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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 (30 May-1 June 2017)

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I. Introduction

1. As PACE co-rapporteurs, we visited Skopje from 30 May to 1 June 2017 to follow the latest political developments since our last visit to the country of February 2016, after which we published an information note² addressing the political crisis and urging the authorities to implement the expected reforms. Following this visit, the Monitoring Committee organised, on 15 September 2016 in Tirana, an exchange of views with Mr Zaev (SDSM) and Mr Nikoloski (VRMO-DPMNE). The Assembly also monitored the observation of the early parliamentary elections of December 2016.

2. At the time of our visit in May 2017, the 3-year political crisis had not yet reached an end: early parliamentary elections had finally taken place in December 2016 but due to the close results, none of the main parties had achieved an absolute majority. No government had been formed and there was no parliamentary coalition. The new Speaker had just been elected on 27 April under disputed circumstances (see below). As a consequence, the parliament was not functioning properly, and had not been in a position to appoint a full new Macedonian delegation to the PACE.³

3. Despite this uncertain political context, we managed to have fruitful meetings during our visit. We would like to thank the three members of the Macedonian delegation, as well as the Secretariat of the parliament, for their efforts to facilitate our visit. We would also like to thank Ms Monica Martinez, Head of the Council of Europe project office, and her team for their assistance during our visit. We had meetings with the newly elected Speaker of Parliament Mr Xhaferi, the leaders of political groups, the members of the Macedonian delegation to PACE, the Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications, the President of the Constitutional Court, the Judicial Council and the Supreme Court, the President of the Association of Units of Local Self-Government, the President and members of the State Election Commission, as well as representatives of the media and civil society (see programme in Appendix 1). We also issued a statement (see Appendix 2).

¹ Document declassified by the Monitoring Committee at its meeting on 12 October 2017.

² [AS/Mon \(2016\) 06 rev](#), Information note by the co-rapporteurs on their fact-finding visit to Skopje, Tetovo and Gostivar (15-18 February 2016), 27 May 2016.

³ The delegation was composed at that time by re-elected PACE members, ie Ms Renata Deskoska (SDSM), Mr Stefan Blogoev (SDSM) and Mr Vladimir Gjorchev (VRMO-DPMNE). Ms Deskoska resigned from the parliament and the Parliamentary Assembly after her appointment as Minister of Education on 1 June 2017.

4. This information note outlines the main developments in Macedonia⁴ since our last visit in February 2016, the setting-up of the new government, the end of the political crisis and the principal measures taken by the newly-appointed Government.

II. Major political developments (February 2016 – June 2017)

a. Conduct and output of the December 2016 early parliamentary elections

5. Macedonia has been through a serious political crisis since 2014, which deepened after February 2015, when the opposition party SDSM started to release illegally wire-taped conversations, seemingly revealing *inter alia* large-scale corruption, interference with the justice system, illegal surveillance of 20 000 people – including ministers – alleged electoral fraud caused by manipulation of the voters' lists and stuffing of ballot boxes in some polling stations. Representatives of the ruling party VMRO-DPMNE (headed by the then Prime Minister Gruevski) claimed that the wire tapes had been fabricated by unnamed foreign intelligence services and given to the opposition to destabilise the country. This stalemate was unblocked by the four main political parties signing the Przino Agreement⁵ in July 2015, under the auspices of the European Union and the United States.

6. In our last information note, we described in detail the conditions under which the early elections were to be organised in the framework of the Przino Agreement. Early parliamentary elections were first scheduled on 24 April 2016 then postponed to 5 June 2016 under heavy protest from the opposition (which complained about non-fulfilment of the Przino Agreement).

7. Early parliamentary elections were finally organised on 11 December 2016 following an additional agreement⁶ signed on 20 July 2016. One of the big issues was the credibility of the voters' lists and other electoral issues. The July 2016 agreement thus provided some additional electoral conditions, such as:

- the amendment of the electoral code related to media coverage: establishment of an *ad hoc* body to monitor compliance with the media provisions of the electoral code; appointment of an expert as chief editor of the Public Broadcaster (MRTV); legal changes to allow the 7/24 Albanian channel on MRTV;
- the cross checking of entries on the voters' list: 170 000 voters were put on a supplementary list, 39 000 published names were to be checked;
- the formation of a new, technical government until the announcement of the election results with opposition members holding the posts of Minister of the Interior and Minister of Labour and Social Affairs (to prevent notably misuse of administrative resources).

8. The four main political parties also committed themselves to support the re-establishment of the office of the Special Prosecutor.

9. An *ad hoc* committee of the Parliamentary Assembly observed the 11 December 2016 early elections.⁷ This committee in particular pointed to the following issues:

- ineffective internal organisation of the State Election Commission with politicised decision-making and shortened legal deadlines;
- lack of transparency of some SEC activities (closed sessions, no systematic publication of decisions);
- misuse of administrative resources;
- pressure exerted on voters, in particular on civil servants.

10. The final report of the OSCE/ODIHR Election Observation Mission (February 2017) confirmed that there were "allegations of voter intimidation, coercion, pressure on civil servants, vote-buying, and the misuse of administrative resources [that] persisted through the campaign".⁸

11. The parliamentary elections of 11 December 2016 were expected to put an end to a political crisis that had lasted since April 2014, when the opposition (the SDSM party) challenged the results and decided to

⁴ The use in the text of the term "Macedonia" is for descriptive purposes only and for 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.

⁵ This name refers to the neighborhood of Skopje (Przino) where the agreement was signed.

⁶ The text of the Przino Agreement is appended to our last information note, see [AS/MON \(2016\)06rev](#) of 27 May 2016.

⁷ [Doc. 14238](#), Observation of the early parliamentary elections in "the former Yugoslav Republic of Macedonia" (11 December 2016) (Rapporteur: Mr Stefan SCHENNACH, Austria, SOC), 23 January 2017.

⁸ OSCE/ODIHR Election Observation Mission [Final Report](#) of the early parliamentary elections of 11 December 2016, 28 February 2017.

boycott the parliament. The 2016 elections, unfortunately, were inconclusive and did not allow for the formation of a clear majority. Out of 123 seats, the VRMO-DPMNE won 51 seats, the SDSM 49 seats, the Albanian party DUI 10 seats, which significantly altered the composition of the parliament as follows:⁹

	April 2014	December 2016
VMRO-DPMNE-led coalition	61	51
SDSM-led coalition	34	49
Democratic Union for Integration (DUI)	19	10
Democratic Party of Albanians (DPA)	7	2
"Alliance for the Albanians" coalition		3
National Democratic Revival (NDP)	1	
Citizen Option for Macedonia (GROM)	1	
Besa Movement		5
Total	123	120

12. One positive development of these early elections was that all stakeholders seemed to accept the final results.

b. Post-election developments

13. In accordance with the constitution, President Ivanov entrusted the leader of the largest party in parliament, Mr Gruevski, with forming a government. Mr Gruevski however did not succeed to do so within the deadline (i.e. before 29 January 2017), partly because in the meantime, three Albanian parties had issued a joint statement, which included a demand to make Albanian an official language and to have State symbols reflecting ethnic equality.¹⁰ We failed however to fully understand the reasons why the VRMO-DPMNE, at that stage, renounced negotiations with its former Albanian coalition partner DUI.

14. The Constitution does not explicitly say that the President should then turn to the next biggest party leader, and the President did not do this, despite urging from international partners. While the leader of the SDSM Mr Zaev indicated that he had collected the signatures of 67 MPs from the SDSM and the DUI who were ready to form a coalition, President Ivanov refused on 1 March to submit the mandate, invoking the protection of the sovereignty and integrity of the country. The failure to set up a parliamentary coalition also prevented the parliament from electing its Speaker.

15. All political groups finally agreed to launch the setting-up of the Commission for Petitions (Appointment Committee), responsible for the organisation of the election of a Speaker. However, all 51 deputies from the main party VRMO-DPMNE registered and entered into a filibuster debate after the acting Speaker allowed all MPs to reply to each other, which considerably delayed (if not prevented) the election of a Speaker. The opposition claimed that such behavior was in breach of the rules of procedure, since the discussions were not focusing on the appointment of the Committee members, but on general politics, including the so-called "Tirana Agreement". The debate went on for 21 days.

⁹ Of the 123 Members of Parliament 120 are elected according to the 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>). However, amendments to the Electoral Code cancelled the electoral procedure abroad for the December 2016 elections.

¹⁰ Three Albanian parties (the DUI, DPA, and AA) met in Tirana, under the auspices of the Prime Minister Mr Rama, and issued on 7 January 2017 a "Joint Statement of the Albanian Political Parties in the Republic of Macedonia". The Albanian parties agreed on a number of issues pertaining to the language, the flags and symbols, the strengthening of the rule of law, the support for the impartial work of the Special Prosecution [Office], which would be a condition of their participation in any government. The Albanian parties considered that this text is in line with the constitution and the Ohrid Framework Agreement. The full statement can be found here: <http://www.bdi.mk/en/lajmi.php?id=5768>. The VRMO-DPMNE referred later to this agreement as the "Tirana Agreement".

c. Election of the Speaker and outbursts of violence in parliament

16. On 27 April 2017, given the on-going filibustering procedure, the SDSM and the DUI staged a parallel session to elect Talat Xhaferi as the new Speaker of the parliament. A veteran DUI politician, Mr Xhaferi is the first Albanian to hold this position. His election was promptly welcomed by the European Union and the United States.

17. In reaction to this, hundreds of nationalist supporters, who had been demonstrating in front of the parliament for many days, surrounded the parliament, and stormed the building. About 100 persons, including MPs, were injured in the ensuing incident, some of them quite badly, in particular the leader of the Alliance for Albanians Party Mr Sela (who was beaten and dragged through the corridors) and the SDSM leader Mr Zaev. A number of masked men were present among the protesters, as well as, reportedly, a member of the Serbian secret service.

18. We were informed by the Speaker that the event was being investigated. Photographs showed that the protesters did not meet much resistance from the police guards outside the building. On 21 May 2017, the Ministry of the Interior announced that it would initiate disciplinary procedures and temporarily suspend 17 police officers notably for “not reacting appropriately and acting contrary to the Police Act, police operations manual, the instructions on behaviour and mutual relations between police officers and contrary to the Code of Police Ethics”.¹¹ On 23 May, the Skopje Criminal Court gave suspended sentences to nine participants in the 27 April violence in parliament.¹²

19. During our visit, we met with representatives of the “Joint Macedonian Movement” which was at the forefront of the demonstrations that lasted 80 days in total. These were the people allegedly behind the attack on the parliament in April. Our interlocutors denied having anything to do with the attacks on parliament. It is not for us to decide whether this is credible or not, but their clear reluctance to accept Albanians is quite worrying. This illustrates a major problem, not only in Macedonia but all over the Balkans, namely ethnic conflict, which may prove to be a devastating element in the struggle for democracy in the whole region.

20. It seems that six MPs from VMRO-DPMNE assisted the attack; some unlocked the doors of the main entrance to the parliament from the inside and others allowed the crowd to find their way to the press room where the SDSM members were gathered. This seemed to be corroborated by video footage.¹³ According to Mr Zaev, if this had not happened the violence could have been avoided. At the time of our visit, no procedure had been initiated against the parliamentarians who unlocked the doors of the parliament and let the demonstrators enter the building.

21. Mr Gruevski, Head of the VMRO-DPMNE, publicly condemned the violence on the same day, calling for a calming of tensions and official prosecution of those responsible for the violence. We noted that Mr Zaev expressed his intention to overcome this incident. It was also mentioned that our PACE colleague Mr Gjorchev, from the VMRO-DPMNE, intervened during the storming to prevent his colleagues from the opposition from being assaulted.

22. We issued a declaration condemning the violent and unacceptable attacks against parliamentarians, recalling that violence has no place in a democracy.¹⁴ We called on all political parties and stakeholders to refrain from fuelling the tensions and show responsibility by fostering dialogue and paving the way for a peaceful political solution. We recalled that the Speaker of Parliament and the Government must be appointed through political dialogue, in line with the choice expressed by the voters and democratic principles. We also stressed that citizens deserve that their interests and expectations are addressed with dignity and calm in order to launch the necessary and urgent reforms we have been advocating to secure democracy, the rule of law and human rights for all the country's citizens.

¹¹ Statement of the Ministry of Interior's Sector for Internal Control and Professional Standards Unit (PSU) in <http://www.mia.mk/en/Inside/RenderSingleNews/289/133704418>.

¹² <http://www.balkaninsight.com/en/article/video-shows-macedonian-mps-assisting-parliament-assailants-05-23-2017>

¹³ Video tapes from inside the building show that insiders let the protesters in. See <http://www.balkaninsight.com/en/article/video-shows-macedonian-mps-assisting-parliament-assailants-05-23-2017>.

¹⁴ “Rapporteurs condemn violence in Parliament of Skopje, call on political parties to reach political agreement”, [Statement](#) of 28 April 2017.

d. Formation of a new government

23. On 17 May 2017, following pressure exerted by the European Union and the United States, President Ivanov resolved to hand the mandate to Mr Zaev, leader of the main opposition – and second largest – political party in parliament, in order to form a government. Mr Zaev, the leader of the SDSM, reached an agreement with the President of the Republic and committed himself to fully respect the sovereignty and integrity of the country.

24. We met with Mr Zaev a few hours before the parliament approved the composition of the new government and his appointment as Prime Minister. He promised to prepare the necessary reforms as soon as possible, first and foremost for the people of Macedonia. He said that he would invite the now opposition party VMRO-DPMNE to participate in the legislative processes requiring a two-thirds majority, but also to form a simple majority, in parliament.

25. We also had a meeting with BESA, a newly formed political party, which managed to win 5 seats in parliament. BESA strongly opposed the appointment of DUI members in the yet-to-be formed government since some of them were being charged in the on-going cases of alleged corruption. BESA however intended to support the reforms and initiatives of importance to the ethnic Albanian community and against corruption.

26. The DPA proved to be skeptical about DUI's involvement in the new government and condemned the way the Speaker had been elected. It considered that DUI had, in the previous coalition with VRMO-DPMNE, failed to advance Albanian rights, but they were ready to support the coalition under the conditions that the Albanian language became an official language at State level, and that foreign direct investment be increased in the western part of the country [inhabited by Albanians]. The DPA explained that their objective was to achieve full equality for the Albanian community, i.e. making it a national minority, and equal distribution of funds at regional level.

27. The party of the Alliance of Albanians (AA) (a formation which split from the DUI), for its part, appeared to have higher political demands, expecting the government to pass a law on language to make Albanian the second official language, and to grant autonomy to the Albanian regions. They made their support conditional to the achievement of political rights for the Albanian minority, full equality, and to "correcting the injustices and stop the exploitation of Albanians" as it was expressed by the Mr Sela, leader of the AA.

28. On 1 June 2017, the government was approved by the parliament, with 62 votes in favor, 44 against and 5 abstentions. The new ruling coalition is comprised of 49 MPs from SDSM, 10 from DUI, and 3 from the Alliance of Albanians (AA). Prime Minister Zaev set up a Cabinet comprising 5 Deputy Prime Ministers (DPM), 15 ministers and 7 ministers without portfolio. 13 Cabinet members were proposed by the SDSM (including 2 ministers without party affiliation), 6 from DUI, 2 from the Alliance of Albanians, and 4 from smaller SDSM coalition partners.

29. The hand-over ceremonies were marked by an attack against former Health Minister (VMRO-DPMNE) Nikola Todorov: two shots were fired from a pistol as he was entering the ministry building but they missed. It rapidly came out that the gunman, who was immediately arrested, had perpetrated the attack for personal reasons.¹⁵ The attack was condemned by both the VMRO-DPMNE and the SDSM parties.

III. Upcoming challenges for the newly elected authorities

30. The new government faces a series of challenges to redress the situation and abide by its obligations. In its November 2016 progress report, the European Commission mentioned that "overall, democracy and the rule of law continue[d] to be challenged, in particular due to the capture of institutions such as judicial bodies, regulatory agencies and media outlets. The country suffers from a divisive political culture and a lack of capacity for compromise. Narrow party interests continue to prevail over the interests of the country and its citizens on key issues. (...) The government needs to restore credibility by implementing robust reforms, preparing and holding credible elections, committing to and implementing all obligations under the Pržino

¹⁵ The perpetrator was reported to be the grandfather of a 9-year-old girl who died in 2015 while waiting for treatment abroad that required approval by the Ministry of Health.

Agreement. The Ohrid Framework Agreement needs to be reviewed in an inclusive and transparent manner and any resulting recommendations implemented.”¹⁶

31. Euro-Atlantic integration will remain a priority for the new authorities. This will require the implementation of reforms with the support of the main opposition parties (since substantial laws need a two-thirds majority in parliament). We also had a meeting scheduled with the former Prime Minister, Mr Gruevski, but he had to be present in parliament, so we met with our former colleague, Mr Nikoloski and the former Minister of Foreign Affairs Mr Poposki. They were barely considering – to say the least – the possibility of cooperating with the new government to launch the expected reforms – and replace their loyal representatives in central positions in the media and the judiciary. At the same time, it would be unacceptable if they are merely replaced by other so-called loyal persons from the new ruling coalition.

32. The first measures announced by the newly elected government included the abolishment of the yearly, State-run external testing for pupils in elementary and secondary schools, an increase of the minimum wage from 9,000 to 12,000 Denars [around 200 euros] a month, fiscal consolidation and introduction of progressive taxation.

33. We also looked at a number of other issues during our visit of direct relevance for the post-monitoring procedure:

a. Wire-tape scandal: state of play

34. During our meeting with Special Prosecutor Katica Janeva, we were informed about the state of play of the investigation stemming from the illegal interception of communications. Her working conditions had improved since our last visit. The Special Prosecutor was then hoping to have the length of her mandate (during which the Special Prosecutor Office (SPO) can file new charges) extended, as it was due to expire at the end of June 2017. However, the Parliament did not agree to this request. Katica Janeva informed us that her institution had so far processed only 45 percent of the material, out of which only about a thousand conversations (excluding private conversations) were used as a basis for the investigation. She was expecting to deliver the indictments of all cases by 15 September 2017. She gave information about the ongoing 18 investigations opened, including the “Titanic” case related to alleged electoral fraud. At that stage, two indictments were in summary proceedings, one had been sent to the court for approval, and three new cases had been opened. In the case related to the sale of public properties to the ruling party VRMO-DPMNE via a private legal entity,¹⁷ the Special Prosecutor regretted that 12 requests for freezing of assets had been made to courts, but all had been rejected due to “lack of evidence”, while the SPO had strong suspicions of money laundering.

35. The Special Prosecutor complained about the lack of co-operation of the ordinary courts, which were rejecting most of her requests, and the non-appearance of those she summoned to court. Her office also suffered from permanent attacks from prosecutors, from the Supreme Court and the General Prosecutor, who constantly tried to undermine the authority of the Special Prosecutor. She regretted that the Supreme Court had failed to reach quick decisions about procedural requests made by the SPO (contrary to those introduced by the General Prosecutor). She suspected undue interference by the General Prosecutor in cases dealt with by the SPO, and noted the difficulty to have the wire-tapes considered as admissible evidence by ordinary criminal courts, by the Court of Appeal or the Supreme Court, which could eventually undermine the work of the SPO.

36. She also pleaded for an improvement of the legislation pertaining to whistleblowers, in order to ensure that the illegally wire-taped conversations, which are of public interest, be considered as admissible evidence by ordinary and higher courts. This issue was addressed by the Venice Commission in its 2016 opinion:¹⁸ it recommended an in-depth revision of the Privacy Law, which pursued “a legitimate aim, but [did] not achieve a proper balance between private interest and the interest of the public to be informed”. The Venice Commission has recommended upgrading the Whistleblowers Law, so as to “remove any ambiguity as to

¹⁶ “Independent regulatory, supervisory and advisory bodies were not able to carry out their functions proactively, effectively and free from political pressure, leading to limited oversight of the executive”. In Commission staff working document, the former Yugoslav Republic of Macedonia 2016 Report, 9 November 2016, [SWD\(2016\) 362 final](#).

¹⁷ In the so-called “Talir” case, the SPO suspects 11 people from the VMRO DPMNE party of money laundering and of misuse of office, allegedly involving 4.9 million euros of illegal donations to the party between 2009 and 2015, then used to inter alia buy real estate, pay party expenditure, hotel accommodation, and popular surveys. See <http://www.balkaninsight.com/en/article/macedonia-prosecution-suspects-former-pm-of-money-laundering-05-22-2017#sthash.L1Tkz8wU.dpuf>.

¹⁸ Opinion on the on the Law on the Protection of Privacy and the Law on the Protection of Whistleblowers, adopted by the Venice Commission at its 106th Plenary Session (Venice, 11-12 March 2016) [CDL-AD\(2016\)008](#).

which materials are covered by it" and ensure that "the Privacy Law [allows] for publication of materials touching upon matters of public interest with some narrowly defined exceptions, related to the public disclosure of information about intimate aspects of private and family life". The Venice Commission also recommended that "the obligation, in the Privacy Law, to hand the materials over to the newly established Special Prosecutor [be] spelled out more clearly and that obligation should not exclude the publication of such materials which touch on matters of public interest, and the effectiveness of the Special Prosecutor should be ensured by appropriate mandate, powers, funding and staffing"¹⁹. The Special Prosecutor remained hopeful that the Whistleblowers Law, requiring a simple majority, could be amended by the parliament in order to improve the work of the SPO and increase the protection of witnesses.

37. On 15 September 2017, the Special Prosecutor announced that the content of about 425 000 audio files (i.e. 70%) from the illegally wiretapped material had been analysed, resulting in 18 indictments in 19 cases against 120 individuals being filed.²⁰ As rapporteurs, we hope that the Special Prosecutor Office will be able to further fulfill and complete its task and that its position can be strengthened in the current judicial system.

b. Election legislation and administration

38. PACE observers highlighted in previous observation reports a number of shortcomings in the functioning of the State Election Commission (SEC, see above). During our 2016 visit, we outlined the challenges, both technical and political, to the smooth functioning of the SEC with a view to upgrading the voters' list, which was one of the main contentious electoral issues.

39. This time, we met again with members of the State Election Commission, who conveyed a positive message about their work. They considered that the new composition of the SEC (six nominees from the four main political parties and three independent members) made the SEC less political. A new strategic plan for 2017-2020 was adopted in May 2017.

40. However, we understood that the SEC nevertheless remains prone to political interference in this highly polarised country, along both political and ethnic lines. The influence of political parties in that electoral body remains a source of tensions and could hinder its work.

41. An expert from the Venice Commission was assisting the SEC, in the framework of a long term technical assistance programme, from March to June 2017, as part of the "Horizontal Facility for the Western Balkans and Turkey"²¹ put in place with a view to the municipal elections scheduled for May 2017. During our visit, a workshop on resolution of electoral disputes was held in Skopje which resulted, on 5 July 2017, in the unanimous adoption of the new Rules of Procedures and the Rulebook on handling complaints by the SEC.

42. The members of the SEC praised the assistance provided by the Venice Commission. They welcomed the fact that the SEC would be the only instance to manage the voters' list, and expected further IT training for the management of the electoral database. The long term assistance of the Venice Commission is continuing with a view to the holding of the local elections scheduled for October 2017.

c. Local democracy

43. Macedonia should have held local elections in the first half of May 2017. However, all the deadlines needed to schedule the elections had expired due to the stalemate in electing the Speaker of Parliament (who calls the elections). We met several representatives of the Association of Local Self-Government Units (ZELS), including its Chair and Mayor of Skopje, Mr Trajanovski (VRMO-DPMNE), and its Vice-Presidents Nevzat Bejta, Mayor of Gostivar (DUI), and Zoran Damjanovski, Mayor of Kumanovo (SDSM). At that time, their mandate had officially expired since 15 May 2017. They were anxiously expecting an amendment to the Electoral Code in order to extend the mandates of mayors and municipal councils, otherwise the local governments would lose their authority to perform the key tasks and activities necessary for municipalities to function normally. They regretted that the series of presidential and (early) parliamentary elections since 2013 had put mayors under pressure. Because of the three-year political crisis, the essence of decentralisation had been lost. Asked about their expectations from the new government, the three mayors mentioned a broadening of the competences of local authorities, increased fiscal decentralisation and fiscal capacities, and fair and equitable implementation of the Law on equal regional development.

¹⁹ [CDL-AD\(2016\)008](#), para. 99.

²⁰ <http://www.mia.mk/en/Inside/RenderSingleNews/323/133859063>.

²¹ The "Horizontal Facility for the Western Balkans and Turkey" is a Joint Programme funded by the European Union and the Council of Europe and implemented by the Council of Europe.

44. The Constitutional Court reached a unanimous decision on 10 May 2017: it refrained from assessing initiatives seeking to repeal two articles of the Law on Local Self-Government and the Electoral Code and to extend the mandate of mayors and members of municipal councils until local elections were held, considering that it was “an exclusive authority of the legislator”.

45. On 1 June 2017, the parliament amended, through a swift procedure, the Electoral Code to move the delayed local elections to the first half of October 2017, and to extend the mandates of the incumbent mayors and municipal councilors until those elections. On 6 August 2017, the Speaker Talat Xhaferi called local elections for 15 October 2017. The parliament amended on 11 September 2017 the Electoral Code, so as to enable BESA (the fourth political force in parliament) to have one member in the SEC, ahead of the local elections.

46. 45 mayors (out of 81) were elected following the first round of elections held on 15 October, including 37 from the SDSM party, 3 from the VRMO-DPMNE and 2 from the DUI. The second round will be held on 29 October, including in the Capital Skopje. The Congress of Local and Regional Authorities observed the elections. The international election observation mission noted that these elections were held in a competitive environment. Candidates were generally able to campaign without restriction and fundamental freedoms were overall respected. There were however credible allegations of vote-buying, pressure on voters and isolated cases of violence during the pre-election period. The mission concluded that “despite organizational challenges, the election administration ensured that voters were able to exercise their voting rights. Election day generally proceeded orderly, although some procedural irregularities were observed”.²²

47. We stressed in previous reports that decentralisation is a key element of good governance at local level and implementation of the Ohrid Framework Agreement. The smooth conduct of the local elections, which will be hotly contested in particular among Albanian parties, would be a first step in that direction, and thus an important test for the country. The new government will be expected to review the legislation and ensure that all municipalities have the capacity to carry out their obligations.

d. Reform of the judiciary

48. One of the pressing issues on the agenda is the reform, and notably depoliticisation, of the judicial system. This was considered in detail in the so-called Priebe Report²³ and the Urgent Reform Priorities which were proposed in 2015 by senior European Commission experts, and updated in September 2017.

49. At the time of our visit, Mr Zaev was considering initiating a radical reform of the judiciary by organising a general re-election of all judges. This proposal sparked strong reactions. We met the Presidents of the Constitutional Court and of the Judicial Council, who both stressed that those few judges and prosecutors who had failed to comply with ethical standards, or had had unprofessional conduct, had to be discharged, but that re-electing all judges and prosecutors would be unconstitutional under the current constitution. All judges have permanent tenure, and the Judicial Council and Prosecutorial Council – some of whose members had been appointed by the parliament – had been created in 2008 to regulate the appointment of judges and prosecutors. Such a radical reform however seemed neither realistic (since it would require a two-thirds majority in parliament, which Mr Zaev did not have), nor advisable from our perspective. Our interlocutors mentioned alternative ways to enhance the independence of the judiciary, like vetting systems and eradicating undue political interference in the judiciary. We indicated that the experience of the Venice Commission could, in that respect, be very useful.

50. The President of the Supreme Court (also President of the Judicial Council) considered that corruption in the judiciary was a case of the perception of the public in a polarized society rather than a reality. He considered that the funding of the court budget by the State made the judges dependent from the executive and placed judges in a subordinate position compared to prosecutors and special prosecutors. Mr Vangelovski hoped that the voice of judges would be heard for the upcoming expected reforms. He considered the current legislation as inadequate for ensuring that the executive no longer exercises pressure over the judiciary. He rejected claims that the judicial system is wholly corrupt, but agreed that the work of judges could be re-evaluated, while real reforms would only be successful if judges were involved.

²² Statement of preliminary findings and conclusions of the International election observation mission, Municipal elections of 15 October 2017, <http://www.osce.org/odihr/elections/fyrom/350136?download=true>.

²³ See https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf.

51. The mere existence of the Special Prosecution Office was also debated by several interlocutors. The President of the Constitutional Court informed us that the Law establishing the SPO had been challenged, and the complaint was pending at the Constitutional Court.²⁴ While stressing that the SPO had been created following the political agreement reached in Przino in 2015, he noted that there were questions raised by parliamentarians and media about the constitutionality of this special judicial body, which is not mentioned in the constitution. He hinted at possible alternative solutions, including the creation of a specialised court within the ordinary court of Skopje, inspired from the already existing specialised court on organised crime. The President of the Judicial Council also challenged the constitutional basis of the Special Prosecution Office. Both stressed that this Office had been provided with outstanding material conditions, including a high salary for the Special Prosecutor, but the evidence and indictments submitted were of low quality, which justified the cases to be disregarded by the courts. The President of the Judicial Council considered that ordinary judges and prosecutors were highly qualified, and were not in need of further training.

52. In the light of the expected judicial reforms, we strongly encouraged the Macedonian authorities to take advantage of the expertise of the Venice Commission to redesign its judiciary system to encompass Council of Europe standards.

e. Media

53. The issue of free and independent media was discussed with the authorities and media representatives. In its 2017 World Press Freedom Index, Reporters Without Borders ranked Macedonia as the worst of the Balkan countries, in 111th place.²⁵ In previous reports, we highlighted undue political interference in, and political control over, the media.

54. Media and NGO representatives stressed that there is a need to restore media freedom. While some progress was noted in the functioning of the Audiovisual Agency, a number of pressing issues were still on the agenda, such as attacks against journalists²⁶ and no court decisions condemning them (thus fostering a climate of impunity for the perpetrators). Public funding of media also remains problematic despite some improvement noted since 2015. Journalists described a “corrupt system” functioning in a closed-circuit, with public institutions contracting with advertisement companies and commercial distributing companies close to the ruling authorities.

55. One of the first measures announced by the new government was to scrap the monthly payment of radio and television taxes (which funded the public broadcaster up to now) so as to ease the financial strain on low-income families. Media representatives criticised this measure which they considered populist, as it would not strengthen the independence of the public broadcaster and would run against European standards. We were also reminded that the journalist Kezarovski, who had been accused of spying and blackmailing, has been in remand detention for the past three years.²⁷

IV. First measures undertaken by the new government

56. On 5 July 2017, Prime Minister Zoran Zaev and Deputy Prime Minister Bujar Osmani presented the government’s reform roadmap. The document, called “[Plan 3-6-9](#),” outlined the government’s priorities for immediate reforms to be implemented in the coming three, six and nine months. The plan included measures to improve the administration of elections, strengthen the rule of law, reinforce the independence of regulatory bodies, reform public administration, and promote freedom of media.

57. The plan also contained a section referring to the implementation of the Ohrid Framework Agreement, including the adoption by the government of a new draft law on the use of languages which the government vowed to submit for review by the Venice Commission. This draft law expanding the official use of the Albanian language was adopted on 4 August 2017 by the government. Prime Minister Zaev also indicated that controversial provisions that were not included in the draft law, such as adding Albanian to banknotes and coins, and to the insignia of army and police uniforms, would also be sent to the Venice Commission. The draft law was submitted to parliament under a fast-track procedure.²⁸ It was criticised by VRMO-DPMNE (which considered that it is unconstitutional and against the national interest), and by BESA and DPA, for which the draft law would fail to make Albanian an official language of the country.

²⁴ As of today, no decision has been reached by the Constitutional Court.

²⁵ <https://rsf.org/en/ranking>.

²⁶ The Association of Journalists of Macedonia referred to 50 attacks against journalists.

²⁷ See our previous information note, [AS/Mon \(2016\) 06 rev](#), para.53.

²⁸ This procedure is used for legislation required for EU integration. It allows a maximum of three days of parliamentary committee hearings to review the draft legislation, followed by a maximum of three days of debate in plenary before being put to a vote.

58. A number of steps have also already been taken in the field of the judiciary:

- On 28 July 2017, the Minister of Justice announced the abolishment of the Council for Disciplinary Liability and Evaluation of Judges, a disciplinary body established in 2015 by the ruling party, and which was considered by the then opposition as a political tool. The Venice Commission had also, at that time, expressed its critical views on this body.²⁹ The parliament is expected to discuss this proposal in October 2017. Disciplinary procedures would again fall within the remit of the Judicial Council.
- On 17 August 2017, the Chief Public Prosecutor Marko Zvrlevski was dismissed by the parliament with 64 votes for (including one vote from DPA and one from BESA) and none against (the VMRO-DPMNE MPs had left the session) at the request of the government, which had received a positive opinion from the Council of Public Prosecutors.
- On 14 September 2017, the parliament ended the mandate of the Lustration Committee, which had been put in place in 2009 and criticised by the Assembly³⁰ and the Venice Commission. The lustration process was suspended in 2015 as part of the Przino Agreement.
- On 21 September, the government announced its intention to pardon all convicts serving jail sentences of less than six months and cut the jail terms of prisoners serving less than five years by 30% in order to tackle "the overcrowding in prisons and the inhumane conditions inside them" as part of a wider reform of the judicial system.³¹
- After his first 100 days in office, Prime Minister Zaev announced that the government would work on a strategy for judicial reform, which the government sees as a priority, to restore the rule of law and trust in the judiciary.

59. At international level, an "Agreement on Friendship, Good Neighbourly Relations and Co-operation" was signed by Prime Minister Zaev and the Bulgarian Prime Minister Boyko Borisov on 1 August 2017, thus paving the way towards enhanced bilateral co-operation in several areas, including energy, transport and communication infrastructures, financial services and capital markets. Negotiations also resumed with Greece on the name issue, which continues to hinder the Euro-Atlantic integration sought by Macedonia.

V. Concluding remarks

60. Our visit took place at a very significant moment, which saw the end of the 3-year political crisis that had put many reforms on hold. We noted that the people who were hoping to see the country reformed were expressing careful, but fragile, optimism. There was also a cautious attitude among civil society representatives about the capacity of the new authorities to overcome the patterns of governance common to all political parties, which have been detrimental to the good governance of the country since its independence. The capacity of the new government to deliver the expected reforms in line with our standards will thus be a litmus test.

61. Following a visit by senior European Commission expert Reinhard Priebe in June and July 2017, an updated version of the "Priebe report" was issued in 2017. We hope that all political parties will make the necessary compromises and engage into a constructive dialogue so as to implement the recommendations contained in that report, which should also help the country fulfilling its Council of Europe obligations.

62. For our part, we felt that there were high expectations, especially from the media and civil society representatives, about the contribution that the Council of Europe could make to the new reform agenda. Apart from electoral legislation, the judiciary and the media, other issues were mentioned, such as reform of

²⁹ See Opinion on the Laws on the Disciplinary Liability and Evaluation of Judges of "The Former Yugoslav Republic of Macedonia", adopted by the Venice Commission at its 105th Plenary Session (Venice, 18-19 December 2015), [CDL-AD \(2015\)042](#).

³⁰ See [Resolution 1949 \(2013\)](#), Post-monitoring dialogue with "the former Yugoslav Republic of Macedonia", para. 16.

³¹ <http://www.balkaninsight.com/en/article/macedonia-plans-easing-pressure-on-crowded-prisons-09-20-2017>. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), in its March 2016 report, said it was "deeply concerned by the situation prevailing in the prisons visited" and highlighted serious, unaddressed shortcomings in prisons (in particular the Idrizovo Prison). The CPT warned that "a persistent non-implementation of its recommendations [would] leave it with no choice but to set in motion the procedure provided for in Article 10.2, of the [Convention](#) [i.e. make a public statement on the matter]. March 2016 CPT report (CPT/Inf(2016) and Executive Summary ([CPT/Inf\(2016\)/part](#)).

the public administration (and the need to increase the effectiveness of merit-based recruitment to restore the principle of transparency and accountability, including at local level), the assistance to be provided to the Prosecution Office, the strengthening of interethnic relations and the implementation of the Ohrid Framework Agreement, and meaningful contribution of NGOs in the decision-making process.

63. A report on the post-monitoring dialogue with Macedonia is already overdue, but was prevented by the continual political crises. We thus intend to go back to Skopje this autumn to discuss the implementation of the expected reforms, in order to submit a report to the Monitoring Committee in 2018.

APPENDIX 1 – Programme of the fact-finding visit to Skopje (30 May – 1 June 2017)

Ms Lise Christoffersen, Norway, Socialist Group

Mr Valeriu Ghiletschi, Republic of Moldova, Group of European People's Party

Tuesday, 30 May 2017

- 13:15 Working lunch with Ms Monica Martinez, Head of Operations, Council of Europe Programme office in Skopje
- 14:30 Meetings with media
- **Ms Vesna Nikodinovska**, Programme Manager of the Macedonian Institute for Media
 - **Mr Naser Selmani**, President of the Association of Journalists of Macedonia
- 15:30 Meeting with representatives of NGOs and civil society
- 15:30-16:10 Meeting with **Mr Bogdan Ilievski**, leader, and **Mr Boris Damovski**, member of the "Joint Macedonia Movement"
- 16:15-17:15 Round table with selected NGOs
- **Mr Petrit Sarachini** and **Ms Sonja Eftovska**, Center for Freedom (CIVIL)
 - **Ms Slagjana Taseva**, Transparency International
 - **Mr Gordan Kajaldziev**, Helsinki Committee for Human Rights
 - **Ms Teodora Pop Trajkov**, MOST organisation
 - **Ms Kristina Dimovska**, EPI (Institute for European Policy)
 - **Ms Svetlana Kjoseva**, MYLA (Macedonian Young Lawyers Association)
 - **Mr Miroslav Draganov**, Institute for Human Rights
- 17:30-18:00 Meeting with **H.E. Mr Talat Xhaferi**, President of the Parliament
- 20:00 Working dinner with the **Ambassador Nina Suomalainen**, Head of the OSCE Mission and **Ambassador Samuel Žbogar**, Head of the EU Delegation in Skopje

Wednesday, 31 May 2017

- 09.50-10.35 Meeting with **Mr Zoran Zaev**, Leader of the Social Democratic Union of Macedonia (SDSM) and **Mr Oliver Spasovski**
- 10.40-11.25 Meeting with **Mr Ejup Alimi**, co-ordinator of the Democratic Union for Integration (DUI)
- 11.30-12.15 Meeting with **Mr Bilal Kasami**, Leader of BESA, **Mr Shrepa Hadri**, **Mr Zaqirja Ibrahim** and **Mr Afrim Gasti**, members
- 12.20-13.05 Meeting with **Mr Zijadin Sela**, Leader of Alliance of Albanians (AA)
- 13.10-13.55 Meeting with **Mr Bardhyl Dauti**, Democratic Party of Albanians (DPA)
- 14.00-15.20 Working lunch hosted by the delegation of "the former Yugoslav Republic of Macedonia" to the PACE, in presence of **Ms Renata Deskoska** and **Mr Stefan Bogoev**
- 15.30-16.00 Meeting with **Mr Nikola Poposki** and **Mr Alexander Nikoloski**, Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity (VMRO-DPMNE)
- 16.15-17.00 Meeting with **Mr Jovo Vangelovski**, President of the Supreme Court
- 17.10-17.55 Meeting with **Ms Katica Janeva**, Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications

Thursday, 1 June 2017

- 09.00-09.45 Meeting with representatives of the Association of Units of Local-Self-Government (ZELS):
- **Mr Koce Trajanovski**, Mayor of Skopje (VRMO-DPMNE), President of ZELS
 - **Mr Nevzat Bejta**, Mayor of Gostivar (DUI), Vice-President
 - **Mr Zoran Damjanovski**, Mayor of Kumanovo (SDSM), Vice-President
- 10.00-10.45 Meeting with **Mr Aleksandar Cicakovski**, President of the State Election Commission and members
- 11.00-11.45 Meeting with **Mr Nikola Ivanovski**, President of the Constitutional Court
- 12.00-12.45 Meeting with **Mr Zoran Karadzovski**, President of the Judicial Council
- 15:00 Debriefing of the delegation

APPENDIX 2 – Co-rapporteurs' statement, 02/06/2017

Skopje: co-rapporteurs welcome new government and express hopes for sustainable and inclusive reforms

Ending a three-day visit to Skopje, 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”, made the following statement:

“We welcome the formation of a new government on 31 May 2017, which, we hope, will put an end to the political crisis which has been affecting the functioning of democratic institutions since April 2014. We also welcome the commitment expressed by newly-appointed Prime Minister Mr Zaev to promote inclusive governance and to work for the benefit of all citizens, which is of utmost importance in a polarised society.”

“There is much expectation among citizens, who aspire to reform and further European integration. They should not be disappointed. Early parliamentary elections took place in December 2016, and their results were accepted by all political stakeholders. We now encourage the ruling coalition to build bridges, hear the concerns and fears expressed by various segments of society and provide a political platform based on the rule of law, democracy and human rights that will help build social cohesion and overcome past wounds,” they said.

“The country will have to face manifold challenges and major reforms that will require the adhesion and contribution of all political forces, including reform of the justice system, the strengthening of media freedom, the de-politicisation of state institutions and effective decentralisation. In 2015/2016, the four major political parties committed themselves to implementing the EC-sponsored Pržino Agreement and “Urgent Reform Priorities”. We now expect them to deliver and facilitate the launch of genuine, profound and sustainable reforms in line with the recommendations issued by the Venice Commission and other Council of Europe monitoring mechanisms.”

“We note the wish expressed by the newly-elected Speaker of the Parliament Mr Xhaferi to enhance parliamentary control of the government. We reiterate our condemnation of the violent and unacceptable attacks against Members of Parliament that took place in parliament on 27 April 2017. The parliament is and must remain a place where political ideas are debated, and agreements reached through peaceful and democratic means. All measures should be taken to prevent such violent events ever occurring again and to ensure full respect for parliamentary institutions.”

While acknowledging the work of the “Special Prosecutor for Crimes Related to and Arising from the Content of the Illegal Interception of Communications” Katica Janeva, the PACE co-rapporteurs hope for the proper conduct of the procedures relating to the illegally wiretapped conversations, including in the courts, and expect, *inter alia*, swift revision of the Law on the Protection of Privacy and the Law on the Protection of Whistleblowers, in line with the Venice Commission’s recommendations, to reinforce these ongoing procedures.

The PACE co-rapporteurs also discussed with the State Election Commission the work in progress on updating the voters’ list. They welcome the decision taken yesterday by the parliament to enable mayors to fulfill their obligations and exercise their competences until the organisation of the already overdue local elections, which will be held in October 2017. “The country is facing challenging times but needs to continue its democratisation process. The Council of Europe stands ready to further support the efforts of the Macedonian authorities,” they concluded.

During their fact-finding visit, the co-rapporteurs met the Speaker of Parliament Mr Xhaferi, the leaders of political groups, the members of the Macedonian delegation to PACE, the Special Prosecutor, the President of the Constitutional Court, the Judicial Council and the Supreme Court, the President of the Association of Units of Local Self-Government, the President and members of the State Election Commission, as well as representatives of NGOs, media and international organisations.