-Masri v. "the former Yugoslav Republic of Macedonia"*, the Court concluded that there had been violations of Article 3 (prohibition of torture and inhuman or degrading treatment), 5 (right to liberty and security), 8 (right to respect for private and family life) and 13 (right to an effective remedy). The applicant, a German national of Lebanese origin, had complained that he had been arrested and tortured in Skopje, because he was suspected of belonging to a terrorist organisation, and that he was handed over to the CIA which then kept him in a secret detention centre in Afghanistan. The Court held that Macedonia had been responsible for his torture and ill-treatment both in the country itself and after his transfer to the US authorities in the context of an extra-judicial "rendition". As pointed out by the Parliamentary Assembly's President, this decision vindicates the findings of the Assembly's reports on this subject-matter prepared by former Assembly member Dick Marty (Switzerland, ALDE).^{124 125}

118. The Chairperson Mr Aziev's initial mandate was limited to six months. He has however been in place for two years, as the parliament failed to appoint a successor.

119. See Sinisa Jakov Marusic, BIRN, "[Resignations Rock Macedonia's Lustration Commission](#)", [Balkaninsight.com](#), 18 December 2012.

120. See *Ivanovski v. "the former Yugoslav Republic of Macedonia"*, [Application No. 29908/11](#) filed on 9 May 2011 and communicated on 27 November 2012. Mr Ivanovski was since 2003 a judge of the Constitutional Court and was the President of the Constitutional Court in 2011, when he was dismissed due to the lustration proceedings. He lodged a complaint with the European Court of Human Rights, alleging that the proceedings brought against him for being an informant of the former secret police were unfair. He complained about the impact of those proceedings on his reputation, personal dignity and integrity. He also alleged that he was, and continuously remains, registered as a collaborator without his knowledge or acceptance, that his personal information had been collected and continuously stored in the registries of the State security services and that unauthorised persons had access to his personal information.

121. See CPT/Inf(2012)4, pp. 71-85.

122. See CPT/Inf(2012)5.

123. EC (2012) Progress report, p. 13.

7.4. Fight against trafficking in human beings

126. Macedonia ratified the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197)¹²⁶ on 27 May 2009. Macedonia remains a source, destination and transit country for human sex trafficking and forced labour. The report on the 1st evaluation round is currently being prepared by the Group of Experts on Action against Trafficking in Human Beings (GRETA) and should be considered later by the Committee of the Parties.

127. Pending the publication of the first evaluation report, I note that, according to the European Commission¹²⁷, moderate progress has been achieved in addressing trafficking in human beings. The Centre for Victims of Human Trafficking accommodated nine victims in 2011 and two other victims, who were foreign citizens, were placed in the Foreigners' Reception Center in Skopje. In 2011, 35 persons were charged on suspicion of trafficking, compared with 25 in 2010 and 12 persons were convicted and imprisoned in 2011 (there were 11 in 2010).¹²⁸ A comprehensive, multi-disciplinary and victim-oriented approach to trafficking still needs to be developed, and proactive identification of victims of trafficking needs to be improved.

7.5. The institution of the Ombudsman

128. In its last progress report, the European Commission noted that the recommendations of the Ombudsman's Office continued to be respected by the public bodies in the majority of cases (78%). The least responsive bodies in this regard remained the second instance government commissions, followed by the Ministry of Finance, the Ministry of the Interior and local self-government units.¹²⁹ This is corroborated by the Congress of Local and Regional Authorities, which regretted that consultations with the Ombudsman's office in the legislative procedure are still not regular and have been very limited since the last elections, while local authorities continue to be among the least responsive authorities to the Ombudsman's instructions and recommendations".¹³⁰ The majority of violations concerned consumer rights, property rights, labour rights and prisons.

7.6. Combating discrimination

129. The 2010 Law on Prevention and protection against discrimination legislation (anti-discrimination law) was enacted in 2012. The Commission for the protection against discrimination was set up.

130. The law does not, however, include a reference to sexual orientation, which is a ground for discrimination and stigmatisation in the country, and could fail to protect the rights of lesbian, gay, bisexual and transgender (LGBT) people. The Commission for Protection from Discrimination considered complaints from the LGBT community and had the Ministry of Education agree to review textbooks and withdraw parts that have negative LGBT stereotypes and prejudices.¹³¹

131. A few days before my visit in October 2012, a young activist had been attacked in Skopje, two individuals had violently attacked the President of the human rights NGO "LGBT United Macedonia", Alen Shakiri, on the street, and the new LGBT centre had been attacked.¹³² The NGO deplored inflammatory articles relayed by the media, which linked homosexuality to incest, paedophilia and polygamy, and was so shocked by statements made by Spiro Ristovski, the Social Affairs Minister,¹³³ that they decided to sue for harassment and discrimination. The Minister issued a disclaimer to the media.

124. In 2006 and 2007, the Assembly adopted two high-profile investigative reports on illegal transfers of detainees and secret detentions in Council of Europe member States (Docs. 10957 and 11302), which highlighted the case of Khaled el-Masri as a particularly well-documented example of illicit practices by the CIA. These reports gave rise to parliamentary and judicial investigations in several member States of the Council of Europe. See http://assembly.coe.int/ASP/NewsManager/EMB_NewsManagerView.asp?ID=8255&L=2.

125. I should add that, between 1997 and 2011, the Court delivered 78 judgments concerning Macedonia, of which 72 found at least one violation of the European Convention on Human Rights, primarily of Article 6 (right to a fair trial within a reasonable time), and three found no violation. See http://www.echr.coe.int/Documents/Country_Factsheets_1959_2010_ENG.pdf.

126. www.coe.int/t/dghl/monitoring/trafficking/default_en.asp.

127. EC 2012 Progress report.

128. Figures provided by the authorities, AS/Mon (2013) 10, p. 13.

129. EC 2012 Progress report, p. 10.

130. Recommendation 329 (2012), paragraph 5.k.

131. [Country Reports on Human Rights Practices for 2011](#), the US Department of State Bureau of Democracy, Human Rights and Labor, p. 30.

132. Press release of the European Parliament LGBT-Intergroup of 23 October 2012, "Macedonia: MEPs worry about increasingly homophobic climate".

7.7. Situation of refugees and internally displaced persons

132. According to the UNHCR, Macedonia hosts nearly 1 600 refugees, mostly of Roma ethnicity, who left their homes as a result of the 1999 conflict in Kosovo. The UNHCR gives priority to achieving durable solutions for Kosovar refugees through voluntary return and local integration, in accordance with the government's strategy. 257 persons were voluntarily repatriated to Kosovo and Serbia in 2011 and the number of internally displaced persons (IDPs) decreased from 611 in 2010 to 474 in 2011¹³⁴ and 296 in February 2013.¹³⁵ Limited housing is a major constraint and projects are currently being developed to improve the housing possibilities.

133. The issue of missing persons and the durable accommodation of 90 people who are still living in six collective centres was addressed by the Commissioner for Human Rights during his last visit.¹³⁶

134. I was informed that most of the asylum seekers from Afghanistan, Pakistan, Africa and the Middle East (who amounted to 400 persons in 2010, a figure which was expected to increase) leave within weeks of their arrival. The Minister of the Interior expressed her concern about this rising number (from 180 in 2010 to 740 in 2011) and the huge pressure that could harm the system of protection of asylum seekers, who usually intend to reach west European countries.

135. Macedonia adopted amendments to the Law on Asylum and Temporary Protection in 2012 (to comply with the European Union directives¹³⁷), the authorities prepared a "Strategy on Integration of Refugees" and a National Action Plan to implement the Strategy during the period 2008-2015, especially in the fields of housing, education, health protection, employment and social protection. By February 2013, there were 16 recognised refugees and 587 people who were under subsidiary protection, the majority of whom requested international protection after the conflict in Kosovo in 1999. The refugees belonged mainly to the Roma, Ashkali and Egyptian ethnic communities. An annual programme for integration of refugees was launched by the Minister of Labour and Social policy in 2011 to encourage refugees to take a proactive role in their local integration. In October 2012, a health card was given to 342 refugees (covering 588 refugees), giving them access to the national system for health insurance.¹³⁸

136. I welcome the amendments made to the Law on Free Legal Assistance and the Law on Health Insurance, which now includes asylum seekers, and the adoption of an integration programme for 2012, ensuring State funding for housing support to persons who are granted asylum.¹³⁹ However, I understood that a number of issues related to the asylum procedure remain open, such as first instance asylum decisions and the decision on determination of refugee status, despite improvements and the delivery of identity documents to asylum seekers.

137. The UNHCR representative I met in May 2012 confirmed that national asylum practices ought to be improved, both with regard to the Refugee Status Determination procedure and access to social and economic rights compatible with international standards and European Union accession requirements, ensuring that this process takes place in a legal framework and avoids overexposure to vulnerability and risks. The prevention of statelessness, including accession to the 1961 Convention on the Reduction of Statelessness, remains at the forefront of UNHCR activities in this country where nearly 1 200 people are at risk of statelessness.¹⁴⁰

7.8. The situation of the Roma people

138. As regards the rights of Roma, Minister Mustafa (former Mayor of Suto Orizari, the only Roma municipality in Europe) indicated that there are 54 000 Roma according to the data available – 40 000 of which live in Suto Orizari. He explained the measures taken by the Macedonian authorities, emphasising the need to improve the living conditions of the Roma and access to education for Roma children. However,

133. www.balkaninsight.com/en/article/rights-groups-sue-macedonian-minister-for-homophobia.

134. Figures mentioned in EC 2012 Progress report, p. 18.

135. Figures provided by the authorities, AS/Mon (2013) 10, p. 14.

136. www.coe.int/t/commissioner/News/2012/121129Macedonia_en.asp.

137. The directives referred to by the authorities are Directive 2003/9/EC (27 January 2003), Directive 2004/83/EC (29 April 2004) and Directive 2005/85/EC (1 December 2005).

138. Figures provided by the authorities, AS/Mon (2013) 10, p. 14.

139. EC 2012 Progress report, p. 54.

140. www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48d8f6&submit=GO.

Roma continue to face very difficult living conditions and discrimination. Macedonia was, since July 2011, chairing the Decade for Roma Inclusion. The Minister conceded that there was no specific action targeting Roma IDPs (1 500 being registered as refugees).

139. During my visits to Macedonia, I was informed of the action undertaken to protect the rights of Roma. A number of initiatives have been taken to support Roma, including the adoption of a strategy on social inclusion of Roma 2012-2014 and the launch of a Roma health mediator programme in 16 municipalities. Requests for the legalisation of illegal houses were submitted to the municipalities and new Roma information centres have been opened. In October 2011, the Macedonian authorities, in co-operation with UNHCR, launched an initiative to identify and register any persons not yet appearing in the registry of births, which is now reaching its final stage. 459 Roma children were included in a project on “inclusion of Roma children in pre-school”, in co-operation with the Roma Education Fund and 18 units of local self-government.¹⁴¹

140. However, there is apparent discrimination against Roma in the fields of employment, housing and health, etc. According to a report published jointly by the European Union Agency for Fundamental Rights (FRA) and the UNDP, only 15% of young Roma adults surveyed have completed upper-secondary general or vocational education, compared with more than 70% of the majority population living nearby; on average, less than 30% of Roma surveyed were in paid employment.¹⁴²

141. Following his visit to Macedonia in November 2012, the Commissioner for Human Rights, Nils Muižnieks, urged the Macedonian authorities to promote the human rights of Roma, pointing to the disproportionate number of Roma children who are placed in “special needs” schools for the learning-disabled, which should only be necessary for those with severe disabilities, Roma children should attend classes in mainstream schools; the statelessness and lack of personal identification documents that still affect many Roma, including children, preventing their access to basic services.¹⁴³

142. Concerning the issue of nationality, I was provided with extensive information on the Law on Nationality, amended in 2004, transitional measures to find permanent solutions to the problems of individuals who, *de jure* and *de facto*, had no nationality after the disintegration of the former Yugoslavia, the efforts made by the Ministry of the Interior, in co-operation with UNHCR, the Council of Europe, the OSCE and NGOs during the transitional period (2004-2006) to inform the public about the amended Law on Nationality. As a result, by February 2013, 2 600 Roma people who had submitted a request were able to obtain Macedonian nationality.¹⁴⁴

143. I would like to commend the Macedonian authorities for the efforts they put into the registration, integration and increasing access of the Roma to social rights. I would also like to strongly encourage Macedonia to pursue these efforts and, through inclusive policies, contribute to the initiatives launched by the Council of Europe to combat discrimination against Roma, including Roma children.¹⁴⁵

7.9. The issue of bogus asylum seekers

144. In recent months, I was alerted by NGOs about the situation of bogus asylum seekers, mostly Roma people seeking asylum in European Union countries. There were allegations that possible practices and proposals – which would not have been compatible with Council of Europe and international legal instruments – could be developed to deter these persons from abusing the visa liberalisation regime, such as confiscation of their passports. While I did not collect any evidence of such practices, the Minister of the Interior, Ms Jankuloska, confirmed that the Penal Code had been amended, making the abuse of the visa liberalisation regime a criminal offence. She confirmed that measures were being taken to stop a trend that threatens the visa liberalisation regime, including the checking of documentation to verify the purpose of the travel and the intention to return to their country, while Macedonia was working at the same on the improvement of the living conditions of these people.

145. The prevention of bogus asylum seekers in Macedonia has been addressed by the Macedonian authorities and the European Commission in the framework of the implementation of the visa liberation regime. However, I need to stress that this question must also be addressed in line with human rights standards. I will here refer to the statement by the former Commissioner for Human Rights, Thomas

141. AS/Mon (2013) 10, p. 15.

142. www.undp.org.mk/?LCID=35&NewsID=473.

143. www.coe.int/t/commissioner/News/2012/121129Macedonia_en.asp.

144. AS/Mon (2013) 10, p. 16.

145. See the newly adopted [Resolution 1927 \(2013\)](#) on ending discrimination against Roma children (Doc. 13158, rapporteur: Ms Memecan, Turkey, ADLE).

Hammarberg, recalling that “the right of the individual to leave his or her country is an established human right”, and underlining that “those who moved and sought asylum within the European Union had done so on their own initiative and because of a genuine experience of physical and/or economic insecurity, and wanted to get away from injustices and/or poverty and abject misery” and concluding that “seeking asylum is a human right and those who have grounds for protection status should be granted such status. Others will have to accept a negative decision”.

146. Commissioner Muižnieks was also concerned about allegations of ethnic profiling by the authorities, which reportedly prevents many Roma from leaving the country under the visa-free travel regime instituted three years ago. “Such measures may run counter to certain international standards, such as freedom to leave one’s country and the right to seek asylum, and result in another layer of discrimination against the Roma minority.”¹⁴⁶

147. Measures include controls at the border, the marking of passports for those whose asylum requests were turned down, and criminal sanctions for those who organised the travel of “bogus asylum seekers”, following the reform of the Penal Code and the adoption of the amendments to Law No. 135 on travel documents in October 2011.¹⁴⁷ Information in the media referred to 6 500 Macedonians retained at the Serbian border between April 2011 and October 2012.¹⁴⁸ Again, I urge the Macedonian authorities to apply preventive and effective measures in compliance with international standards, which should never deprive people of their right to leave the country.

148. The number of asylum applications lodged by the citizens of the country in the European Union decreased from 7 550 in 2010 to 5 545 in 2011. Since the entry into force of the above-mentioned Law No. 135, by February 2013, a total of 1 370 people were returned or deported and prohibited from travelling abroad, according to official data.¹⁴⁹

149. However, long-term policies to improve social and economic inclusion of the most vulnerable groups of the population most likely to migrate remain underdeveloped and underfunded. Continuous training on detection of forged documents was provided for staff of diplomatic and consular missions.¹⁵⁰

8. Conclusions

150. My overall impression at this stage is that the country is committed to progress on its way to fulfilling all the remaining commitments and obligations and adopting the necessary legal framework. Although the lack of involvement by the President and Prime Minister in the preparation of this report does raise questions as to the strength of that commitment. I have also noted that the country remains highly divided, across both political and ethnic lines, and that the implementation of laws remains problematic.

151. The polarisation and politicisation of society gives the ruling party VROM-DPME a major responsibility to ensure that an inclusive dialogue is developed with all segments of society and political parties. A series of actions undertaken against the media, opposition parties and NGOs is a matter of great concern for the opposition and the representatives of the civil society, who perceive these actions as selective and as a sign of radicalisation. Such moves will not contribute to enhancing the social cohesion of a country that remains highly divided, that still needs to overcome the consequences of the 2001 events and find ways to foster a feeling of “living together” taking into account the sensitivity of the different communities,¹⁵¹ including the smallest ones. In this respect, it is essential to carry out a well-prepared census with an undisputed methodology, as the results of this census will have a direct effect on all communities.

146. www.coe.int/t/commissioner/News/2012/121129Macedonia_en.asp.

147. According to the authorities, this law stipulates that a request for issuing a passport will be rejected if the person was forcefully returned or deported from another country due to contravening the regulations for entry into that country. However, after one year, rejection of a request for this reason will no longer be allowed. AS/Mon (2013) 10, p. 16.

148. Interview given by the Spokesperson of the Macedonian Ministry of the Interior to the [German ARD TV](#) on 25 October 2012.

149. AS/Mon (2013) 10, p. 16.

150. EC 2012 Progress report, p. 56.

151. The “Skopje 2014” project for example might have rekindled feelings of discrimination among ethnic Albanians as this project was perceived as the government’s “ethnic Macedonian” project (the “Skopje 2014” project envisages the erection of at least 15 new buildings, including theatres, concert halls, office buildings and museums, an obelisk, several large fountains, two new bridges, some 20 tall statues and over 100 smaller ones).

152. De-politicisation of public life will be a challenging issue, which has to be seriously addressed by the authorities and endorsed by all political parties in order to enhance the transparency and efficiency of public institutions and boost the socio-economic development of the country. In this respect, every support should be given to the further development and application of merit-based recruitment, which could offer real perspectives to the youth in Macedonia, a country where a third of the population lives below the poverty line.

153. We should not underestimate the significant improvements in interethnic relations brought about by the Ohrid Framework Agreement. The OFA therefore remains an essential element for democracy and rule of law in the country, as pointed out by the European Commission.¹⁵² I believe that only the full implementation of the OFA in a fair, transparent and inclusive manner can contribute to securing peaceful coexistence and ensure the full participation of non-majority communities, including the smallest ones, in public life, and their access to social rights, in particular jobs. Continuous efforts, through dialogue and confidence-building measures, are much needed to reach this objective. The recent interethnic incidents are a sign of a situation that remains fragile and that new political initiatives would be welcome to enhance social cohesion.

154. Reliable statistics, evaluation and benchmarking of the implementation of the Ohrid Framework Agreement are essential to make further progress. I therefore commend the Macedonian Government for the stocktaking report on the implementation status of policies deriving from the Ohrid Framework Agreement, which should be publicly debated, analysed and should inspire new policies.

155. In this polarised context, the issue of freedom of media is crucial. The current trend is quite worrying and the authorities should tackle this issue seriously, involving journalists in enhancing the transparency of media ownership, ensuring the protection of journalists, ensuring the independence of journalists and improving their working conditions and professional standards. The decriminalisation of defamation is a positive step towards enhancing the freedom of the media.

156. I hope that the outcome of the June 2011 elections, that led to a more equitable distribution of seats among the four main political parties (VMRO-DPMNE, SDSM, DUI and DPA), will continue to provide momentum to promote a constructive approach to policy drafting, to the elaboration of laws in compliance with international standards and to the implementation of legislation. All political parties have their share of responsibility and the parliament should assert fully its role, including its oversight responsibilities.

157. In this respect, I would urge the Macedonian authorities to take a vigorous approach to tackle the grounds for discrimination and segregation and consolidate inclusive policies that will boost the development of the country and strengthen social cohesion.

158. Many reforms are still being conducted and further progress is expected in the field of public administration and the judiciary, the fight against corruption, the implementation of the rule of law, freedom of expression, the implementation of the European Charter of Local Self-Government (ETS No. 122), the situation of IDPs and asylum seekers, etc.

159. The launch of the High Level Accession Dialogue with the European Commission in March 2012 led to renewed co-operation with the Council of Europe and helped Macedonia to speed up the fulfilment of its remaining commitments and obligations towards the Council of Europe, as issues of common interest will have to be addressed.

160. In this respect, I would strongly suggest to the Macedonian authorities that they increase their co-operation with the Council of Europe and take full advantage of their membership in the Organisation to improve the rule of law, human rights and democracy, including parliamentary governance. Such co-operation could at the same time pave the way to meeting the European Union criteria contained in chapters 23 and 24 of the accession negotiations (relating to fundamental rights and justice). I trust that a renewed partnership with the Council of Europe, in co-ordination with the European Union and the OSCE, would benefit the overall reform process undertaken by Macedonia. I therefore strongly encourage the Macedonian authorities to make use of the expertise and exchange of good practice offered by the Council of Europe in a multilateral forum. This leads me to propose that the Council of Europe fully support the efforts of the Macedonian authorities to fulfil their remaining commitments and obligations, and consider opening a Council of Europe office, in accordance with Committee of Ministers Resolution CM/Res(2010)5 on the status of Council of Europe Offices, in order to "promote and support the policies and activities of national authorities, as well as those of the Council of Europe bodies, related to membership of the Council of Europe; provide advice, support and overall in situ co-ordination with national authorities in planning, negotiation and timely implementation of targeted Council of Europe co-operation activities, including Joint Programmes with the European Union and

152. EC 2011 Progress report.

other donors; facilitate the identification of needs for capacity-building, in co-operation with national authorities and co-ordinate activities in the country with other international organisations and institutions (EU, OSCE, UN), as well as other international and local partners active in the country".¹⁵³

161. In the meantime, I encourage the Macedonian authorities to work closely with the Council of Europe monitoring mechanisms and take due consideration of the recommendations drafted by the Commissioner of Human Rights in 2013.

162. While I understand the disappointment expressed by the Macedonian authorities after the European Council failed to agree on the opening of the accession negotiations, as recommended by the European Commission, I believe that continuing the domestic reform process can only but contribute towards this objective. The support of the international community and neighbouring countries is essential to facilitate the democratisation process of Macedonia and pave the way for its integration in the European Union and NATO, to which it aspires.

153. Paragraph 1 of the Appendix to Resolution CM/Res(2010)5 on the status of Council of Europe Offices, adopted by the Committee of Ministers on 7 July 2010 at the 1090th meeting of the Ministers' Deputies.