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# The controversy of ‘more (economic) freedom’. Can liberalisation in North Macedonia cause more problems than benefits?

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Vienna, 28 October 2021  
ISSN 2305-2635

## Policy Recommendations

1. Slow down
2. Initiate public debate
3. Consider public opinion

## Abstract

In the past months, the government of North Macedonia has pushed for three policies providing for different forms of liberalisation and legalisation, all with potentially significant impacts on the rule of law and justice in the country: legalisation of cannabis for recreational use, legalisation of illegally constructed objects, and the selling/privatisation of state-owned agricultural land. In the Policy Brief, the authors outline the proposed changes, possible implications, and their

opposition. They claim that all three changes at once pose the danger of overwhelming the administrative system and society. Furthermore, they argue that public institutions lack the capacity to successfully manage all changes at once. The authors recommend that the government takes a step back, enters into deep consultations with stakeholders, and makes clear distinctions within the proposal for legalisation of illegally constructed buildings.



# The controversy of ‘more (economic) freedom’. Can liberalisation in North Macedonia cause more problems than benefits?

## Introduction

The Macedonian political space has been burdened mostly by two issues in the past few months: the problematic EU accession process due to the first French and now Bulgarian blocking over identity, history, and language disputes, as well as the slow start of the anti-COVID-19 vaccination process. In the shadow of these events, the Macedonian government has tried to push for three policies which are designed to have a huge impact on the existing state of rule of law and justice in the country, with a potential effect on the European integration process and law enforcement in the region. All three policies can be put into the context of liberalisation and deregulation, much in line with neoliberal politics: the legalisation of cannabis for recreational use, changing the status of illegally constructed buildings, and the selling of agricultural land in the state's property. The combination of all three policies raises serious concerns regarding equality of citizens and amending the legislation to fit narrow interests, at the expense of law enforcement. This, in turn, can impact how successfully the country is reforming in lines with the Chapters 23 and 24 of the *acquis communautaire*.

## Cannabis legalisation

Medical cannabis cultivation in North Macedonia was allowed in 2016 by modifying the Law on Control on Drugs and Psychotropic Substances. Since then, there is an ongoing debate on allowing for recreational use of this criminalised substance. Currently, the government of North Macedonia has issued close to 60 licenses to companies for the production of medical cannabis.

In this context, it is important to note that there have been several police operations with significant quantities of, allegedly, domestically produced cannabis. On 9 December 2020, 2 tons (€6 million

worth) of marijuana were stolen from a production facility near Valandovo, prompting a police raid in the village of Arachinovo, close to Skopje.<sup>1</sup> In the first months of 2021, another significant drug bust was conducted with the help of the United States Drug Enforcement Agency (DEA), when 200 kg of cannabis with estimated street value of about \$1 million<sup>2</sup>. In support of the claim that these substances originated domestically, there is a statement in the report titled “Spot prices,” where it is stated that: “it is possible that some of this medical cannabis is making its way onto the black market.”<sup>3</sup>

Most recently, in May 2021, the Government of North Macedonia, as a part of its program, has created a wide working body to discuss the steps and dynamics for the decriminalisation and legalisation of the use of cannabis and cannabis derivatives. As of late June, the working group has started working on definitions of key terms related to the policy reform and started looking at other countries' models toward cannabis regulation.<sup>4</sup> Even though there are representatives of a wide array of

1) Sloboden Pecat, “The Two Tons of Marijuana That Were Stolen in Josifovo on Thursday, Were Found Tonight in Aracinovo,” Sloboden Pecat, July 12, 2020, see: <https://www.slobodenpecat.mk/en/dvata-tona-marihuana-shto-vo-chetvrtokot-bea-ukradeni-vo-josifovo-vecherva-pronajdeni-vo-arachinovo/>.

2) Euronews Albania, “DEA Lands in North Macedonia, Deputy Interior Minister Admits Drug Ring Ties with Police,” Euronews Albania, April 16, 2021, see: <https://euronews.al/en/north-macedonia/2021/04/16/dea-lands-in-north-macedonia-deputy-interior-minister-admits-drug-ring-ties-with-police/>.

3) Walter Kemp, Kristina Amerhauser, and Ruggero Scaturro, “SPOT PRICES Analyzing Flows of People, Drugs and Money in the Western Balkans” (Geneve: Global Initiative Against Transnational Organized Crime, May 2021), p. 25.

4) Government of R. N. Macedonia, “The cannabis working group defined the terms decriminalization, legalization and depenalization, cannabis policies will be analyzed in 10 countries in the region, Europe and the world”, June 24, 2012, See: <https://vlada.mk/node/25693?ln=mk>.



government and non-government stakeholders included in this working group, the concerns about the readiness and maturity of the state institutions, as well as the problems linked to the rule of law and corrupt structures within the police and judiciary remain strong. The notion of entering a wide debate on decriminalisation and legalisation of recreational use and small-scale production of cannabis is still viewed as controversial, especially considering all the other economic, political, and societal challenges that the Macedonian society currently undergoes.

***“Liberalisation initiatives such as this one can be either very beneficial or very damaging to a developing society such as North Macedonia.”***

The authors can underline that it is of utmost importance that this ongoing debate and the eventual change of the legal framework which might lead to a large-scale policy change take place in a slow and well thought out manner. Liberalisation initiatives such as this one can be either very beneficial or very damaging to a developing society such as North Macedonia. If such an undertaking happens in a lax and hastened manner, the health, economic, social and security implications for any country can be vast. This is one of the reasons most European countries have not embarked on such an adventure, despite its cash revenue potential. The regional implications of wider decriminalisation or legalisation of cannabis have also been a tripping stone in the relations between more developed and more resilient countries such as Netherlands and its neighbours. In a Dutch government commissioned study, it was estimated that almost 85% (conservative estimate) of Dutch produced cannabis ended up being trafficked to the surrounding countries.<sup>5</sup> This trend has produced a significant domino effect on illicit trade and the shaping of criminal networks, not just in the country

5) Mark van der Giessen, et al, “Estimating the production, consumption and export of cannabis: The Dutch case,” International Journal of Drug Policy, Volume 31, 2016, p.157.

of origin, but also in the surrounding countries.<sup>6</sup>

***“If such an undertaking happens in a lax and hastened manner, the health, economic, social and security implications for any country can be vast.”***

There is no harmonised EU law on cannabis use. In the document titled “Cannabis legalization in Europe: An overview”<sup>7</sup>, issued by the European Monitoring Center for Drugs and Drug Addiction, it is well noted that the criminal or administrative response to drug use offences is the responsibility of EU member states, not of the European Union. These circumstances provide for uncharted waters for the accession countries and their individual attitudes and policies toward cannabis use and its cultivation. However, the current evidence shows a limited capacity of institutions to ensure the security of the current medical cannabis production. The introduction of recreational cannabis holds the danger of making the situation even worse, with significant illicit spillover to neighbouring countries. This phenomenon, on the other hand, can have a detrimental effect on the accession process, considering the significance of Chapters 23 and 24.

***“The introduction of recreational cannabis holds the danger of making the situation even worse, with significant illicit spillover to neighbouring countries.”***

### **Free-for-all construction projects**

Another controversial change was the enactment of the Law on Determining the Legal Status of Illegally Constructed Buildings, which

6) Deutsche Welle, “Germany: Cannabis legalization becomes election campaign issue”, June 26, 2021, See: <https://www.dw.com/en/germany-cannabis-legalization-becomes-election-campaign-issue/a-58049354>.

7) European monitoring center for drugs and drug addiction, Cannabis legalization in Europe: An overview, 2017, See: [https://publications.europa.eu/resource/cellar/c0703c01-0d38-11e7-8a35-01aa75ed71a1.0001.03/DOC\\_1](https://publications.europa.eu/resource/cellar/c0703c01-0d38-11e7-8a35-01aa75ed71a1.0001.03/DOC_1), p.9.



the Macedonian parliament voted on with a wide political consensus across all political parties on May 11, 2021. It provided for the legalisation of garages, pools, houses, etc. which had been built without permits, even in national parks, natural reserves, natural monuments, as well as protected areas of cultural significance and intangible heritage. It even provided for said legalisation in protected areas and drinking water basins, with special permissions from local authorities. According to this draft law, the legalised objects need to be finished by the time it enters into force. The only exception are the illegally constructed buildings in the Ohrid region, considering its protection under UNESCO (United Nations Educational, Scientific and Cultural Organization).

The deadline of the previous such law was in March 2021.<sup>8</sup>

Bearing this in mind, the owners would need to pay municipal taxes that are more expensive than if they had built their objects legally – 50% more. Only social welfare users, public institutions, and religious communities would be exempt. The logic presented by the government was that it was trying to help citizens who had built but had no economic means of acting within the confines of the law. At the moment, estimates say that there are over 50,000 such objects. There are reports that illegal builders are now in a hurry to catch up with the law, speeding up their building processes in protected areas.<sup>9</sup>

8) Kostadin Delimitov, “Легализација На Дивоградби- Нови Поволности Наместо Санкции,” Deutsche Welle Macedonia, November 3, 2021, See: <https://p.dw.com/p/3qSz9>.

9) For example, weekend houses have been built in the protected area of Osogovo Mountains. This area was pronounced a protected area last year. After hearing of the new legalization, and the possible time limitations, builders have accelerated their work, in order to catch up. Media has reported that even the chief of police in Kochani, whose wife works at the municipality, were building their weekend house there. There is already a court case against them for this reason, but the expectation is that the planned legalization will override this case. Others have bought land with already illegally built houses, with the plan to upgrade them and sell them afterwards as legal ones. Usually, people buy land labelled as agricultural. Then,

**“There is clearly an unequal treatment and discrimination against those who had built with permits, and those who did not, yet receive now the right to legalise.”**

Critics, as well as those few members of parliament who did not support this law in the parliament, would say that this is the ‘burial of the rule of law’. There is clearly an unequal treatment and discrimination against those who had built with permits, and those who did not, yet receive now the right to legalise. They claim that all proceedings that have initiated demolishing of illegal objects are now stopping.<sup>10</sup> Despite the fact that proponents of this law claim to be helping citizens of lower economic status, the most viable effects of this change would be to give impunity to powerful individuals and companies who have built private and commercial properties in natural areas under protection. By simply stopping to prosecute law infringement and making it legal, this policy can have a negative effect on the EU accession, especially in light of the provisions on fighting against crime, as stipulated in Chapter 23, considering the issues with ‘urban mafia’, and the Chapter 27, considering the invasion of natural areas under protection.

**“At its 74th session, the government retreated, promising to propose a new law after careful consultations with key stakeholders.”**

they simply build weekend houses on that land, without any permits, at the end, they hope to legalize it afterwards. Many of these objects have been previously legalized, with the previous Law. Source: Irena Karevska, “ВИДЕО) Забрзано Бесправно Се Гради Во Заштитената Осоговија: ‘Чекаме Заев Да Го Донесе Законот За Легализација,’” 360 Степени, May 25, 2021, <https://360stepeni.mk/video-zabrzano-bespravno-se-gradi-vo-zashtitenata-osogovija-chekame-zaev-da-go-donese-zakonot-za-legalizatsija/?fbclid=IwAR1IQ1ZkaSuyGMUa4-y6l5lsm1J80tKw-mTFL6dlsoQB5AGPXWYTjJ0t2OY>.

10) D.T.Z., “Погребана Ли е Правната Држава? Нова Масовна Легализација На Дивоградби,” Deutsche Welle Macedonia, December 5, 2021, <https://p.dw.com/p/3tGXu>.



The President of the country, who has a veto power, did not approve of this law. At the 71st session of the government, it opened the debate to determine the state of this bill. This prompted the government to open a wider public discussion with stakeholders, as well as consultations with partisan groups in the parliament.<sup>11</sup> At its 74th session, the government retreated, promising to propose a new law after careful consultations with key stakeholders.

### **“Selling out the land” or “good business practices”?**

The Ministry of Agriculture announced that they are working on a new Law for the Commercial Sale of State-owned Agricultural Land. The plans are to start from June, 2021. “Defining criteria for choosing publicly-owned agricultural land, planning special procedures for the privatisation of said land which has already been rented as well as vacant, taking into account the size of plots, the existence of objects and long-term plantations offered to be sold,” said the announcement.<sup>12</sup>

According to Prime Minister Zoran Zaev, the state owns up to €2,5 billion worth of agricultural land. The plan is to sell 10-15%, which means that €200-300 million will be sold. The minimum planned size is less than 10 hectares of land per buyer. Initially the plan is to allow only domestic physical and legal persons, but the companies are allowed to have foreign capital. The planned price is to be €250-450 per acre, advantage would be given to concession

owners, and the land would not be allowed to be re-defined as a building plot.

It was initially announced by Prime Minister Zaev last year, that the agricultural land is a serious resource, which would allow for the rejuvenation of economy. He had mentioned Middle-Eastern companies interested in investing in livestock in North Macedonia, and that they were interested in over 3,000 hectares of land.<sup>13</sup>

The law from 2007 provided that: agricultural land in state ownership cannot be used for purchase. It was only allowed to be used for rent or enjoying the fruits. However, the 2013 law was somewhat softer: Foreign physical and legal persons cannot become owners of state property, unless regulated otherwise by international agreement. The exception are citizens of an EU member state, only 7 years after North Macedonia has joined the EU. Later, it was amended by giving the opportunity for foreign capital to enter, but only if the company is legally connected with domestic firms, with not more than 49% ownership. It was, in fact, part of the alignment with EU law.<sup>14</sup>

With the planned privatisation (and including the announcement of the Prime Minister that not only EU member states will be allowed), the Ministry is promising that the national interests will be protected, because the participation of foreign persons will be strictly regulated. Land close to inhabited areas will not be sold, in order to avoid the ‘attractiveness’ of abusing the law and ownership, i.e. building.

Critics say that this can endanger the country’s sovereignty and is not in line with the national interests. It is considered a resource for the

11) Government of R. N. Macedonia, “Од 71-Та Седница На Владата: Итна Одлука За Детални Проверки На Сите Објавени и Необјавени Информации За Случајот ‘Увоз На Нафтени Деривати’; Владата Ке Ја Продолжи Јавната Дебата За Законот За Легализација На Бесправно Изградените Градби,” May 18, 2021, <https://vlada.mk/node/25287>.

12) А.Т., “Од Јуни На Продажба Државното Земјоделско Земјиште: За Купците Парцели Над 10 Хектари, За Владата 300 Милиони Евра,” Faktor Portal, accessed May 30, 2021, <https://faktor.mk/od-juni-na-prodazba-drzavnoto-zemjodelsko-zemjishte-za-kupcite-parceli-nad-10-hektari-za-vladata-300-milioni-evra>.

13) Ibid.

14) P. Dzambazoski, “Тивко Се Подготвува Продажба На Државно Земјоделско Земјиште,” October 3, 2021, MKD Portal edition, <https://www.mkd.mk/makedonija/ekonomija/tivko-se-podgotvuva-prodazhba-na-drzhavno-zemjodelsko-zemjishte>.



production of food, and it always holds the danger of readjusting the land for building, or using natural resources that are found on and under the land, such as minerals, oil, wood, etc. It can go so far as to even use for intelligence purposes. In sum, it is considered a strategic question.

### Conclusion and recommendations

As has been mentioned earlier, the three proposed changes have a huge impact on the rule of law. They will de-regulate an area otherwise strictly controlled by both domestic and international law enforcement agencies, such as cannabis. The legalisation for recreation purposes, coupled with the large production of medical cannabis in the country, will definitely have an effect in neighbouring countries, thus might push for further coordination efforts and potential disputes between individual states. In addition, the Law on Legalisation of Illegally Constructed Buildings, and the transfer of public land into private can combine into a further destruction of the environment. On a positive note, all three changes would offer additional funds to the state, either through revenue from taxes from cannabis, municipal bills and other fines from the legalization of objects, or from direct sale of agricultural land. As mentioned earlier, they can have an impact on the accession process, in particular to Chapters 23 and 24.

Interestingly enough, the EU Delegation to North Macedonia and other international community representatives have kept quiet regarding the three policy changes, despite the government's intention to use the "European flag" provision, i.e. fast parliamentary procedures due to alignment with European legislature, when passing the cannabis law in parliament. The government, however, has failed to provide exactly how this law is relevant to European integrations.

Bearing in mind this significant liberalisation of the country, our recommendations are the following:

**1. Slow down:** All three changes have a huge policy impact on more than one legislative area, and will impact the alignment to the *acquis communautaire* in several ways. It is perhaps better to go with one change at a time, rather than all three at once, in order to avoid unforeseen effects.

**2. Initiate public debate:** The government should invest more efforts into informing the public and opening the debate. Transparency is always an issue, and these three processes, as complicated as they are, are difficult for the public to comprehend.

**3. Take into account the reactions of the public:** In particular with the Law on Legalisation of Illegally Constructed Buildings, the strongest criticisms were regarding the environmental impact of legalisation. The government should change the criteria, and give different categories of such documents, with clear distinction between those with negative environmental impact, and those built in urban and populated areas. It is positive that the draft law was retreated, but the promised consultations should have been done preemptively, rather than suffer further tensions with the public.

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The Policy Brief is published in the framework of the [WB2EU project](#). The project aims at the establishment of a network of renowned think-tanks, do-tanks, universities, higher education institutes and policy centres from the Western Balkans, neighbouring countries and EU member states that will be most decisive for the enlargement process and Europeanisation of the region in the upcoming years. The WB2EU project is co-funded by the European Commission under its Erasmus+ Jean Monnet programme.

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### ISSN 2305-2635

The views expressed in this publication are those of the authors and not necessarily those of the Austrian Society of European Politics or the organisation for which the authors are working.

### Keywords

North Macedonia, Liberalisation, Policy, Cannabis legalisation, Agriculture, Land, Illegally constructed objects

### Citation

Nikolovski, D., Stojanovski, A. (2021). *The controversy of 'more (economic) freedom'. Can liberalisation in North Macedonia cause more problems than benefits?* Vienna. ÖGfE Policy Brief, 15'2021

### Imprint

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