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

# **Post-monitoring dialogue with "the former Yugoslav Republic of Macedonia"**

## **Information note by the co-rapporteurs on their fact-finding visit to Skopje, Tetovo and Gostivar (15-18 February 2016)**

Co-rapporteurs: Ms Lise Christoffersen, Norway, Socialist Group, and Mr Valeriu Ghiletschi, Republic of Moldova, Group of European People's Party

### **I. Introduction**

1. In our capacity as the newly appointed PACE co-rapporteurs for the post-monitoring dialogue with "the former Yugoslav Republic of Macedonia"<sup>2</sup>, we paid a fact-finding visit to Skopje, Tetovo and Gostivar from 15 to 18 February 2016. In light of the latest political developments (see below), our visit mostly focused on the resolution of the on-going political crisis and the implementation of the June/July 2015 "Przino Agreement",<sup>3</sup> in particular electoral reforms and media laws. We also addressed recent developments in the field of human rights, the rule of law and democracy and the implementation of Resolution 1949 (2013) on *The post-monitoring dialogue with "the former Yugoslav Republic of Macedonia"* and the state of progress concerning co-operation with the Council of Europe, further to Recommendation 2022 (2013).

2. During our visit we had the possibility to meet all the political stakeholders and leaders of the main political parties, including the Prime Minister Mr Dimitriev, the Speaker of the Assembly Mr Trajko Veljanoski, the President of the "Internal Macedonian Revolutionary Organisation – Democratic Party for Macedonian National Unity" (VRMO-DPMNE) (and former Prime Minister) Mr Gruevski, the President of "Social Democratic Union of Macedonia" (SDSM) Mr Zoran Zaev, representatives of the "Democratic Union for Integration" (DUI) and the "Democratic Party of Albanians" (DPA), and many parliamentarians. We also had meetings with the Ministers of Justice, Foreign Affairs, Interior, Justice, Labour and Social Policies, the Minister of Information Society and Administration as well as the newly appointed Special Prosecutor. We travelled to Gostivar and Tetovo to hold exchanges with the Mayors, respectively Mr Bejta and Ms Arifi. The programme of the visit is attached (see Appendix 1).

3. We would like to express our thanks to the Macedonian delegation to the PACE, in particular its Chairperson Mr Nikoloski, as well as its Secretariat, for the excellent organisation and smooth conduct of this visit. We would like to convey our appreciation to Ambassador Orav, Head of the EU Delegation in Skopje, Tibor Varadi, Political Advisor and Peter Vanhoutte, international mediator, for the extensive information provided during our visit. Our meetings with the Head of the OSCE Mission Ambassador Nina Suomalainen, UN Resident coordinator and Head of the UNDP Ms Louisa Vinton, as well as with several ambassadors – thanks to Swedish Ambassador Mr Mats Staffansson – also proved very informative. We also held exchanges with media and NGO representatives, and we would like to thank the staff of the Council of European Project Office in Skopje for their assistance in organising these meetings.

<sup>1</sup> Document declassified by the Monitoring Committee at its meetings on 21 April 2016 and 23 May 2016.

<sup>2</sup> The use in the text of the term 'Macedonia' later in the text is for descriptive purposes and the convenience of the reader. It does not prejudice the position of the Assembly on the question of the name of the state and does not reflect the position of the Council of Europe.

<sup>3</sup> This name refers to the neighborhood of Skopje (Przino) where the agreement was signed.

4. Given the timing of our visit, the on-going political crisis and the preparation of early elections dominated our discussions. Some other issues, such as the reform of the justice system and public administration, inter-ethnic relationships or local and regional developments were also discussed. They will however be reflected in our upcoming full report on the post-monitoring dialogue. At the end of our visit, we issued two press statements (see Appendix 2). This information note also reflects the latest developments since our visit to the country.

## II. Context of the visit and background information

5. This was our first visit as newly appointed co-rapporteurs following the mandate of Robert Walter, who issued his last information note<sup>4</sup> in April 2014. It is therefore useful to recall some of the major political developments during the past months in order to understand the current political situation.

a) *Political developments following the April 2014 parliamentary elections: boycott of the parliament by the opposition party SDSM (April 2014 – September 2015)*

6. The last presidential and parliamentary elections took place in April 2014. In its conclusions, the PACE *ad hoc* Committee for observation of the elections concluded that fundamental freedoms had been respected and candidates were able to campaign freely in the efficiently-administered 13 April 2014 presidential election, although biased and unbalanced media coverage and a blurring of State and party activities had created an unbalanced playing field. The *ad hoc* committee in particular noted the indirect control over the media by the ruling party, through the government's dominance in the advertising market; a significant advantage in resources and predominance in paid advertising enjoyed by the incumbent; the ineffective mechanism for resolving electoral disputes, and the lack of deadlines for the resolution of election-related cases which did not guarantee timely legal redress.<sup>5</sup>

7. Following the 2014 parliamentary elections, the parliament was composed as follows:<sup>6</sup>

<i>Ruling majority</i>	
VMRO-DPMNE-led coalition	61
Democratic Union for Integration (DUI)	19
<i>Opposition</i>	
SDSM-led coalition	34
Democratic Party of Albanians (DPA)	7
<i>Other</i>	
National Democratic Revival (NDP) 1	1
Citizen Option for Macedonia (GROM) 1	1
<b>Total</b>	
	123

8. During the parliamentary elections, a few minutes before the closing of the polling stations, the SDSM announced that they would not recognise the results of the elections and expected its 34 elected representatives not to take part in the parliament. The State Election Commission validated the mandate of the 34 SDSM MPs, making them automatically members of parliament (as there is no oath to be taken in parliament). In the end, 3 female SDSM parliamentarians decided to take up their seats. They were subsequently excluded from the party.

9. Considering that the elections had been rigged, the SDSM party decided to boycott the parliament. The opposition formulated a number of requests conditioning their return in parliament, including the separation of party and State activities; better regulation of the media; improvements to electoral laws and the conduct of a national census, as well as the formation of a caretaker government. While the leaders of

<sup>4</sup> See Mr Walter's information note of 9 April 2014, [AS/MON \(2014\)2 rev.](#)

<sup>5</sup> See the PACE report of the observation of elections, [Doc. 13517](#), 26 May 2014.

<sup>6</sup> 123 Members of Parliament are elected in parliament: 120 are elected according to proportional model, in six electoral districts 3 Members of Parliament are elected according to the majority model in one round of elections of which 1 Member of Parliament from each of the three electoral districts in Europe and Africa, in Northern and Southern America, and in Australia and Asia respectively.(article 4 (2) of the 2014 Electoral code <http://www.legislationline.org/topics/country/31/topic/6>).

the ruling party had considered examining some of these requests, they excluded to consider forming a transitional government and organising early elections.

10. Two post-electoral visits were organised by the Parliamentary Assembly, on 10 July 2014 and 28-29 April 2015, with a delegation composed of Robert Walter (United Kingdom, EC), then rapporteur on the post-monitoring dialogue, Stefan Schennach (Austria, SOC), then Chairperson of the Monitoring Committee and Andreas Gross (Switzerland, SOC), then Chairperson of the Socialist Group. In July 2014, the delegation condemned the boycott, urging the opposition to take their seats and to make politics in the parliament. At the same time, it urged the Macedonian authorities to carry out the reforms needed to ensure that the shortcomings identified during the elections, and the legitimate concerns of the opposition, be thoroughly addressed.

11. In April 2015, the delegation was entrusted by the Monitoring Committee to discuss the political crisis.<sup>8</sup> It invited the Speaker of the Parliament and the Prime Minister to address the issue of the 31 seats (out of 123) left vacant by the opposition after a 6-month vacancy, and to take the necessary steps to comply with the constitutional and legal requirements,<sup>9</sup> including by organising by-pass elections. The authorities however were of the opinion that the revocation of the MPs mandates would only worsen the situation,<sup>10</sup> and that they should “leave the door open” to enable the opposition members to take up their seats whenever they so wished. The parliament at that time continued to work, and could pass legislation, with the exception of constitutional amendments which required a two-thirds majority.<sup>11</sup> The adoption of 7 constitutional amendments was therefore postponed.<sup>12</sup> The Venice Commission, which prepared an opinion on the draft amendments, also pointed out that “the current political situation where the opposition [was] boycotting the parliament’s work [was] not the most opportune moment for introducing constitutional amendments”. It urged “all political forces to enter into constructive dialogue and cooperation during the further consideration of the amendments.”<sup>13</sup>

*b) The domestic and regional context*

12. This crisis period was marked by renewed inter-ethnic tensions and heavy fighting in the ethnically mixed city of Kumanovo, on the northern border (30 km from Skopje) on 26 April 2015,<sup>14</sup> then on 9 May 2015 armed clashes and heavy gunfire erupted, leaving 8 policemen and 10 Albanian militants dead,<sup>15</sup> more than 40 wounded and a lot of damage. This attack was described as a “terrorist attack” by the authorities. It led DUI leader Ali Ahmeti, then Deputy Prime Minister (and former leader of the “Kosovo (\*)<sup>16</sup> Liberation Army” (KLA) in Macedonia in 2001), to resign under pressure from the Albanian community. On 12 May 2015, the

<sup>7</sup> See declaration of the post-electoral mission, 10 July 2014.

<sup>8</sup> See the statement of the delegation of 30 April 2015: “The former Yugoslav Republic of Macedonia”: fostering both political dialogue and compliance with the rule of law”.

<sup>9</sup> Article 65 of the constitution stipulates that, should members of parliament be absent from the parliament “for longer than 6 months for no justifiable reason, the mandates of the MPs can be revoked by the Assembly, by a two-thirds majority vote of all representatives.” The electoral code regulates the designation of new parliamentarians when mandates are revoked.

<sup>10</sup> The Committee for Immunity had been seized, and had prepared a report with conclusion, which was however not transmitted to the plenary to be debated.

<sup>11</sup> See Article 131 of the [Constitution](#). The amendments concerning the judicial council would have required a “double qualified majority”, which includes the majority of the candidates representing ethnic minorities.

<sup>12</sup> The parliament approved 7 draft constitutional amendments, related to the removal of the Minister of Justice from the Court Council (which appoints judges) in order to reduce political influence on the courts; the introduction of a mechanism of “constitutional complaint” which would allow citizens to lodge complaints against the authorities; a narrower definition of marriage, as a union between a man and a woman; the opening of an “international financial zone” (ie a tax haven) and the limitation of the rate of the public debt to 60% of the GDP and the budget deficit to 3% of the GDP. The Venice Commission issued, at the request of the authorities, an opinion. See [CDL-AD\(2014\)026](#), Opinion on the seven amendments to the Constitution of “the former Yugoslav Republic of Macedonia” concerning, in particular, the judicial council, the competence of the Constitutional Court and special financial zones, adopted by the Venice Commission at its 100th Plenary Session (Rome, 10-11 October 2014). The revised draft amendments reflected some but not all of the criticism expressed by the Venice Commission in its opinion.

<sup>13</sup> [CDL-AD\(2014\)026](#)

<sup>14</sup> According to the Macedonian police, a group of 40 men wearing uniforms of the disbanded ethnic “Albanian Kosovo Liberation Army” (UCK), had apparently entered Macedonian territory from Kosovo(\*), attacked a police watchtower in Gosince, briefly captured four Macedonian police officers and took control of the watchtower. No injuries were reported and the policemen were released after 30 minutes.

<sup>15</sup> <http://uk.reuters.com/article/2015/05/15/uk-macedonia-police-idUKKBN001RZ20150515>. Nine of these 10 militants were Kosovo Albanians and KLA veterans with ties to the KLA leadership,

<sup>16</sup> All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Minister of Interior Gordana Jankulovska, Minister of Transport and Communications Mile Janakievski, and the Director of Security and Counterintelligence (UBK) Saso Mijalkov all resigned.

13. The past months were also marked by student protests against the introduction of externally controlled State-run graduation exams and demanding a more active involvement and consultation of students in the reform of the education law. The student community organised street protests, set up “student plenums” and “teacher plenums”, and organised boycotts of classes. This movement was one of the first multi-ethnic mobilisations of young people in the country.

14. The country has also been facing a major migration crisis triggered by the conflicts in Syria and Iraq. It is crossed by the so-called “Balkan route” used by migrants to reach European countries such as Germany and the United Kingdom. During August 2015, up to 3 000 migrants a day would enter the country. Legal steps were taken to require migrants to either claim asylum within three days, or leave the country, and more radical action was also taken, such as building fences at the Greek border to contain the flow of refugees. We were informed that about 20 000 refugees were currently stuck at the Greek border, and 1 500 at the Serbian border. The country, along with its neighbours, was facing a humanitarian crisis with limited resources. This crisis was very much affecting the country. We shall not elaborate on this issue as during the April 2016 part-session the Parliamentary Assembly devoted a debate to the situation in the western Balkans, based on a report prepared by Ms Strik<sup>17</sup>.

15. Finally, we noted that the country, which had managed to preserve macroeconomic stability, with an expected growth of 3.2% for 2015,<sup>18</sup> remained committed to its Euro-Atlantic integration process. The authorities expect the European Commission to reconfirm the recommendations to open accession negotiations during the next European Council Summit (23-24 June 2016) – after the European Commission (EC) in its 2015 recommendations made the organisation of free and fair early elections conditional.<sup>19</sup> It also expects an invitation to join the NATO at the next NATO Summit, to be held in Warsaw on 8-10 July 2016. The authorities were therefore hoping to organise early elections as soon as possible to ensure the stability of the country, cope with the current international challenges, and meet its Euro-Atlantic aspirations.

c) *Political consequences of the publication of illegally wiretapped conversations*

16. The political crisis worsened in 2015 after the SDSM started to release illegally wiretapped conversations, seemingly revealing large-scale corruption, interference with the justice system, illegal surveillance of 20 000 people, including ministers, electoral fraud caused by manipulation of the voters’ lists, stuffing of ballot boxes in some polling stations, covering up the death of a political activist<sup>20</sup>, interference in a judicial case known as the “Monster Case”<sup>21</sup> and setting-up the arrest of former Minister of the Interior Ljube Boskoski on 5 June 2011 for illegal funding of his political campaign.<sup>22</sup> 38 tapes were released in 2015 by the SDSM.

<sup>17</sup> See [Resolution 2108 \(2016\)](#) and [Doc 14013](#), Human rights of refugees and migrants – the situation in the western Balkans (Rapporteur Ms Tineke Strik, Netherlands, Socialist Group).

<sup>18</sup> <http://www.worldbank.org/en/country/macedonia/overview>.

<sup>19</sup> The country had received six recommendations in a row to open the EU accession negotiation (which were blocked at the level of the European Council due to the name issue). The European Commission indicated in its 2015 progress report that the country has faced its worst political crisis since 2001, marked by divisive political culture, lack of compromise and breakdown in dialogue, the boycott of parliament by the main opposition party and further erosion of trust in public institutions. It noted that the crisis deepened further with the publication of intercepted conversations including senior government and governing party officials suggesting breaches of fundamental rights, interference with judicial independence, media freedom and elections, and politicisation and corruption in various fields. SWD (2015) 212, Final Commission staff working document on “the former Yugoslav Republic of Macedonia”, Report 2015, 10 November 2015.

<sup>20</sup> One of taped conversation suggested that the government covered up official responsibility for the murder of Martin Neškovski by a police officer, while he was celebrating the victory of the VRMO-DPMNE<sup>20</sup>. This prompted Neškovski’s family to call for a protest in front of the government building on 5 May, which ended up in violent clashes with the police, and in the arrest of 42 persons, out of which 12 people were sent to pre-trial detention, and 3 people were to under the suspicion that they committed the “participation in a mob that will prevent a police officer performing his duty” crime <http://www.balkaninsight.com/en/article/daily-protests-resume-in-macedonia>.

<sup>21</sup> Wiretapped conversations of officials allegedly cast doubt on the convictions of the six people for the killing of the five ethnic Macedonians, but added that he is still withholding publication of those tapes for fear of causing a violent reaction. An Albanian political movement, “Besa”, has scheduled a march in Skopje for 13 June 2015 to seek the resignation of the overnment and responsibility from the ethnic Albanian ministers in it, a member of the junior ruling party, the DUI and its leader Ali Ahmeti, due to partization of the country, misuse of institutions, failure of the integration process and anti-Albanian policies. <http://www.balkaninsight.com/en/article/daily-protests-resume-in-macedonia>

<sup>22</sup> On 28 March 2016, the Special Prosecutor announced that she suspected Saso Mijalkov, former Director of the Security and Counterintelligence (UBK) and six other police officers of “torture and inhumane treatment” during



17. The ruling party VMRO-DPMNE and the then Prime Minister Mr Gruevski claimed that the tapes were fabricated by unnamed foreign intelligence services and given to the opposition to destabilise the country. After the publication of the first tapes, an investigation was opened against SDSM leader Mr Zaev for illegally obtaining material. On 3 April 2015, Mr Zaev faced criminal charges after being charged with attempted blackmail and for soliciting bribery.<sup>23</sup> In the meantime, the former Director for Security and Counter-Intelligence (UBK) Zoran Verushevski was arrested and convicted in the “Putsch case” for unauthorised wire-tapping and audio recording, espionage and violence against representatives of the highest state of authority. His detention was commuted into house arrest on 29 December 2015.<sup>24</sup>

18. The political crisis and publication of leaked tape conversation led to street protests: on 17 May 2015, the SDSM staged (peaceful) mass protests in Skopje (20 000 to 60 000 participants, depending on the estimation). The following day, a mass rally organised by Mr Gruevski gathered between 40 000 and 100 000 supporters. Tents were also installed in front of the government building by the opposition, demanding Mr Gruevski’s resignation, and in front of the parliament building by pro-government supporters.

19. The escalation of the crisis, and the potential destabilising effect of the alleged revelations, prompted the international community to react. In its Resolution of 11 March 2015, the European Parliament expressed its concern, as did the EU Council in its conclusions of 21 April 2015. Three members of the European Parliament (EP), ie Ivo Vajlg (Slovenia, ALDE), EP rapporteur on the country, Eduard Kukan (Slovakia, EPP) and Richard Howitt (United Kingdom, S&D), former EP rapporteur, undertook to facilitate the discussions and contribute to the resolution of the crisis. They organised a series of *in camera* meetings in May 2015 in Skopje and at the European Parliament building in Strasbourg with the leaders of the four parties to reach an agreement.

20. For its part, on 22 May 2015 the Parliamentary Assembly organised, at the request of four political groups, a current affairs debate on “the situation in “the former Yugoslav Republic of Macedonia””.<sup>25</sup> The Monitoring Committee (see above) paid a fact-finding visit to Skopje on 28-29 April 2015 and called on the authorities to comply with the constitutional and legal requirements while pursuing political dialogue.<sup>26</sup>

### III. The Przino Agreement (June/July 2015)

21. Under the auspices of Johannes Hahn, EC Commissioner for European Neighbourhood Policy and Enlargement Negotiations, and three members of the European Parliament, on 2 June 2015 the four political parties (VRMO-DPMNE, SDSM, DUI and DPA) signed the Przino Agreement, which was supplemented on 15 July 2015. The text of the agreement and its protocol are appended (see Appendix 3). In line with this agreement, the opposition returned to parliament on 1 September 2015 after a 16-month boycott and agreed to stop releasing the wire-tapes.

22. The Przino Agreement contains a number of actions to be taken during “a transitional period” within certain deadlines to resolve the political crisis “in the interest of all citizens and communities”. It was meant to pave the way for the organisation of early, free and fair elections, scheduled on 24 April 2016.<sup>27</sup> It was also agreed to implement “all recommendations to be issued by the European Commission to address systematic rule of law issues” and to include structural reforms “that need to be taken in the areas of [EU accession negotiations] chapters 23 and 24, representation in and independent functioning of relevant state bodies, greater media freedom and fully aligning with Venice Commission Opinions and recommendations”. These expected reforms are highlighted in the report prepared by a group of experts, including former senior EC officer Mr Priebe,<sup>28</sup> as well as a list of “urgent reform priorities” to be fulfilled by the country “in the fields of

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Boskoski’s arrest in 2011. See <http://www.balkaninsight.com/en/article/macedonia-suspects-seven-over-boskoski-s-arrest-03-28-2016>.

<sup>23</sup> <http://www.balkaninsight.com/en/article/macedonia-opposition-leader-faces-new-charges>.

<sup>24</sup> The other defendants included Georgi Lazarevski, who also stands trial for unauthorised wire-tapping and espionage; Sonja Verushevski for the crime of espionage, as well as SDSM leader Zoran Zaev and Branko Palifrov for violence against representatives of the highest state of authority.

<sup>25</sup> See the [minutes of the meeting](#) of the Standing Committee in Sarajevo, 22 May 2015.

<sup>26</sup> See the [Statement of the delegation 30 April 2015](#): “The former Yugoslav Republic of Macedonia”: fostering both political dialogue and compliance with the rule of law.

<sup>27</sup> In the light of the subsequent difficulties faced, some considered that fixing a date in the text of the agreement might have been a mistake.

<sup>28</sup> “The former Yugoslav Republic of Macedonia”: Recommendations of the Senior Experts’ Group on systemic Rule of Law issues relating to the communications interception revealed in spring 2015, [http://ec.europa.eu/enlargement/news\\_corner/news/news-files/20150619\\_recommendations\\_of\\_the\\_senior\\_experts\\_group.pdf](http://ec.europa.eu/enlargement/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf) (8 June 2015).

rule of law and fundamental rights, de-politicisation of the public administration, freedom of expression and electoral reform”.<sup>29</sup>

23. During our visit, we collected information about the implementation of the Przino Agreement. While we praised the agreement reached by the four political parties, we understood that its implementation was marked by reciprocal complains from the VMRO-DPMNE and SDSM representatives about lack of political will to implement the Przino Agreement in good faith and with due diligence, leading to its delayed implementation. The ruling party, which was expected to win the elections, believed that the opposition party SDSM was doing its utmost to avoid the elections, pointing out that the opposition had been defeated in all national and local elections since 2006. The two parties representing the Albanian community both complained that the inter-ethnic dimension of the resolution of the crisis had been overlooked. We would like to highlight the main items included in this agreement:

a) *Reform of the electoral code*

24. On 9 November 2015 the parliament voted the expected amendments to the electoral code,<sup>30</sup> based on a proposal by a working group which included representatives of the VMRO-DPMNE, SDSM, DUI and DPA parties. The relevant State agencies and civil society, voiced disappointment about the lack of meaningful consultation and transparency in the process.<sup>31</sup> The most significant changes related to the electoral system for out-of-country voting, the format and competences of the State Election Commission (SEC), media coverage, campaign finance regulations, electoral dispute resolution, and safeguards to protect against pressure on voters and abuse of State resources<sup>32</sup>. We understand that these amendments improved, in some areas, the election legislation. However, an opinion of the Venice Commission on this revised version would be welcome to identify the progress and any remaining shortcomings.

25. These amendments also altered the composition of the State Election Committee (SEC), which now comprises three members nominated by the ruling political parties, three members by opposition parties, and three members jointly elected by the ruling and opposition parties based on applications from independent experts. The competences of the SEC were also increased: it is now responsible for the primary maintenance of the voter lists and for establishing an electronic system for complaints' management.<sup>33</sup> During our visit, we were informed that the SEC members had been appointed with some delay (on 16 December 2015), which had postponed the start of the work of this body. In the current context, the SEC has a key role to play in ensuring the smooth preparation and overall conduct of the elections, in particular the verification of the voters' list, which will influence the final decision on the date of the elections.

b) *Setting-up of a transitional government*

26. The Przino Agreement included the setting-up of a technical government to prepare the elections. Two key ministerial posts (the Ministry of the Interior and the Ministry of Labour and Social Affairs) have been given to opposition members, and new, additional deputy ministers will be appointed for the Ministries of the Interior and Labour and Social Affairs (these were appointed by the VMRO-DPMNE), Finance, Agriculture, Forestry and Water Supply, and the Minister of Information Society and Administration (appointed by the SDSM). The transitional governmental was approved with some delay (on 11 November, instead of 20 October 2015). In practice, we understood that these “pairs” of ministers and deputy ministers, composed of one representative from the ruling and one from the opposition party, left little room for manoeuvre. We were even informed of legal procedures initiated one against the other.

27. The appointment of opposition members as Ministers of the Interior and Labour and Social Affairs was also meant to prevent possible abuses of public facilities and increase the level of trust in the electoral process.

27.1. Ms Frosina Tashevska Remenski, Minister of Labour and Social Policy, explained that she had intended to introduce mechanisms to guarantee a lessening of pressure on social welfare beneficiaries, to incite the population to report any pressure exerted on social workers, to enact secondary legislation aimed at protecting personal data, to put an end to the allocation of increased social funds prior to elections, and to

<sup>29</sup> [http://ec.europa.eu/enlargement/news\\_corner/news/news-files/20150619\\_urgent\\_reform\\_priorities.pdf](http://ec.europa.eu/enlargement/news_corner/news/news-files/20150619_urgent_reform_priorities.pdf) (June 2015)

<sup>30</sup> See Article 75-78 of the consolidated electoral code published by the Venice Commission on 26 February 2016 (CDL-REF(2016)020).

<sup>31</sup> OSCE / ODIHR Need Assessment Mission Report of the 24 April 2016 early parliamentary elections in “the former Yugoslav Republic of Macedonia”, 2-5 November 2015 (hereafter “OSCE/ODIHR NAM report”), p. 4/5.

<sup>32</sup> OSCE/ODIHR NAM report p. 2.

<sup>33</sup> OSCE/ODIHR NAM report p. 2.

ensure better control over the work of social welfare centres, whose databases, according to the Minister, were used by the ruling party to influence social aid beneficiaries.

27.2. Mr Spasovski, Minister of the Interior, explained to us the range of areas where public institutions could exert pressure over beneficiaries of aid (users of State-owned land or farmers, for example). Civil servants were subject to pressure, and expected to produce lists of voters who would vote for a given party.

28. The functioning of these “pairs” of ministers and deputy ministers from the opposition and the majority, who mistrusted each other, proved however difficult, and disputed: the Government decided on 8 April to annul the legal decisions taken by these two ministers between 11 November 2015 and 7 April 2016, on the ground that these decisions had not been adopted with the consent of their deputy ministers, in violation of the Article 46, paragraphs 2 and 3 of the Law on Government.<sup>34</sup> This led to the annulment of 427 appointments, including promotions and demotions, decided by the Minister of the Interior.<sup>35</sup> Subsequently, the Minister of the Interior, Mr Spasovski, tendered his resignation, which could not be accepted (as the parliament had already been dissolved by then).

29. The Prime Minister Mr Gruevski was due to resign 100 days before the election. Mr Gruevski resigned on 18 January 2016. Mr Emil Dimitriev, General Secretary of the VRMO-DPMNE, was subsequently appointed Prime Minister.

30. In a surprise move, on 1 April 2016, the Democratic Union for Integration (DUI) decided at first to pull its ministers out of the transitional government, then to replace them (i.e. 7 ministers and 4 deputy ministers<sup>36</sup>). This might have been prompted by the release of new wire-taped conversations involving DUI officials;<sup>37</sup> all the tapes however were said to have been given to the Special Prosecutor.

c) *Organisation of early elections: state of play during and after our visit.*

31. On 18 January 2016, the parliament decided by anticipation to self-dismantle on 24 February 2016, i.e. 60 days before the elections that were supposed to be held on 24 April 2016, according to the Przino Agreement. This decision was adopted in the absence of the opposition members, despite the personal efforts of Commissioner Hahn over the weekend to have all political parties reach an agreement: the SDSM however considered that all the conditions were not fulfilled for free and fair elections – and it threatened to boycott the elections. They considered that “forged elections” could not be redressed by other forged elections. The ruling party was of the opinion that they should stick to the timetable agreed in Przino.

32. At the time of our visit, all sides agreed that early elections were the only way out of the political crisis. From the discussions we had with the political leaders involved, the competent ministries, the State Election Commission and others, we understood that there were different views about the state and degree of implementation of the Przino Agreement. A number of reports to assess the pre-electoral environment were still under preparation: one jointly from the European Union and the United States, and one from the State Electoral Committee.

33. On 21 February 2016, the EU Head of Delegation Mr Orav and the US Ambassador Jesse L. Baily addressed a joint letter to the Prime Minister giving their assessment on the implementation of the Przino commitments before the dissolution of the parliament, “in case it needed to adjust the timing of the elections”. The two ambassadors considered that “the necessary conditions for organising credible elections on 24 April (were) currently not in place”, and noted that “no agreement had been reached on media reforms”. They were also concerned at “initial reports of pressure and intimidation of voters and others”. They expected “political parties to allow holding credible elections at the earliest possible date” (...) (the date of 5 June had been mentioned by party leaders as an alternative) and take the necessary steps to put their country back onto the Euro-Atlantic path by implementing the political agreement and the Urgent Reform Priorities”.

34. On 24 February 2016, after heated debate, the parliament – in the absence of the opposition members – decided to reschedule the early elections on 5 June 2016, a decision that we welcomed (see Appendix). The parliament was dissolved on 7 April 2016, paving the way for the organisation of early elections, which will be under large international scrutiny: the Parliamentary Assembly has appointed a 30-member

<sup>34</sup> <http://macedoniaonline.eu/content/view/29229/1/>

<sup>35</sup> <http://macedoniaonline.eu/content/view/29250/1/>

<sup>36</sup> See <http://www.vlada.mk>

<sup>37</sup> <http://www.balkaninsight.com/en/article/dui-quits-macedonia-govt-silent-on-motifs-04-01-2016;>  
<http://www.mia.mk/en/Inside/RenderSingleNews/92/133107249>

delegation of observers.<sup>38</sup> The OSCE/ODIHR announced the deployment of 24 long-term observers and 300 short-term observers.<sup>39</sup> The OSCE Parliamentary Assembly and the European Parliament are also expected to send observers.

d) *Appointment of a “Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications”*

35. The creation of a “Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications” was requested by the opposition to investigate the allegations contained in the wire-taped conversations. The opposition did not trust the prosecution office to handle these cases. Ms Katica Janeva, a prosecutor from the basic court of Gevgelia, was appointed Special Prosecutor by the four political parties on 15 September 2016 and was expected to have “full autonomy to lead the investigations surrounding and arising from the interception of communications” according to the Przino Agreement.

36. During our meeting, Ms Janeva evoked the administrative and financial hurdles she had had to overcome (for example to appoint her deputy and get her budget approved), to settle her office and fulfil her mandate within 18 months. She had found it difficult to get the full co-operation of the basic prosecutors who had been working on these cases before. She also deplored the obstruction and lack of access to the court proceedings. Ms Janeva’s position was being questioned by the Prosecutorial Council itself, which challenged the constitutionality of the Law on the Special Prosecutor to the Constitutional Court. It also intended to launch investigations to review Ms Janeva’s work and determine whether she should be recalled and whether she broke the law by not making an official record of the receipt of the wiretapped material from the opposition Social Democrat leader Zoran Zaev. Ms Janeva has also been in the spotlight of pro-government media and ruling party officials, who questioned her professionalism and ethics. On 31 March 2016, the parliament examined disputed amendments to the Criminal Code, which would have extended the time allowed for the defence’s preparation of trials from 15 to 90 days, a move which was seen by the opposition as an attempt to slow down the work of the Special Prosecutor. The DUI party however declined to support these amendments, preventing the ruling party from having the majority in the parliament needed to pass them.<sup>40</sup>

37. Ms Janeva informed us that she is investigating on the so-called “Titanic case” related to electoral irregularities,<sup>41</sup> the intercepted conversations and the “coup case”. She had requested that the four most serious suspects be put in pre-trial detention, for fear that they would conceal, falsify or destroy evidence of the criminal offence or would try to obstruct the criminal proceedings by influencing witnesses. This request was rejected by the court on 18 February 2016. A number of interlocutors said that they were surprised by this decision, as pre-trial detention was commonly requested – and granted by courts – in cases of organised crime in Macedonia.

38. In relation to the alleged electoral fraud, Ms Janeva indicated that there was evidence that 100 000 votes had not been cast properly and that 30 000 people had voted in two locations. There was also evidence that 35 000 identity cards – produced by the Ministry of Interior but not claimed by citizens – had been used on Election Day and then returned to the Ministry. The (SDSM appointed) Minister of the Interior later explained to us that he had only found 8 000 IDs when he was requested to hand in the material to the Special Prosecutor. There was also “reasonable suspicion of irregularities” related to the voting in consulates, according to the Minister.

39. On 18 March 2016, the Special Prosecutor announced that 30 cases were under investigation (including six people for illegal wiretapping, ten for electoral fraud and twelve for hampering the voters’ freedom of choice). 80 suspects were being probed for crimes ranging from election-rigging to large-scale bribery and tax evasion.<sup>42</sup> An additional 120 cases were in the pre-investigation phase. Evidence was still being collected with regard to alleged violence, extortion and blackmailing during the electoral process. Ms Janeva indicated that on 31 December 2015 her office had received from the opposition 1.5 million

<sup>38</sup> See AS/BUR/FYR (2016) 01. The ad hoc Committee will be chaired by Stefan Schennach (Austria, SOC).

<sup>39</sup> <http://www.osce.org/odihr/elections/fyrom/204446>

<sup>40</sup> <http://www.balkaninsight.com/en/article/dui-cancels-support-for-macedonia-disputed-bill-03-31-2016>

<sup>41</sup> Nine people, including former Interior Minister Gordana Jankuloski, former Minister of Transport and Communications Mile Janakieski, and the Secretary General of the Government, Kiril Bozinovski, were suspected of committing criminal offences: criminal conspiracy, violation of the right to vote, bribery at elections and voting, destroying electoral materials and misuse of funds to finance the election campaign, committed during the elections in 2014. See: <http://www.independent.mk/articles/27933/Criminal+Council+Rejects+Complaints+No+Detention+for+%22Titanic%22+Case+Suspects>.

<sup>42</sup> <http://www.balkaninsight.com/en/article/macedonia-special-prosecution-on-right-track--03-18-2016>.



conversations but emphasised that the charges were based on evidence and testimonies of witnesses. Ms Janeva added that there was direct evidence that witnesses had been approached to get them to tamper their statements.

40. As rapporteurs, we cannot take position on the merits of these cases and will not interfere in domestic legal cases. However, in the light of the seriousness of the allegations and their possible impact on the functioning of democratic institutions, we expected the Special Prosecutor to be able to carry out thorough investigations, free from political and other interference and we expected all sides to respect the presumption of innocence despite the political dimension of these different cases. We also expected the judiciary to conduct fair and free trials, should these allegations be substantiated. At the same time, we were puzzled by a decision adopted on 16 March 2016 (in a closing session) by the Constitutional Court, which annulled a legal provision which had previously barred the President of the Republic from granting pardons, leading the opposition to fear that this decision would pave the way for the President to pardon former senior government officials suspected of organising election fraud, in case they should be sentenced. This decision also triggered demonstrations from both sides in front of the Constitution Court building.

41. In the light of the deteriorating political situation (see below), the President of the Republic Gjorge Ivanov took, on 12 April 2016, the unilateral decision to terminate all criminal investigations against ruling or opposition party members related to the illegally wire-taped conversations<sup>43</sup> and to grant an amnesty to the one person convicted so far.<sup>44</sup> 56 people were pardoned, including former Prime Minister Nikola Gruevski (from five criminal proceedings), former Transportation Minister Mile Janakieski (16 proceedings) and former Minister of the Interior Gordana Jankulovska (11 proceedings). The former President, Prime Minister and leader of the SDSM party Branko Crvenkovski, as well as current SDSM leader Zoran Zaev (with two criminal proceedings) were also pardoned.<sup>45</sup> The decision stirred demonstrations.

42. At the time of our visit, two issues remained open: the cleaning of the voters' list and media issues.

- *The voters' list*

43. An accurate voters' list is a key element for free and fair elections. The questions raised during our meetings with regard to the voters' list were therefore legitimate. It is indeed surprising that a country of 2 067 million inhabitants, including 16.8% of under-14 year-olds<sup>46</sup>, could comprise 1.8 million voters. There were also serious doubts raised by the opposition about the capacity of the SEC to perform the cross-checking of the list of voters provided by the Ministry of the Interior with databases that (still) were to be provided by State agencies, and to check in the field the names seen as problematic. We were told by the Minister of the Interior that only 8 000, out of the 35 000 unclaimed IDs, had been found; 150 000 additional electronic health cards were produced in December 2015 by the Minister of Health, which led the Minister of the Interior to be concerned about the databases of health cards; there were also questions raised about 60 000 new IDs that had been issued in 2015.

44. It should also be pointed out that the last census was carried out 2001. A new census was launched in 2011, but was stopped as the counting method could not be agreed upon. The issue concerned notably citizens working abroad. We also understood that organising a new census is a sensitive issue, for both the Macedonian and Albanian communities, which might end up being smaller than decades ago (in 2001, the Albanian community amounted to 25% of the population) – which would impact their linguistic and cultural rights, given that the Ohrid Framework Agreement grants such rights to communities, provided they exceed 20% of the population in a given municipality.

45. On 20 March 2016, the SEC adopted its report, mentioning that a little over 100 000 names had to be checked. The request made by the SDSM-appointed members to check another 124 000 names was rejected by the SEC.<sup>47</sup> A few days earlier, information was circulating that 450 000 names had to be checked and that 192 000 of the people listed on the electoral roll did not appear in any other database.<sup>48</sup> The SEC announced that 89 383 names of voters were seen as problematic after cross-checking 10 State institution

<sup>43</sup> See the President's statement : <http://www.president.gov.mk/en/media-centre/speeches/3797.html>

<sup>44</sup> Zvonko Kostovski worked as an engineer at the Administration for Security and Counterintelligence. He was sentenced to 3 years of prison on 25 March 2016.

<sup>45</sup> <http://www.balkaninsight.com/en/page/macedonia-home> and <http://www.independent.mk/articles/30445/Macedonia+Presidential+Pardons+Published+in+Official+Gazette>.

<sup>46</sup> Governmental population estimation, see [http://www.stat.gov.mk/OblastOpsto\\_en.aspx?id=2](http://www.stat.gov.mk/OblastOpsto_en.aspx?id=2).

<sup>47</sup> <http://www.independent.mk/articles/29253/Macedonia+State+Election+Commission+Approved+Report+on+Electoral+Roll>.

<sup>48</sup> <http://www.balkaninsight.com/en/article/macedonia-finds-half-a-million-problematic-voters-03-18-2016>.

databases. The SEC decided on 28 March 2016, by 5 votes for and 4 against; to publish those names.<sup>49</sup> The SEC would conduct on-site field checks from 3 April onwards.<sup>50</sup> Both the Minister of the Interior and the Head of the SEC pointed out that the SEC had no legal basis to erase the incorrect names from the voters' list.

46. The Prime Minister Mr Dimitriev was confident about the smooth running of the process (at that time, for elections scheduled on 24 April). He indicated to us that a matrix for the implementation of the elections had been prepared, and that all State institutions had been warned that pressure during election time should be prohibited. He ensured that all means would be put in place to check the names which may appear as problematic on time: volunteers had been recruited and were ready to make on-site inspections and vehicles had been made available to carry out this task. We were also informed that the SEC has set up a web application to allow people to check how many voters were listed at their own address and at other addresses.<sup>51</sup> By the beginning of April 2016, it was reported that about 90 000 field checks and 90 000 administrative checks had to be performed by the SEC.

47. On 7 April 2016, however, the SDSM announced that they would boycott the elections, as they considered that the contentious issues (i.e. electoral lists and media reforms) remained unfulfilled. They also announced that they would withdraw their members from the State Electoral Commission - which they eventually refrained from doing.

48. This decision from the opposition party was one of the motivations put forward by the President of the Republic to terminate criminal investigations following the intercepted phone conversations. The President explained that he had made this decision in the interest of "national reconciliation", and to put an end to the "agony" of the country by "entangling the knot":

*"The Assembly dissolved. The opposition announced their boycott of elections and the creation of a liberation front. This means that they will try to prevent elections from happening. We have a technical government with restricted competencies. We are on the verge of a State of crisis. The situation has become so entangled that no one seems to be able to untangle it, not even party leaderships or representatives of the international community. The Przino Agreement and the dissolution of the Assembly did not relieve tensions – on the contrary, they only made them worse. If we leave this knot to untangle on its own, we might end up being hostages to a long-term political crisis with an unpredictable end. The need for a peaceful election campaign and a peaceful election day is seriously put into question. If, on the other hand, that does not happen, the State and all its citizens will suffer long term consequences. I am afraid whether the citizens will be truly able to end this crisis at the upcoming elections."*<sup>52</sup>

49. This decision sparked many reactions: the SDSM leader Mr Zaev spoke about a "coup d'état" and demanded the resignation of the President. The leader of the DUI Mr Ahmeti (which never recognised the result of the 2014 presidential elections) said that "this decision of an illegitimate President is premature". The VRMO-DPMNE expressed "serious and deep disagreement" with the President's decision, emphasising those persons who have held the country hostage for the past year and a half must not avoid being punished for breaking the laws and demolishing the State institutions.

50. The international community also reacted to the President's decision: the EC Enlargement Commissioner Johannes Hahn said that the actions of President Ivanov were "not in line with [his] understanding of the rule of law (...)" and expressed his serious doubts as to whether credible elections were still possible, adding that "political leaders must know that the actions we have seen recently put the Euro-Atlantic future of their country seriously at risk".<sup>53</sup> He stressed at the same that elections needed to be held "in a way that would be recognised by the international community". The US Ambassador Jess Baily feared that "a blanket pardon without due process protects corrupt politicians and their associates".<sup>54</sup>

- *Media issues*

<sup>49</sup> <http://www.independent.mk/articles/29659/State+Election+Commission+Names+of+Disputed+Voters+from+Site+Inspection+to+Be+Publicly+Announced>.

<sup>50</sup> <http://meta.mk/en/the-sec-have-delayed-the-start-of-field-checks-on-questionable-voters/>.

<sup>51</sup> <http://www.balkaninsight.com/en/article/macedonia-electoral-roll-hides-many-inconsistencies--03-08-2016>.

<sup>52</sup> See the President's statement : <http://www.president.gov.mk/en/media-centre/speeches/3797.html>.

<sup>53</sup> <http://www.independent.mk/articles/30396/Johannes+Hahn+Says+President+Ivanov%27s+Move+Not+in+Line+with+Rule+of+Law>

<sup>54</sup> <http://www.independent.mk/articles/30416/EU+Enlargement+Commission+Clearly+States+June++Early+Parliamentary+Elections+Will+Be+Held>

51. Despite the positive changes made in the electoral code in November 2015 related to media coverage of elections (see above), serious challenges affect freedom of the media, which remain highly polarised, and the media environment in general.<sup>55</sup> The current media law, which was adopted in 2013 after consultation of the OSCE and the Council of Europe, was perceived as a sound law by several interlocutors, who however deemed its implementation as problematic. They also questioned the lack of sustainable funding of the media, lack of ethical journalism, and the reluctance of politicians to debate issues of general interest to the public. They also pointed out the economic pressure exerted by the government through public advertising allocations.

52. The opposition stressed that the media law needed to be amended to ensure free and fair elections, an opinion which was not shared by the ruling party. In particular the composition of the Audiovisual Agency and the Public Broadcaster Council raised questions. The international mediator Peter Vanhoutte continued to facilitate discussions to move forward on this issue. On 29 March 2016, the SDSM presented a draft law amending the Law on Audio and Audiovisual Media Services, which was backed by five associations of journalists.<sup>56</sup> The law however was not approved by the majority in parliament.

53. Some journalists also referred to increased fear, intimidation and violence exerted against journalists. The Association of Journalists (ZNM) gave us a list of 22 cases of violence between 2011 and 2015. The Council of Europe [Journalists' Safety Platform](#) registered four of these attacks against journalists in 2015.<sup>57</sup> In relation to the case of Borjan Jovanovski, the Council of Europe Commissioner for Human Rights Nils Muižnieks deplored the worsening of the media situation in the country in recent months, and called for an effective and independent investigation to bring to justice those responsible. He added that "it is high time that the Macedonian authorities restore a safe and serene climate for the media to work freely. It is crucial that political leaders send an unequivocal message that threats, intimidation and violence against journalists are unacceptable and will be punished".<sup>58</sup>

54. We discussed these issues with the Minister of Information Society and Administration. We welcomed the Minister's readiness to tackle the issue of public advertisement in the media and to identify criteria for a transparent method to allocate public advertising, and distinguish between propaganda and campaigns of public interest. A draft law was in preparation in this respect. There were also amendments being drafted to address journalists' rights and duties. We drew the Minister's attention to the 4 cases registered on the CoE Journalists' Safety Platform. The Minister acknowledged that there was a need to protect the physical integrity of journalists. The legislation should provide for police assistance and protection, and for an immediate reaction by the prosecution office in such cases – which was indeed something which was expected by the journalists we met. We are also hopeful that the Macedonian authorities will provide the information requested by the Council of Europe on these cases.

#### IV. Concluding remarks

55. Recent months were marked by a serious political crisis and a major migration crisis in the country. We commended the four political parties for reaching an agreement last year, under the auspices of the European Union. This demonstrated their ability to find a path to solve the political crisis with a roadmap including short-term political action and long-term systemic reforms. Despite the difficulties met during implementation, we hoped that all the political parties would remain committed to the full implementation of the Prizno Agreement, which could be a source of inspiration for other countries facing political deadlocks.

56. We have continuously expressed our conviction that a genuine implementation of the agreement could increase the confidence of the people in the electoral process and avoid continued challenges of electoral results. We called on all political parties to show responsibility ahead of the early elections, which all parties hoped and expected to be free and fair – and that all parties saw as the only way to put an end to the political crisis. This crisis has lasted far too long and has had a negative impact on the image of the country and on the reform process it is expected to pursue for Euro-Atlantic integration, which is a common political objective for the four main political parties. It is a pity that this political crisis has overshadowed the systemic

<sup>55</sup> Macedonia ranks 117th in Reporters Without Borders 2015 World press freedom. See: <http://index.rsrf.org/#/index-details/MKD>.

<sup>56</sup> <http://www.independent.mk/articles/29704/SDSM+Proposes+Draft-Law+on+Media+Reforms>.

<sup>57</sup> These cases relate to the arrest and conviction of Tomislav Kezarovski, a Macedonian investigative journalist arrested in May 2013 for allegedly revealing the identity of a protected witness in an article published in 2008 in the magazine "Reporter 92"; the death threats received by prominent journalists Borjan Jovanovski; the assault of Sashe Ivanovski, a freelance journalist and editor of Maktel website, on 15 July 2015 by Vladimir Peshevski, Macedonian Deputy Prime Minister for Economic Affairs and the brutal assault of Marjan Stamenkovski, editor of the "Dokaz" website, by a group of five masked men who beat him up using metal bars on 20 July 2015.

<sup>58</sup> [Message](#) published by the Commissioner of Human Rights on 22.04.2015.

problems revealed by it, such as the lack of independence of the judiciary, corruption, lack of media freedom and media access, or the misuse of administrative resources. At the same time, it also overshadowed the positive developments in the country.

57. We were also of the opinion that the Przino Agreement had led to some improvement of the electoral legislation in limited areas. We would therefore suggest to the Monitoring Committee to seize the Venice Commission in order to prepare an opinion on the revised electoral code, after the elections have taken place, to identify the progress achieved and the remaining deficiencies, also taking into account the findings of the election observers.

58. While in Skopje, we called on all political leaders to implement the agreement in good faith, show political maturity and ensure that the election campaign focused on issues of interest to the citizens of Macedonia, addressing their daily concerns and providing political visions. We believe that politics needs to be done in parliament, and that it is not in the interest of any party to boycott elections and lose its grip on the management of the country. We also urged the authorities to strengthen the role of the parliament, its capacity to handle political crises, to interact with the civil society, and strengthen its oversight role, for example over the intelligence services, in line with the guidelines of the Venice Commission.

59. The alleged violations of law revealed by the illegally wire-taped conversation shocked Macedonian society. These allegations raised serious questions about the rule of law, good and fair electoral processes, the independence of the judiciary, the freedom of media and good governance. We expected the authorities to demonstrate their commitment to addressing and redressing the systemic issues, to consolidating the stability of the country and its role at regional level. The Council of Europe remains at the country's disposal for any expertise needed.

60. We were however concerned by the developments that happened in recent weeks. Firstly, we deeply regretted the decision taken by the SDSM to boycott the early parliamentary elections. We urged this party to participate, both for the sake of the political climate, in respect of their voters and in their party's best interest. Secondly, we noted that the decision of the President of the Republic to terminate all criminal investigations linked to the illegally wire-taped conversations, however well-intentioned it might be, leads to a breach of the rule of law and impunity, hinders the work of the Special Prosecutor and undermines the implementation of the Przino Agreement. We called on the majority and opposition parties to go back to the negotiating table to avoid further deterioration of the political crisis. We urged all stakeholders involved in the preparation of the elections to pursue a constructive dialogue, find solutions to address the remaining issues and remain committed to democratic standards and concentrate all efforts on the preparation of credible elections.

61. At its meeting on 23 May 2016, we informed the Monitoring Committee about the latest developments in the country. We reported on our participation in the PACE pre-electoral delegation, chaired by Stefan Schennach (Austria, SOC), which visited the country from 26 to 28 April 2016 to assess the electoral environment. Our delegation urged the political forces to show responsibility towards the elections and called on all parties to fully implement the Przino Agreement, which offers a path to lead the country out of the crisis and tackles, in the long term, systemic issues. We also urged the authorities to find a way to revoke the controversial presidential pardon as soon as possible.<sup>59</sup>

62. The VRMO-DPMNE-led coalition of 21 parties was the only bloc running in the elections which had submitted a valid candidate list to the State Election Commission by the deadline (11 May 2016). The three other parties (SDSM, DUI and DPA), notably questioning the accuracy of the electoral lists, thus signaled that they would not take part in these elections.

63. After mid-May 2016, a series of developments changed dramatically the course of events, after the Constitutional Court, seized by DUI member Thalep Xhaferi, ruled in its interim decision of 18 May 2016 that the parliament's earlier dissolution was unconstitutional and that all electoral activities should be halted.

64. The parliament reconvened that same day to cancel the 5 June elections by a large majority (96 out of 123 deputies) and resumed its normal work. The parliament decided on a mini-reshuffle in the interim government: after the Prime Minister, Mr Dimitriev, had accepted the resignation of the SDSM ministers Oliver Spasovski, Minister of the Interior, and Frosina Remenski, Minister of Labour and Social Policy, which had been submitted in April 2016, the parliament appointed respectively Mitko Cavkov and Dime Spasov from the ruling VMRO DPMNE party to these positions, which prompted the SDSM deputies to leave the parliament.

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<sup>59</sup> <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6145&cat=31>



65. On 19 May 2016, the Parliament adopted (by a shortened procedure) amendments to five laws, following the proposals of the leaders of the VMRO-DPMNE and DUI parliamentary groups:

65.1. The amendments to the law on pardons granted by the President of the Republic on the right to revoke pardons within a 30 day period after the law was passed, and bind him to withdraw pardons for individuals who ask him to withdraw them;

65.2. A law on protection of privacy was also adopted to determine the handling of the wiretaps made between 2008 and 2015. This law will ban publication of materials that endanger the privacy and personal life of individuals, and the use of such materials for electoral, political and other goals;

65.3. In addition, changes were made in the laws on protection of public information, the electoral code and the law on administrative disputes.

66. On Wednesday 25 May 2016, the Constitutional Court confirmed its decision that the dissolution of the parliament was unconstitutional, thus cancelling the early parliamentary elections scheduled on 5 June 2016.

67. On 27 May 2016, the President of the Republic decided to cancel the pardon granted to the 22 politically exposed persons (out of 56 pardons granted earlier), signaling that politicians should not be untouchable. No names were made public at that stage.

68. These latest developments leave a number of questions open, such as the current status of the Przino Agreement, including the implementation of the election-related issues (cleaning of the voters' list, reform of the media), the continuation of the work of the Special Prosecutor, the status of the interim government, the possible organisation of early elections - or ordinary elections in 2018, and the implementation of the recommendations issued by the European Commission to address systematic rule of law issues (see *supra*, paragraph 22). The question of the possible impact of these developments on the stability of the country, which aspires to join NATO and the European Union, can also be raised.

69. In the light of these issues, the Monitoring Committee decided on 23 May 2016 to invite the leaders of the two main parties (VMRO-DPMNE and SDSM) to take part in an exchange of views on recent developments and the state of implementation of the Przino Agreement during the 2016 June part-session. It also agreed to ask the Venice Commission to adopt the already requested opinion on the amended electoral code of November 2015 at its earliest convenience. As co-rapporteurs, we intend to further discuss these issues with all the political stakeholders of the country during the fact-finding visit we intend to pay in autumn 2016.

## **Appendix 1 – Programme of the visit**

### **Monday, 15 February 2016**

- 15:30 Meeting with representatives of the European Commission (from Brussels) and European Union Delegation in Skopje
- 16:30 Meeting with journalists Dime Ratajkoski, editor, first channel of the “Macedonian Radio Television” (MRT), Stojan Trpceviski, editor, MRT news desk and Lidija Bogatinova, Kanal 5
- 17:15 Meeting with Naser Selman, President of the Association of journalists (ZNM)
- 18:15 Meeting with Zlatko Dimitrioski, Analyst, Citizens Association MOST
- 20:00 Working dinner with international mediator Peter Vanhoutte and Mr Tibor Varidi, Polical Advisor to the EU Delegation in Skopje

### **Tuesday, 16 February 2016**

- 08:30-09:45 Working breakfast with H.E. Ambassador Aivo Orav, Head of EU Delegation in Skopje
- 09:50-10:35 Meeting with Mr Antonio Miloshoski, President of the Foreign Policy Committee and members  
With the participation of Mr Aleksandar Nikoloski, Mr Saso Vasilevski, Mr Pavle Trajanov, Ms Liljana Popovska, Mr Gjoko Kamcev, Mr Artan Grubi, Ms Nora Aliti, Ms Meral Uzeiri Ferati, Mr Vasko Naumovski, Ms Sofija Kunovska, Mr Ljubomir Josifoski, Mr Hari Lokvenec, and Representative of the Information department
- 10:40-11:10 Meeting with H.E. Mr Trajko Veljanoski, President of the Assembly
- 11:45-12:30 Meeting with Mr Aleksandar Cicakovski, President of the State Election Commission
- 12:35-14:00 Working lunch with Mr Aleksandar Nikoloski, Head of the Macedonian Delegation to the PACE and the members of the delegation Ms Renata Deskoska, Ms Ermira Mehmeti, Mr Vladimir Gjorchev, Mr Stefan Bogoev, and Mr Imer Aliu
- 14:35-15:20 Meeting with Mr Nikola Gruevski leader of the “Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity” (VRMO-DPME)
- 15:25-16:10 Meeting with Mr Zoran Zaev, leader of the “Social Democratic Union of Macedonia” (SDSM)
- 16:15-17:00 Meeting with Ms Nora Aliti and Shpresa Hadri, MPs, members of the “Democratic Union for Integration” (DUI)
- 17:05-17:50 Meeting with Mr Imer Aliu, coordinator of the group of the “Democratic Party of Albanians” (DPA)
- 18:05-18:50 Meeting with Ms Katica Janeva, Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications
- 19:30 Working dinner with the Head of the OSCE Mission, Ambassador Nina Suomalainen and UN Resident coordinator and Head of the UNDP Ms Louisa Vinton

### **Wednesday, 17 February 2016**

- 09:15-10:00 Meeting with Mr Nevzat Bejta, Mayor of Gostivar
- 10:45-11:30 Meeting with Ms Teuta Arifi, Mayor of Tetovo
- 11:30-12:30 Working lunch with NGO representative Sreten Koceski, Community Development Institute in Tetovo
- 13:45-14:30 Meeting with Ms Frosina Tashevska Remenski, Minister of Labour and Social Policy

- 14:45-15:15 Official meeting with H.E. Mr Emil Dimitriev, President of the Government
- 15:20-16:05 Official meeting with Mr Musa Xhaferi, Vice-President of the Government responsible for the implementation of the Ohrid Framework Agreement
- 16:15-17:00 Meeting with Mr Nikola Poposki, Minister of Foreign Affairs
- 17:15-18:00 Meeting with Mr Oliver Spasovski, Minister of Interior
- 18:15-19:00 Meeting with Mr Adnan Jashari, Minister of Justice
- 19:15-20:00 Meeting with Ms Marta Arsovska Tomovska, Minister of Information Society and Administration

**Thursday, 18 February 2016**

- 09:00 Meeting with representatives of the diplomatic community, under the auspices of H.E Mr Mats Staffansson, Ambassador of Sweden
- 10:30 Press conference

## Appendix 2

### **Rapporteurs urge political forces in Skopje to reach an agreement before early elections**

19/02/2016 – Lise Christoffersen (Norway, SOC) and Valeriu Ghiletschi (Republic of Moldova, EPP/CD), co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) for post-monitoring dialogue with “the former Yugoslav Republic of Macedonia”, ending a visit to the country, have urged political forces in Skopje to reach an agreement before early elections.

The co-rapporteurs, making their first fact-finding visit to Skopje, Tetovo and Gostivar from 15 to 18 February, said the country was going through one of the most serious political crises since 2001.

“The Pržno Agreement, reached by the four main political parties in June and July 2015, was an unprecedented moment for the country, which is marked by profound polarization. We now encourage all parties to fully implement this Agreement. Our discussions showed that all parties remain committed to implementing it, though some delays were noted on certain issues.

There is no doubt that the Pržno Agreement included important positive steps for the improvement of the electoral framework and the continuation of the reform process. This Agreement provides in particular for the revised composition and enhanced competencies of the State Electoral Commission, the upgrading of the electoral code last November, and action to clean up the voters’ list, which remains a crucial issue.

The resignation of the Prime Minister in January and the setting-up of a technical government, where two key ministries (the Ministry of the Interior and the Ministry of Labour and Social Affairs) are held by opposition members, should pave the way to the organisation of early elections.

The creation of a ‘Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications’ is also an important move which we welcome. We now expect the Special Prosecutor to carry out a fair and thorough investigation, free from political and any other interference, and the judiciary to bring this process to its conclusion.

All sides agree that early elections are the only way out of the political crisis. From the discussions we had with the political leaders involved, the competent ministries, the State Electoral Commission and others, we understand that there are different views about the state and degree of implementation of the Agreement. A number of reports are still under preparation to assess the pre-electoral environment. By 24 February 2016, at the end of this evaluation process, parliamentarians – who have been given a mandate by their citizens – will weigh all the arguments and take the final decision on steps to convoke early elections as previously agreed, which all parties hope and expect will be free and fair.

We also remind all political parties that they agreed, after election day, to address the systemic problems revealed by this political crisis and to implement the urgent reforms identified by the European Commission, which echo the long-standing recommendations made by the Parliamentary Assembly. Areas where reform is needed include the independence of the judiciary, the fight against corruption and the freedom of the media. We invite the authorities to make themselves available to initiate and support these measures.

Finally, recalling that the organisation of early elections has been agreed by all political forces, we urge them not to miss this opportunity, to further negotiate and to compromise in order to reach a point where meaningful elections can be organised. As was underlined in the Agreement, this should be achieved ‘in the interest of the people’, who are entitled to free and fair elections, provided there is a genuine choice of political options that can be represented in the parliament.

We expect the newly-elected parliament to provide the space where democratic discussions can take place, and decisions taken on urgently-needed long-term reforms that could consolidate the functioning of democratic institutions, strengthen the independence of regulatory bodies and restore the trust and confidence of the people in their institutions.

Such moves would contribute to reinforcing the path of Euro-Atlantic and EU integration that the country has chosen. As co-rapporteurs, we will participate – alongside other members of the Parliamentary Assembly – in the pre-electoral visit and the observation of the early election to be carried out by the Parliamentary Assembly.

We will also continue to monitor the implementation of PACE Resolution 1949 (2013) on post-monitoring dialogue, and developments related to the situation of human rights, the rule of law and democracy in the



country. We remain supportive of the reform process undertaken by the authorities and recall the availability of the Council of Europe, in particular the Venice Commission, to provide all expertise needed.”

*The Przino Agreement was signed by the four main political parties on 2 June 2015, and supplemented on 15 July 2015. This signature was facilitated by European Commissioner Johannes Hahn, with the support of three members of the European Parliament and international mediator Peter Vanhoutte.*

### **PACE monitors welcome agreement on date for Macedonian early elections**

25/02/2016 – “We welcome the agreement reached yesterday by the Macedonian Parliament to re-schedule the early elections to 5 June 2016,” said Lise Christoffersen (Norway, SOC) and Valeriu Ghiletschi (Republic of Moldova, EPP/CD), co-rapporteurs of the Parliamentary Assembly of the Council of Europe (PACE) for post-monitoring dialogue with “the former Yugoslav Republic of Macedonia”.

“In the light of our findings last week, and the most recent assessment produced, we believe that this decision, which shows goodwill from all sides, should allow all institutions involved to secure a better election environment and build greater trust in the process, thus enabling continued implementation of the Przino Agreement,” they said.

“We now expect the State Election Commission and all state institutions concerned to do their utmost to meet all deadlines and, among other things, to clean up the voters’ lists and ensure fair access to media during the election campaign, which were contentious issues in the past. We also encourage all political parties to further show responsibility and focus now on the preparation of competitive elections, thus offering a genuine choice to the voters, and refrain from any action that could undermine the credibility of the election process.”

Appendix 3 – the Przino Agreement

2 June 2015

**Agreement**

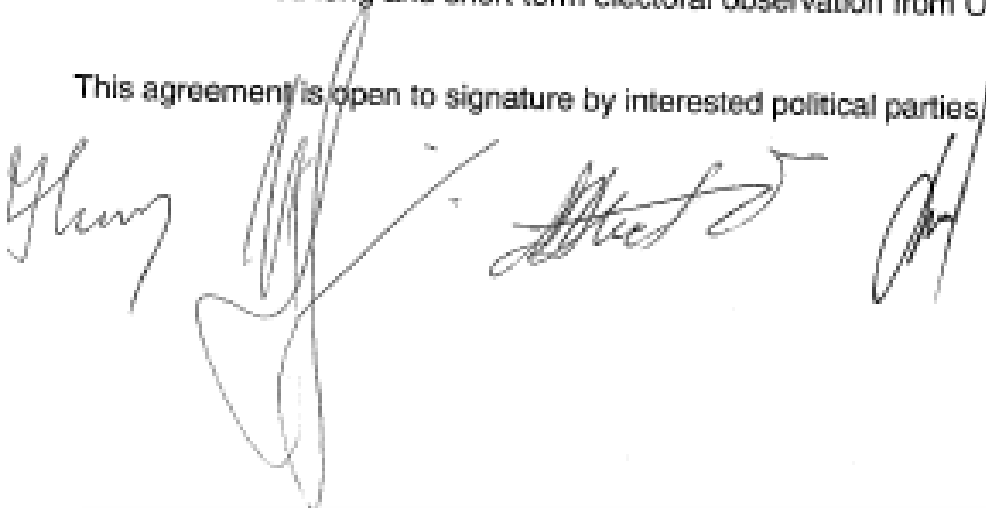
1. The parties agree to put the interest of the country first and confirm their commitment to the Euro-Atlantic process and democratic principles.
2. In the interest of all citizens and all communities in the country, the parties agree on steps to overcome the current crisis. They commit to ensuring inclusiveness in taking this agreement forward, through consultation and coordination with the main parties in the country.
3. The parties commit to respecting the democratic principle of political accountability in addressing key challenges facing the country.
4. At a time of great national challenge, the parties agree that they must, acting in the interest of all citizens, address critical and unprecedented challenges facing the country, to consolidate its economic and democratic development, to strengthen inter-ethnic relations, to ensure full implementation of the Ohrid Framework Agreement, to strengthen good neighbourly relations and its international standing and, in so doing, to bring the country forward on its Euro-Atlantic path.
5. The parties therefore agree to establish a "transitional period" starting immediately and ending in free and fair elections, in full compliance with European standards, by the end of April 2016.
6. During the transitional period:
  - By June 10, the parties shall agree on the exact organization of the government preparing the elections.
  - SDSM returns to parliament and will chair a specially constituted parliamentary committee of inquiry into the wiretap scandal. The intelligence oversight and interception of communications committees, also chaired by SDSM, will commence work, looking into democratic oversight failings in the functioning of the state intelligence services (UBK). An initial report by these committees shall be completed by November 2015.
  - With immediate effect there shall be no further publication of any wiretap material. Upon the SDSM's return to parliament, all of the material in possession of the SDSM or any other actor will be handed over to the public prosecutor for immediate action.
  - Between June and the end of August 2015, the EU will facilitate a cross-party dialogue (open to all main parties represented in parliament) to reach an agreement on structural reform issues. This agreement shall inter alia include reforms that need to be taken in the areas of Chapters 23 and 24, representation in and independent functioning of relevant state bodies, greater media freedom and fully aligning with Venice Commission Opinions and recommendations.
  - The parties also agree to implement all recommendations to be issued by the European Commission in relation to systemic rule of law issues. Implementation will be reviewed in the context of an inclusive High Level

Th. H.F. AA [Signature]

Accession Dialogue involving all main political parties and civil society and ahead of the Commission's October 2015 Progress Report.

- By 31 July 2015, the composition of the State Elections Commission will be reviewed and modified. By 30 September 2015 the State Elections Commission will be given enhanced powers to ensure free and fair elections and a level playing field for all parties. This shall notably include stronger oversight powers. All OSCE/ODIHR recommendations shall be implemented, including revision of the voter's list according to a new and agreed methodology. In the run-up to the next elections, the government shall request enhanced long and short term electoral observation from OSCE/ODIHR.

This agreement is open to signature by interested political parties/

The image shows four handwritten signatures in black ink, arranged horizontally. The signatures are stylized and cursive, typical of official documents. The first signature on the left is the most legible, appearing to be 'Ghung'. The other three signatures are more abstract and difficult to decipher. The signatures are positioned above a solid horizontal line that spans the width of the page.

## **PROTOCOL to the Agreement of 2 June 2015**

In the Agreement of June 2, article 6, first indent, it is stated:

"By June 10, the parties shall agree on the exact organization of the government preparing the elections". On 19 June, leaders reconfirmed their commitment to the aforementioned agreement in writing and agreed to continue discussions.

This Protocol completes the first indent of Article 6. It shall form an integral part of the 2 June Agreement.

The undersigned parties agree on the following:

1. On 1 September 2015, SDSM will return to Parliament, as set out in the second indent of Article 6 of the June 2 Agreement.
2. On 20 October 2015, a new Minister of Interior shall be appointed upon nomination by SDSM and after consultation with VMRO-DPMNE and DUI. This Minister shall be a technical appointment.
3. On 20 October 2015, a new Minister of Labour and Social Affairs shall be appointed, upon nomination of SDSM.
4. On 20 October 2015, new, additional Deputy Ministers will be appointed for the following Ministries:
  - a. The Ministry of Interior, upon nomination by VMRO-DPMNE
  - b. The Ministry of Labour and Social Affairs, upon nomination by VMRO-DPMNE
  - c. The Ministry of Finance, upon nomination by SDSM
  - d. The Ministry of Agriculture, Forestry and Water Supply, upon nomination by SDSM
  - e. The Ministry of Information Society and Administration, upon nomination by SDSM

These Deputy Ministers shall have the full right of review and veto in their respective Ministries in all legal, financial and personnel matters related to the organisation of the elections. All the aforementioned new Ministers and Deputy Ministers shall remain in their positions in the new Government referred to below.

5. The incumbent Government will submit its formal resignation to Parliament in due time to enable the new Government to be sworn in on 15 January 2016, 100 days before the parliamentary elections which shall be held on 24 April 2016. The new Government shall be headed by a new Prime Minister nominated by VMRO-DPMNE. Its government program shall be limited to the organisation of the early parliamentary elections.
6. The above rule that the incumbent Government shall resign in time to leave office 100 days before the next elections, and that a new Government shall be appointed, shall apply to the April 2016 elections, and, following the necessary legal changes which shall be enacted as soon as possible, for future elections.
7. The parties commit to complying with this Agreement in full and in good faith. The parties also commit to avoiding any new impediments including in relation to the holding of elections on 24 April 2016.
8. The third indent of Article 6 shall be completed as follows: after "immediate action", the following text shall be added:

"By 15 September 2015, there shall be a new, Special Prosecutor with full autonomy to lead the investigations surrounding and arising from the interception of communications. This Special Prosecutor shall be appointed by agreement of the undersigned parties."

Skopje, 15 July 2015