



**JUSTICE,
FREEDOM,
SECURITY**

**A guide
to European
policies,
institutions
and acquis**



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A guide to European policies, institutions and acquis

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PREFACE

EU policies aim to develop the Union as an area of freedom, security and justice to ensure free movement and a high degree of protection for citizens. European citizens need to feel confident that, no matter where they go, their freedom and security is protected in line with the values of the Union, such as the rule of law and fundamental rights.

Unlike most other chapters, Chapter 24 does not imply a common policy of justice, freedom and security. Given the scope and comprehensiveness, there are some common policies that are an integral part of this area, but some of the policies are still under development.

It should be borne in mind that policies in the field of justice, freedom and security encroach on the sovereignty of states and many national security issues remain within the competence of the member states. At the same time, some of the areas within Chapter 24 inevitably coincide with Chapter 23 - Judiciary and Fundamental Rights, and both chapters are considered an integral part of the rule of law political criterion.

This document intends to guide the stakeholders of North Macedonia, i.e. the representatives of the institutions, civil society organizations, media and other stakeholders, through the complex legal and institutional structure of the areas within Chapter 24.

The first part is a review of the European Union's historical development as an area of justice, freedom and security. This section presents the key milestones that have enhanced cooperation in this field, as well as the way in which the EU decides on such important issues that affect the safety of European citizens.

In the second part the readers have the opportunity to get acquainted with the accession negotiations process and the key phases through which the Republic of North Macedonia (hereinafter: North Macedonia) will have to go on the road to European integration. Chapter 24 is part of the „Basic Values“ cluster, which first opens with the start of negotiations and is a subject of special interest not only to the institutions of the European Union but also to individual EU member states.

The third part presents the conceptual, strategic, legal and institutional framework for each of the areas within Chapter 24: migration, asylum, Schengen and external borders, visas, fight against organized crime, fight against terrorism, judicial cooperation in civil and criminal matters, fight against drugs and euro-counterfeiting prevention.

The financial framework for Chapter 24 and the financial instruments available to North Macedonia for further alignment with the legislation and the institutional and administrative capacity for implementation are provided at the end.

The official sources of the institutions of the European Union, the report of the



European Commission on the progress of North Macedonia, as well as academic literature, reports of institutions and other documents were used for the preparation of this guide. The guide to EU policies on freedom, security and justice by the authors Sonja Stojanović Gajić и and Drazen Maravić¹, as the most comprehensive similar relevant document issued in the Western Balkans region, was also an important source and starting point for further elaboration of each area.

At the same time, the professional experience and knowledge of the authors was the most important resource that enabled the realization of the basic idea of creating a practical and relevant guide, which will be available to all stakeholders in Macedonian society who are directly or indirectly affected by European integration processes

Magdalena Lembovska, editor

1. Sonja Stojanovic Gajic, Drazen Maravic (2015), Vodic kroz EU Politike, Sloboda, Bezbednost, Pravda, Evropski pokret u Srbiji.

1. JUSTICE, FREEDOM AND SECURITY IN THE EUROPEAN UNION

Natalia SHIKOVA, PhD

1.1. A BRIEF HISTORY OF THE EUROPEAN UNION

Historically, Europe as a continent has enjoyed, since the creation of the European Union (hereinafter - the EU) more than half a century ago, the longest period of peace. The European political integration is historically unique, as the creation of the EU and its enlargement helped prosperity and stability and with them gradually overcame the divisions that led to war. By establishing a single market, equal market conditions for companies and consumers, and the introduction of a common currency, the EU took the first step towards unification, bringing the citizens of Europe together around common values such as democracy, the rule of law, respect for human rights and fundamental freedoms. Hence, the EU is not only the largest economic body in the world, but also the most successful model for promoting peace and democracy. The uniqueness of the EU is reflected in the fact that its member states, in many areas, voluntarily transfer national sovereignty to the EU institutions, in order to implement common policies. All this does not make the EU a superpower, nor is it a replacement for the existing world of states, but establishes it as more than just an organization for international cooperation.²

The EU operates through a number of institutions, including the European Commission, the European Council, the Council of the EU (Council of Ministers), the European Parliament, the Court of Justice of the EU, and other stakeholders creating the *Acquis communautaire*, or the Law of the EU. The EU mission is aimed at maintaining and building peace among its member states; their rapprochement through cooperation; ensuring a safe life for European citizens; strengthening economic and social solidarity; preserving European identity and diversity in a globalized world; promoting shared values.

Nevertheless, the story of Europe is not just a story of great achievements throughout history, but also a testimony to both wars and hostilities. In fact, the two great wars of the twentieth century flared up on this continent, and then gradually took over the geographically and socio-politically most remote places of the atlas, thus gaining the epithet - “world wars”. After the Second World War, the idea of establishing peace between the European victorious and defeated nations was imposed, for their unification through common institutions in which they would be presented as equal and cooperative. Based on the plan of Robert Schuman, Foreign Affairs Minister of France, the *Treaty of Paris in 1951* established the first *European Coal and Steel Community*, and the six founding countries - Belgium, Federal Republic of Germany, France, Italy, Luxembourg and Netherlands accepted joint management of the so-called “heavy industry”.

² Paul Craig and Grainne De Burca (2011), *EU Law, Text, Cases and Materials*, fifth edition, Oxford University Press

Hence, these six countries united their national industrial capacities and decided to move towards the format of - **European Economic Community (EEC)**, which, in turn, was established by the **Treaty of Rome in 1957**, and the goal was to create - “joint market”, i.e. to remove national barriers to free trade, including border controls and customs duties. As a result of that integration, today - people, goods, services and capital - move freely throughout the Union. **In 1957**, the **European Atomic Energy Community (EUROATOM)** was founded, creating a specialized European market for nuclear energy and encouraged research and established unique norms for nuclear energy safety and control. **These three communities - the Coal and Steel Community, the EEC and the EUROATOM** - form a joint body of institutions and with the **Brussels Merger Treaty** (of 1965) also called the Treaty on European Communities established themselves as a single structure.

The Single European Act (SEA) of 1987 was the first major revision of the Treaty of Rome (EEC Treaty), aimed to establish a single market by 1992. After the collapse of the communist systems throughout Central and Eastern Europe, in 1993 the single market was completed with the so-called - “four freedoms”, for the movement of: goods, services, people and money. The idea of European political cooperation was conceived within this organizational framework followed by the **Maastricht Treaty on the European Union** (in 1993; also called the Treaty on European Union), and the **Treaty of Amsterdam** (1997). Although the Treaty on European Union made a significant step towards increased integration, it did not cover many key areas, such as the environment, social rights, etc., whereas in terms of defense and justice issues the EU Treaty only established co-operation through a three-pillar system. Subsequently, this Treaty has been amended several times - with the Treaty of Amsterdam (1997), the Treaty of Nice (2001) and the Treaty of Lisbon (2007).

The Amsterdam Treaty of 1997 rearranged the articles of the Treaty on European Communities, and further encouraged integration. **The Treaty of Nice of 2001** introduced major changes in the composition of the institutions, voting procedures, enlargement and established ideas for “enhanced cooperation”, one of which gradually became the EU Constitution, not ratified by all member states thus leaving doubts about the future development of the EU. **The 2007 Lisbon Treaty**, which entered into force in 2009, paved the way for a more democratic and transparent Europe, for a more efficient Union, visibly and authoritatively present on the global political scene, a Union based on rights, values, solidarity and security.

1.2. EUROPEAN INTEGRATION

Theories of integration explain the evolution of the legal and constitutional structure of the EU, i.e. the process and result of European integration. Although they have different approaches to explaining European integration, they guide and assume why some policies are successful and others are not, that is, they explain why some progress had been made at a given time. For the purposes of this handbook, we will look at two theories of integration that we consider rel-



evant, namely the theory of intergovernmental cooperation (“intergovernmentalism”) and the theory of multi-layered government.

The theory of intergovernmental cooperation (intergovernmentalism) disproves the theory of neofunctionalism placed in the 1970s, that is, its theoretical assumptions about the possible “spillover effect” (neofunctional theorists believed that integration would spill over from one level to another), i.e. considered that the integration process lacks automation and functional dynamics, necessary to propel the integration. This theoretical framework considered that supranational institutions lose their influence, and the interests of individual member states dominate the integration process. Therefore, the proponents of this theory emphasized the importance of national interests, and pointed out the national political and institutional representatives as key to integration.

Proponents of multi-layered governance, on the other hand, saw economic cooperation as a very limited form of integration, meaning that progress could only be made through stronger integration. Here theorists focused on a wide range of institutions and political representatives involved at different levels of policy-making and decision-making within the EU. For them, multi-layered governance does not presuppose - one center with accumulated authority, but - combinations of supranational, national and subnational governments that continuously work together.

These theories are strikingly reflected in the policy-making processes in the EU - both currently and in the various stages of the Union’s development. In them, the idea of political union is the last stage of the multinational integration process. According to EU theorists, until a political union is reached and all member states ensure the implementation of key EU policies, until then the idea of political unification will be deficient, or, simply put - will not be realized. In certain aspects of the European integration, intergovernmental political cooperation will continue to exist, leaving EU member states a wide space and great freedom for action.³

1.3. EU COMPETENCES

The EU is a voluntary association of states. Therefore, it has limited own resources and tax facilities, but not too much power to implement. The EU’s competences are defined in a catalog of competencies. Autonomous decision-making powers have been established resulting in legally binding instruments. In these respects, European law transcends conflicting national laws. Individuals are also subject to European law and this has a direct effect on them, with the EU Court of Justice having a key role to play in exercising the Union’s policies. The EU is a political and legal entity *sui generis* (of a special kind). The countries that make up the Union (its “member states”) remain independent, but with certain limitations of sovereignty, in order to achieve more effective policy results. Pooling sovereignty in practice means that member states delegate some of their decision-making powers to joint institutions, thus allowing decisions on

3. Nicholas Moussis (2007), Guide to European Policies, 12th Revised edition, European Study Service.

specific issues of common interest to be taken at EU level. According to the agreements, the member states give competencies to the EU, i.e. give it powers, and the EU can act only within those specific frameworks. Competencies not conferred (transferred) by EU treaties remain with EU Member States. The EU institutions, acting together or separately, adopt legal acts (regulations, directives or decisions), which can enter into force in the legal systems of the EU member states automatically or conditionally - through the adoption of a special law in the national legislation of the EU member state. In this regard, the harmonization of or adjustment to the EU law means introduction of common standards and laws across EU member states.

The current Lisbon Treaty clarifies the division of competencies between the EU and the member states of the Union. The competencies are divided into 3 basic categories: exclusive, shared and supporting competencies.

Exclusive competences (according to Article 3 of the Treaty on the Functioning of the EU) are provided for areas in which only the EU can create legislation and adopt legally binding acts. EU member states, on the other hand, can act on their own initiative in that direction, but only if the Union authorizes them in advance. In particular, the EU has exclusive competence in the following areas:

- the customs union;
- the establishing competition rules, necessary for the functioning of the internal market;
- monetary policy for the euro area countries;
- conservation of marine biological resources within the common fisheries policy;
- common commercial policy;
- conclusion of international agreements under certain conditions.

The shared competence (according to Article 4 of the TFEU) implies that both the EU and the Member States can adopt legislation and binding acts. Joint competencies exist for:

- issues related to internal market;
- social policy, but only for aspects specifically defined in the Treaty;
- economic, social and territorial cohesion (regional policy) ;
- agriculture and fisheries (except conservation of marine biological resources);
- environment;
- consumer protection;
- transport;
- trans-European networks;
- energy;
- area of freedom, security and justice;
- shared safety concerns in public health, limited to the aspects defined in the TFEU;
- research, technological development and space;
- development cooperation and humanitarian aid.

In these areas, EU member states can exercise their competences independently, but only if the EU does not use that competence [under Articles 2 (2) and 4 of the TFEU].

Supporting competences (competences (according to Article 6 of the TFEU) are the competences where the EU can only intervene to support, coordinate or complement the action of EU countries. Legally binding acts of the Union adopted on the basis of the provisions of the Treaties relating to these areas shall not entail harmonization of Member States' laws or regulations. Legally binding EU acts do not entail harmonization of EU Member States' laws or authentic regulations (articles 2 (5) and 6 of the TFEU). Supporting competences relate to the following policy areas:

- protection and improvement of human health;
- industry;
- culture;
- tourism;
- education, vocational training, youth and sports;
- civil protection;
- administrative cooperation.⁴

1.4. PRINCIPLES OF ACTION

According to the fundamental principle of EU law, the Union acts only within the competences conferred on it by its member states. Those competencies are defined in Articles 2–6 of the Treaty on the Functioning of the EU. Competences not conferred on the EU remain with the member states of the Union. ***The principle of conferral*** regulates the boundaries of the EU competences, while the use of those competencies is regulated by the principles of subsidiarity and proportionality, set out in Article 5 of the Treaty on European Union.

The EU action must be in line with ***the principle of subsidiarity***. According to this principle, outside the areas of exclusive competence of the EU, the Union acts only if the objectives of the proposed action cannot be adequately achieved at national, regional or local level, for each Member State separately. That is, the EU takes action if the set goal can be better achieved at Union level [Article 5 (3) TEU].

The principle of proportionality regulates how the EU exercises its powers, i.e. puts within certain limits the activities undertaken by the EU institutions. According to this principle, EU action must be limited to the extent necessary to achieve the objectives of the Treaty. In other words, the content and form of the action must be in line with the intended purpose. The principle of proportionality is set

⁴Treaty for the Functioning of the European Union,
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT>

out in Article 5 of the Treaty on European Union.⁵

There are two protocols annexed to the Treaty of Lisbon that are crucial on these issues: :

- **Protocol no. 1** encourages the involvement of national parliaments in the activities of the EU and calls for EU documents and proposals to be sent to them immediately so that they can be considered before the EU Council takes a decision;
- **Protocol no. 2** urges the EU Commission to take into account the regional and local dimension of all draft legislation and to provide a detailed report on how the principle of subsidiarity is respected. Protocol no. 2 allows national parliaments to oppose a proposal, but with an explanation as to why they consider the principle to be violated, and as a result of that debate, the proposal must be considered in detail and then put to a vote, with the possibility for the Commission to modify it or withdraw it; but the European Parliament and the Council also have the right to block the proposal. In addition, in the event of a breach of the principle of subsidiarity, the Committee of the Regions or EU Member States may refer the matter directly to the Court of Justice of the EU.⁶

1.5. EU POLICIES

Based on the brief history described above, the ways in which the EU functions and the composition of its competencies, it is evident that European integration is the result of previous experiments and groupings, which have contributed to the unification of Europe. The policy-making procedures within the EU are structural, i.e. they are determined by rules contained in the Treaties, which, in turn, specify the ways in which actors use internal procedures to create a particular policy. In that sense, there are traditional, so-called “hard policies”, but also “soft policies” intended to establish guidelines and standards to be achieved, instead of imposing mandatory, detailed requirements.

Areas in which the EU can create policies are evolving, changing over time. There has been significant growth in that direction, especially from a historical perspective, primarily tied to cooperation in the production of coal and steel, going up to the EU’s clear legal competencies for policy-making in a wide range of areas. Although many key policy areas are still outside the official competence of the EU, the Union still has the opportunity to apply the provisions of the Treaty and take decisions in areas for which it is not competent, of course, if it is necessary to achieve a given objective. In any case, this is not a preferred option for the national governments of the EU member states. The common policy is a set of decisions, measures, rules and codes of conduct, adopted by both the joint institutions and the Member States. The common policy does not exclude

5. Treaty on the European Union

https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF

6. Treaty of Lisbon

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2007.306.01.0001.01.ENG&toc=OJ:C:2007:306:TOC#d1e585-1-1



national policies, which continue to exist in areas not covered by decisions and rules agreed within the joint institutions.⁷

The main areas of EU policies can be classified as:

- market creation measures (the main competences of the EU are in the field of economic and trade policy);
- market support measures (in areas vital to the creation of a single European market or to assist in its establishment, i.e. to reduce its negative impact on certain social groups and on geographical areas, such as: agriculture, regional policy for cohesion, environment, public health and consumer protection policies);
- market defense measures (single market protection policies implemented for non-EU countries; for example: economic foreign policy).

The EU has limited competences in:

- taxation and fiscal policy (EU has competence only in monetary policy);
- defense (there is no permanent EU army; moreover, the EU is only responsible for humanitarian or peace measures);
- foreign policy (with the exception of foreign trade issues);
- national security (police and immigration policies remain a national competence, despite increased cooperation at EU level);
- budget (member states agree on how much of their GDP to give to the EU).

However, despite the limited legal and financial competence of the EU in certain areas, no international organization can match it in terms of the scope and depth of its policy-making competencies.⁸

1.6. POLICY OF FREEDOM, SECURITY AND JUSTICE

The policy of freedom, security and justice is one of the latest EU policies, updated due to the establishment of the common market, but also due to security threats arising from the process of globalization, which transcend strict national borders. The basis for the functionality of the EU is in the founding agreements that established its institutions and competencies, but the agreements, as we have already said, are subject to changes, hence numerous agreements, strategic programs were signed, and instruments were developed that concretize the cooperation in the field of freedom, security and justice. Conceived and perfected for decades, initiated in the mid-1970s, the idea of legal and institutional co-operation within the EU underwent significant changes - from informal ad hoc co-operation to today's institutionally established co-operation, which, after the entry into force of the Treaty of Lisbon has evolved through a number of new forms and policies.⁹

7. Nicholas Moussis (2007), *Guide to European Policies*, 12th Revised edition, European Study Service

8. Alex Warleigh (2005) *European Union, The Basics*, Routledge.

9. Sonja Stojanovic Gajic, Drazen Maravic (2015), *Vodic kroz EU Politike, Sloboda, Bezbednost, Pravda, Evropski pokret u Srbiji*.

The policies are reflected in Chapter 24 on EU law, a chapter of great importance for our country, because it reflects the functioning of the rule of law system, border control, the fight against organized crime, and other key areas covered by its legal content. Judiciary and home affairs policies are areas of public policy traditionally linked to the competencies of a sovereign state. They fall under the so-called “high politics”, i.e. belong to the areas of public policy, especially important for the sovereignty of a state and for the protection of the national identity of the citizens. In fact, this is the key difference between them and the so-called “low politics”, through which the daily life of the citizens is considered, whereby the states are generally open for their public review, and even through the integration process are ready to accept and limit some of their competencies. From the seventeenth century until today, the principle of sovereignty has been the cornerstone of Europe’s political organization, because, in essence, it signifies the state’s ability to decide its actions independently, without external pressure from other states, although, historically, almost no example of complete national sovereignty can be found. In this sense, the relationship between national sovereignty and the EU is extremely complex, especially having in mind the desire of member states to retain their sovereignty as much as possible.¹⁰Hence, the integration processes in the areas related to justice, freedom and security face certain problems.

Cooperation in these areas was started by EU member states in the mid-1970s, outside the Union’s institutional framework. It has been partially institutionalized through “cooperation in the field of justice and home affairs”, covered by the third pillar of the Maastricht Treaty. This integration was accelerated by the Treaty of Lisbon (TFEU), when EU member states delegated most of their responsibilities in the fight against crime and other security threats with cross-border elements. However, the communal method of decision-making, or qualified majority voting, is not applied in the framework of operational police cooperation, which remains an area reserved for direct intergovernmental negotiations, a procedure which does not involve supranational EU institutions. This is an example of an area in which states are not yet ready to relinquish jurisdiction, as it encompasses the use of legal force, as a basic function of the state and a key feature of statehood.¹¹

In accordance with the principle of subsidiarity, the EU is active only in those areas where it can add value to the security services provided by countries to their citizens, i.e. - the EU acts if in those areas joint action is more appropriate than single action. The competencies of the states in relation to internal security are dominant and are protected by agreements, and the principle of subsidiarity is at the center of the space for freedom, security and justice. Therefore, the EU does not take action unless it is more effective than action taken nationally, regionally or at the level of local self-government. Thus, crimes that do not have a cross-border element (juvenile delinquency, etc.) are not in the domain of the EU, while trafficking in human beings, terrorism, organized crime, illegal migra-

10. Alex Warleigh (2005) *European Union, The Basics*, Routledge

11. Bojan Elek i Dunja Tasić, *Operativna policijska saradnja*, Sonja Stojanovic Gajic (ed.) *Vodic koroz saradnju u unutrasnjim poslovima u Evropskoj uniji*, Misija OEBS u Srbiji, Beogradski centar za bezbednosnu politiku.

tion - all this is part of security cooperation within the EU.

At the level of global police cooperation, Interpol plays a key role, and the UN, the Customs Cooperation Council, the G8, the Organization for Economic Co-operation and Development (OECD), and the Organization for Security and Co-operation in Europe (OSCE) are also important. Europol and the Schengen Agreement represent the most developed level of regional police cooperation in the EU. In other words, police cooperation at EU level means coordinating investigative procedures, creating databases - such as the Schengen Information System (SIS), then intelligence policing and joint action by member states. Although there are numerous international organizations and regional initiatives - the intensity, efficiency and effectiveness of international police cooperation depends on the political will of the ruling elites and their interest in cooperation. Hence, the EU institutions have long been faced with the challenge of further developing and achieving successful cooperation, which depends on a number of legal, institutional and political factors, but also on various actors, whose actions are not easy to coordinate. However, it can be said that - since the establishment of the initial, the so-called. "TREVI Cooperation Group", until the adoption of the Treaty of Lisbon- the development of integrations is impressive, but it does not mean that it is fully effective, because the practice faces frequent challenges in the implementation of agreed policies.¹²

1.6.1. DEVELOPMENT OF COOPERATION

1.6.1.1 THE TREVI GROUP AND THE SCHENGEN AGREEMENT

To understand the current circumstances, it is first necessary to understand why there was integration in the field of justice, freedom and security, but also how the historical development of policies in this area affects the current perception of integration in the member states, in key institutions and EU citizens.

Police and judicial co-operation during the European integration process has been constantly evolving and contributing to a higher level of security within the Union. Until the end of the Cold War, cooperation in the fields of justice and home affairs was the exclusive competence of the member states. At the beginning of European integration, the cooperation of the judiciary, the police and the customs were pushed to the background. It has deepened under the influence of globalization, the increased security risks, as well as due to international terrorism, organized crime and migration, i.e. due to their overflow through the marked geographical areas. Cooperation between EU member states outside the institutional framework began in the mid-1970s within the so-called "Trevi Group", operating outside the formal structure of the EC, used for ad hoc coordination and exchange of confidential information between police and other security services (for example, to prevent violence at sporting events, exchange forensic data, etc.)¹³ This co-operation was of an interstate and intergovernmental nature, not

¹². *ibid.*

¹³. Sonja Stojanovic Gajic, Drazen Maravic (2015), *Vodic kroz EU Politike, Sloboda, Bezbednost, Pravda, Evropski pokret u Srbiji.*

involving any other EC body in its work, and thus represented a dominant form of co-operation outside the formal EU institutions (1975–1992).

Global circumstances in the 1980s and 1990s, such as the fall of communism in Central and Eastern Europe, the wars in the Balkans, the wars in Central Asia and Africa, led to an increase in the number of refugees and unequal burden on member states, but were also an incentive to deepen interstate cooperation. The issue of immigration became a key political issue in many EU member states, primarily due to the resurgence of right-wing ideology, which marked immigrants as a threat to the domestic way of life and the internal economy. Hence the need to answer questions about illegal migration and cross-border crime, and the interior ministers of the EU member states were the initiators of the relevant processes.

With the increased economic integration and the strategy for establishing a single market, in order for this free space to come to life in practice and to accelerate transactions between EU member states, it was necessary to gradually abolish internal border controls as well as physical restrictions on movement. France, Germany and the Benelux countries - Netherlands, Belgium, and Luxembourg - signed the “Schengen Agreement” in 1985, aimed to gradually abolish border controls between the signatory countries, i.e. to create a space without internal borders. In 1990, the “Convention implementing the Schengen Agreement” was signed, which contained concrete measures to respond to possible security challenges that would arise from the abolition of internal border control, as well as the establishment of common external borders, single immigration policies, cross-border police and customs cooperation - things that were successively implemented until 1995.¹⁴

1.6.1.2. THE MAASTRICHT TREATY

In the preparation for economic and monetary union, European nations also created projections for political union. This was opposed by some of the member states, but a compromise was reached through the creation of the so-called “three pillars” established by the Maastricht Treaty.¹⁵ This was supplemented by the Amsterdam and Nice Treaties, and lasted until 2009, when the Lisbon Treaty entered into force. The first of the mentioned three pillars of the EU consisted of the European Coal and Steel Community, EURATOM and the EEC, i.e. it directed and regulated the first three phases of the European integration. This included a customs union, a common market and a projected economic and monetary union, where decisions were made using a method involving common institutions.¹⁶ Hence, the first pillar was supranational, i.e. the EU institutions had full coverage of powers, and within that the member states were not independent. The second and third pillars aimed to direct and manage the phases of political union, using the method of intergovernmental cooperation.

14. Dunja Tasić, Sonja Stojanović Gajić i Stefan Vladislavljev, Policijska saradnja i razmena podataka na nivou EU, Sonja Stojanovic Gajic (ed.) Vodic koroz saradnju u unutrašnjim poslovima u Evropskoj uniji, Misija OEBS u Srbiji, Beogradski centar za bezbednosnu politiku.

15. Treaty on the European Union

https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF

16. Nicholas Moussis (2007), Guide to European Policies, 12th Revised edition, European Study Service

The second pillar of the Union consisted of a common foreign and security policy, and the third pillar of cooperation in the judiciary and home affairs. In other words, until then only the Council (and hence the Member States) had power, but gradually the Member States began to give small roles to both the Commission and the Court, exclusively in the areas of the third pillar.¹⁷ Although the decision-making, policy-making and integration processes were different in all three pillars, they were still a significant step forward, since for the first time with the Treaty on EU, the so-called “Third pillar” – i.e. co-operation in home affairs and the judiciary - had been placed under EU protection. Thus, the previous non-institutional cooperation became partially institutionalized.

The Maastricht Treaty precisely states what falls within the scope of the “third pillar”:

- asylum policy;
- rules governing the crossing and control of external borders;
- immigration policy and the issue of aliens (entry and movement, residence, employment opportunities, prevention of illegal migrations);
- fight against drug addiction;
- fight against fraud at international level;
- judicial cooperation in civil matters;
- judicial cooperation in criminal matters;
- cooperation of the customs authorities;
- police cooperation.¹⁸

Decisions in the third pillar were made unanimously, through the method of intergovernmental cooperation. Due to the complicated decision-making procedure and the need for all member states to agree on each initiative, many initiatives have not been adopted. Decision-making was very slow and inefficient, and since such decisions were the least common denominator of the national views of the states, the current situation did not change substantially. In that process, the European Commission (EC), the European Parliament (EP) and the European Court of Justice (ECJ) had almost no role to play, so they gained a public image of non-transparent institutions. The EP had a very limited role, represented by non-binding consultations, while the EC, which could initiate proposals in only a limited number of policies, had no competencies in internal cooperation and judicial policies. Therefore, the division of competencies and the realization of cooperation were not entirely clear, and the dynamics of the adoption of new solutions depended on the inconsistent policies of some of the member states, as well as on the policies of the countries holding the Presidency of the Council of the EU. In any case, the decision-making and co-operation procedures were non-binding and, above all, protected the national sovereignty. It soon became clear that this did not lead to political integration. Disappointment was felt most within the third pillar, which covered issues of common interest that had to be urgently regulated, namely: the free movement of citizens and residents of the Member States, the common immigration policy and the joint protection of the

17. Alex Warleigh (2005) *European Union, The Basics*, Routledge

18. Alex Warleigh (2005) *European Union, The Basics*, Routledge.

Union's external borders from all forms of illegal trade. This led to the revision of the Treaty on EU, so the policy gradually became communitarian, i.e. it became common. The Amsterdam Treaty aimed to create a space for freedom, justice and security, and most of the issues related to justice and home affairs were finally placed under the auspices of the Union, i.e. a joint decision-making procedure was applied to them.¹⁹

* *Communitarization* is the transposition of European policies within the EU institutional framework, from an area in which decisions are taken by the method of intergovernmental cooperation to an area in which decisions are taken by a supranational method, according to which EU bodies decide in full respect of the principle of subsidiarity.

1.6.1.3. THE TREATY OF AMSTERDAM

The Amsterdam Treaty supplemented the guarantee of security by aiming to ensure the provision of justice and freedom, and some of the third pillar policies became the responsibility of the Union (i.e. in the first pillar).

The need for cooperation in these areas arose due to the growing European integration and the need for additional measures to create an internal market. This goal was first achieved through closer cooperation between the police, customs and other bodies responsible for implementing the laws of the EU member states, but also through the cooperation of the judicial bodies for civil and criminal cases, as well as the harmonization of national criminal regulations. Thus, up to the Treaty of Lisbon, the main driver of cooperation was the idea of deeper economic integration and changes in the security challenges faced by EU member states. With the Treaty of Amsterdam, certain aspects of these policies were transferred from the third to the first pillar, namely:

- EU external border policy;
- judicial cooperation for civil matters;
- judicial cooperation for criminal matters;
- fight against narcotics;
- EU citizens;
- data protection;
- protection of human rights and freedoms;
- police and customs cooperation;
- crime prevention;
- fight against organized crime;
- external relations;
- expansion from the perspective of judicial and police cooperation;
- fight against xenophobia.

The principle of supranationalism prevailed in these aspects. In these areas, decisions were made by a qualified majority. After the entry into force of the Treaty of Amsterdam, the Commission first gained the right to propose acts to the same extent as the Member States, then established the Directorate General for Justice

19. Nicholas Moussis (2007), Guide to European Policies, 12th Revised edition, European Study Service.

and Home Affairs, and gradually established itself as an increasingly important proposer of acts in this area. The Council, before adopting a decision, had to consult the EP, within a period of not less than three months. The Council decided unanimously, but such a procedure could be replaced by qualified majority voting and co-operation after the end of the five-year transition period. Under this Agreement, the ECJ was not empowered to consider the justification or expediency of operations carried out by the police authorities of the Member States, or to decide on matters within the competence of States relating to public order and internal security.

The third pillar preserved the principle of unanimity of intergovernmental decision-making procedures, but recognized the need to align anti-crime policies with human rights standards. The pillar was renamed “Police and Judicial Co-operation in Criminal Cases”. The EC was given greater powers, as well as the common right to propose solutions together with the member states, while the EP was given the right to consult, and the ECJ was given the right to comment on cases before national courts, but only with the consent of member states. The EC, on the other hand, has retained its dominant unanimity decision-making function.²⁰ Overall, third-pillar cooperation has expanded since the September 11, 2001 terrorist attacks in New York.

With the Additional Protocol to the Treaty of Amsterdam, the “Schengen Agreement” was added to the so-called right of the community, and therefore the signing of its provisions is an obligation for all countries aspiring to EU membership. However, not all member states participate in its application.

1.6.1.4. THE TREATY OF LISBON

The Treaty of Lisbon abolished the three-pillar structure and established the Area of Freedom, Security and Justice (AFSJ), which is regulated in detail by Title V of the Treaty on the Functioning of the European Union (TFEU).

The area for freedom means free movement of people, their settlement on EU territory, the protection of fundamental rights and the fight against all forms of discrimination.

The area of security provides protection for EU citizens from serious crime, in particular terrorism, including fight against trafficking in human beings, weapons and narcotics, as well as protection against corruption and embezzlement.

The area of justice provides equal access to justice for all EU citizens, cooperation of the authorities of the member states in civil matters, as well as the establishment of minimum common rules covering criminal matters, criminal proceedings and penalties, i.e. deepening judicial cooperation.

The Treaty of Lisbon established a single system of legal acts. It moved to the

20. Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:11997D/TXT>

principle of qualified majority decision-making, while unanimity was maintained only in some areas. This enabled more efficient, more coherent and more democratic decision-making. In this process, the EP was given a co-decision role, but this role was also given to the assemblies of the EU member states, through a consultation process.

The Treaty of Lisbon grouped the EU's founding acts into two texts - the Treaty on the EU (TEU of 1992) and the Treaty on the Functioning of the EU (TFEU). The Treaty of Lisbon has seven articles (Articles 1 and 2 are the most important) and numerous protocols and declarations.

Article 1 supplements the Treaty on European Union (TEU) and contains the principles governing the EU, as well as revised provisions on the common foreign and security policy and enhanced cooperation. Article 2 supplements the Treaty on European Union, which is renamed the Treaty on the Functioning of the European Union (TFEU). The TEU and the TFEU have the same legal force, although there is a consolidated version of the Treaty of Lisbon.²¹

With this agreement, the EC gained the right of legislative initiative as the member states have (at least 1/4 of the member states can take the initiative, which is an exception to the rule that only the EC should be authorized to propose EU legislation), and decisions need qualified majority vote in the Council. The agreement also introduced the principle of co-decision between the Council and the EP on issues related to:

- police and judicial cooperation in criminal matters;
- (permitted) migration and the integration of third-country nationals;
- measures necessary for third-country nationals who need visas to enter the EU, as well as the rules for single visa forms.²²

Unanimity remains needed in setting up the European Public Prosecutor's Office, for operational police co-operation, as well as for cross-border emergency search. Internal security and the maintenance of public order and peace are still the responsibility of the member states, and the opt-in - opt-out mechanism is present, which allows certain aspects of the Treaty not to be fully applied by all member states (in this segment, *Denmark, Ireland and the United Kingdom have a special position in the area of freedom, security and justice, i.e. their national parliaments have a privileged role, defined by Protocols 1 and 2 to the Treaty*).²³ If a state considers that a draft legislative act may have an impact on its criminal justice system, it may turn to the EC to suspend the procedure to some extent (so-called "*emergency brake*"). Thus, in a certain period the procedure after the act can continue if at least nine member states want to continue the cooperation in that direction.

This affects the so-called variable geometry and introduces significant excep-

21. Paul Craig and Grainne De Burca (2011), *EU Law, Text, Cases and Materials*, fifth edition, Oxford University Press.

22. Treaty of Lisbon

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2007.306.01.0001.01.ENG&toc=OJ:C:2007:306:TOC#d1e585-1-1

23. Dunja Tasić i Bojan Elek, *Odlučivanja o policijskoj saradnji u EU nakon Lisabonskog ugovora*, Sonja Stojanovic Gajic, Drazen Maravic (2015), *Vodit kroz EU Politike, Sloboda, Bezbednost, Pravda, Evropski pokret u Srbiji*.

tions to the general order of the AFSJ, i.e. prevents rapid integration in those areas that have traditionally been an element of national sovereignty. Moreover, there is danger that such a process could lead to different speeds of integration of the member states, i.e. to the creation of different areas of freedom, security and justice.

Although the institutional framework has been significantly simplified by the Treaty of Lisbon, police and judicial co-operation in criminal cases is not fully integrated into the supranational framework. They have retained some of their previous features, i.e. in some areas the unanimous decision-making process is still valid. Therefore, it is unanimously decided on:

- provisions regarding passports, identity cards, residence permits and similar documents, as well as measures related to family law with a foreign element;
- the regulation of the criminal procedure in order to create minimum rules necessary for mutual recognition of judgments and court decisions, as well as in police and judicial cooperation with a foreign element;
- establishing minimum rules for defining serious forms of crimes with a foreign element;
- establishment the European Public Prosecutor's Office; - operational police co-operation.²⁴

Although the EC and the EU Court of Justice have been given greater powers, the Council is still the dominant body setting strategic directions for legislative and operational planning within the area of freedom, security and justice, and it also adopts measures for evaluation of the implementation of the policies proposed by the Commission.

The EC objectively and impartially evaluates the implementation of policies in the field of justice and home affairs, and proposes evaluation measures. The EP indirectly assesses the implementation of EU policies in the areas of justice and home affairs, and is informed of the results of their implementation by the member states, with the involvement of the national parliaments. Although the EP's competence has gradually expanded, its powers vis-vis other institutions have remained significantly smaller. The national parliaments of the member states ensure that legislative acts and initiatives relating to police and judicial co-operation in criminal matters are in accordance with the principle of subsidiarity, i.e. - when the ordinary majority of national parliaments considers that a draft law is not in accordance with this principle, the EC must then reconsider the draft and after the reconsideration it may decide to keep it, amend it or withdraw it. With this Agreement, the ECJ was renamed the Court of Justice of the European Union and gained extended jurisdiction over the entire area of freedom, security and justice. The Court of Justice of the EU has acquired general jurisdiction to interpret and control the legality of acts that are part of the field of police cooperation, but cannot decide on the proportionality of police operations undertaken by Member States, nor can it adopt acts in relation to the obligations of the member states in relation to the realization of internal security.

24. Sonja Stojanovic Gajic (ed.) Vodic koroz saradnju u untrasnjim poslovima u Evropskoj uniji, Misija OEBS u Srbiji, Beogradski centar za bezbednosnu politiku.

THE TREATY OF LISBON

The Treaty of Lisbon envisions a more democratic and transparent Europe. It strengthens the role of the European Parliament, envisages greater involvement of national parliaments, more transparent decision-making by the Council of the EU, encourages civic initiatives, establishes a clearer categorization between Member States' competences and EU competencies, and explicitly recognizes the right of a Member State to withdraw from the Union.

The agreement emphasizes the idea of a more efficient Europe, which means:

- decision-making based on a double majority system;
- several activities that are decided by a majority vote in the Council;
- new full-time President of the Council to ensure greater coherence in EU activities;
- Improvement of EU's ability to act more quickly in policies in the areas of freedom, security and justice.

The agreement promotes the EU in a union of rights and values, freedom, solidarity and security. Hence, the democratic values and goals on which the EU is built are emphasized and strengthened, the freedoms and principles are guaranteed through the Charter of Fundamental Rights, the solidarity between the EU member states is strengthened in case of a terrorist attack or in a natural or artificially produced disaster, and provides an expanded capacity to act on freedom, security and justice, including in the fight against crime and terrorism. Thus, the EU is becoming more visible on the global stage, with the contribution of:

- the new High Representative of the Union for Foreign Affairs and Security Policy;
- the new European External Action Service;
- the only legal entity of the Union, as well as progress in the European security and defense policy.

In this regard, the Charter of Fundamental Rights of the European Union was proclaimed in Nice in December 2000, now legally binding precisely thanks to the Treaty of Lisbon. The EU aims to protect the principles of freedom, democracy and the rule of law, as well as fundamental human rights - principles shared by all member states. The values of lasting *peace, unity, equality, freedom, solidarity and security* are those that should be aspired to by countries wanting EU membership.

ARTICLE 2 OF THE TEU (VALUES OF THE UNION)

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

ARTICLE 3 OF THE TEU (GOALS OF THE UNION)

1. *The Union's aim is to promote peace, its values and the well-being of its peoples.*
2. *The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.*

1.6.1.5. CURRENT DEVELOPMENTS AND EXPECTATIONS

Common values that underline the goals of the area of freedom, justice and security are long-standing principles of modern European democracies. The declared goal of the Union is to provide citizens with a high level of security in this area, through the development of joint initiatives and actions of all member states.²⁵ The Lisbon Treaty simplifies the decision-making system, with the aim of facilitating co-operation, and this trend is expected to continue. This is a significant step forward, given that in the previous stages: the Maastricht Treaty provided for unanimity in decision-making; The European Commission had a common right, like the member states, to propose regulations, but not for justice and police co-operation policies; The European Parliament had a limited, i.e. advisory role, and the European Court of Justice had no jurisdiction.

It is remarkable in how short a period of time this cooperation was intensified despite the large number of differences in the priorities of the nation states. As a result, the interior affairs is an evolving area, as evidenced by the growing number of strategies and legislation adopted at EU level, especially given that co-operation on these issues is not part of the police culture and that it is a phenomenon of recent times. Since the entry into force of the Treaty of Lisbon, the development of EU criminal law, as the basic instrument for the creation of the AFSJ, has been on the verge of substantial change. Namely, the institutional division of pillars was abolished and a regular legislative procedure was adopted when making decisions with a qualified majority in the areas of police and judicial cooperation. Thus, greater legal certainty was achieved in this area. Democratic control has been enhanced by strengthening the role of the European Parliament and the national parliaments of the member states, the jurisdiction of the Court of Justice of the European Union has been extended, and EU accession as a legal entity to the European Convention on Human Rights has been enabled.

Faster and more efficient EU-level decisions on security and home affairs are expected in the future, as well as overcoming the previous democratic deficit in this area. Nevertheless, the need to strike a balance between such an increased level of security and the protection of human rights and freedoms must be added. This cooperation is based on the idea that the freedom of European citizens can be realized only in a common legal space containing effective instruments for the protection of their rights and freedoms. In this regard, respect for human and fundamental rights by the Council of Europe has gradually entered into the competence of the EU through the Treaty of Maastricht. With the Lisbon Treaty, the EU Charter of Human Rights has the same legal force as the founding treaties, although, formally, the Charter is not part of the Treaty. All EU member states are also members of the Council of Europe and are signatories to the European Convention on Human Rights.

²⁵. Nicholas Moussis (2007), Guide to European Policies, 12th Revised edition, European Study Service.

2. THE PROCESS OF ACCESSION NEGOTIATIONS WITH THE EUROPEAN UNION

Dragan TILEV, MA

2.1. THE COURSE OF THE ACCESSION NEGOTIATIONS IN RELATION TO CHAPTER 24

The Republic of North Macedonia has been part of the accession process since its independence. We applied for full membership in March 2004, and after many hardships and difficult decisions, we received the decision to start negotiations in March 2020. We have learned the hard way that there are such decisions that do not depend (only) on us, but, at the same time, it becomes quite clear that the implementation of reforms at home depends on ourselves, our general capacities and the functionality, as well as the efficiency of our institutions.

It has been 16 years since we submitted our application for membership in the European Union (2004), until March (2020), when the EU Council unanimously decided that all member states are ready to start accession negotiations for the accession of North Macedonia to the European Union.

North Macedonia was the first country in the region to sign the **Stabilization and Association Agreement (SAA)** (2001), as a detailed contractual, political, economic, trade and institutional framework for an in-depth association, with a clear evolutionary clause for potential EU membership. The ratification of the SAA by all EU member states (15 at the time) was completed in 2004. That same year (2004) we officially submitted our application for membership in the **European Union**, which unequivocally made it clear that we want to become a member of the European Union, aware of all the obligations that such a relationship entails. We gained **candidate status** the next year, in 2005, and after a certain stalemate in relations, but also deepened reforms, the European Commission in 2009 assessed that we are ready and for the first time officially recommended to the EU Council to start accession negotiations. However, in the period between 2009 and 2018 the Council tacitly refused to put on the agenda the decision to start negotiations, primarily due to the unresolved name dispute with Greece, while in the period 2015-2016 also due to the continuous setback in the democratic processes. Following the signing of the **Treaty on Good Neighborly Relations with Bulgaria** (2017) and the **Prespa Agreement with Greece** (2018) and the country's return to Euro-Atlantic priorities, **the EU Council for the first time agrees to put on the agenda the decision to start accession negotiations** in 2018 and, after the delays in 2018 and 2019, finally in March 2020 all member states (27 currently) made **the decision to start accession negotiations**, immediately confirmed by the European Council.

Negotiations (talks)

Negotiations (or talks) are likely to last for many years and result in an acces-

sion agreement, thus ending the validity of the Stabilization and Association Agreement. From that moment, North Macedonia passes from the status of an accession country to the status of a member state, with all rights and obligations, whereby, the entire European law and practice become part of our national legislation and the implementation, will be taken care of by our national bodies and the institutions of the European Union. That is our goal, but that is the end, and we must start from the beginning.

Accession negotiations start by default with an analytical review of the entire European law (screening process), which formally takes place in two phases, **explanatory and bilateral screening**. In the case of North Macedonia (and Albania), the EC unilaterally, in order not to waste extra time, without a decision of the EU Council, decided to start the preparatory activities for the official screening through explanatory screening that started in September 2018 (with Chapters 23 and 24) and ended in December 2019 with an explanation of all 33 chapters (16 months in total). The presentation of most chapters lasted 1-2 days, but for some more complex chapters, such as chapters 23-24 and for the voluminous chapters, they lasted up to 4-5 days. The complete files for each chapter are available on the website of the Secretariat for European Affairs (www.sep.gov.mk).

With the decision of the Council to start negotiations, **the European Commission** was given a mandate to prepare the **general EU position**, together with the **negotiating framework** for the conditions under which the EU will accept our country as its member. Negotiations are taking place within **COELA** (Enlargement Committee, body of the Council of the EU) to harmonize the text of the Negotiating Framework between the Member States, which will then have to go through the **COREPER (Permanent Representatives Committee)** procedure before adoption by the **EU Council for General Affairs (GAC)**, as well as ratification by the **European Council**. Decision-making at all levels is **unanimous**. When the negotiating framework is harmonized, conditions will be created for holding **the first inter-governmental conference**.

The **bilateral screening** follows immediately after the First Intergovernmental Conference, but now adapted to the requirements of the new **negotiation methodology**. The bilateral screenings will take place in clusters, starting with the Fundamentals cluster, followed by the other **five clusters: Internal Market** (9-chapter cluster), **Competitiveness and Inclusive Growth** (8 chapters), **Green Agenda and Sustainable Connectivity** (4 chapters), **Resources, Agriculture and Cohesion** (5 chapters) and **External Relations** (2 chapters).

From a technical point of view, at the bilateral screening the institutions of the candidate country present the state of the national legislation and the institutional framework, the ability to implement European legislation (institutions/capacities, competence, technical equipment, necessary funds for consistent application of European regulations and standards), track record for correct and consistent implementation of the new legislation, transposed in the national legal system from the entry into force onwards. Further, plans are presented (if any and certain) for further harmonization, if by that time official positions have been

taken on the outstanding issues (if any) and, eventually, the topics (regulations) for which it is known in advance will require transition periods for their (delayed) implementation are announced.

It is particularly important to emphasize that according to the new rules of negotiation and the practice of using benchmarks (benchmarks for opening each cluster, timelines for measuring progress in Chapters 23 and 24 and benchmarks for closing each chapter separately), as an important tool to guide, focus and reinvigorate the negotiations process, in fact, the negotiations start during the screening (especially the bilateral part of the screening). In order to minimize the number of benchmarks during the screening, especially in the second phase, when we present our legislation and our institutional capacities to the European Commission, we should try to present the best possible situation, with many details and arguments for our compliance with European Union law, as well as clear plans for the next steps. The negotiations are already de facto taking place, i.e. better presentation and more convincing arguments mean a lower number of benchmarks, i.e. faster opening of negotiations and easier and faster negotiations. Thus, the preparations for a successful screening are extremely important for the further course and dynamics of the negotiations.

Following the screening in both phases (explanatory and bilateral screening), the European Commission prepares a **screening report** for each cluster separately, including for each area/chapter. The EC submits the screening reports to the EU member states, together with the EC assessments of the degree of compliance of the Macedonian legislation with that of the European Union, but also with an appropriate EC recommendation to start negotiations for the whole cluster, with **defined benchmarks for opening the negotiations (opening benchmarks)**.

Based on the detailed analysis (reflected in the National Plan for the Adoption of EU Law - NPAA), the Government will determine the **priorities** for transposition, including translation, the **dynamics for full harmonization** of national with EU legislation, including the necessary investments for its proper and consistent implementation, also the **plans, dynamics and financing** for full harmonization, as well as a time frame for the fulfillment of all membership criteria.

In all phases of the detailed analysis, the representatives of the civil society sector and other interested social actors should be involved as much as possible, as well as to communicate with the public for its timely and correct information and involvement. After the completion of the separate bilateral meetings, the preparations for **defining the negotiating positions begin**.

2.2. CLUSTER “FUNDAMENTALS”

Fundamentals is the cluster or group of areas and chapters that is, in fact, the biggest novelty in the accession negotiations according to the new methodology. Over the years (since 2012), the European Commission has gradually introduced the concept: “Fundamentals first” for the countries of the Stabilization and Association Process, which included the rule of law, functioning democratic

institutions, economic governance and professional public administration, with the addition - developing and maintaining good neighborly relations and resolving mutual bilateral disputes. The idea is to direct countries to focus on reforms first on the fundamental values on which the EU rests, which must be met before joining the EU in order for countries to be fully prepared to play their part when they become members of the Union.

CLUSTER FUNDAMENTALS

Rule of law

Chapter 23 – Judiciary and fundamental rights

Chapter 24 – Justice, freedom, and security

Economic criteria

Functioning of democratic institutions

Public administration reform

Chapter 5 – Public procurement

Chapter 18 – Statistics

Chapter 32 – Financial control

The Fundamentals Cluster includes the well-known Chapters 23 - Judiciary and Fundamental Rights and 24 - Justice, Freedom and Security, which are the pillars of the Rule of Law section, as a basic precondition for meeting the Copenhagen political criteria and general progress in the accession process. But unlike previous waves of enlargement (2004–2007), where political criteria were considered met before the start of accession negotiations, partly in the case of Croatia (New approach), more so in the case of Montenegro and Serbia, and now formally with the new methodology, the political criteria are inserted in the cluster Fundamentals and in the area of Rule of Law and are part of the continuous political monitoring by the member states during the negotiations, from the very beginning to the closing of the negotiations. Hence the rule of law during the negotiations should not be seen only through the prism of the transposition of European law in regard to the Chapters 23 and 24, but much more broadly.

Chapters 5 - Public Procurement, 18 - Statistics and 32 - Financial Control have been added to the Fundamentals cluster, not without reason. Let us emphasize that these chapters open first and close last (within the cluster), which means that they will be under constant monitoring, inclusively by the most interested member states. Public procurement - in order to fight corruption and organized crime, statistics - due to the correctness and relevance of the data produced, but also due to the frequent politicization of purely statistical operations, and financial control - again due to the resolute fight to prevent and fight the misuse of public money, but also because of the fight against corruption and organized crime, always going hand in hand.

What makes the Fundamentals cluster special and with a whole new approach, compared to any previous accession process, is the inclusion of the section on economic criteria, the section on the functioning of democratic institutions and

the section on public administration reform. It should be emphasized again that these parts within the Fundamentals Cluster will start the negotiations and eventually close them, thus they will be under constant monitoring by the expert services of the European Commission, but also directly by the member states, which, on one hand, will be a huge pressure for any government to deliver results in the reforms, but, on the other hand, also kerosene fuel, which, if used properly, could make the process more dynamic and significantly accelerate our accession to the EU.

2.3. CHALLENGES FOR NORTH MACEDONIA

Chapter 24 - Justice, Freedom and Security has a special importance in the Fundamentals Cluster, i.e. in the Rule of Law segment. North Macedonia will have to appropriately transpose the European law during the negotiations since it is increasing day by day and is becoming more and more complicated under the impact of the migration crisis, but also to provide capacity of the police and other professional and well-prepared and equipped institutions for the implementation of European law. The most complex, but also the most expensive part of this chapter is the Schengen acquis, for which a special procedure will be implemented (decision of the Council), in order to ensure their consistent application in practice, when the conditions for that are created.

The rules for accession negotiations, according to the new methodology, require that the Fundamentals Cluster be opened first, at the beginning of the negotiations, and closed last, at the end of the negotiations. It is also necessary to adjust the practice of using benchmarks (criteria) in this cluster, namely: benchmarks for opening the whole cluster, temporary benchmarks for measuring progress in the section Rule of Law, i.e. in Chapters 23 and 24 and benchmarks for closing the whole Fundamentals cluster.

Regarding Chapter 24, recent experiences from Serbia and Montenegro indicate that this is one of the most difficult to open and implement, as evidenced by the fact that in the case of Montenegro and Serbia a set of at least a dozen specialized detailed action plans in all areas covered by this chapter were set as benchmarks for its opening, as well as 38 interim benchmarks in the case of Montenegro and 44 interim benchmarks in the case of Serbia. These were supplemented by newly defined benchmarks during the negotiations (if there is a need), depending on the course of implementation of the obligations and the political situation in the country, i.e. the overall progress in the negotiations.

Transition periods (delayed application of European rules) during the negotiations on this chapter are difficult to secure (Montenegro and Serbia have not yet reached that stage of the negotiations), except as in the case of Croatia, where a transitional phase was provided related to the border crossings with Bosnia and Herzegovina, until full application of the Schengen rules which are extremely complex and expensive to implement.

Characteristic of this cluster - Fundamentals, including Chapter 24, is that at the

end of the negotiations benchmarks for closing the cluster as a whole will be set, including Chapter 24. For example, for Croatia (Montenegro and Serbia are still far from this stage) six benchmarks were set for the closure of Chapter 24 in the application of the asylum procedure, satisfactory data on the application and practice of asylum forms, implementation of the Action Plan for integrated border management, further harmonization with the Schengen rules, preparation for implementation of the European Arrest Warrant and harmonization with the definition of terrorism.

For the institutional mechanism for coordination of the EU integration process see Annex 1.

(prepared by D. Tilev and I. Markovski)

For the new enhanced methodology for accession negotiations see Annex 2

(prepared by D. Tilev and C. Kuzmanovska)

For a visual representation of the accession negotiation process see Annex 3

3 (prepared by C. Kuzmanovska and D. Tilev)

3. WHAT DOES CHAPTER 24 CONTAIN? - OVERVIEW OF EU POLICIES

EU policies aim to further develop the Union as an area of freedom, security and justice to ensure free movement and a high degree of protection for its citizens. European citizens need to feel confident that, no matter where they go, their freedom and security will be protected in accordance with the values of the Union, such as the rule of law and fundamental rights.

This section examines in more detail the areas within Chapter 24, namely: legal and irregular migration, asylum, visa policy, external borders and Schengen, judicial cooperation in criminal and civil cases, police cooperation and the fight against organized crime, fight against terrorism, fight against drugs and the prevention of euro counterfeiting.

The forthcoming text presents the policies, legislation and relevant institutions of the European Union for each of the areas, as well as the key challenges North Macedonia faces in each of the areas.

3.1. FREEDOM OF MOVEMENT, MIGRATION AND ASYLUM

TRPE STOJANOVSKI, PHD

3.1.1. FREEDOM OF MOVEMENT, MIGRATION AND ASYLUM IN THE EU

Freedom of movement is, in fact, one of the cornerstones of the EU, guaranteed by the founding treaty. It means that, once in the EU, its citizens, as well as those of third-country nationals in its territory, can move, live and work, bring new ideas, capital, knowledge and innovation, and enforce market rules without control of internal borders.

In order to ensure the modern level of freedom, security and justice in the EU area, it was necessary to undertake a number of activities, above all intensified control of the EU external border and efficient integrated border management, cooperation between the judiciary in criminal and civil matters, asylum, migration, visa policy and a number of issues related to the effective administration of justice.

The abolition of internal border control in the Union meant creation of a common policy of entry and residence of third-country nationals, in the form of a common policy on asylum and migration, information exchange, effective migration management through the development of a balanced visa policy, fight against counterfeiting documents and establishing cooperation with third parties. The



first agreement between the member states dates back to 1985, known as the Schengen Agreement,²⁶ which five years later was supplemented by the abolition of internal border control and establishment of uniform rules for controlling the EU's external border.²⁷

At the European Summit in Seville in 2002, member states reached an agreement on the creation of a common visa database, adopting a readmission agreement and developing a network of liaison officers in charge of migration. At the next meeting, in Nice, an agreement was reached on issues related to asylum and co-operation in the field of justice and civil affairs to be decided by a qualified majority.²⁸ Thereby, significant progress has been made in the strategic approach to combating trafficking in human beings and irregular migration; regulating EU visa policy for third-country nationals who must have a visa when crossing the EU's external border and those exempt from it; EU directive requiring airlines to share passenger data (PNR - passenger name record);²⁹ EU directive on the establishment of a visa information system and EU directive on control of the provision of assistance for illegal entry, transit and residence in the EU.

The Hague Program is significant in that it consolidates the priorities in the area of freedom, security and justice, especially for the control of the external border and the suppression of irregular migration, if the conditions for the abolition of internal border control between countries and the implementation of Schengen regulations are already met. In 2005, the European Agency for the Management and Operational Cooperation at the External Borders of the EU Member States (FRONTEX) was established, which took over the control of the EU external border, and the process of monitoring the mandate of this institution started. Since 2006, biometric data has been introduced in the identity documents and the visa information system has been established.

3.1.2. EU LEGAL AND INSTITUTIONAL FRAMEWORK

3.1.2.1. IMPORTANT EU REGULATIONS AND POLICIES REGARDING FREEDOM OF MOVEMENT

3.1.2.1.1. SCHENGEN ACQUIS

The Schengen Agreement was concluded in 1985 in the Schengen area of Luxembourg and was extended in 1990 by the Schengen Convention. This agreement allows for the abandonment of border controls and the free movement of EU citizens. The Schengen provisions apply to most of the European countries that make up the Schengen area. 28 countries are signatories to the Schengen Agreement (the UK is no longer a member of the EU as of 31 January 2020); 24 EU mem-

26. <https://lexdocuments.com/schengen-agreement/>

27. https://mk.wikipedia.org/wiki/%D0%A8%D0%B5%D0%BD%D0%B3%D0%B5%D0%BD%D1%81%D0%BA%D0%B8_%D0%B4%D0%BE%D0%B3%D0%BE%D0%B2%D0%BE%D1%80

28. Водичи кроз ЕУ политике, Европски покрет Србија, Слобода, правда, безбедност, Друго издање, Београд, 2015 година, стр.64.

29. These processes are accelerated by the lessons learned from the terrorist attacks in America in September 2001.

bers, as well as Iceland, Norway, Liechtenstein and Switzerland.

The Schengen Agreement and the Schengen Convention form the basis of the Schengen acquis,³⁰ which, in turn, is an integral part of European legislation. Numerous acts of the Union relating to the Schengen area (regulations, directives and decisions) are adopted and updated based on them. It is one of the pillars of the EU and represents its legal legacy. It is mandatory for the countries of our region, when they become part of the EU, to accept the founding treaties and other contents derived from the treaties and to harmonize their legislation with the legal EU heritage. The main meaning of these documents is to cross internal borders freely, without control. However, in certain cases, due to public safety, the contracting party may, after prior consultation with the neighboring party, conduct border control for a specified period of time.³¹

3.1.2.1.2. SCHENGEN INFORMATION SYSTEM

The Schengen Information System (SIS) was established in 1995 to maintain public and national security by collecting and exchanging data relevant for action when crossing the EU's external border. The Schengen member states have a national database (National Schengen Information System, NSIS), and the EU has a central database (Central Schengen Information System - CSIS). The Schengen Member State uses its own information system, and in case of need to use information from another national system, the right to use the information is exercised through the central information system. Protected and secure communication is one of the main priorities of SIS.

Article 94 of the Schengen Convention prescribes the grounds for entering data on persons in the SIS³² (data for both objects and vehicles are entered), as follows:

1. name and surname, middle name, nickname, alias;
2. specific, immutable physical characteristics;
3. date and place of birth;
4. sex;
5. nationality;
6. whether the person is armed;
7. whether the person is prone to violence;
8. reason why the person poses a security threat;
9. measures to be taken.

In the database of the information system it is possible to enter and search other data, such as, political and religious beliefs, health status and more. Related to

30. More information at: https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen_en.

31. As a result of the 2015–2017 migrant crisis, Austria, Denmark, Germany, Norway and Sweden temporarily imposed control of some or all of their border crossings with other Schengen countries.

Following the November 2015 attacks in Paris, France declared a state of emergency, which included measures to control the border with other Schengen countries. Particularly interesting are the experiences since the appearance of COVID 19 at the beginning of 2020 and the thorough closure of the Schengen area for a period of about two months, which is a new, hitherto unknown experience for the EU. Analyzes and lessons learned are likely to be discussed in the future (T.S.)

32. Водичи кроз ЕУ политике, Европски покрет Србија, Слобода, правда, безбедност, Друго издање, Београд, 2015 година, стр. 66.

the objects, the database also contains data on stolen vehicles, weapons, stolen document forms, stolen personal documents, counterfeit money, etc.

The second generation Schengen Information System II (“SIS II”) has been operational since 2013, which is a comprehensive database shared by all Schengen countries. The purpose of SIS 2 is to increase security and enable free movement through the Schengen area. SIS 2 enables easier exchange of information between national border controls, police and customs for persons involved in serious crime. It, primarily, contains two types of information:

- a. wanted persons, missing persons, especially children or persons being followed. Improved functionality is also achieved with the ability to use biometric data;
- b. records of stolen or lost vehicles, stolen aircraft, ships and items, such as personal documents, vehicle documents, weapons, counterfeit money, means of payment, etc.

The new types of alerts include the ability to link different information, such as person and vehicle. SIS 2 contains a copy of the European Arrest Warrant, which makes it operational and easy to use.

SIS 2 is accessed by the national border control, police, customs, justice authorities, visa officers and the authorities responsible for vehicle registration. The entry may be amended or deleted only by the Member State which entered it in SIS 2.

Member States have an obligation to apply the rules on personal data protection. Any person, whose data is collected, stored or in any way processed in SIS 2 has the right to access this data, correct inaccurate data or delete illegally stored data. In a justified case, judicial protection may be sought, including compensation (also compensation for possible unlawful data processing). Compensation can be initiated in the affected state of the Schengen area.

3.1.2.1.3. SCHENGEN CODE OF BOUNDARIES

The abolition of the internal borders of the European Union is a project that enabled the abolition of the control of persons crossing the border, but at the same time, it was necessary to regulate the procedure and prevent all presupposed weaknesses from the abolition of control. The Schengen Code of Boundaries³³ is a legal instrument introduced in order to improve the integrated border management, and contains rules for crossing the external border, abolishing the check of persons at the internal borders and, under certain circumstances, re-establishing border control at the internal borders.³⁴

The Schengen Code of Boundaries is an instrument based on the EU’s core values, but at the same time, it is tested by the new challenges. For this reason, the Schengen Code of Boundaries has been amended and harmonized several times

33. Decree (EZ-a) 562/2006 of the European Parliament and of the Council of 15 March 2006

34. <http://struna.ihjj.hr/naziv/schengenski-kodeks-o-granicama/20056/>

in order to enable its implementation with integrity.

The Schengen Code of Boundaries helps national authorities implement the European acquis efficiently and uniformly, especially when it comes to third-country nationals crossing the EU's external border and residing in a Schengen area. This code is also important for the effective implementation of the reintroduced internal border control.

From FRONTEX's perspective, the Schengen Code of Boundaries is an important tool for ensuring greater efficiency and setting standards for operation in different geographical areas of the Union, when a Member State has requested Agency support (within Rapid Border Intervention - RABIT) or acts under an agreement signed with the host country.

For EU candidate countries, this document has great pedagogical value and helps them improve their standards, aimed to strengthen the rule of law and greater sharing of European values related to the Schengen *acquis*.

3.1.2.1.4. VISAS

The Schengen Convention is one of the basic documents governing the subject matter of visas, prescribing the forms for short-stay visas, the purpose of stay, as well as obligations for member states in issuing visas. The visa issue follows the changes related to the Schengen acquis, due to which it has been and continues to be subject to frequent changes and adjustments. However, the need for codification of the matter was evident and for that purpose, in June 2009 the Visa Code was adopted by decree, establishing a common corpus of regulations through consolidation and development of legal inheritance (provisions of the Convention on implementation of the Schengen Agreement of 1985), joint consular instructions, which is a mechanism for facilitating legal travel and combating illegal migration, further harmonization of national legislation and establishment of practice in local consular missions. The Visa Code was last amended in 2019.³⁵

The introduction of biometric data into the visa information system is a new step in visa policy that ensures greater accuracy, reliability and more efficient exchange of data between member states. In the procedure for submittal of visa application, the rule for personal appearance of the applicant is established.

Any document, data or biometric identifier received by a member state in the visa application procedure shall be deemed to be a consular document and shall be dealt with in accordance with the 1963 Vienna Convention on Consular Affairs.

All countries are obliged to comply with the rules on personal data protection in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of April 2016. These rules apply to the storage, processing and transmission of personal data. This means that the state acting on the visa application is obliged to provide equal treatment for all visa applicants, to ensure legal certain-

35. Refined version from 2020 available at: <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/visa-code-consolidated-version.pdf>

ty and transparency of the procedure.

The European Union aims for full reciprocity of visas with non-EU countries. So, EU citizens do not need a visa to travel to countries where their citizens do not need a visa to enter the EU. For that purpose, a visa reciprocity mechanism has been established with Regulation no. 1806/2018 (Article 7).³⁶

Visa policy is also linked to readmission agreements in accordance with Directive 2008/115 / EC.³⁷ These agreements establish procedures for the return of persons to non-EU countries (their nationals, third-country nationals or stateless persons) who have resided in the EU illegally.

3.1.2.1.5. ASYLUM

Asylum is a category of protection against persecution under international law. The right to asylum is contained in the non-refoulement principle): “No Contracting State shall forcibly expel or repatriate, in any way, a refugee at the border in a territory where his life or liberty is endangered because of his race, religion, nationality, social affiliation or political views.”³⁸

The right to asylum is guaranteed by Article 18 of the Charter of Fundamental Rights of the European Union. On the other hand, the large number of asylum applications has forced the EU to take this issue seriously, in order to build a common asylum policy and to create mechanisms that will provide guarantees for the provision of international protection, when it is really needed, but also to prevent a large number of abuses. In 1999, the Heads of State or Government of the EU member states decided to start establishing the *Common European Asylum System (CEAS)*.

The consolidation of EU asylum policies took place especially during the Hague Program (2004–2009) and the Stockholm Program (2010–2014), when a three-pillar policy was defined:³⁹

1. Achievement of higher standards for the protection of asylum seekers and approximation of the national legislation of the member states, as well as amendment of the European legislation.
2. More effective practical cooperation through the European Asylum Support Office, which is in the process of being established and which should provide joint training, expertise, statistics and data on the countries of origin of asylum seekers.
3. Higher level of solidarity between member states, between the EU and third countries, in order to promote the existing Dublin documents.

Progress on the first two points is evident. Intensive work is being done to raise

36. Available at: <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas/visa-policy/docs/regulation-2018-1806.pdf>

37. Available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF>

38. <https://www.unhcr.org/1951-refugee-convention.html> пристапено на 1.4.2020 г.

39. Водич кроз ЕУ политике, Европски покрет Србија, Слобода, правда, безбедност, Друго издање, Београд, 2015 година, стр. 72.

the standards in the member states and in the EU, related to the asylum procedure.

In the meantime (2013), the European Parliament and the Council adopted the Dublin Regulation,⁴⁰ which promotes the procedure and conditions for the approval of an asylum application and establishes the competence of the EU member state acting on the asylum application.

However, the great migrant and refugee crisis of 2015 has shown that existing EU asylum regulations are not fully operational in the context of mass use of the asylum institute and are more often a stumbling block than a solution, especially over the model of jurisdiction of the first Member State to receive an application for asylum.

3.1.2.2. IMPORTANT INSTITUTIONS AT EU LEVEL

3.1.2.2.1. FRONTEX

FRONTEX (<https://frontex.europa.eu/>) is an abbreviation for the European Agency for Management and Operational Cooperation at the External Borders of EU Member States. The agency got its name from the French words *Frontières extérieures*, which means external borders.

FRONTEX is an agency established by Council Regulation (EZ) 2007/2004, which defines its competences in Article 2. FRONTEX:

- coordinates the operational cooperation between the member states in the management of the external borders;
- provides assistance to member states in training border guards and establishes common training standards;
- makes risk analysis;
- monitors the scientific research important for border control and surveillance;
- provides technical and operational assistance to member states at the external borders, as well as in organizing the return of third-country nationals during re-admission.

The agency started operating in 2005. It is headquartered in Warsaw, Poland. With the establishment of FRONTEX, the member states agreed and ceded to the Agency part of the sovereignty related to the coordination and surveillance of the external borders. The role of the Agency and its competencies have been constantly increasing in the past years.

Given that migration, especially irregular migration, is a dynamic category and is constantly exposed to change, the EU has faced new challenges and risks, primarily manifested at the external borders. EU continuously raises expectations for greater security and management of external border processes, and in 2011 the European Parliament approved new, larger powers for FRONTEX. Special

40. <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32013R0604&from=SV> UREDBA (EU) br. 604/2013 EUROPSKOG PARLAMENTA I VIJEĆA od 26. lipnja 2013. o utvrđivanju kriterija i mehanizama za određivanje države članice odgovorne za razmatranje zahtjeva za međunarodnu zaštitu koji je u jednoj od država članica podnio državljani treće zemlje ili osoba bez državljanstva.

*European Border Guard Teams*⁴¹ have been set up since the Agency's mandate became larger and more operational. These changes have been supported by a new, significantly increased budget for FRONTEX.

The great migrant crisis of 2015 conditioned the replacement of the existing one with a new Regulation (EU) 2016/1624 of 14 September 2016, which establishes the European border and coast guard.

In recent years, FRONTEX has been actively working to institutionalize cooperation with third countries, as well as with international organizations in charge of migration. This cooperation is based on mutual respect and support from FRONTEX, which usually consists of expertise and quality research analysis, affirmation of human rights and good governance.

The Republic of North Macedonia has had a work arrangement for cooperation with FRONTEX since 2009,⁴² which provides for information exchange and risk analysis, training and participation in research and development projects, as well as operational activities.

FRONTEX submits a report on its work to the European Parliament, the European Commission, the Economic and Social Committee and the Court of Auditors.

3.1.2.2.2. EUROPEAN ASULYM SUPPORT OFFICE EASO

In 2010, the European Asylum Support Office (EASO <https://easo.europa.eu/>) was established in Malta. The Office functions as a center for asylum expertise and facilitates, coordinates and enhances practical cooperation between Member States on various aspects of asylum. Assists Member States in meeting their asylum obligations, and provides operational support when individual Member States and their admission mechanisms are under particular pressure. Develops manuals and aids that also contain good practices, which is of great importance in streamlining the asylum procedure. This agency has established a system for early warning and preparedness through real-time data collection. Cooperation has been established with intergovernmental regional and global partners.

3.1.2.2.3. EUROPEAN AGENCY FOR LARGE-SCALE IT SYSTEMS (EU-LISA)⁴³

The EU Agency for Operational Management of Large IT Systems in the Field of Freedom, Security and Justice (eu-LISA) (<https://www.eulisa.europa.eu/>) is an EU agency established in 2011 to ensure the smooth operation of large IT systems in the field of freedom, security and justice. It started its activities in December 2012. Eu-LISA is headquartered in Tallinn, Estonia and the operational center is in Strasbourg, France.

41. Водич кроз ЕУ политике, Европски покрет Србија, Слобода, правда, безбедност, Друго издање, Београд, 2015 година, стр. 69

42. <https://frontex.europa.eu/media-centre/news-release/working-arrangement-with-the-fyr-of-macedonia-concluded-10iaEG>

43. https://europa.eu/european-union/about-eu/agencies/eu-lisa_en

Eu-LISA is responsible for the operational management of the EURODAC, SIS II and VIS IT systems, while ensuring information security and data protection. This system allows for the immediate exchange of data between Member States. In addition, Eu-LISA also develops new IT systems, such as the input-output system, together with the establishment of a Center for Excellence and training, monitoring and reporting. The agency is described as “one of the entities for an integrated response to the existing and new threats to European security”. As such, it facilitates the implementation of political priorities and legal instruments.

A steering committee composed of representatives of EU member states and the European Commission oversees the agency’s activities. Switzerland, Iceland, Norway and Liechtenstein, as well as representatives of Eurojust and Europol, have observer status. The Management Board is chaired by a member from one of the Member States.

3.1.2.2.4. EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS FRA

The European Union Agency for Fundamental Rights has been in existence since March 1, 2007 based in Vienna, Austria.⁴⁴

The FRA is an EU body tasked with “collecting and analyzing data on fundamental rights in relation to all the rights enshrined in the Charter of Human Rights, namely: access to justice; victims of crime; information society; Roma integration; judicial cooperation; the rights of the child; discrimination; immigration and integration of migrants; racism and xenophobia.

The primary methods of operation of the FRA are to prepare research, reports, provide expert assistance to EU bodies, Member States and EU candidate countries and potential candidate countries, and to raise awareness of fundamental rights. The FRA is not empowered to intervene in individual cases, but to explore broader topics and trends.

3.1.3. MIGRATION, ASYLUM AND BORDER MANAGEMENT IN THE REPUBLIC OF NORTH MACEDONIA

3.1.3.1. МИГРАЦИИ

Migration is an important topic for the Republic of North Macedonia. The migrant and refugee crisis of 2015 raised this issue as a high priority for the Macedonian society.

The main areas in which it will be necessary to adapt national laws to the European legal heritage once negotiations begin are the Law on Foreigners, the Law on State Border Protection, regulations governing the matter of migration management, employment of foreigners, strategies determining the migration policy of Macedonia, integrated border management, migration management,

⁴⁴. <https://fra.europa.eu/en/about-fra>



readmission, etc.

Regarding migration and the obligations of the Republic of North Macedonia in the future processes with the EU, where many things need to be done, two aspects are important:

- a)** harmonization of the legislation on legal (lawful) migration with the legal heritage of the EU;
- b)** harmonization of the regulations regarding the illegal (irregular) migration and strengthening the institutions that should act upon it.

The EC in its 2020 annual report⁴⁵ builds on the progress in 2019 in improving the legislations, in particular the changes to the Law on Foreigners,⁴⁶ and notes the progress made in implementing the standard operating procedures (SOPs) for unaccompanied and separated children and for vulnerable aliens.

The National Commission for Combating Trafficking in Human Beings and Illegal Migration has organized training for a number of first-line civil servants to assist them in implementing the SOP. The report highlights the importance of the Migration Policy Resolution, adopted by the Government in 2015, the main policy document in this area.

Although the new strategy for the integration of refugees and foreigners was prepared three years ago, it is still awaiting adoption as there is no political will to move forward.⁴⁷

North Macedonia continues to play a constructive role in managing mixed migration flows. The country cooperates effectively with EU member states and neighboring countries. The annual report recognizes efforts to provide better living conditions and services for migrants residing in the country.

Inconsistent registration of migrants crossing the border irregularly prevents their proper profiling and the opportunity to provide them with protection and referral to the national protection mechanisms. The army is involved in the crisis situation on the southern border and has been successfully assisting the police in securing the green border for five years. Police officers from foreign countries who have been present in Macedonia for many years, based on a bilateral agreement, contribute to more effective control of the southern border. The EC notes the increased activities of smugglers on the northern border with Serbia, which indicates that measures should be taken to prevent them.

Macedonia is on the main course of the Balkan route and due to its geographical position continues to be exposed to pressure from migration waves. Migration flows are mostly transit, with most migrants arriving from Greece and leaving North Macedonia after a few days.

45. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/update-on-the-republic-of-north-macedonia.pdf>, p. 42.

46. 2019-north-macedonia-report.pdf, North Macedonia 2019 Report p. 41.

47. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/update-on-the-republic-of-north-macedonia.pdf>, p. 42.

3.1.3.1.1. LEGAL MIGRATION

The time that the Republic of North Macedonia spent at the doors of the EU enabled it to recognize the goals it is striving for and to show cooperativeness in the harmonization of the regulations. These changes were made by integrating the international instruments in the national legislation, by changing the provisions that the EU referred to the national institutions, sometimes with the expertise of representatives from EU countries and so on. Priority matters to be regulated in this area are the provisions related to the entry and stay of foreigners for employment, family reunification, scientific research, study, seasonal work, health care, and residence during proceedings before the competent authorities and similar.

In the field of legal migration, following the experiences of Serbia,⁴⁸ some of the directives are:

Directive 2009/50 / EZ, dealing with the entry and residence of third-country nationals for the purpose of employing highly skilled workers;

Directive 2011/98 / EU on single action for the issuance of single licenses to third-country nationals residing and working in the territory of a Member State and on the common rights of third-country workers legally resident in a Member State;

Directive 2003/86 / EZ on the right to family reunification;

Directive 2003/109 / Ez on the status of third-country nationals with permanent residence;

Directive 2005/71 / EEC on a special entry waiver for third-country nationals for scientific research;

Directive 2004/114 / EEC on the conditions for admitting third-country nationals for the purpose of study, exchange of students, non-payment of training or voluntary work;

Directive 2014/36 / EU on the conditions of entry and residence of third-country nationals for the purpose of employing seasonal workers.

3.1.3.1.2. ILLEGAL MIGRATION

Illegal migration is a global challenge and is especially important for the Ministry of Interior, with numerous responsibilities regarding this type of migration. One of the proven instruments that have an effective impact on reducing illegal migration is readmission. For that purpose, North Macedonia has signed an agreement covering all EU member states, as well as agreements with each of

⁴⁸. Водич кроз ЕУ политике, Европски покрет Србија, Слобода, правда, безбедност, Друго издање, Београд, 2015 година, стр. 75.



the neighboring countries.⁴⁹ The EU's long-term goal is to regulate this matter by agreement with each country from where there is a significant number of irregular migrants. North Macedonia should continue to follow the European policy related to readmission.

The migration policy of North Macedonia 2015–2020⁵⁰ emphasizes the importance of concluding readmission agreements and, as a result, a large number of Macedonian citizens have returned - migrants from Germany, then from Sweden, Norway, Belgium and Switzerland. A challenge for Macedonia is the reintegration of returnees, a significant number of whom are Roma. Macedonia will need to reassure the EU that it will take action to create conditions for better integration of these individuals in the country and that the recurrence of visa abuse will be discouraged. In this regard, it will be necessary to assess the compliance of national regulations with Directive 2008/115 / EZ.⁵¹

Macedonia's penal policy related to illegal migration should contain solutions that will prevent unauthorized entry, transit and residence, harmonized with Directive 2002/90/EZ.⁵²

The practice of recent years, when the Public Prosecutor's Office frequently decided to detain irregular migrants who have been witnesses for a certain period, in order to provide evidence in proceedings against defendants, will have to comply with Directive 2004/81/EZ.⁵³

In recent years, the work of the police (especially the border police) has been supported by a number of European projects, which help improve the organization and the number of police officers. Of course, with the start of negotiations, these aspects will be subject to further evaluation.

3.1.3.2. ASYLUM

Asylum in the Republic of North Macedonia is regulated by the Law on International and Temporary Protection and the Law on Foreigners, as well as by bylaws that further regulate the legal matter. In drafting the laws, North Macedonia used the expertise of representatives of EU countries and, by accepting their views, the laws are largely adapted to European documents.⁵⁴ Important steps have been taken to align national legislation with the EU acquis. A new Law on International and Temporary Protection has been adopted, which improves the concept of a safe third country and family reunification. A list of safe countries of origin has been adopted. Standard operating procedures (SOPs) for unaccompanied children and vulnerable categories of foreigners have been adopted. Further efforts are needed to ensure their systematic implementation. Institutions and proce-

49. On June 1, 2018, the Readmission Agreement between Macedonia and Kosovo entered into force.

50. Migration Policy of the Republic of Macedonia, Action Plan for the Migration Policy of the Republic of Macedonia 2015–2020, p. 47.

51. <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32008L0115&from=HR>

52. <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32002L0022&from=EN>

53. <https://eur-lex.europa.eu/legal-content/HR/TXT/PDF/?uri=CELEX:32011L0036&from=HR>

54. In the annual report from 2019 the EC notes the progress in the improvement of the legislation, especially for the Law on International and Temporary Protection of 2018; 2019-north-macedonia-report.pdf, North Macedonia 2019 Report p. 42.

dures for dealing with asylum applications are established with a three-tier decision system. An expedited procedure has also been adopted for cases where it is obvious that the applications are unfounded.

In the 2020 annual report for Macedonia the European Commission notes progress in the improvement of the conditions for admission to the asylum center in Vizbegovo. Progress is also recognized in the field of regulation, where a significant step has been taken towards the adoption of modern solutions in the national regulation, transposed from international instruments.

The Law on International and Temporary Protection, adopted in April 2018, is largely in line with the EU legislation. Bylaws arising from the Law on International and Temporary Protection have been adopted. A gap remains in the area of detention of persons during irregular migration, as the current legislation does not provide alternatives to detention. The law provides for the right to family reunification. Recognized refugees can benefit immediately, but concerns remain about delayed family reunification for persons under subsidiary protection for two years after status recognition. As subsidiary protection becomes a widespread form of protection granted in the country, including for unaccompanied children, such delays can significantly affect the right to family reunification and, in the case of children, conflict with the principle of the best interests of the child.⁵⁵

The new law on foreigners came into force in May 2019. Among other benefits, it provides long-term stay for people who have enjoyed international protection, thus facilitating their local integration. However, they still have to present proof of regular income and registered place of residence to benefit from this provision. Given the extreme vulnerability of some applicants, there is a risk that this new provision will remain purely theoretical. Such demands are particularly difficult for Kosovo Roma, still under additional protection. Their status is reviewed every year and prevents them from gaining long-term employment.⁵⁶

The Integration Strategy for Refugees and Foreigners 2017-2027 has not yet been adopted. There is a program and budget for its implementation under the authority of the Ministry of Labor and Social Policy.

The Ministry of Interior is upgrading the existing database for foreigners by developing a new asylum module. This will provide a tool for better case management for the right of access to asylum and their faster processing in the procedure. Progress has been made in reducing the time required to process asylum applications and in arbitrary practices related to the right of access to asylum. However, the EC in its 2019 report states that the quality of decision-making on asylum procedures needs to be improved, including the complaint handling procedure.

With the start of the negotiations, the European Commission will expect Macedonia to fully implement the EU legal legacy regarding asylum, especially in providing effective access to the right to asylum, through effective registration of

55. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/update-on-the-republic-of-north-macedonia.pdf>, 43.

56. *Ibid.*

all asylum seekers. Related to the previous expectations, but also to the whole asylum procedure, Macedonia will have to make efforts and improve the capacity at all levels by creating material preconditions for the implementation of the procedure, by strengthening the integrity of the department acting on the right to asylum in the first instance procedure, with more efficient inter-institutional cooperation, narrowing discretion and making specific decisions for each individual case.

Macedonia, being host of the Regional MARRI Center,⁵⁷ in 2015–2016 initiated a roster providing easier access to licensed translators of the rare languages spoken by asylum seekers and it has been already set up. This is only the first step towards overcoming the problem of providing an interpreter, which remains a major challenge, as it is the first precondition for talking to a foreigner and compiling an analysis for further action.

From the experience of the Republic of Serbia related to asylum (Chapter 24 opened in December 2015): Serbia will focus on the following legal acts (EU Policy Guides, European Movement Serbia, Freedom, Justice, Security, Other Edition, Belgrade, 2015 , p.75):

Regulation (EU) No 604/2013 laying down the criteria and mechanisms for determining the Member States responsible for examining an application for international protection lodged in one of the Member State by a third-country national or a stateless person and the Commission Implementing Regulation (EU) No 118/2014; Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice.

Directive 2011/95/EU on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted

Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection

Directive 2001/55/EZ of 20 July 2001 on minimum standards for giving

57. <http://marri-rc.org.mk/past-events/>

temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof

Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection

Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection.

Given the activities of Serbia and Montenegro, which have been negotiating with the EU for several years, North Macedonia will need to rapidly invest in people and other resources in order to be ready and more easily adapt for cooperation with EURODAC, i.e. the fingerprint regulation of EU asylum seekers. North Macedonia will also have to dimension its human, material, accommodation and other resources in order to meet and deal with possible larger waves of migrants and refugees, which at some point will produce a larger number of asylum seekers.

The EU will evaluate with special interest the asylum procedure, at all levels, as well as effective access to the mechanisms that provide legal aid and response to the asylum seeker's complaint.

It is important for the work of the Macedonian team that will participate in the negotiations to keep in mind the jurisprudence of the European Court of Human Rights (ECtHR), which has already acted on lawsuits for violation of the right of access to asylum.

3.1.3.3. VISA POLICY

Visa policy is an important tool for good and comprehensive migration management. Aligning national visa policy with EU visa policy is a prerequisite for greater security and economic progress. However, alignment should be understood as an active process to be carried out continuously. After the visa liberalization in 2009, North Macedonia reacted by making a number of decisions for unilateral abolition of entry and residence visas for up to 90 days and for temporary abolition of visas for short-term stay of foreign nationals, then agreements on travel conditions, as well as interstate agreements for abolition of the visa regime for holders of diplomatic and official travel documents.

The Macedonian National Integrated Visa System (2007) was the first of its kind in the region and was used as an advanced solution for other surrounding countries. Since 2009, information connectivity has been established between the diplomatic and consular missions in the country, the national visa information system N-Vis and the visa center at the Ministry of Foreign Affairs.

In the EC Annual Report (2020), the visa-free travel regime with the EU continues to run smoothly. However, visa policy needs to be further harmonized for a number of countries currently on the EU white list, whose citizens still need to have a visa to enter North Macedonia. These include Vanuatu, Kiribati, Solomon Islands,



Dominica, Grenada, Marshall Islands, Micronesia, Palau, Samoa, Saint Lucia, Saint Vincent and the Grenadines, East Timor, Tonga, Trinidad and Tobago, and Tuvalu. Negotiations are underway with Georgia.

The visa policy is not fully in line with the EU list of countries whose citizens apply for a visa. North Macedonia exempts citizens of Russia and Azerbaijan from visas. Negotiations are underway with the authorities of the two countries on the future conditions for mutual travel for their citizens. North Macedonia does not require an entry visa for the citizens of Botswana, Cuba, Kosovo and Turkey either.⁵⁸

Macedonia has quality passports, which guarantee a high level of security. The quality of the visa forms issued will be subject to harmonization with the new EU visa code.

Further integration of the Macedonian visa information system implies its connection with the remaining border crossings, with the diplomatic-consular missions, better inter-institutional connection, improvement according to the standards of the member states (information, organizational, security), which will happen with the start of negotiations.

For a long time, the competent authorities in North Macedonia have been following the EU policy of not issuing visas (only as an exception) at the border crossing. This situation will be evaluated and verified with the start of negotiations.

Of course, North Macedonia will have to be prepared to respond to other visa policy-related tasks that are part of the EU legal legacy.

3.1.3.4. SCHENGEN AND EXTERNAL BORDERS

The Republic of North Macedonia continuously adopts European values by harmonizing its regulations, integrates European directives into national legislation, prepares education programs in order to improve police capacity and participates in European bodies in charge of security at the EU external borders.

The European Commission's 2020 report assesses that the legal framework governing the border police is largely in line with European standards. However, a new strategy for integrated border management needs to be developed, as the previous strategy covered the period 2015-2019.

It should be borne in mind that the Schengen acquis is subject to frequent changes and North Macedonia will have to constantly upgrade and harmonize the relevant regulations. In this context, the 2008 Schengen Action Plan must be constantly updated and harmonized, as well as contain evaluation mechanisms.

The National Coordination Center for Integrated Border Management, which is a government agency in the Republic of North Macedonia, has a recognizable role related to the Schengen Action Plan. The EC assesses that this center should continue to improve coordination, data exchange and information sharing. Information technology (IT) and technical expertise must be enhanced.

In the EU, special attention is paid to the exchange of information. However, it is

⁵⁸. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/update-on-the-republic-of-north-macedonia.pdf>, 45

assessed that the border police, customs and other bodies still do not have common access to the databases and there is no formalized and secure protocol for exchanging information among the relevant security services.

The results will be monitored separately during the negotiations, and for now it is estimated that the results for detection, investigation and prosecution of cross-border crime will yet have to be shown.

Since 2016, the Republic of North Macedonia has been hosting border police officers from Austria, Croatia, the Czech Republic, Slovakia, Hungary, Poland and Serbia on the basis of a bilateral agreement, in order to more successfully manage migration flows. The number of foreign police officers is from 140 to 190, rotating continuously. The Ministry of Interior has been cooperating directly with FRONTEX on the basis of the Working Arrangements from January 2009. The cooperation so far implies the involvement of police officers - observers in joint operations. The Border Police participates by regularly sharing data and information, according to an established methodology, for all countries in the region. The Ministry of Interior and the border police receive feedback, information and training, very important for the efficient execution of competencies. This cooperation will be enhanced with the forthcoming signing of the cooperation agreement between the two parties, after which representatives of FRONTEX are expected to be stationed in our country.

Acting in accordance with the provisions of the Police Convention on Cooperation for Southeast Europe, the Border Police has joint patrol services with the border police from Albania, Serbia and Kosovo, acting on harmonized plans for securing the state border.

Joint border centers have been established with Bulgaria, Albania and Serbia, aiming to make co-operation more efficient. Following the example of some European countries, joint border crossings have been initiated and exist with Albania and Serbia, where border control is achieved with a single stop of passengers. This model will continue to be implemented and expanded to more border crossings. The role of the MARRI Regional Center,⁵⁹ with seat in Skopje, is important in achieving better regional cooperation in the field of migration, where the regional cooperation between the border police on the land border and at the airports has an important place. This initiative managed a number of regional projects, providing expertise from FRONTEX, EUROPOL, IOM and other partner services from Europe and the United States.

Other important links:

EU Directorate General – European Neighbourhood Policy and Enlargement Negotiations

http://ec.europa.eu/enlargement/about/directorate-general/index_en.htm

Regional Cooperation Council <http://www.rcc.int/>

International Organization for Migration <http://www.iom.int/>

UNHCR <http://www.unhcr.org/cgi-bin/texis/vtx/home>

International Centre for Migration Policy Development <http://www.icmpd.org/>

59. <http://marri-rc.org.mk/>, accessed on 11.4.2020.

3.2. JUDICIAL COOPERATION IN CIVIL AND CRIMINAL CASES

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3.2.1. JUDICIAL COOPERATION IN CIVIL CASES IN THE EU

Judicial co-operation in civil cases is one of the most extensive and important elements of Chapter 24 of the European acquis, although often overlooked in the analysis of relevant legal acts related to freedom, justice and security. The regulation in this legal area extends through a number of legal documents, and the focus of this chapter is only on the most important legal acts. .

The EU has been interested, since its foundation, in private international law. In the period before the adoption of the Treaty of Amsterdam, the competences of the Union were very limited, i.e. only two intergovernmental conventions were in force.⁶⁰

The intention for closer cooperation between the states in this area dates back to before the signing of the Treaty of Rome, where it is explicitly stated that one of the main goals of the member states is to provide their citizens with benefits in terms of simplifying the procedures related to mutual recognition and enforcement of court and arbitration awards.⁶¹

The current European legal framework starts from Article 65 of the Treaty on the EU and Article 81 of the Treaty on the Functioning of the EU. Article 65 of the TEU deals with measures in the field of judicial cooperation in civil cases that have cross-border implications that must be taken into account for the proper functioning of the common market. The main emphasis is on:

- a) improving and simplifying: the system for cross-border services in court and extrajudicial documents; cooperation in gathering evidence; recognition and enforcement of decisions in civil and commercial cases, including decisions in out-of-court cases;
- b) promoting the compatibility of rules applicable in the Member States relating to the conflict of laws and competences; and
- c) removing obstacles to the proper functioning of civil proceedings, if necessary, by promoting the compatibility of rules in civil proceedings applicable in the Member States.⁶²

On the other hand, Article 81 of the Treaty on the Functioning of the European Union deals with the development of judicial cooperation in civil cases hav-

60. <https://www.europarl.europa.eu/document/activities/cont/201409/20140924ATT89662/20140924ATT89662EN.pdf> p. 82.

61. Водич кроз ЕУ политике, Европски покрет Србија, Слобода, правда, безбедност, Друго издање, Београд, 2015 година стр. 86.

62. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12002E065:EN:HTML>

ing cross-border implications, based on the principle of mutual recognition of judgments and decisions in out-of-court cases. Such cooperation may include the adoption of measures to approximate the laws and regulations of the Member States. To this end, the European Parliament and the Council, in accordance with the ordinary legislative procedure, have been instructed to adopt measures whose primary purpose is the functioning of the internal market and the provision of:

- a) mutual recognition and enforcement of judgments and decisions in out-of-court cases between Member States;
- b) cross-border services in court and extrajudicial documents;
- c) compatibility of the rules applicable in the Member States relating to the conflict of laws and competences;
- d) cooperation in gathering evidence;
- e) effective access to justice;
- f) removing obstacles to the proper functioning of civil proceedings, if necessary, by promoting the compatibility of civil procedure rules applicable in the Member States;
- g) development of alternative dispute resolution methods; and
- h) support for training of employees in the judiciary.

The same article provides for the Council, in accordance with the special legislative procedure, to regulate the measures relating to family law relations.⁶³

This legal basis for judicial co-operation in civil cases under Chapter 24 is strongly supported by a number of legal instruments. In addition, we present the basic regulations that elaborate in more detail this cooperation within the EU.

3.2.1.1. KEY DOCUMENTS FOR JUDICIAL COOPERATION IN CIVIL CASES

Thirteen (13) European regulations form the core of private international law within the EU in terms of competences, applicable law, as well as recognition and enforcement.⁶⁴

Regulation on insolvency proceedings, No. 848/2015⁶⁵, has been corrected, amended and supplemented in 2016, 2017 and 2018. This regulation refers to joint public proceedings, including interim proceedings, which are adopted on the basis of laws related to insolvency, rescue, debt restructuring, reorganization and liquidation of legal entities.

The Brussels I Regulation and its successor Brussels I bis, No. 1215/2012⁶⁶, with several interventions, the last time in 2014, refers to the jurisdiction and recognition, as well as the execution of court decisions in civil and commercial cases.

63. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016E081>

64. <https://www.europarl.europa.eu/document/activities/cont/201409/20140924ATT89662/20140924ATT89662EN.pdf> p. 86.

65. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02015R0848-20180726>

66. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02012R1215-20150226>



In the **Regulation on the establishment of a European enforcement order, No. 805/2004**⁶⁷, as amended in 2005 and 2008, sets out the minimum standards for the free circulation of judgments, court agreements and authentic instruments in the Member States, without the need to introduce additional intermediary procedures between Member States in relation to recognition and enforcement.

Regulation establishing a European order for payment procedure, No. 1896/2006⁶⁸, amended several times between 2006 and 2017, aims to simplify, expedite and reduce litigation costs in interstate cases related to undisputed monetary claims through the establishment of a European system of payment procedures.

Regulation establishing a European small claims procedure No. 861/2007⁶⁹, amended, supplemented and corrected in 2013, 2015 and 2017. The purpose of this regulation is to simplify and speed up the procedures for small claims in cross-border cases and to reduce costs. This procedure is made available to litigants as an alternative to proceedings instituted in accordance with the regulations of the Member States. In addition, the regulation eliminates the additional intermediary procedures necessary for the recognition and enforcement of judgments rendered in other Member States in such same European Small Claims Procedure.

Regulation establishing a European Account Preservation Order Procedure, No. 655/2014⁷⁰, adopted in 2014, aimed to establish a procedure for facilitating cross-border debt conservation in civil and commercial cases.

Regulation Rome I, No. 593/2008⁷¹, adopted in 2008 and amended in 2009, which is applied in case of conflict of laws in the areas of contractual obligations in civil and commercial cases. The regulation cannot be applied in relation to the turnover of legal entities, customs and administrative issues.

Regulation Rome II, No. 864/2007⁷², adopted in 2007, the main application of which concerns the conflict of laws in non-contractual obligations in civil and commercial matters. This regulation does not apply when it comes to the turnover of legal entities, customs and administrative matters, as well as in cases of liability of the state in acting or failing to act (*acta iure imperii*).

Regulation on maintenance, No. 4/2009⁷³, adopted in 2009, refers to the maintenance obligation arising from family relationships, parenthood, marriage and partnership.

67. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02004R0805-20081204>

68. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02006R1896-20170714>

69. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02007R0861-20170714>

70. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014R0655>

71. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02008R0593-20080724>

72. <https://eur-lex.europa.eu/eli/reg/2007/864/oj>

73. <https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:32009R0004>

Regulation Rome III, No. 1259/2010⁷⁴, adopted in 2010, aimed to regulate the conflict of laws in cases of divorce or legal separation. Nevertheless, its implementation is limited to more specific cases explicitly listed in the Regulation.

Regulation on inheritance, No. 650/2012⁷⁵ adopted in 2012 and amended twice during that same year, refers to the inheritance of property of deceased. This regulation does not apply when it comes to the turnover of legal entities, customs and administrative matters.

Regulation on mutual recognition of protection measures in civil matters, No. 606/2013⁷⁶, adopted in 2013, establishes the rules for a simple and rapid mechanism for the recognition of protection measures adopted in a Member State in civil matters.

3.2.2. JUDICIAL COOPERATION IN CRIMINAL CASES IN THE EU

As one of the most important areas of cooperation and a key priority of the EU member states, judicial cooperation in the field of criminal law can be found in a number of strategic documents of the Union. Judicial co-operation in criminal matters is based on the principle of mutual recognition of judgments, as well as other court decisions of a member state by other member states of the Union, but, at the same time, the provision of mutual legal assistance. The approximation of national legislations begins with this trend through the establishment of harmonized minimum standards in the area of recognition of evidence and rights of victims of crime, as well as other participants in criminal proceedings.

In May 2000, the Council of the EU adopted the Convention on Mutual Assistance in Criminal Matters,⁷⁷ in order to overcome the differences that exist in the national legislations of the EU member states. An additional protocol was later adopted to address money laundering and financial fraud.⁷⁸ These acts contain new and precise solutions that simplify the cooperation of the member states and enter into a matter that has been the subject of sovereign decision-making by the member states.

The 2000 Convention on Mutual Assistance in Criminal Matters defines the conditions under which mutual assistance between states is possible. In this regard, the requested party is obliged to complete all the formalities set forth by the requesting party. Thus, if the requested assistance cannot be provided within the defined time limits, the requested party should promptly notify the requesting party of these circumstances, leaving a possibility for the parties to reach an agreement on further action.

74. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32010R1259>

75. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02012R0650-20120705>

76. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R0606>

77. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2000:197:0001:0023:EN:PDF>

78. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52001PC0272>



This convention also defines the possibility of establishing joint investigation teams (Article 13), by agreement between two or more EU member states. Joint investigation teams are set up for a specific purpose and for a limited period of time. They are composed of police officers, prosecutors, judges and other necessary staff and work in accordance with the national legislation of the territory where the investigation is conducted.

Within the framework for cooperation in the field of crime in the European Union, specific forms of cooperation are defined between the member states:

Mutual recognition of judgments - Once a judgment becomes final, it is automatically recognized in all EU member states. Recognition of the judgment can be refused only in exceptional cases.

Exchange of documents from one country to another - The exchange of documents in a fast and secure way is extremely important for judicial cooperation. Proper sending and receiving of documents significantly affects the provision of access to justice and fair trial.

Mutual legal cooperation and extradition - A form of cooperation between different countries in order to collect and exchange information. Authorities in one country may request and provide evidence to be used in criminal investigations and proceedings in another country. Extradition is a legal procedure for transferring a person from one country to another to stand trial or to serve a sentence.

Taking and acknowledging evidence from another EU country - A key element in criminal investigations is providing evidence to prove the guilt of the suspect. In this context, the European investigation order is a court decision of a judicial authority from one EU member state, which requires another EU member state to conduct one or more separate investigative measures to obtain evidence. The Directive for the European investigation Order in criminal matters applies to all EU member states except Denmark and Ireland. The European Commission is working to find solutions for new state-of-the-art tools that will enable member states to better cooperate in the exchange of electronic evidence.

The European Arrest Warrant - The most successful instrument of judicial cooperation in criminal matters in the EU. The purpose of the European Arrest Warrant is to ensure that open borders and freedom of movement are not abused by those trying to evade justice. This mechanism is based on the principle of mutual recognition and is implemented through direct cooperation of judicial bodies.

Detention and transfer of detainees and prisoners - The EU aims to rehabilitate convicts and therefore allows them to serve their sentences in their home country or in the country in which they lived or with which they have close ties. This includes the possibility of alternatives to detention. That is, the European Supervision Order allows the suspect to be under surveillance in his country until the trial takes place in another country, instead of being detained in another country.

Confiscation and freezing of property and assets – Confiscation allows illegally acquired funds to be returned to the state, rather than infiltrate legal financial flows. Confiscation in the EU only applies in cases where there is a final court ruling.

Collecting and enforcing fines and penalties – It allows to collect fines and penalties of a person who is not a resident of an EU member state where the crime or misdemeanor was committed, did not pay the fine and left the territory of that country.

3.2.2.1. KEY DOCUMENTS FOR COOPERATION IN CRIMINAL CASES

Listed below are the most important legal instruments that enable cooperation in criminal matters between the judicial authorities of the Member States.

COLLECTING CRIMINAL EVIDENCE

Directive 2014/41 / EU on a European Investigation Order ⁷⁹

DETENTION INSTRUMENTS

Framework Decision 2008/909 / RIA on transfer of prisoners⁸⁰

Framework Decision 2008/947/RIA on suspended sentences⁸¹

Framework Decision 2009/829 / RIA on supervision order ⁸²

ARREST

Framework Decision 2002/584 / RIA on the European Arrest Warrant, supplemented by Framework Decision 2009/299 / RIA ⁸³

RECOGNITION OF COURT DECISIONS

Framework Decision 2009/299 / RIA on decisions taken in absentia⁸⁴
2008/675 / RIA on previous convictions⁸⁵

Framework Decision 2009/948 / RIA on conflict of competencies⁸⁶

Framework Decision 2005/214 / RIA on financial penalties⁸⁷

CONFISCATION AND FREEZING OF PROPERTY

Directive 2014/42 on freezing and confiscation of proceeds and instrumentalities and proceeds of crime the EU⁸⁸

79. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0041>

80. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32008F0909>

81. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008F0947>

82. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009F0829>

83. Revised version <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02002F0584-20090328>

84. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009F0299>

85. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008F0675>

86. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009F0948>

87. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32005F0214>

88. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0042>

Regulation (EU) 2018/1805 on the mutual recognition of freezing and confiscation orders of property (effective from 19 December 2020)⁸⁹

3.2.3. INSTITUTIONAL FRAMEWORK

3.2.3.1. EUROPEAN UNION AGENCY FOR CRIMINAL JUSTICE COOPERATION - EUROJUST

Eurojust was established by a decision of the EU Council in 2002, and in December 2019 the Eurojust Regulation entered into force.⁹⁰ The main role of this body is to strengthen cooperation and coordination between the state bodies of the member states regarding serious crime. The new legal framework improves the operational capacity and exchange of information between Eurojust and the member states, establishes a new governance structure, a new system for the protection of personal data, increases the role of the European Parliament and national parliaments for democratic oversight of Eurojust activities, and so on.

Eurojust provides operational support at various stages of cross-border investigations. For example, this agency can coordinate parallel investigations, organize coordination meetings, establish joint investigation teams, plan days of joint action in which national authorities will coordinate the arrest of perpetrators and dismantle organized criminal groups.

Eurojust is headquartered in The Hague, the Netherlands, where each Member State has its own representative, prosecutor, judge or police officer with relevant powers, with a four-year renewable term. States decide for themselves the powers of their representatives, but there are minimum standards for their operation.

3.2.3.2. EUROPEAN JUDICIAL NETWORK

The European Judicial Network is a network of national contact points, which facilitates judicial cooperation in criminal cases. The European Judicial Network was established in 1998,⁹¹ and the legal framework was improved in 2008.⁹²

This network consists of central and other bodies of the Member State responsible for international legal assistance and legal cooperation. The Member State appoints a national correspondent within the European Judicial Network from among these bodies. The national correspondent has the task of being an “active mediator”, i.e. to facilitate co-operation and co-ordination between the member states in the field of justice related to criminal offenses. This network setup allows states to have a direct link to each other through designated contact persons, which facilitates communication between the judiciary and other state institutions, thus facilitating the movement through the positive legal regulations of the states.

89. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018R1805&from=EN>

90. Regulation of the European Parliament and of the Council on the European Union Agency for Cooperation in Criminal Matters, replacing and repealing Council Decision 2002/187 / RIA), adopted on 6 November 2018, entered into force on 12 December 2019 .

91. Joint Action 98/427 RIA.

92. Council Decision 2008/976 / RIA of 16 December 2008.

Each member state has an obligation to establish a national coordination system, which will define the work internally, to enable the operation of the national contact points in the European Judicial Network. This system includes representatives of Eurojust, the European Judicial Network, as well as contact persons for the network of joint investigation teams.

The European Judicial Network has a secretariat located at Eurojust headquarters in The Hague.

3.2.4. JUDICIAL COOPERATION IN CIVIL AND CRIMINAL MATTERS IN NORTH MACEDONIA

The European Commission's 2020 Progress Report on North Macedonia assesses that the country has made limited progress in terms of judicial cooperation in civil and criminal matters. On the positive side, the new Law on Private International Law, which is due to take effect in February 2021, is fully in line with European regulations.

In addition, the country is assessed as having good co-operation with Eurojust, through the prosecutor sent to Eurojust headquarters, as well as the six contact points.

3.3. POLICE COOPERATION AND FIGHT AGAINST ORGANIZED CRIME

Magdalena LEMBOVSKA, MSc

3.3.1. POLICE COOPERATION IN THE EU

Police co-operation aims to prevent and combat serious cross-border crime and terrorism in the European Union. Cross-border police cooperation begins with the formation of the TREVI group in 1976, and with the establishment of the Schengen area in 1985, the need for cross-border police cooperation becomes apparent. In terms of ensuring mutual security and combating security challenges, police co-operation begins as a joint fight against drug trafficking.

With the establishment of Europol in the late 1990s, police co-operation became operational, and with the Treaty of Amsterdam, EU law - the Schengen acquis (where police co-operation is a segment) became part of European legislation. Part of the member states in 2005 signed the Prüm Treaty, which deals with the exchange of DNA, fingerprints, vehicle registration numbers, etc., and later this agreement became part of the European legislation.⁹³ This type of cooperation is sometimes referred to as Schengen III.

Police cooperation in the EU is an added value as a support to member states in ensuring security. That is to say, this means that the prosecution of criminals remains, above all, the responsibility of the member states and European agencies do not have the power to conduct investigations or conduct police actions on their own.

Police cooperation in the EU today takes place on three levels:

Exchange of information through various EU mechanisms, which requires accurate and up-to-date data, data security and protection mechanisms, and secure communication channels.

Operational cooperation, i.e. joint operational actions against organized crime, joint investigations against cross-border crime, joint patrols, etc., as well as operational support for member states by Europol and other European agencies.

Support to member states through funding, training, research and innovation. Member States exchange information through various EU mechanisms, which requires accurate and up-to-date data, data security and protection mechanisms, and secure communication channels. The most important is the Schengen Information System (SIS),⁹⁴ where Member States can find notifications of missing or wanted persons, within the EU and beyond. The plan is to use this system as much as possible

93. By Council Decision 2008/615/JHA of 23 June 2008.

94. <https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system>

together with the Interpol database for stolen and lost travel documents. No less important is the Visa Information System (VIS),⁹⁵ as well as the numerous Europol databases. The most important legal instruments for the exchange of information are the Prüm Decisio⁹⁶, allowing the exchange of DNA profiles, fingerprint data and vehicle registration numbers and the Swedish Decision.⁹⁷

The Hague Program (2005–2010) introduced the principle of “availability”, which means that information available to law enforcement agencies in one Member State should be available to similar institutions in another EU Member State.

The EU recognizes that effective prevention and the fight against modern organized crime require a multidisciplinary approach, which the EU calls the “administrative approach”. It refers to the efforts to prevent organized crime from infiltrating the public sector and the economy.

3.3.2. THE EU AS A SECURITY UNION

Policy guidelines for police cooperation and the fight against organized crime are provided by the **EU Security Union Strategy 2020–2025**,⁹⁸ introduced by the European Commission in July 2020. This strategy replaces the previous one, which bore the name European Agenda on Security 2015–2020).⁹⁹

This document sets out four key strategic priorities, which are intertwined.

| THE EU AS A SECURITY UNION STRATEGIC PRIORITIES 2020–2025 | |
|--|--|
| A security environment resistant to future threats | Protection and resilience of critical infrastructure |
| | Cyber security |
| | Protection of public space |
| Fight against new threats | Fight against cybercrime |
| | Modern police |
| | Fight against illegal content online |
| | Hybrid threats |
| Protection of European citizens from terrorism and organized crime | Terrorism and radicalization |
| | Organized crime |
| A strong ecosystem for European security | Cooperation and exchange of information |
| | Contribution to strong external boundaries |
| | Strengthen research and innovation in security |
| | Raising awareness and strengthening skills |

95. <https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-information-system>

96. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008D0615&from=EN>

97. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:386:0089:0100:EN:PDF>

98. Available at: https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/european-security-union_en#:~:text=The%20EU%20Security%20Union%20Strategy,-The%20European%20Commission&text=The%20strategy%20covers%20the%20period,our%20European%20values%20and%20principles

99. https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/european-security-union_en#:~:text=The%20EU%20Security%20Union%20Strategy,-The%20European%20Commission&text=The%20strategy%20covers%20the%20period,our%20European%20values%20and%20principles

3.3.3. FIGHT AGAINST ORGANIZED CRIME IN THE EU

Organized crime is a serious threat to EU citizens, institutions and companies. The European Union fights organized crime by harmonizing legislation defining crimes related to organized crime groups, supporting law enforcement agencies in the member states, crime prevention activities, etc.

Priorities for the fight against serious and organized crime are defined through the **EU Policy Cycle for Serious and Organized Crime (EMPACT)**. It is a methodology adopted by the EU in 2010 and aims to deal with the most important criminal threats in the EU, with each cycle lasting four years. It begins with a crime threat assessment (SOCTA), prepared by Europol. Based on the recommendations, but also in accordance with other reports and assessments, the Council defines the priorities. Then, multi-year strategic plans are prepared for each of the priorities, as well as operational action plans. The last step is evaluation.

A key tool in the fight against organized crime is the confiscation of illicit assets. Confiscation allows illegally acquired funds to be returned to the state, instead of being infiltrated in the legal financial flows and corrupting society. In addition, confiscation should have a preventive role, i.e. it establishes the principle that “crime does not pay”. Confiscation in the EU applies only to cases for which there is a final court ruling. European legislation also allows for confiscation from third parties, i.e. in cases where the perpetrator has transferred the funds to a third party in order to avoid confiscation. Most often the transfer is done for free or at a price that is significantly lower than the market one. In addition, freezing of assets is enabled, as a preventive measure, including freezing of assets of third parties. Member States should also have an institution to deal with the management of confiscated assets.

3.3.3.1. FIGHT AGAINST HUMAN TRAFFICKING

Human trafficking is explicitly prohibited by the Charter of Fundamental Rights and defined as an extremely serious form of crime. Human trafficking can be for the purpose of sexual exploitation, for the exploitation of labor, or for other forms of exploitation. In the fight against this threat, the EU has developed a comprehensive, gender-sensitive approach, focusing on the protection of victims in the legal framework and policies.

3.3.3.2. CYBERCRIME AND CHILD SEXUAL ABUSE

Cybercrime consists of crimes committed online, which are committed through electronic communication networks and information systems. This type of crime is a special challenge because it knows no boundaries, and at the same time, relies on the latest technologies, which are developing very quickly. The EU's ongoing activities in this area include, above all, the introduction of new rules and practical measures to facilitate access to electronic evidence, overcoming the challenges of encryption in the context of criminal investigations, as well as protecting children online and combating child pornography.

3.3.4. KEY INSTITUTIONS AND STRUCTURES AT EU LEVEL

Europol- is the European Union law enforcement agency, i.e. the “European police”. Europol, like other EU agencies, does not have independent and autonomous investigative capacity, and operative work remains the responsibility of the member states. Europol provides support to member states through support of police operations; it is a major center for the exchange of information on criminal activities, as well as a center for expertise in police matters. Europol has specialized units for different types of crime, such as cybercrime, migrant smuggling, terrorism, etc. Among the most well-known products are the EU Serious and Organized Crime Threat Assessment (SOKTA) and other security assessments. Europol is based in The Hague, the Netherlands.

CEPOL - European Union Agency for Law Enforcement Training (CEPOL) - an agency for the development, enforcement and training of police and other law enforcement officers. Encourages and facilitates collaboration through knowledge sharing. CEPOL is headquartered in Budapest, Hungary.

Standing Committee on Operational Cooperation on Internal Security (COSI) at the Council - Established within the Council in 2010. It has the task of facilitating cooperation between the institutions of the member states, and its work may include representatives of other bodies of the Union, offices and agencies. The European Parliament and the national parliaments need to be constantly up to date with its work.

EU Intelligence Analysis Center (EU INTCEN) at the Directorate of European External Action Service (EEAS) - Provides strategic analysis and threat assessment based on information received from intelligence services, armies, diplomats and police.

The European Anti-Fraud Office OLAF – investigates EU budget fraud, corruption and serious breaches of the law in the institutions of the EU. OLAF conducts independent fraud and corruption investigations involving EU funds to ensure that all EU taxpayer money is spent on projects that can create jobs and growth in Europe, and also contribute to strengthening of citizens’ trust in the EU institutions through investigation into serious misconduct by EU staff and members of the EU institutions. OLAF also develops the EU anti-fraud policy. OLAF is part of the European Commission, but has full independence.

European Crime Prevention Network EUCPN – Aims towards networking at local, national and European level and exchange of knowledge and best practices between EU member states. The network is managed by a board of national representatives of the member states. The network’s secretariat is in Brussels.

3.3.5. KEY EUROPEAN LEGISLATION AND DOCUMENTS

European legislation on police cooperation and the fight against organized crime is extensive and complex. Listed below are some of the key legal instruments governing this matter.

Framework Decision 2008/841 of the Council on fight against organized crime¹⁰⁰ – criminalizes offenses related to participation in a criminal group. The aim is to reconcile crimes and penalties for participating in organized crime groups.

Directive 2014/42/EU¹⁰¹ on the freezing and confiscation of instrumentalities and proceeds from crime in the EU.

Directive 2018/1673¹⁰² on combating money laundering by criminal law.

Framework Decision of the Council (2006/960/RIA)¹⁰³ on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (Swedish Initiative).

Decision of the Council 2008/615/ΠBP¹⁰⁴ on the stepping up of cross-border co-operation, particularly in combating terrorism and cross-border crime (Prüm).

Directive 2011/36/EU¹⁰⁵ on preventing and combating trafficking in human beings and protecting its victims.

3.3.6. POLICE CO-OPERATION AND THE FIGHT AGAINST ORGANIZED CRIME IN NORTH MACEDONIA

The European Commission in its latest report from 2020 estimates that North Macedonia has “a certain level of preparation” for the fight against organized crime. An exceptional challenge is the fight against financial crime, as well as money laundering. It is necessary to establish a centralized register of bank accounts in accordance with the fifth EU Money Laundering Directive. In addition, although a body for the confiscation of illegally acquired property has been established, a proactive property confiscation policy has yet to be demonstrated.

PRIORITIES FOR NORTHERN MACEDONIA FOR 2021 ACCORDING TO THE EUROPEAN COMMISSION:

- further increase the results of investigations, prosecutions and convictions for organized crime and money laundering, and further demonstrate the ability to effectively dismantle large organized criminal networks;
- to apply confiscation of proceeds of crime by the courts;
- to increase the functionality and capacity of the investigation centers established in the prosecution offices.

100. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:j10011>

101. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legisum%3A2308_1

102. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legisum%3A4372181>

103. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32006F0960>

104. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32008D0615&qid=1608852702401>

105. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0036&qid=1608852745981>



In order for the state to be able to successfully implement its obligations to fight organized crime, it is very important to strengthen the institutions and provide the necessary human, technical, financial and other resources. In addition, better intra- and inter-institutional co-operation is needed between all actors involved in the fight against organized crime.

In terms of international police co-operation, Northern Macedonia uses the main co-operation mechanisms, and since 2015 has had a liaison officer at Europol headquarters in The Hague. The Ministry of Interior has signed a Cooperation Training Plan with CEPOL, but the EC states that the state should make more use of the opportunities offered by CEPOL, despite budget constraints.

3.4. FIGHT AGAINST TERRORISM

Magdalena LEMBOVSKA, MSc

3.4.1. FIGHT AGAINST TERRORISM IN THE EU

The fight against terrorism is largely the duty of each member state within its sovereignty and the work of the national security institutions, the police and the public prosecutors' offices. Although the beginnings of the joint fight against terrorism can be found in the 70s, with the formation of the group TREVI,¹⁰⁶ significant efforts have undoubtedly taken place in the last two decades.

The turning points were the terrorist attacks in the United States on September 11, 2001, after which the Council for the first time issued a joint position¹⁰⁷ on the implementation of counter-terrorism measures; the terrorist attack in Madrid in 2004 and the 2015 terrorist attack in Paris. Today, the fight against terrorism is undoubtedly one of the Union's top priorities.

The fight against terrorism is part of the common foreign and security policy, and partly of the common defense and security policy. Although some politicians often use the term "war on terror", the EU insists on the rule of law and the criminalization of terrorism-related offenses. The main role in this "fight" is not played by the military, but by the police and the public prosecutors' offices.

One of the key roles of the EU is to provide a common definition of terrorism and to define terrorism-related offenses that Member States should incorporate into their legislation. In 2007 a new directive was adopted,¹⁰⁸ aimed to harmonize terrorism-related crimes. In addition to the terrorist act itself, member states have an obligation to criminalize acts that assist in the preparation of such an act, such as training and travel for terrorist purposes, the organization of such travel, and so on.

In December 2020, the European Commission presented the EU Counter-Terrorism Agenda.¹⁰⁹ This document is in line with the European Security Agenda,¹¹⁰ adopted several months earlier, in July 2020.

This strategic document is based on four pillars: anticipate, prevent, protect and respond.

106. TREVI stands for „Terrorism, Radicalism, Extremism, and International Violence group“, i.e. a group against terrorism, radicalization, extremism and international violence.

107. 2001/931/CFSP.

108. 2017/541.

109. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/pdf/09122020_communication_commission_european_parliament_the_council_eu_agenda_counter_terrorism_po-2020-9031_com-2020_795_en.pdf

110. Available at: https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/european-security-union_en

| THE FOUR PILLARS OF THE EU COUNTER-TERRORISM AGENDA | |
|---|--|
| ANTICIPATE | Strengthening strategic intelligence, threat assessment, risk assessment, preparedness Capacity building for early detection The role of new technologies Prediction |
| PREVENT | Dealing with radicalization and terrorist material on the Internet The role of local communities Waiver, rehabilitation and integration Consolidating knowledge and support |
| PROTECT | Protection of public spaces Restriction of access to firearms Critical infrastructure protection Border management |
| RESPOND | Strengthening Europol Improving law enforcement cooperation Exchange of information Prosecution Victim support |

Unlike some other areas, in the fight against terrorism, cooperation at the global level is inevitable, primarily with the United States, but also with countries in Africa, the Middle East and Asia. For example, the EU is one of the founders of the Global Forum on Counter-Terrorism. Although not yet EU members, the Western Balkan countries, including Macedonia, are involved in co-operation in this area.

3.4.2. KEY INSTITUTIONS AND STRUCTURES AT EU LEVEL

European Counter Terrorism Centre (ECTC) - A key operational center for combating terrorism within the EU. At the request of member states, ECTC provides operational support to investigations. In addition, it serves as a center for the exchange of information, expertise and resources on issues such as foreign fighters, online propaganda, illegal trade in arms and explosives, and so on. Publishes annual report on the situation and trends related to terrorism in Europe (TE-SAT).¹¹¹

Eurojust - Practical support in terrorism investigations, using cross-border actions, setting up joint investigation teams, etc. In September 2019, Eurojust established a Counter-Terrorism Register, which is a database of ongoing investigations, trials and convictions for terrorism-related offenses.

Counter-Terrorism Coordinator at the European Council - first appointed in 2007 and has a role to play in coordinating the Council's work in the fight against terrorism and ensuring that the EU plays an active role in this area. In addition, it

111. Available at: <https://www.europol.europa.eu/activities-services/main-reports/eu-terrorism-situation-and-trend-report>

monitors the implementation of the Counter-Terrorism Strategy, makes recommendations to the Council, coordinates the work of the relevant bodies, etc.

3.4.3. KEY EUROPEAN LEGISLATION AND DOCUMENTS

Directive (EU) 2017/541 on the fight against terrorism¹¹² lays down the rules for the definition of terrorism-related offenses and sanctions with which Member States are required to comply. In addition, it introduces measures to protect, support and assist victims.¹¹³

The Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing amends the Directive 2015/849, as well as the Directives 2009/138/EU and 2013/36/EU.

The Directive (EU) 2019/1153 of the European Parliament and of the Council of 20 June 2019 laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences, enhances the capacity of Member States in the fight against terrorism by facilitating access to financial information.

Directive 2008/114/EC of 8 December 2008 on identification and designation of European critical infrastructures and the assessment of the need to improve their protection¹¹⁴ aims to protect critical infrastructure in the Member States against terrorist attacks.

Regulation 98/2013 on the marketing and use of explosives aims to prevent the misuse of explosives that can be used to carry out a terrorist attack.

Action Plan to enhance preparedness against chemical, biological, radiological and nuclear security risks¹¹⁵ . aims to improve preparedness to deal with the threat of terrorism with CBRN materials.

In 2018, the Commission proposed a **Regulation**¹¹⁶ to prevent the spread of terrorist content on the Internet. If adopted, companies (hosting providers) providing services within the Union, no matter where they are registered and how many there are, will be required to respond quickly to terrorist content online.

3.4.4. FIGHT AGAINST TERRORISM IN NORTH MACEDONIA

The EC considers that anti-terrorism legislation is largely in line with the European acquis and international legal instruments. The National Strategy for Combating Terrorism (2018–2022) follows the approach of the previous EU strategy through the commitments to prevent, prosecute and protect against terror-

112. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32017L0541>

113. Replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, pp. 6-21).

114. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AQJ.L_.2008.345.01.0075.01.ENG

115. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20171018_action_plan_to_enhance_preparedness_against_chemical_biological_radiological_and_nuclear_security_risks_en.pdf

116. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52018PC0640>

ism, and there is a special National Strategy for the Prevention of Violent Extremism (2018–2022). The EC, in its latest progress report, advised North Macedonia that special attention should be paid to the reintegration and resocialization of returnees.

Macedonia is part of the Western Balkans Counter-Terrorism Initiative (WBCTI), supported by the EU aimed to respond to developments related to terrorism, violent extremism and radicalization.

A Joint Action Plan for the Western Balkans was signed in October 2018,¹¹⁷ and the following year Macedonia and the EU signed an arrangement for the implementation of the action plan. This document sets out the following priorities:

- strengthening Macedonia's structures and strategies, including through improved threat assessment;
- increased efforts to prevent and combat violent extremism, including through a multi-sectoral approach at local level, as well as addressing the challenges posed by foreign terrorist fighters - returnees and their families;
- establishing a national threat assessment of money laundering risks and better communication between financial intelligence and the prosecution.

The reform of the security-intelligence system from 2019 brought changes in the institutional structure for the fight against terrorism. Following the transformation of the Security and Counterintelligence Directorate into an independent National Security Agency, a separate organizational unit for the fight against terrorism, violent extremism and radicalization was established in the Ministry of Interior within the Department for Combating Serious Organized Crime. Given that the EU approach is based on the rule of law and the criminalization of terrorism-related activities, it is necessary to invest in the capacity to detect and prosecute perpetrators. In that regard, financial investigations are a special challenge for the country. Improved inter-institutional communication and cooperation at national and local level is also necessary.

All efforts to tackle terrorism should be based on the rule of law and the protection of human rights and freedoms, including the right to privacy. At the same time, in order to facilitate cooperation with Europol and EU Member States, it is of the utmost importance to ensure data security and to introduce safeguards against any “leakage” of information to political parties, the media, criminal groups or any other individual and groups.

The crisis management system will need to be strengthened in order to enable efficient and coordinated action in case of various dangers, including response to a possible terrorist attack. Among other things, it means establishing protocols and mechanisms. In line with the need for a holistic approach to security and a multi-sectoral approach to security policy development, the Crisis Management Center needs to be adequately trained to respond to such challenges. At the same time, the state should be prepared to provide assistance and support

117. Available at: https://ec.europa.eu/home-affairs/news/news/20191009_security-union-implementing-counter-terrorism-arrangements-albania-north-macedonia_en

to victims. For example, information protocols should be established in order to avoid further suffering of the victims and their families.

Although the ongoing activities of the departments are aimed at preventing radicalization and violent extremism, the country will need capability to deal with terrorism using chemical, biological, radiological and nuclear weapons (CBRN), as well as explosives regulation. This is an event with very low probability, but with great consequences, thus harmonization with European standards in that regard will be necessary.

Other Relevant Links

Council of Europe Convention for the Suppression of Terrorism¹¹⁸ – Macedonia signed the convention in 2006, ratified and entered into force in 2010.

Radicalisation Awareness Network (RAN)¹¹⁹ – a network of practitioners working to prevent radicalization, set up by the European Commission. The network consists of police officers, youth workers, civil activists, teachers, health professionals, etc.

EU Internet Forum¹²⁰ / EU Internet Forum /, established in 2015, aimed towards cooperation between governments, Europol and the largest technology and social media companies, to eliminate as soon as possible illegal content online, such as terrorist propaganda

European Network of Associations of Victims of Terrorism – NAVT, established by the European Commission, aimed to foster transnational co-operation of associations and for advocacy for the rights of the victims at European level.

118. <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/196>

119. https://ec.europa.eu/home-affairs/what-we-do/networks/radicalisation_awareness_network_en

120. http://europa.eu/rapid/press-release_IP-15-6243_en.htm

3.5. FIGHT AGAINST DRUGS

Magdalena LEMBOVSKA, MSc

3.5.1. FIGHT AGAINST DRUGS IN THE EU

Одговорот на Европската Унија против дрогите ги опфаќа и безбедносните и здравствените аспекти на трговијата со дроги. Борбата се одвива на национално, на европско и на меѓународно ниво и е целосно усогласена со меѓународните стандарди воспоставени преку Конвенцијата на Обединетите нации за борба против нелегалната трговија со наркотични дроги и психотропни супстанции и други релевантни меѓународни инструменти.

In July 2020, the European Commission published the EU Agenda and Action Plan on Drugs 2021–2025.¹²¹ This document sets out the policy framework and priorities for the next five years.

The European Agenda on Drugs covers eight priorities, divided into three areas, presented in the table below.

| PRIORITIES FOR THE FIGHT AGAINST DRUGS IN THE EU | |
|---|---|
| Increased security -Subjugation of the drug market | 1. Breaking up and obstructing the work of organized criminal groups of the highest risk |
| | 2. Increased detection of drug trafficking and drug precursors entering and leaving the EU |
| | 3. Increased monitoring of logistics and digital channels used for small and medium drug distribution, as well as confiscation of illegal substances distributed through these channels, in close cooperation with the private sector |
| | 4. Disabling drug production and processing, preventing diversion and trafficking in drug precursors and eradicating illegal cultivation |
| Prevention and awareness raising | 5. Prevention of drug use, increased crime prevention, raising awareness of the negative effects of drugs among citizens and communities |
| Addressing drug- induced harm | 6. Increased access to treatment options to meet the different health and rehabilitation needs of people facing the harmful effects of substance use |
| | 7. Increase the effectiveness of interventions to reduce risk and consequences, in order to protect the health of drug users and the public |
| | 8. Developing a balanced and comprehensive approach to drug use in prisons (reducing demand and restricting supply) |

121. Available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20200724_com-2020-606-commission-communication_en.pdf

Drug trafficking is a major source of funding for organized crime groups in Europe, while heroin and opiate use are a major cause of drug-related harm. The Balkan route is the main corridor for heroin to enter Europe, and the Western Balkans is an important source of seized cannabis.¹²²

3.5.2. LEGAL AND INSTITUTIONAL FRAMEWORK IN THE EU

3.5.2.1. INSTITUTIONAL FRAMEWORK

A key EU agency in the fight against drugs is the **European Monitoring Centre for Drugs and Drug Addiction EMCDDA**.¹²³ The EMCDDA was formally established in 1993 and has been operational since 1995 as a decentralized EU agency. The role of the EMCDDA is to provide the EU and its Member States with an overview of the actual situation of drug related problems. In addition, it provides data used to develop legislation and strategies, as well as research on best practices. EMCDDA has developed infrastructure and tools for equitable access to data collection from Member States. EMCDDA operates an early warning system for new psychotropic substances.

The European network of national focal points for drugs and drug addiction Reitox¹²⁴ also plays an important role. These are national institutions or agencies responsible for data collection and reporting on drugs and drug addictions. The main task of the network is to collect data in a consistent, harmonized and standardized way for the needs of the European Center for Monitoring Drugs and Drug Addictions.

The Europol Center for Serious and Organized Crime at EUROPOL supports the fight against illegal drugs by member states, while **the Civil Society Forum on Drugs**¹²⁵ is a consultative expert body set up by the European Commission. It is composed of 45 civil society organizations from Europe, working on various aspects of drug policy. The aim is to enable a structured dialogue between the Commission and European civil society.

3.5.2.2. LEGAL FRAMEWORK

The following **United Nations conventions** are an integral part of the European drug legislation:

- Single Convention on Narcotic Drugs, 1961;
- Convention on Psychotropic Substances 1971;
- Convention against Illicit Drug Trafficking 1988.

In addition, the following legal acts have been adopted at EU level:

122. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20200724_com-606-annexe_en.pdf

123. https://www.emcdda.europa.eu/emcdda-home-page_en

124. https://www.emcdda.europa.eu/about/partners/reitox_en

125. <http://www.civilsocietyforumondrugs.eu/>

Directive (EU) 2017/2103¹²⁶ for new psychotropic substances - in force from November 23, 2018. This Directive complements Council Framework Decision 2004/757 / JHA¹²⁷ on minimum provisions on constituent elements of criminal acts and penalties in the area of illegal drug trafficking, abolishing the Council Decision 2005/387/JHA.¹²⁸

Regulation (EU) 2017/2101¹²⁹ amending the Regulation (EC) No. 1920/2006 on exchange of information, and an early warning system and risk assessment procedure, for new psychoactive substances.

Regulation (EC) 111/2005¹³⁰ for trade between the EU and third countries in drug precursors, amended by Regulation (EU) 1259/2013.¹³¹

Regulation (EC) 273/2004 for trade in precursors in the EU, amended by Regulation (EU) 1258/2013.¹³²

3.5.3. FIGHT AGAINST DRUGS IN NORTH MACEDONIA

The holder of drug policies is the Ministry of Health, where the Drug Observatory has been operating since 2007. The EC conveys that the operational capacity of this observatory should be strengthened in order to be able to carry out drug monitoring tasks. The law on drugs and psychotropic substances needs to be amended to comply with European law, and the country will need to establish a national early warning system, as well as strengthen the data collection, analysis and reporting system, to comply with the methodology of the European Center for Drugs and Drug Addiction.

Macedonia has a National Drug Strategy 2014–2020,¹³³ aligned with the EU Drug Strategy 2013–2018. However, a new five-year national strategy needs to be adopted, along with an action plan, aligned with the new EU Agenda 2021–2025. One of the key remarks made by the EC to Macedonia is the lack of safe storage of drugs and drug precursors to be destroyed.

The European Commission states that the fight against organized crime groups and drug seizures is improving, and that co-operation with neighboring countries is good.

126. <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1418819138100&uri=CELEX:52013PC0619>

127. <https://eur-lex.europa.eu/legal-content/GA/TXT/?uri=CELEX:32004F0757>

128. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32005D0387>

129. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32017R2101>

130. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32005R0111>

131. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013R1259>

132. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:330:0021:0029:EN:PDF>

133. <https://vlada.mk/sites/default/files/dokumenti/strategiji/strategija-za-opojni-drogi-2014-2020.pdf>

3.6. PREVENTING COUNTERFEITING OF THE EURO

Trpe STOJANOVSKI, PhD

3.6.1. PREVENTING COUNTERFEITING THE EURO IN THE EU

High on the agenda of the EU (and EUROPOL) is the concern to prevent the counterfeiting of the euro. The EU policies to protect the euro, as a symbol of the Union,¹³⁴ are a priority for the EU. The euro is the official currency in most EU member states, but is also accepted as a unit of account in other European countries. It is accepted as a stable means of payment, especially when it comes to concluding contracts and providing security in financial transactions. The EU is strategically and long-term present in our country, supporting the reforms and helping them with significant funds expressed in euros.

3.6.2. LEGAL AND INSTITUTIONAL FRAMEWORK

Europol is the key institution for combating euro counterfeiting in the EU, and since 2005 has played the role of central office for combating euro counterfeiting.

The protection against euro counterfeiting is one of the top priorities of Europol. The agency works closely with the competent authorities of each Member State and also with third countries with which it has a cooperation agreement. Europol's mission is to support member states in preventing and combating serious crimes, including the counterfeiting of the euro. Europol does this through risk analysis and exchange of forensic intelligence. The exchange of information takes place between the liaison office and liaison officers in the national police.

European criminal law draws power to protect the euro from the International Convention for the Suppression of Counterfeiting Currency signed at Geneva (1929). It is the basis of the Framework Decision 2000/383/JHA, supplementing the Convention on the territory of the EU following the introduction of the euro. It is followed by the Directive 2014/62 / EU on the protection of the euro and other currencies against counterfeiting, a substitute for Framework Decision 2000/283/JNA.¹³⁵

Directive 2014/62 / EU is important for the protection of the euro and other currencies against counterfeiting, as it clarifies the provisions on the criminalization of euro counterfeiting, establishes the penal policy related to the protection of

134. The Euro (bank code EUR, symbol €) is the official currency of 19 of the 28 member states of the European Union: Austria, Belgium, Germany, Greece, Ireland, Italy, Cyprus, Luxembourg, Malta, Portugal, Finland, France, the Netherlands, Slovakia, Slovenia, Spain, Estonia, Latvia and Lithuania (as of January 1, 2015), commonly known as the Eurozone. The euro is also the unilateral currency of Andorra, Kosovo and Montenegro.
The euro was introduced on the financial markets on 1 January 1999 and put into circulation on 1 January 2002; <https://mk.wikipedia.org/wiki/%D0%95%D0%B2%D1%80%D0%BE>.

135. Directive 2014/62/EU on the protection of the Euro and other currencies against counterfeiting by criminal law, and replacing Framework Decision 2000/283/JHA.

the euro and replaces Framework Decision 2000/282 / JNA.

The directive sets out the elements of the definition of the crime of counterfeiting currency:

- illegal making or changing currency (counterfeiting banknotes and coins);
- distribution of counterfeit currency;
- making and possessing equipment for counterfeiting;
- counterfeiting of banknotes and coins using legal means and institutions, but still without endangering the rights or conditions under which the competent authorities issue and put into circulation banknotes or coins.

The directive on this crime stipulates a sanction - a maximum sentence of eight years in prison.

3.6.3. PREVENTION OF EURO COUNTERFEITING IN NORTH MACEDONIA

The reforms in the national regulation that have been implemented since the signing of the Stabilization and Association Agreement (2001) with the ultimate goal to further harmonize the national legislation with the EU legal flows (acquis), have identified numerous obligations for Macedonia, which envisage harmonization of policies in financial operations and prosecution of crime with those of the EU. In addition, our country, by ratifying the international instruments, especially those of the Council of Europe, has entered into the EU financial and security policies, implying further participation in the common policies of the European Union. Numerous activities are being undertaken in the EU to ensure that the institutions managing the financial and administrative processes have the capacity to recognize risk at an early stage and to exchange information in a timely manner to achieve high protection of the euro. These processes will gain momentum and will be mandatory for our country with the start of EU membership negotiations.

The National Bank of Macedonia with a decision¹³⁶ of the Government of the Republic of North Macedonia from 2011 has established a Central Office against Money Counterfeiting with the authority to continuously analyze and monitor the situation related to currency counterfeiting and timely inform the competent institutions.

With a decision of the Government from 2011, the Republic of North Macedonia has established a Central Office against Money Counterfeiting. The Republic of North Macedonia has a cooperation agreement with Europol since 2009. Our country has its own police officer at Europol headquarters in The Hague, the Netherlands since 2015.

¹³⁶. Available at: http://www.nbrm.mk/ns-newsarticle-odluka_za_utvrduvanje_na_postapkata_za_otkrivanje_i_povliekuvanje_falsifikuvani_pari.nspix



With the start of the negotiations with the EU, the Republic of North Macedonia will have to undertake a more thorough harmonization of national regulations related to the prevention of euro counterfeiting. Compared to the neighboring countries that started negotiations with the EU a few years ago, North Macedonia (and Albania) will face increased obligations. Compared to the neighboring countries, North Macedonia, through the screening, is already facing the Directive 2014/62/EU, a more recent one elaborating in more detail and setting the values to be achieved in relation to the protection of the euro, which is a novelty compared to the screening procedures so far. This directive provides greater tax discipline, improved prevention and, in particular, sanctioning of deviant behavior related to euro counterfeiting.

4. FINANCIAL FRAMEWORK FOR CHAPTER 24

Natalia SHIKOVA, PhD

In the process of integration and the adoption of the EU law, a new approach applies to our country, where the reforms of the judiciary and internal affairs are part of the early stages of the negotiation process. In order for the system to be able to apply the new rules efficiently and effectively, the capacities of the administration, the training of the staff, as well as the appropriate technical equipment of the institutions are important. As a result, more financial aid programs are available at European level. These programs offer, based on defined priorities, directions and plans with precisely defined implementation deadlines, as well as funds provided for that purpose.

Chronologically, the implementation of the programs in this area began in stages - the first from 1999 to 2003 (adopted in Tampere, Finland); the second from 2004 to 2009 (The Hague, Netherlands) and the third for the period from 2009 to 2014 (Stockholm, Sweden), containing guidelines for common policies on topics related to the protection of fundamental rights, privacy, minority rights, and European Union citizenship. The program envisaged plans and measures for data exchange between border crossings, as well as monitoring of internet activities. In addition, there was a work plan for the program, which attached great importance to how the EU should work - on one hand, to guarantee the respect for fundamental freedoms and the right to privacy, and, on the other - to guarantee the security of Europe. The purpose of these programs was to ensure that the provisions relating to area - freedom, security and justice (AFSJ) - do not remain mere ink on paper.¹³⁷

The Stockholm program, compared to the two previous programs, especially emphasized the so-called external dimension of the AFSJ, but its effective expansion is still conditioned by existing challenges. Hence the implications for funding, which, in turn, remains in line with the EU's interest in properly enforcing the law, migration management and capacity building in third (mostly neighboring) countries. In that regard, the financial framework for the stage 2014 - 2020 tries to respond precisely to the growing potential of the external dimension of AFSJ.¹³⁸

One of the goals of the Union is to provide citizens with AFSJ without internal borders, i.e. free movement of persons, but based on established measures for control of external borders, then asylum, immigration and fight against crime, including appropriate prevention. Cooperation in this field is still at an early stage. In fact, the AFSJ became an integral part of the EU legislation only after the Lisbon Treaty entered into force.¹³⁹ However, in the European Union, interest in the

137. Sonja Stojanovic Gajic, Drazen Maravic (ed.) (2015), Vodic kroz EU Politike, Sloboda, Bezbednost, Pravda, Evropski pokret u Srbiji; Sonja Stojanovic Gajic (ed.) Vodic koroz saradnju u unutrašnjim poslovima u Evropskoj uniji, Mijia OEBS u Srbiji, Beogradski centar za bezbednosnu politiku.

138. Jörg Monar, The External Dimension of the EU's Area of Freedom, Security and Justice, Progress, potential and limitations after the Treaty of Lisbon, SIEPS - 2012:1.

139. https://diplomatie.belgium.be/en/policy/coordination_european_affairs/policy/freedom_security_and_justice;

ASFJ has grown significantly over the past fifteen years, with the European Commission taking more than 50 initiatives in this field in the last four years alone. The debate on the most effective ways to maintain continuity after the end of the Stockholm Program pointed to the need to first improve the existing legal instruments, and then let the practice show whether it will be necessary to activate a new program, complementary to the previous efforts. In line with this, the Council of Europe adopted a provision stating that financial assistance to the ASFJ should be based on a concise document of strategic and political character.¹⁴⁰

The budget is the irreplaceable basis for the implementation of the EU policies. Currently, the ASFJ budget is relatively small at 1.6% of the total budget.¹⁴¹ Part of these funds are intended for policies in the area of internal affairs, and part for policies for cooperation in the judiciary and for the protection of human rights. The budget framework also provides funding for operational projects to combat organized crime and counter-terrorism outside the EU, which should indirectly improve the security of the EU. The total budget for internal affairs in the period 2014–2020 is 10.52 billion euros. Most of these resources consist of two large funds for internal affairs, and the rest (2.36 billion euros) is reserved for the financing of the internal affairs agencies. With a total budget of 6.9 billion euros, the Asylum, Migration and Integration Fund, and the Internal Security Fund finance activities in support of the internal affairs policies of the EU in the period 2014–2020 and through these activities build a more open and secure Europe. In implementing actions in the areas of asylum, migration and integration, as well as internal security and borders, supported by these two funds, the Commission is working directly with EU Member States. For activities carried out at EU level, the Commission cooperates in the same way with both international and civil society organizations, through grants and public procurement contracts. Since 2015, the Directorate-General for Migration and Home Affairs has also managed the funding of research and innovation activities necessary to protect EU citizens, the society and the economy, infrastructure and services. Such activities are funded under the so-called “Social challenges” from the “Horizon 2020” program for EU research and innovation, planned for the period from 2014 to 2020. One of the aforementioned “Social Challenges”, entitled “Safe Societies - Protecting the Freedom and Security of Europe and its Citizens”, has a budget of around € 1.7 billion by 2020, split between DG HOME (75% of the budget) and DG CNECT (25% of the budget). At the same time, the program “Europe for the Citizens” became part of the Directorate-General’s portfolio, aimed to increase citizens’ understanding of the EU, i.e. to enable them to learn more about its history and diversity, to encourage European citizenship and to improve the conditions for civic and democratic participation at EU level.¹⁴²

In all specific areas related to the external dimension and the financing of EU home policy, dialogue and cooperation with non-EU countries is promoted, so that common challenges can be addressed through partnership policy. External action contributes to

140. Sonja Stojanovic Gajic, Drazen Maravic (ed.) (2015), Vodic kroz EU Politike, Sloboda, Bezbednost, Pravda, Evropski pokret u Srbiji.

141. In the period 2007-2013 it was 1,3 %; https://ec.europa.eu/info/strategy/eu-budget/long-term-eu-budget/2014-2020/documents-2014-2020_en.

142. https://ec.europa.eu/home-affairs/financing_en.

strengthening the position of the Union as a secure, active and pragmatic global player, while ensuring the effectiveness of its policies. In any case, in order to achieve its interests and ambitions in migration and home policy, the EU must devise appropriate and efficiently managed financial instruments.¹⁴³

Although modest in relation to other segments, however, the budget for the IPSAS is constantly growing, in line with the EU's growing competence in this area, and taking into account aspects of the Lisbon Treaty as well as the proclaimed strategic goals, this growing trend is expected to continue.¹⁴⁴ In practice, new strategic guidelines for justice and home affairs are expected in 2020, reflecting the "EU Strategic Agenda 2019 - 2024", adopted by the European Council in June 2019. The main areas of action include: ensuring the protection of EU values and the rule of law; strengthening mutual trust by ensuring better implementation of the EU law and encouraging new working methods; strengthening the Schengen area; effective reform of migration, asylum and border policy; effective management of migration, asylum and border policy; consolidating the area of freedom, security and justice; strengthening judicial cooperation by respecting the different legal systems; gaining expertise in new technologies and artificial intelligence. In line with current developments, the work program must also be adapted to the impact of the COVID-19 pandemic.¹⁴⁵

The EU has also earmarked special funds to improve asylum, deportation, border management, as well as police co-operation and security policies. The funds are intended for the implementation of the policy objectives in specific areas, primarily through the implementation of EU law and through concrete actions on the ground, so that they will directly contribute to the construction and upgrading of capacities of relevant authorities and in appropriate organizations. The analysis of financial instruments indicates that the budget for this purpose is constantly growing, and at the same time the implementation models are advancing, thus introducing more flexibility in terms of resource distribution, but also the acceptance of forms of management with simplified procedures and requirements.

This area contains the following financial instruments:

For asylum:

- MFF 2014-2020 – *Asylum Migration and Integration Fund (AMIF);*
- MFF 2021-2027 – *Proposal for a regulation establishing Asylum and Migration Fund.*

For Border Management:

- MFF 2014-2020 – *Internal Security Fund – borders and visas;*
- MFF 2021-2027 – *Proposal for establishment of border management and visa instrument* as part of the Integrated Border Management Fund.

143. https://ec.europa.eu/home-affairs/who-we-are/about-us_en.

144. Sonja Stojanovic Gajic, Drazen Maravic (ed.) (2015), Vodic kroz EU Politike, Sloboda, Bezbednost, Pravda, Evropski pokret u Srbiji.

145. https://diplomatie.belgium.be/en/policy/coordination_european_affairs/policy/freedom_security_and_justice.

Police cooperation and security:

- MFF 2014–2020 – **Internal Security Fund** – police;
- MFF 2021–2027 – **Proposal for the Regulation establishing Internal Security Fund**.

Regarding the rules for implementation, a single set of rules is envisaged, but it is necessary to establish a relevant institutional network, as well as to develop appropriate implementation mechanisms, on which auditing, monitoring and evaluation can be conducted. Of course, a strategic approach is needed to use EU funds.

Other available fund:

- **Digital Europe** (cybersecurity);
- **The European Regional Development Fund** (part of the programs for cross-border cooperation, with the main goal - security: protection of public spaces, opposition to radicalization in urban areas and the like);
- **The European Social Fund Plus** (combating the demand and supply of narcotics: health and non-health aspects);
- **Horizon Europe** (research in the area of security).¹⁴⁶

Public administrations, their partners and practitioners in the current plans of the budget framework should recognize acceptable, i.e. transparent and flexible financial programs, coherent with the best financing practices from the EU member states. Regarding the next activities, the EU leaders on July 21, 2020 reached an agreement on the next long-term budget of the Union. Therefore, the new proposal of the European Commission in Pillar 3 - “Learning lessons from the crisis and solving strategic challenges for Europe”, puts forward to increase funding for the Asylum and Migration Fund, as well as the Fund for Integrated Border Management, so as to reach a level of 22 billion euros. The aim is to strengthen co-operation on external border management, migration and asylum policies; to provide strong support for the European strategy for autonomy and security by increasing the funding to 2.2 billion euros for the Internal Security Fund, but also to strengthen the European Defense Fund to the level of 8 billion euros. They also propose support for the countries of the Western Balkans, as well as granting pre-accession assistance of a total of 12.9 billion euros.¹⁴⁷ Of course, synergies with other external instruments need to be improved (such as the Neighborhood, Development and International Cooperation Instrument, Instrument for Pre-Accession III), and the next step of the Commission is to find a common ground between the Council and the Parliament to finalize the agreement on the next long-term budget of the Union.¹⁴⁸

Regarding the funds from this area, which our country has used, currently uses and plans to use to achieve the above-mentioned European goals, it can be concluded that financial assistance is increasing year by year (see Annex XX). The projects in this area are numerous and are realized in different ways - based on twinning contracts, service contracts, procurement contracts and the like. They are realized through different management models, where the

146. Some of these data are taken from the explanatory meeting on EU law in Chapter 24 for North Macedonia and Albania, held in Brussels in November 2018.

147. https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_935.

148. https://ec.europa.eu/info/strategy/eu-budget/long-term-eu-budget/2021-2027_en.

direct beneficiaries are the institutions from the Ministry of Interior, the Ministry of Justice and the Customs Administration, and indirectly, of course, the citizens of our country.

All the above undoubtedly shows the importance attached to the interest that the European Union has for continuous, deepened cooperation with our country in the Area of Freedom, Security and Justice. The Union has common rules on border controls, visas, residence and work permits, as well as rules on external migration and asylum, whereas the Schengen cooperation entails the abolition of border controls within the Union. EU member states cooperate with our country in the fight against organized crime and terrorism, but also in judicial, police and customs matters, and the country is also supported by the EU justice and home affairs agencies. According to the latest Progress Report, the Republic of North Macedonia is moderately prepared to implement EU legislation. Good progress has been made, inclusively in fulfilling previous recommendations for the effective implementation of some of the institutional reforms in the security sector. The report indicates that the legislative framework for the fight against organized crime is largely in line with European standards, i.e. that the country has achieved a certain level of readiness in this area. In this sense, it is unequivocally clear that the institutions of the system should constantly strive to reach the set standards that lead to faster integration into the European Union.

Useful Links

https://ec.europa.eu/info/strategy/eu-budget/long-term-eu-budget/2014-2020/documents-2014-2020_en;

https://ec.europa.eu/home-affairs/financing_en;

https://ec.europa.eu/home-affairs/who-we-are/about-us_en;

https://ec.europa.eu/info/strategy/eu-budget/long-term-eu-budget/2021-2027_en

https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_935

<https://www.consilium.europa.eu/en/council-eu/configurations/jha/>

<https://ec.europa.eu/home-affairs/>

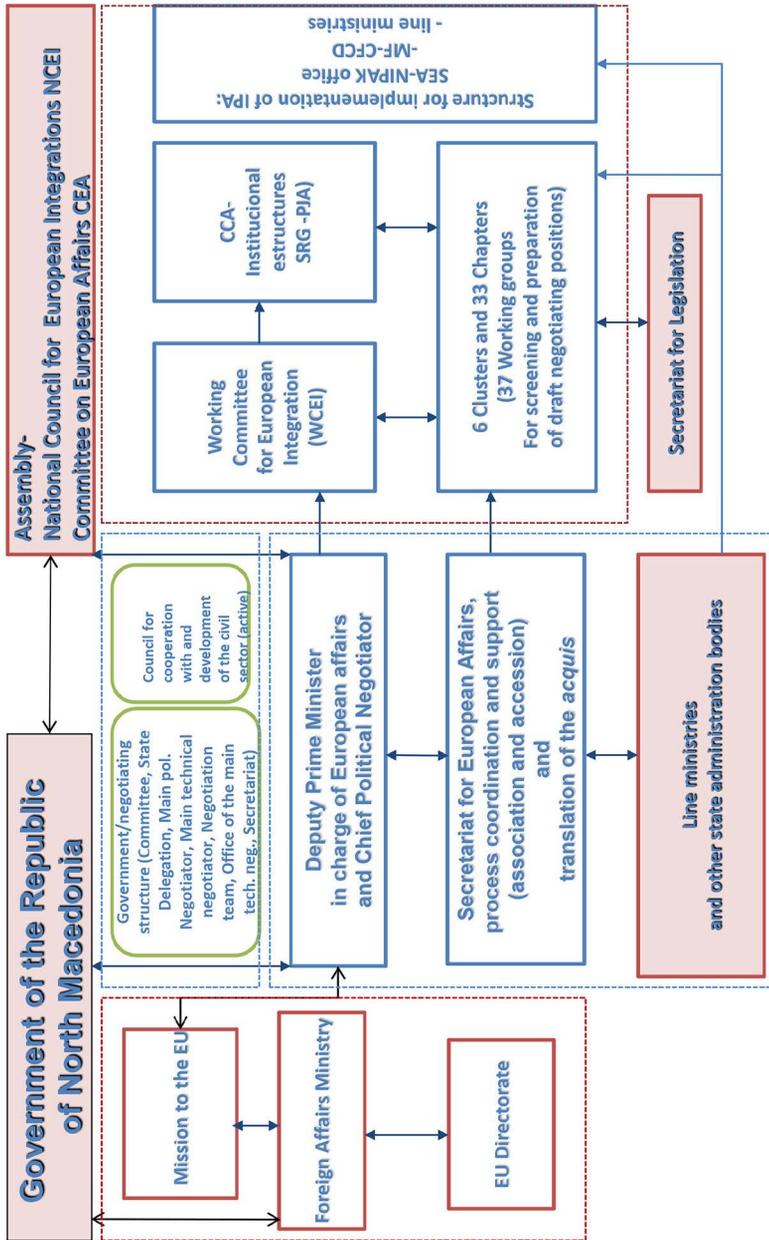
https://ec.europa.eu/info/policies/justice-and-fundamental-rights_en

<https://www.europarl.europa.eu/committees/en/libe/home/highlight>



Annex 1: *Institutional Mechanism for Coordination of the EU integration process*

3. Institutional Mechanism for Coordination of the EU integration process (October 2020)



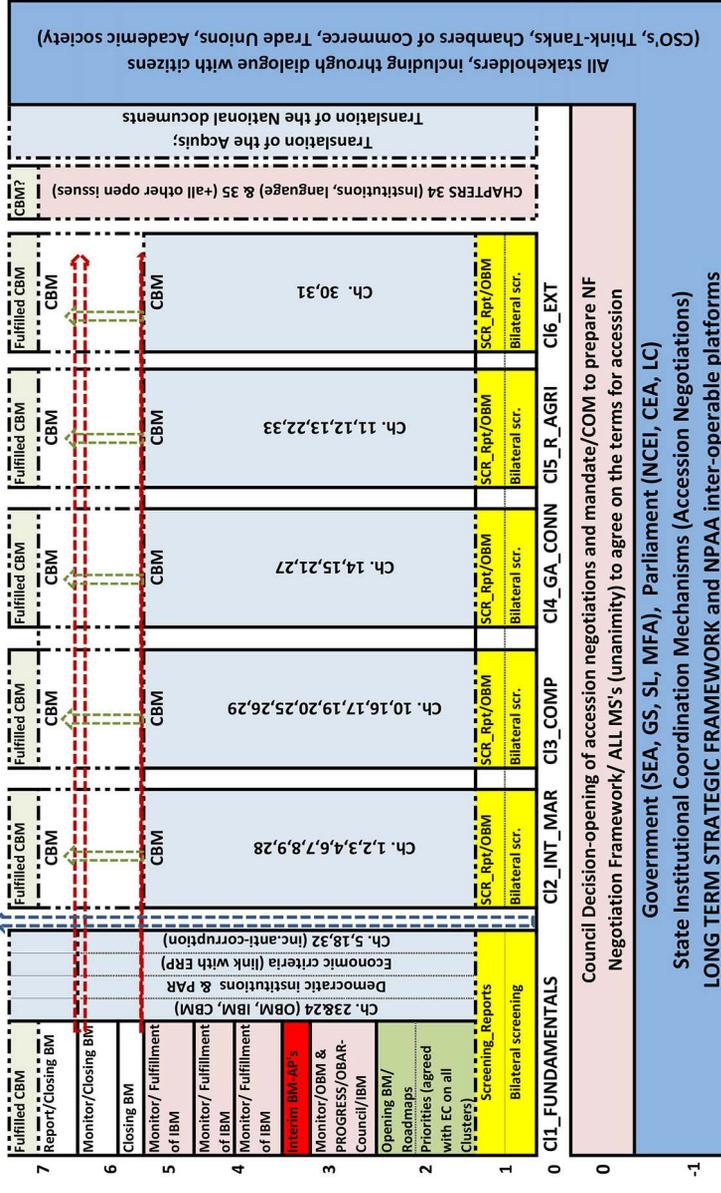
1. Prepared by D. Tilev and I. Markovski



Annex 2: *New Methodology for Accession Negotiations*²

DIAGRAM: NEW Methodology for enhanced accession negotiations (6 clusters, 33 chapters, key stages)

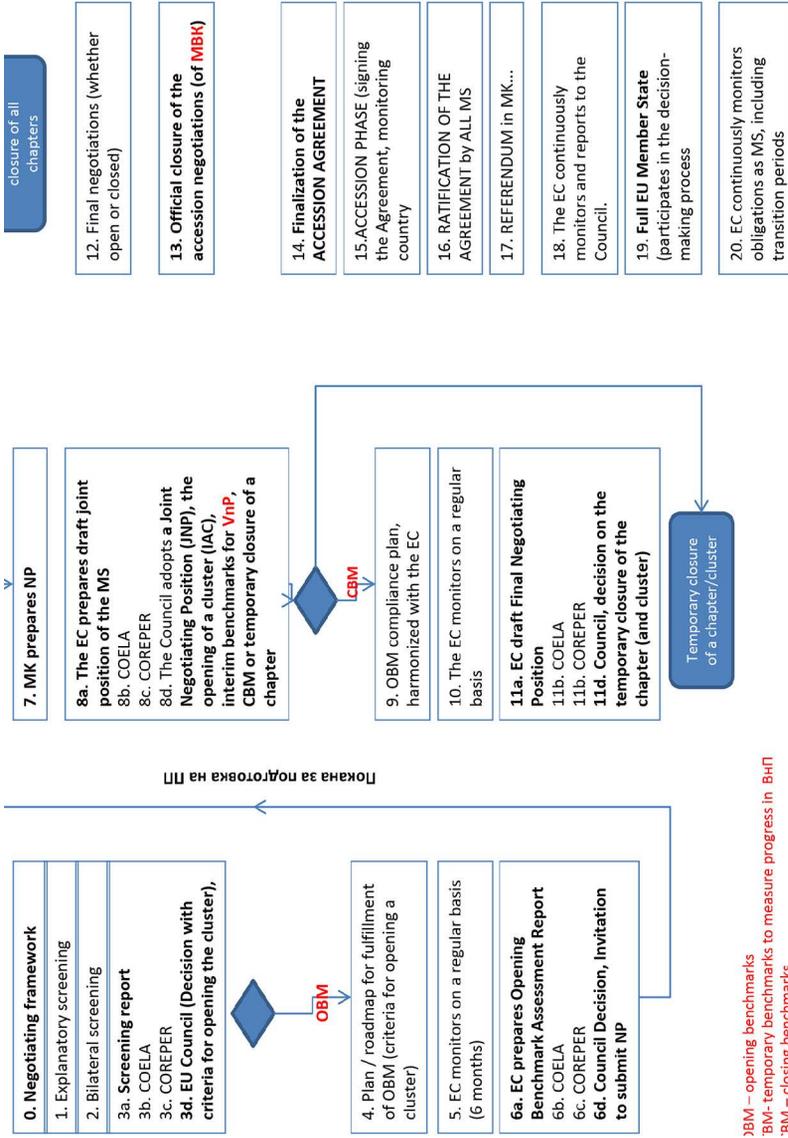
IRS 2-years for Accession Treaty to be signed, Status of Observer, National Referendum, Ratified by all MSS= EU member



2. Prepared by D. Tilev and C. Kuzmanovska



Annex 3: Visual overview of the accession negotiation process³



OBM – opening benchmarks
 OBM – temporary benchmarks to measure progress in BNP
 OBM – closing benchmarks
 NP – Negotiating position
 CG – Intergovernmental Conference
 COELA - enlargement working group and negotiating countries
 COREPER – Committee of Permanent Representatives of MS

3. Prepared by C. Kuzmanovska and D. Tilev

Annex 4: Tabular overview of projects in the area - Freedom, Security, Justice⁴

| COMPLETED PROJECTS (PROGRAMMED AND IMPLEMENTED 2012 - 2020) | | | | |
|---|---|--|--|-----------------------------|
| Beneficiaries | Instrument | Number of projects | Year of implementation | Total value in Euros |
| Ministry of Interior Ministry of Justice Customs | IPA Component I – Transitional Assistance and Institution Building National Programme (TAIB) 2009 | 4 supply contracts 1 framework contact 1 contribution agreement 2 service contracts 1 twinning contract 1 framework contract 1 framework contact | 2013–2015 2012–2014 2013– 2014 2012– 2013 | 3.256.513 |
| Ministry of Interior Ministry of Justice Ministry of Justice (judicial institutions, Directorate for Execution of Sanctions) Customs | IPA Component I – Transitional Assistance and Institution Building National Programme (TAIB) 2010 | 2 twinning contracts 2 service contracts 2 supply contracts | 2014–2016 2014 –2015 | 6.920.094 |
| Ministry of Interior Ministry of Interior Public Safety Bureau Customs | IPA Component I – Transitional Assistance and Institution Building National Programme (TAIB) 2011 | 2 framework contracts 1 twinning contract | 2015–2016 2015–2017 | 1.224.490 |
| Ministry of Interior Ministry of Justice Customs Directorate for Personal Data Protection | IPA Component I – Transitional Assistance and Institution Building National Programme (TAIB) 2012 | 1 service contract 1 work contract 1 framework contract 1 supply contract | 2016–2018 2016–2017 | 3.009.613 |
| Ministry of Interior Customs | IPA Component I – Transitional Assistance and Institution Building National Programme (TAIB) 2013 | 8 supply contracts 2 work contracts 1 twinning contract | 2017–2019 | 9.380.842 |
| Ministry of Interior Ministry of Justice Ministry of Justice (Public Prosecutor's Office, Directorate for Execution of Sanctions) | Action Programme 2014 for Justice and Home Affairs from IPA II (2014-2020) | 2 framework contracts 3 framework contracts; 2 twinning contracts | 2017–2018 2018–2019 | 1.755.035 |
| Total value of all projects | | | | 25.856.953 EUR |



| ONGOING PROJECTS | | | | |
|---|--|--|---|-----------------------|
| Beneficiaries | Instrument | Number of projects | Year of implementation | Total value in Euros |
| Ministry of Interior Ministry of Justice Ministry of Justice (Directorate for Execution of Sanctions, Public Prosecutor's Office) Customs | Action Programme 2014 for Justice and Home Affairs from IPA II (2014- 2020) | 1 twining contract 1 service contract 2 grant contracts 3 supply contracts 2 works contracts 1 service contract 4 grant contracts 2 supply contracts 2 works contracts | 2018–2020 2018– 2021 | 12.874.431 |
| Ministry of Interior Ministry of Justice Customs | IPA 2016/039-618/02.02/ MK/ (Migration and asylum, border management and fight against terrorism and organised crime) | 1 grant contract 1 work contract 5 supply contracts 3 twining contracts 1 service contract 1 works contract | 2014–2020 | 14.570.000 |
| Total value of current projects | | | | 8.563.331 EUR |
| Total value of all projects | | | | 34.420.284 EUR |

4. For the preparation of the table, official data of the Secretariat of European Affairs, Ministry of Finance and the European Commission were used, found at the following websites: https://cfd.finance.gov.mk/?page_id=852; <http://www.sep.gov.mk/data/file/Dokumenti/IPA-AR-2019.pdf>; https://ec.europa.eu/neighbourhood-enlargement/instruments/funding-by-country/north-macedonia_en. The spreadsheet is an analysis of the author and is not based on a sublimated document. Given the complexity of the subject area, deviations are possible, so the table is for illustrative purposes only. Additional analysis is required to establish data accuracy.

