



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9.11.2005
SEC (2005) 1425

COMMISSION STAFF WORKING DOCUMENT

Annex to the:

European Commission Opinion on the application from the former Yugoslav Republic of
Macedonia for membership of the European Union

ANALYTICAL REPORT

**for the Opinion on the application
from the former Yugoslav Republic of Macedonia
for EU membership**

{COM (2005) 562 final}
{COM(2005) 557 final}

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A. INTRODUCTION

a) Preface

Application for membership

The former Yugoslav Republic of Macedonia presented its application for membership of the European Union on 22 March 2004 and the Council of Ministers decided on 17 May 2004 to implement the procedure laid down in Article 49 of the Treaty on the European Union, which states: “Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.”

Article 6(1) states “The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.”

That is the legal framework within which the Commission submits the Opinion and the present Analytical Report.

Context of the Opinion

The application from the former Yugoslav Republic of Macedonia for membership is part of an historic process, in which the Western Balkan countries are overcoming the political crisis in their region and orienting themselves to join the area of peace, stability and prosperity created by the Union. In the “Thessaloniki Agenda for the Western Balkans”, adopted by the June 2003 European Council, the EU stressed “*that the pace of further movement of the Western Balkans countries towards the EU lies in their own hands and will depend on each country’s performance in implementing reforms, thus respecting the criteria set by the Copenhagen European Council of 1993 and the Stabilisation and Association Process conditionality.*”

The European Council in Copenhagen in June 1993 concluded that:

“The associated countries in Central and Eastern Europe that so desire shall become members of the Union. Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions.

Membership requires:

- that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union;
- the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

The Union's capacity to absorb new members, while maintaining the momentum of European integration, is also an important consideration in the general interest of both the Union and the candidate countries."

The European Council in Madrid in December 1995 referred to the need, "to create the conditions for the gradual, harmonious integration of the application countries, particularly through the development of the market economy, the adjustment of their administrative structure, the creation of a stable economic and monetary environment."

The Stabilisation and Association Process (SAP) conditionalities were defined by the Council on 29 April 1997 and included co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and regional co-operation. These conditions are a fundamental element of the SAP and are integrated into the Stabilisation and Association Agreement (SAA) with the former Yugoslav Republic of Macedonia, which entered into force in April 2004.

In the Opinion and this Analytical Report, the Commission therefore analyses the application from the former Yugoslav Republic of Macedonia on the basis of the country's capacity to meet the criteria set by the Copenhagen European Council of 1993 and the conditions set for the SAP, notably the conditions defined by the Council in its conclusions of 29 April 1997.

Contents of the Analytical Report

The structure of the Analytical Report takes account of the conclusions of the European Council in Copenhagen. It:

- describes the relations between the former Yugoslav Republic of Macedonia and the Union up to now, particularly in the framework of the existing Stabilisation and Association Agreement;
- analyses the situation in respect of the political conditions mentioned by the European Council (democracy, rule of law, human rights, protection of minorities), including compliance with the SAP conditionalities;
- assesses the country's situation and prospects in respect of the economic conditions mentioned by the European Council (market economy, capacity to cope with competitive pressure);
- addresses the question of the capacity of the country to adopt the obligations of membership, i.e. the *acquis* of the Union as expressed in the Treaty, the secondary legislation, and the policies of the Union;
- assesses briefly the overall extent to which the priorities of the 2004 European Partnership have been met.

In assessing the former Yugoslav Republic of Macedonia in respect of the economic criteria and its capacity to assume the *acquis*, the Commission has also attempted to evaluate the progress which could reasonably be expected in the years ahead, before accession, taking account of the fact that the *acquis* itself will continue to develop. For this purpose, and without prejudging the actual date of accession, this Analytical Report and the Opinion are based on a medium-term horizon of approximately five years.

During the preparation of the Analytical Report and the Opinion, the Commission obtained a wealth of information on the situation in the former Yugoslav Republic of Macedonia from

the authorities and drew on many other sources of information, including the Member States, the European Union Special Representative, international organisations (Council of Europe, OSCE, NATO, UNHCR, ICTY, Stability Pact, IMF, World Bank, EBRD, EIB, etc.) and NGOs.

b) Relations between the EU and the former Yugoslav Republic of Macedonia

After a referendum in September 1991, the former Yugoslav Republic of Macedonia became independent in November 1991.

Between February and August 2001 the country endured a very serious political and security crisis when incidents escalated between the State security forces and ethnic Albanian armed groups. The signature of the Ohrid Framework Agreement in August 2001, in the presence of the representatives of the European Union, NATO and the United States of America, put an end to the hostilities. Under the terms of the Framework Agreement the parties rejected completely and unconditionally the use of violence in pursuit of political aims and emphasised that there was no territorial solution to ethnic issues. The Agreement also aimed at building a multi-ethnic state. It guaranteed its unity and territorial integrity, notably through changes in the Constitution, recognition of further rights for the non-majority communities (especially in the area of equitable representation and use of their languages) and decentralisation of a number of competences to the municipal level.

The European Union (together with its partners in the OSCE as well as with NATO and the United States of America) has consistently been supporting this process. The EU commitment to peace and stability in the country was further illustrated by the EU military mission “Concordia”, which took over from the NATO missions¹, from March to December 2003. After the decision taken in September 2003 at the invitation of the government, in December 2003 the EU deployed a police mission, “EUPOL Proxima”. It has a mandate to support the consolidation of law and order and the reform of the police. EUPOL Proxima’s current mandate runs until 15 December 2005. The European Union Monitoring Mission has also been present in the country since 2001 under an agreement concluded in August 2001.

A declaration adopted in February 2004 by all political parties in the Parliament underlined that the country’s accession to the EU is a strategic national goal and supported the government’s intention to submit an application for EU membership. This application was submitted by the government in March 2004. Membership of the European Union and NATO, the return of peace and stability, the establishment of the rule of law, full and consistent implementation of the Ohrid Framework Agreement and economic development are the main priorities announced by the government under its current term.

Contractual relations

The former Yugoslav Republic of Macedonia has maintained contractual relations with the European Communities since 1996 when it signed an agreement making it eligible for assistance from the EC PHARE programme. In 1997 it signed a Co-operation Agreement as well as Trade and Textile Agreements which entered into force in 1998.

¹ Operation “Essential Harvest” from August to September 2001, Operation “Amber Fox” until December 2002, and Operation “Allied Harmony” until March 2003.

Following the conclusion of the negotiations at the Zagreb Summit of November 2000, a Stabilisation and Association Agreement (SAA) was signed in Luxembourg in April 2001 and entered into force on 1 April 2004.

The SAA is the legal framework for relations with the European Union; it provides a framework for political dialogue and enhanced regional co-operation, promotes the expansion of trade and economic relations between the parties and establishes a basis for Community technical and financial assistance. The institutional framework of the SAA provides a mechanism for implementing, managing and monitoring relations in all areas. Subcommittees examine questions at technical level. The Stabilisation and Association Committee provides a forum for discussions at senior officials level with the aim of finding solutions to problems arising under the SAA. The Stabilisation and Association Council examines the overall status of and prospects for relations and provides an opportunity to review the progress made by the former Yugoslav Republic of Macedonia in the Stabilisation and Association Process. The Stabilisation and Association Parliamentary Committee is the venue for regular meetings between Members of the European Parliament and of the national Parliament.

Pending the entry into force of the SAA, an Interim Agreement (IA) was applied from June 2001, covering the SAA provisions related to trade in goods, competition and intellectual, industrial and commercial property rights. The trade provisions of the SAA are asymmetrical in favour of the former Yugoslav Republic of Macedonia. This means that the EU has granted the country unlimited duty-free access to the market of the enlarged Union for virtually all products. This is important for exporters from the former Yugoslav Republic of Macedonia. The former Yugoslav Republic of Macedonia is gradually reducing its customs duties for industrial products (with different timetables, depending on the sensitivity of the products for the country). Tariffs for agricultural and processed agricultural products and fisheries products are also being reduced but remain for a number of sensitive items.

The Stabilisation and Association Committee met for the first time in June 2004 and decided to set up seven subcommittees to cover the different chapters of the SAA. The first meeting of the Stabilisation and Association Council was held in September 2004. The Joint Parliamentary Committee met for the first time in March 2005 in Skopje. In 2005 the Stabilisation and Association Committee and Council met in June and July respectively.

An additional protocol to the Interim Agreement/SAA on wine entered into force in January 2002, covering reciprocal preferential trade concessions for certain wines, reciprocal recognition, protection and control of wine names/designations for spirits and aromatised drinks.

A Protocol amending the SAA in view of the accession of ten new Member States to the EU was concluded in February 2005. This also provided for further liberalisation of trade in agricultural and fisheries products.

A Protocol to the SAA on a Framework Agreement regarding the general principles for the participation of the former Yugoslav Republic of Macedonia in Community Programmes was concluded in June 2005.

A Protocol to the SAA on trade in sugar was initialled in May 2005.

A Transport Agreement has been in force since November 1997 and still covers relations with the former Yugoslav Republic of Macedonia in the field of inland transport.

Generally, there have been no major problems regarding the implementation of the SAA/IA by the former Yugoslav Republic of Macedonia and questions arising have normally been solved at a technical level. However, from 2001 to 2003 the country infringed the IA regarding imports of petroleum products. The matter was finally settled at the Co-operation Council in 2003. More recently, the former Yugoslav Republic of Macedonia has failed to meet the deadline set in the SAA for liberalisation of the telecommunications market and harmonisation of its legislation with the relevant *acquis*. The Commission has raised this issue, notably at the latest meeting of the Stabilisation and Association Committee, and is closely monitoring progress to remedy this situation (*see also Part B.3, Chapter 10 – Information society and media*). On the same occasion the Commission also asked the former Yugoslav Republic of Macedonia to abolish certain customs fees incompatible with the SAA (*see also Part B.3, Chapter 29 – Customs union*).

The Sector for European Integration has been co-ordinating the implementation of the SAA in an efficient and professional way. It became a government secretariat in July 2005. European integration co-ordinators have been designated in all state administrations and a number of inter-ministerial working groups have been set up for the harmonisation of legislation.

In 2001 the former Yugoslav Republic of Macedonia adopted a National Action Plan, which set the strategic priorities guiding medium- to long-term action, and prepared a National Plan for Approximation of Legislation (NPAL) to steer the process of approximation of the country's legislation with the *acquis*. This Plan has been revised annually. In 2003 an action plan was adopted to implement the recommendations made by the European Commission in its Stabilisation and Association Report.

In September 2004 a National Strategy for European Integration was adopted, as well as a draft Action Plan for implementation of the European Partnership. This followed the adoption in June 2004 of the Council Decision on the Principles, Priorities and Conditions contained in the European Partnership for the former Yugoslav Republic of Macedonia. In the European Partnership short- and medium-term priorities were identified for the country's preparations for further integration with the European Union. The European Partnership could therefore serve as a checklist against which to measure progress and also provides a basis for programming EC financial assistance.

In March 2005 the Government adopted a revised version of the Action Plan for the implementation of the European Partnership. It presented reports on the implementation of the Action Plan in May and September 2005.

Since 2002 the European Commission has adopted annual reports on the Stabilisation and Association Process in the former Yugoslav Republic of Macedonia which have included an evaluation of the implementation of the SAA by the country. The latest report was adopted in March 2004.

Trade relations

The EU is the main trading partner of the former Yugoslav Republic of Macedonia. After a decrease in trade between the EU and the country between 2001 and 2003, in 2004 trade started increasing substantially. Thus, in 2004 imports into the EU from the former Yugoslav Republic of Macedonia increased by 14.7% to € 777 million, and exports from the EU by 8.8% to € 1,253 million. The trade deficit of the former Yugoslav Republic of Macedonia with the EU remained stable at € 476 million. Approximately 53% of the external trade of the former Yugoslav Republic of Macedonia was with the EU in 2004. The country's share of the EU's external trade amounted to 0.1% in 2004.

In 2004 exports from the former Yugoslav Republic of Macedonia to the EU consisted mainly of various manufactured goods and agro-food products. The EU exported manufactured goods and machinery and transport equipment in particular.

The former Yugoslav Republic of Macedonia has been a member of the World Trade Organisation since April 2003. It participates in the Trade Working Group under the Stability Pact for South-East Europe. In this context, the former Yugoslav Republic of Macedonia has signed bilateral free trade agreements with all neighbouring countries and territories.

Community assistance

Between 1992 and 2005 the former Yugoslav Republic of Macedonia received EC assistance totalling approximately € 767 million. Until 1996 the country benefited from "Critical Aid", between 1996 and 2001 from the OBNOVA and PHARE programmes and from the Rapid Reaction Mechanism, and since 2001 from the CARDS programme. The global portfolio of total commitments of CARDS assistance amounts to € 280.7 million for 2001-2006.

At the end of 2001 the Commission adopted a Country Strategy Paper for the former Yugoslav Republic of Macedonia covering the period 2002-2006 which sets the long-term objectives and the priority fields of action for Community assistance. Assistance is focused on institutional reform and development in order to favour the gradual integration of the country into EU structures while also taking into account the needs arising from the implementation of the Ohrid Framework Agreement.

A Multi-Annual Indicative Programme (MIP) covering the period 2002-2004 identifies specific programmes to be implemented and the indicative amounts. Based on this programme, the European Commission adopted National Annual Programmes worth € 41.5 million in 2002, € 43.5 million in 2003, and € 51 million (including an additional post-Thessaloniki allocation of € 5.5 million) in 2004. The Commission also adopted a new Multi-Annual Indicative Programme covering a two-year period (2005-2006) and a National Annual Programme worth € 39 million in 2005. The identification of the priorities to be supported is based on the Country Strategy Paper and, above all, on the European Partnership. The main aim is to foster the process of stabilisation of the country through the full implementation of the Framework Agreement and to support the country's progress in the process of European integration.

The former Yugoslav Republic of Macedonia is directly involved in CARDS programming, including discussions on current strategies and agreement on the MIP. These discussions

involve not only the National Aid Co-ordinator but also the relevant ministries, potential beneficiaries, international financial institutions and the non-governmental sector.

In addition, the former Yugoslav Republic of Macedonia benefits from the CARDS Regional Programme. The Commission also continues to provide funding under specific budget lines in the fields of the environment, justice and home affairs, and the 6th Framework Programme for research and technological development, under which the country is eligible for funding for indirect action on all thematic priorities of the Programme as well as for complementary activities as part of the Programme's co-operation with third countries and international organisations.

The CARDS national programme has been implemented by the European Agency for Reconstruction since March 2002, with the exception of the funds allocated to the customs sector, to the TEMPUS programme, as well as those allocated through the Regional Programmes which have remained centralised at Commission headquarters.

Several twinning projects are on-going (in the fields of the internal market *acquis*, competition policy and police reform) and more are planned, notably in the justice and home affairs sector. Under the TEMPUS programme, the Commission has so far supported 89 co-operation projects.

The former Yugoslav Republic of Macedonia needs to continue its efforts to meet the agreed project conditionality (e.g. policy decisions, establishment and strengthening of institutions, allocation of human and financial resources), but some progress can be noted.

A Commission-EU Member State co-ordination mechanism on assistance has been in place since 2001 to maximise the impact of CARDS and of Member States' bilateral aid. Effective co-operation also exists with other donors. The former Yugoslav Republic of Macedonia has been a member of the World Bank since 1993. Since then, the World Bank has approved US\$ 600 million for 25 projects in the country. These projects have provided support for agriculture, health, education, private finance as well as other sectors. By July 2005 the European Bank for Reconstruction and Development (EBRD) had made investments totalling € 384 million. Investment is focusing on the financial sector, SMEs and infrastructure. The European Investment Bank (EIB) has provided loans totalling € 219 million, mainly in the areas of transport and energy.

B. CRITERIA FOR MEMBERSHIP

1. POLITICAL CRITERIA

The European Council in Copenhagen in 1993 decided on a number of political criteria for accession to be met by applicant countries. A country must have achieved “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities”. In the case of the Western Balkans the conditions defined by the Stabilisation and Association Process are also a fundamental element of EU policy, which will be assessed in this Analytical Report.

In the meantime, with the entry into force of the Treaty of Amsterdam in May 1999, the political criteria defined in Copenhagen have been essentially enshrined as a constitutional principle in the consolidated Treaty on European Union, Article 6(1) of which reads: “*The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law.*” Accordingly, Article 49 of the consolidated Treaty stipulates that “*Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union.*” These principles were emphasised in the Charter of Fundamental Rights of the European Union, which was proclaimed at the Nice European Council in December 2000.

In order to carry out the assessment required in this connection, the European Commission has drawn on a number of sources of information: answers given by the authorities of the former Yugoslav Republic of Macedonia to the questionnaire delivered by the European Commission in October 2004, bilateral follow-up meetings, discussions with Member States' embassies and with the EU Special Representative in Skopje, assessments by international organisations (including the Council of Europe, OSCE, UNHCR and Stability Pact), reports by international and local non-governmental organisations, and representatives of political parties and of civil society.

The assessment set out below systematically examines the main ways in which the public authorities are organised and operate, and the steps they have taken to protect fundamental rights. It does not confine itself to a formal description but seeks to assess the extent to which democracy and the rule of law actually operate. This assessment relates to the situation at the end of September 2005. It does not examine in detail any changes which have taken place in the past or which may come about in the future, though it generally takes account of any stated intention to reform a particular sector.

1.1. Democracy and the rule of law

Parliamentary democracy was established following the November 1990 elections. The Parliamentary Declaration of Sovereignty of 25 January 1991 and the Referendum on a Sovereign State of 8 September 1991 established the former Yugoslav Republic of Macedonia as an independent state.

The **Constitution** was adopted in November 1991 and has subsequently been amended four times by a two thirds majority vote:

- In 1992 to declare explicitly that the country has no territorial pretensions towards any neighbouring State and will not interfere in the sovereign rights of other States or in their internal affairs (in the context of negotiations with Greece regarding the dispute over the name of the country and its international recognition);
- In 1998 to extend the duration of detention by court decision from 90 to 180 days;
- In 2001 to provide a constitutional framework for implementation of the Ohrid Framework Agreement of 13 August 2001; and
- In 2003 to allow use of special means of investigation by the police under judicial control.

The Constitution established parliamentary democracy. The Social Democratic Union (SDSM) was in power for eight years until the 1998 parliamentary elections were won by a coalition led by the Internal Macedonian Revolutionary Organisation - Democratic Party for Macedonian National Unity (VMRO-DPMNE). During this shift of power the Constitution was respected and institutions functioned normally. In the parliamentary elections in September 2002 a coalition led by the SDSM won the majority of votes and formed a coalition government with the newly established ethnic Albanian party Democratic Union for Integration (DUI, led by the former National Liberation Army leader Ali Ahmeti) and the Liberal Democratic Party. Since independence, ethnic Albanian political parties have participated in all the governments.

Implementation of the **Ohrid Framework Agreement** signed on 13 August 2001 has been a major achievement for the country. It has opened a process to build an integrated multi-ethnic society and guarantee the stability of the country. The governments and all parties concerned have demonstrated solid commitment to implement the Agreement effectively since 2001. Their very significant efforts have allowed the country to return to stability through key reforms to the State and through social change. Fifteen constitutional amendments have been enacted and the Preamble to the Constitution has been changed. The country has made numerous legislative changes – to approximately 70 laws – which provide a basis for implementing the principles set out in the Agreement. This broad legislative programme was completed with the adoption of the Law on the Use of Flags in July 2005. The remaining task is to ensure continued and effective implementation, thereby further strengthening the climate of confidence and stability. This will consolidate the achievements and foster an increasingly positive environment for integration with the EU.

The **President of the Republic** is elected by direct universal suffrage for a five-year term of office, renewable once. The President empowers a Prime Minister-designate to form the government; appoints and dismisses ambassadors and other diplomatic representatives; proposes two judges of the Constitutional Court and two members of the Judicial Council; appoints three members of the Security Council; grants pardons in accordance with the law; and performs other duties laid down by the Constitution. The President is Commander-in-Chief of the armed forces and chairs the Security Council which deals with security and defence issues and makes policy proposals to Parliament and the government. The President takes part in the formulation and implementation of foreign policy. The President signs decrees for the promulgation of laws. In case of presidential veto, Parliament can vote on the same law again within 30 days. If the law in question is approved again by a two thirds majority, the President has to sign the decree for its promulgation. The President is held accountable for any violations of the Constitution in exercising his/her duties. The procedure for determining the President's accountability is initiated by Parliament by a qualified majority of all members and decided by the Constitutional Court by a two thirds majority of its judges.

The current President of the Republic is Mr Branko Crvenkovski, elected in April 2004 after an early election following the tragic death of President Trajkovski in a plane crash.

1.1.1. The Parliament

Role and structure

The Parliament (*Sobranie*) is made up of a single chamber with, under the Constitution, a minimum of 120 and a maximum of 140 members elected by direct, universal suffrage. All the Parliaments until now have had 120 members. The 2002 electoral law provides for proportional representation and six electoral constituencies. There were 31 lists for the parliamentary elections in 2002.

Parliament can dissolve itself by a majority vote of its members. Members enjoy parliamentary immunity. There are 18 permanent working bodies of Parliament. Seven are chaired by Members of Parliament from the opposition. A Committee on EU Affairs was established in November 2003 and has been meeting frequently. The government submits quarterly reports to Parliament on the activities undertaken in the process of EU integration. Parliament also has delegations for cooperation with the parliaments of international organisations.

Each Member of Parliament, like the government, has the right to propose a law for adoption. Legislative proposals or legislative amendments can also be submitted if they are supported by at least 10 000 voters. Laws are usually enacted after two readings by the government and Parliament. However, there are shortened and fast-track procedures for enactment of laws. Laws are adopted by a majority vote of the members attending which may not be less than one third of the total number of Members of Parliament.

After the amendment of the Constitution entailed by the Ohrid Framework Agreement, Parliament's rules of procedure were modified so that legislation relating to the rights of the communities and to local self-government are voted by the double majority rule. "Double majority" means a majority of the total number of Members of Parliament – which can be a simple or two thirds majority depending on the issue – within which there must be a majority of the total number of votes by Members of Parliament from the minority communities. The same rule also applies to the appointment of the Ombudsman, members of the Judicial Council, judges of the Constitutional Court and members of the Security Council.

A Committee on Inter-ethnic Relations has been established to consider inter-community issues and make proposals for Parliament to examine. It is composed of 19 members appointed by Parliament (seven ethnic Macedonians, seven ethnic Albanians and one from each national minority).

Parliament ratifies international agreements. In cases of emergency the government may adopt decrees with legal force.

A vote of confidence in the government can be initiated by one sixth of the Members of Parliament. An interpellation may be made by a minimum of five MPs concerning the work of any public office holder, the government and any of its members individually, as well as on issues concerning the performance of State bodies. MPs have the right to put questions to the

government and the government regularly replies on the last Thursday of every month. The work of Parliament is transparent and since early 2005 a separate national television channel has been regularly broadcasting working parties and plenary sessions with a translation in Albanian.

Under the Constitution and the Law on Referendum and Civil Initiative of 1998, Parliament can call a referendum on specific matters within its sphere of competence by a majority vote of the total number of its members. It is also under an obligation to call a referendum if 150 000 citizens' signatures are collected. The Law on Referendum was revised in September 2005 to avoid the possibility that legislation might be called into question through a referendum after having been adopted in Parliament in accordance with the double majority principle.

The country has a multiparty system. 75 political parties are registered and 14 are represented in Parliament. There are no obstacles to the establishment of parties. Under the election legislation, they receive State funding for their electoral campaign expenses in proportion to the number of seats they won in the previous parliamentary elections.

Functioning of the Parliament

Since independence, parliamentary elections were held in 1994, 1998 and 2002 and all resulted in the formation of multiethnic coalition governments.

The last parliamentary elections were held in September 2002. The coalition "Together for Macedonia" won 60 out of the 120 seats. It formed a government coalition with the DUI (15 seats).

"Together for Macedonia" includes the SDSM (44 seats), LDP (11), Democratic Party of Turks (2), Democratic League of Bosniaks (1), United Roma Party (1) and Democratic Party of Serbs (1). The opposition parties have the following number of seats: VMRO - People's Party (13); VMRO - Democratic Party for National Unity of Macedonia (10); Democratic Party of Albanians (7), Liberal Party of Macedonia (6), Farmers Party (4), Party for Democratic Prosperity (2), Socialist Party (1), National Democratic Party (1) and New Democratic Forces (1). More than half of the MPs were elected for the first time, and the number of women elected (twenty, including the first ethnic Albanian woman ever elected) was the biggest ever. Parliament held its constitutive session on 3 October 2002.

The 2002 elections were rated generally free and fair but also drew a number of criticisms from the OSCE-ODIHR International Election Observation Mission. In 2004 the presidential election in April and the referendum on decentralisation in November revealed shortcomings in the electoral process and the OSCE-ODHIR made a number of criticisms and recommendations to address them. The municipal elections held in March 2005, while conducted in accordance with a number of OSCE commitments and in a peaceful manner, again displayed serious irregularities. Observers underlined that the authorities had not taken sufficient action to prevent them, as well as insufficient commitment by most stakeholders to abide by the rule of law. These criticisms and the final report of the OSCE-ODIHR have led the authorities to act. A number of criminal charges have been brought in relation to irregularities and frauds for the first time and the first verdicts have been given. As recommended by the ODIHR, initial measures have been taken to strengthen the State electoral commission, notably by granting its employees civil servant status. Work has also

started on revising the law on parliamentary elections. Without timely and appropriate implementation of the recommendations made by the OSCE-ODIHR, and a strong resolution to sanction all irregularities, the full integrity of the next parliamentary elections in 2006 would be at risk. Beyond the measures to be taken by the public authorities, the behaviour and commitment of the political parties will be decisive in ensuring that the rules are effectively applied.

Following the amendment of the Constitution in 2001, Albanian can be used by Members of Parliament in plenary sessions. It can also be spoken during committee sessions.

Parliament receives annual reports from the State Auditor, the Ombudsman and the State Commission for the Prevention of Corruption and debates them in plenary sessions. The Public Prosecutor, the National Bank, the Statistical Office and the Agency for Civil Servants also make annual reports to Parliament. While the current Parliament has paid more attention to these reports than its predecessors, the follow-up to some of the findings or some of the most critical recommendations made by these institutions (in particular, the Ombudsman and the State Auditor) should be improved.

Parliament functions in a satisfactory manner and its powers are respected. While the opposition generally performs its role, the largest opposition ethnic Albanian party (Democratic Party of Albanians) has been abstaining from participating in Parliament's work since April 2005.

Parliament adopted a declaration on the Parliamentary dimension of the process of EU integration in June 2003 which provides for an annual session devoted to monitoring this process.

1.1.2. The Executive

Role and structure

The decision on appointment of the Prime Minister is taken by the President of the Republic. Parliament gives a vote of confidence on the government and its programme. Ministers are approved by Parliament, upon a proposal by the Prime Minister. The government is answerable to Parliament. The Prime Minister and the members of the government are jointly responsible for government decisions, while each minister is responsible for his/her area.

The current government is led by Prime Minister Buckovski, who presented his government to Parliament in November 2004. It includes the SDSM, DUI and LDP.

It is composed of a Prime Minister, three Deputy Prime Ministers and 14 ministers. It is supported by the General Secretariat, three general committees, two advisory committees (Legal Council and Economic Council) and the Legislative Secretariat. The Legislative Secretariat provides expert opinion on the consistency of draft laws and other legal acts with the Constitution, with other laws already in force, with international agreements ratified by Parliament and with the *acquis*. The government adopts annual work programmes, mostly of a legislative nature.

The structure and tasks of the State administration were defined by the 2000 Law on the Organisation and Work of the Administrative Bodies which established 14 ministries and

other State administration bodies. The government is responsible for the work of all bodies of the State administration which include ministries, other administrative bodies and other offices of the public administration. Ministries and State administration organisations are bodies at central level. Branch offices have been established at municipal or city level for certain tasks.

The Secretariat for European Affairs is responsible for coordination on European integration matters. It is under the responsibility of the Deputy Prime Minister for European Integration.

The Constitution stipulates that the right to **local self-government** is one of the fundamental values of the organisation of the State. Following the signature of the Ohrid Framework Agreement and the subsequent amendments to the Constitution, a new basis was established for further development of local self-government. In 2002 a new Law on Local Self-Government was adopted to regulate the structures and general powers of the municipalities. Municipalities are members of the Association of Local Self-Government Units. In February 2003 a programme for implementation of the decentralisation process was adopted which envisaged that the decentralisation process should be completed in 2007.

In August 2004 the Laws on Territorial Organisation, on Financing of Local Self-Government Units and on the City of Skopje were adopted to complement the 2002 law. The number of municipalities was reduced from 123 to 84. The city of Skopje has 10 municipalities. The local elections in March-April 2005 were held under the new set-up. The powers transferred to the municipalities relate to public services, urban and rural planning, environmental protection, local economic development, culture, local finances, education, social security and health care.

Under the Constitution, the **army** and the **police** are under civilian control. A National Security and Defence Concept was adopted in 2003 and clarifies the coordination needed in cases of crisis. Under the Law on Internal Affairs the Ministry of Interior is responsible for the internal security of the State. The ministry has a Bureau for Public Security which includes the Department for Police, Border Police and the Criminal Police and a Directorate for Security and Counter-Intelligence. The ministry is being reorganised in order to implement the Police Reform Strategy adopted in August 2003 to make the police more effective and build a community-oriented police service.

Reforms are in progress in the Ministry of Defence and in the army, driven by the prospect of membership of NATO. The reform has already led to a reduction of military personnel which will have to be completed. The reform also takes into account the objectives of the Framework Agreement in terms of equitable representation.

Civil control of the intelligence service is ensured by the 1995 Law on the Intelligence Agency.

Functioning of the Executive

The Law on Civil Servants enacted in 2000 regulates the status, rights, duties, responsibilities and salary system for civil servants. As provided for by the Law, a Civil Servants Agency was established to support implementation of the Law. Specific categories of civil servants, such as army staff or uniformed employees in the Ministry of Interior, Customs or the Public Revenue Office, are regulated by specific pieces of legislation. It is noteworthy that civil

servants account for only part of the public administration staffing, other public servants being subject to general labour relations law.

Under the Law on Civil Servants, the selection procedure is based on the merit principle. Vacancies are published and, after a vocational examination (except for junior associates and junior officers), applicants are selected by a commission set up in the recruiting administration on the basis of a list prepared by the Civil Servants Agency. The final decision is taken by a senior official in the recruiting administration. Dissatisfied candidates can lodge a complaint against the decision to the Civil Servants Agency. However, in practice the rules governing recruitment and selection of candidates do not prevent political interference and full implementation of the Law remains to be ensured. The system of promotions, mobility and disciplinary measures still has to be fully set in place, as initially provided for by the Law. A Law amending the Law on Civil Servants was adopted in September 2005 to improve the existing provisions on recruitment and mobility and further strengthen the Civil Servants Agency.

A Code of Ethics for civil servants was adopted in November 2001 and amended in 2004, providing for disciplinary accountability in case of violation of the Code. In practice, however, this is still rarely applied and implementation should be enhanced. The Law on Administrative Inspection provides for the National Inspectorate for Administration (within the Ministry of Justice) to supervise application of the procedural rules and the conduct and activities of civil servants, with the aim of securing compliance with the principles of legality, professional integrity, efficiency, accountability and responsibility. Full implementation of the Law will require further capacity and resources.

Implementation of the assessment system for civil servants started in 2005, while a new system of salaries and allowances partially entered into force in 2004 and is scheduled to be fully implemented from January 2006.

Actions and decisions of civil servants on individual citizens' rights and obligations are based on the Law on General Administrative Procedure. Every administrative decision can be appealed against before a second-degree administrative body. If the appeal is not upheld, the case can then be taken to court. However, the second-degree government appeal bodies can, in practice, be an obstacle to citizens' effective access to justice and could lead to long delays before any decision is taken by the second-degree administrative body. Revision of the administrative procedures is envisaged in the public administration reform and in the judiciary reform strategy. A first step has been taken with a new Law on General Administrative Procedure adopted in May 2005 aiming at strengthening citizens' rights. Transparency of the administration would be strengthened if a proper legal framework were adopted on public access to documents. A law is under consideration in Parliament.

Citizens can appeal to the **Ombudsman**, elected by Parliament for a term of eight years. The Ombudsman was introduced by the Ombudsman Law of 1997. After the constitutional amendments in 2001, a new legal framework was adopted to enhance his role, notably through extending his powers, establishing six regional offices headed by Deputy Ombudsmen, and setting a separate budget for his Office. The changes to the Constitution also introduced the double majority rule for election of the Ombudsman and his deputies. Regional offices were set up in November 2004 and the deputy Ombudsmen were elected in July 2005. The Ombudsman investigates citizens' complaints of bureaucratic abuse and discrimination both by State authorities and by individual public servants. In addition to

investigating individual cases, the Ombudsman studies other matters relevant to the protection of constitutional and legal rights brought to his knowledge from other sources (such as mass media) reporting on irregularities in the work of State administration bodies and agencies.

In 2004 the Ombudsman received 1 933 new complaints and initiated 26 investigations. Out of a total of 3 202 complaints processed in 2004, 569 violations were identified and 720 investigations are ongoing. 73% of the violations identified were solved on the basis of the Ombudsman's recommendations. This demonstrates that while there has been some improvement in the degree of cooperation, the level of responsiveness and cooperation is still a problem. In 2004 only 40% of the reports filed to State bodies were acted upon. In areas touching on politically sensitive issues, the Ombudsman encounters difficulties in investigating complaints. In particular, cooperation from the Ministry of Interior is not yet fully satisfactory. Better follow-up of the Ombudsman's annual report by Parliament would facilitate his work. The Ombudsman should also make use of his powers to prepare special reports and call for parliamentary action.

As part of the reform of the public administration, a reform of the General Secretariat of the Government has been under way since 2003, aiming at linking strategic planning and budgeting. As a result, the government is preparing a document establishing strategic guidelines and setting clear expenditure ceilings for the various ministries, which will be enforced by the Ministry of Finance. A functional analysis of government activities was launched in almost all ministries but still needs to be completed and converted into actual measures.

European integration matters used to be coordinated by the Sector for European Integration and are now handled by the new Secretariat for European Affairs. One of its tasks is to support the inter-ministerial working committee on EU integration established in 2003 and the sub-committee for harmonisation of legislation established in 2001. It submits quarterly reports to the government on progress made on implementation of the SAA. The sub-committee for harmonisation of legislation prepares the annual National Plans for Approximation of Legislation. All the ministries have units dealing with European integration. Working groups for harmonisation of legislation with the *acquis* have been set up and a network of European coordinators has been established. Still, many of these units are understaffed and overstretched since they also cover international cooperation. A plan for strengthening their human resources capacity is being implemented.

Amendments to the government's internal rules have also reinforced the role of the government commissions (on the political system, on the economic system, on human resources and sustainable development) with regard to harmonisation of national policy with EU policies and the *acquis*. Since October 2003 a statement on compliance with EU legislation must accompany all draft legislation submitted to the government.

In March 2005 the government decided to set up a Council on EU integration, composed of Members of Parliament and representatives of civil society. While it could play a substantial role in promoting consensus on EU-related issues and reviewing the progress made, it has not yet been put in place.

There is no central **training** institution for civil servants, but in May 2002 the Civil Servants Agency identified basic principles for a training policy ("System for Training of Civil Servants"). In November 2004 rather than creating a Training Centre the government decided

to foster the capacity of the Civil Servants Agency to coordinate the training programmes to be developed by the various administrative bodies, at central and local level. In 2000 the Sector for European Integration developed a training strategy on EU-related issues for civil servants, and two-year plans have been developed since then. Since 2003 the State budget has been supporting fellowships for post-graduate EU studies abroad. After graduation, these students have to serve in the administration for three years.

Implementation of the **decentralisation process** started at operational level in July 2005. It was delayed by the organisation of a referendum in November 2004 on an initiative from opponents of the decentralisation laws adopted in the summer. However, the result of the referendum confirmed these laws and the general public support for the process. A plan for the transfer of powers and resources was adopted in April 2005. The Association of Municipalities was involved by the Ministry of Local Self-Government in preparing for the transfer of powers. Most of the legislative framework for decentralisation was put in place between September 2004 and June 2005. A decree on the methodology for the allocation of VAT was adopted in June 2005. However, the municipalities' capacity to manage their expenditure and their ability to raise revenue has yet to be demonstrated. The uncertainty about the financial situation is heightened by the level of municipal debts estimated at around € 47 million. This led the government to adopt a plan for resolving the debt in July 2005. Establishing transparent accountable administrations at local level which are able to manage the new powers, and notably the new fiscal competences, will be a very challenging task. At present, no financial control system seems to exist. To prevent misuse of public funds at municipal level, but also to minimise the risk of fraud and corruption, it is essential that internal controls and audits are developed as soon as possible. The arbitration of future contentious issues between the municipalities and the State (in the absence of administrative courts and/or intermediary administrative levels empowered to interpret the distribution of powers between the local and national levels) will also have to be clarified.

As regards the development of a professional local administration, the Law on Civil Servants will apply to newly recruited local officials. Important efforts will be needed to ensure its implementation and prevent politicisation. A training programme has been drawn up for 2005. Information in all municipalities and more generally for civil society and the public should be enhanced to explain the process.

The **Ministry of Interior** and the **police** are being progressively restructured, in line with the Police Reform Strategy of August 2003 and the Annex thereto of January 2004. The reform is a medium-term process which, under the Action Plan of December 2004, should be completed in 2007. First steps have been taken, notably on the general organisation of the Ministry of Interior, the transfer of border control from the Ministry of Defence to the Ministry of Interior and the establishment of a border police, but key steps are still needed to improve policing standards and make the police an effective and accountable service. Effective and timely implementation of the police reform, including the relevant provisions of the Ohrid Framework Agreement, remains crucial, also for inter-ethnic trust and further stability in the country, and a strong political impetus will be needed to secure its success. In this respect, adoption of the new Law on Police and allocation of proper budgetary resources are of particular importance (*see also Chapter 24 – Justice, freedom and security*).

The general **level of security** has gradually improved since 2001. Following the plan on the re-entry of the police in the former crisis areas, completed in 2002, police presence is ensured all over the country. Trust on the part of all communities has improved, notably thanks to the

first results achieved in the police reform and, in particular, the establishment of ethnically mixed patrols. This is a significant achievement with credit due to all concerned. There have been no serious incidents since autumn 2003 and there was no impact of the March 2004 incidents in Kosovo. However, there are still parts of the country in the former crisis areas where the police have to refrain from undertaking routine activities to avoid potential escalation. In summer 2005 the government handled well incidents of a criminal nature which could have undermined the credibility and standing of the Ministry of Interior. Special attention will also be required to address the considerable quantity of illegal weapons still circulating within the country.

1.1.3. The Judiciary (see also Chapter 23 – Judiciary and fundamental rights)

Role and structure

The judicial system is organised hierarchically in three instances. Twenty-seven **basic courts** act as courts of first instance. Since 1996 these basic courts have general jurisdiction, meaning that they do not specialise in civil, criminal, commercial or family law, but each court can in principle hear any type of case. This could have an impact on the efficiency of the court system and consistency of judgements, and ways to reintroduce specific divisions of competence to the courts are being discussed in the context of the reform of the judiciary. Investigative judges are in charge of the pre-trial proceedings in criminal cases. Three **appellate courts** in Skopje, Bitola and Stip decide on appeals against decisions by basic courts.

The **Supreme Court** is the highest court which decides on appeals against decisions of the appellate courts, as well as on appeals against decisions of 14 second instance government commissions, thus also playing the role of first instance administrative court. The Supreme Court ensures uniform implementation of the law by the lower courts.

The **Constitutional Court** is composed of nine judges elected by Parliament for a non-renewable period of nine years. The Constitutional Court decides on the conformity of laws with the Constitution, and on the conformity of other regulations with the Constitution and laws and protects individual freedoms and rights. It also decides on conflicts of competence between the three branches of power, conflicts of competence between State bodies and municipalities, and on the accountability of the President of the Republic. According to the Constitution, the Constitutional Court is not considered to be part of the judiciary.

The Judicial Council of the Republic is the competent body for proposing the appointment, dismissal and disciplinary decisions concerning judges, such decisions being taken by Parliament. It is composed of seven lawyers elected by Parliament.

Judges and prosecutors are appointed and dismissed by the Parliament. There are 635 judges and 193 prosecutors and deputy prosecutors. In addition, 2 301 clerks are employed in the courts (2 127) and in the Public Prosecutor's Offices (174). Court clerks are civil servants whose status is defined by the Law on Civil Servants.

Functioning of the Judiciary

The independence of the judiciary is a principle laid down in the Constitution and the Law on Courts. However, there are some obstacles to the full independence of judges from political influence in practice. The decisive role of the Judicial Council and of Parliament in the election of the President of the Supreme Court, the presidents of the other courts and of the judges has led to party-political influence. The role of Parliament in disciplinary proceedings is also not in accordance with international standards and opens up the possibility of political interference.

The independence, as well as the quality, of the judiciary is further weakened by the absence of a comprehensive merit-based career system and an appropriate disciplinary system for judges.

Furthermore, the judiciary suffers from serious problems of efficiency, caused by both procedural and practical factors. The lack of management tools and the overloading of courts with administrative tasks, lack of transparency in the working procedures of the courts, abuses of procedural loopholes, delays in final judgements, and failures in the enforcement of rulings due, for instance, to weaknesses in the delivery of summons and orders to appear before courts are among the most serious shortcomings to be addressed.

In combination with these shortcomings, the high number of misdemeanour and enforcement cases which the courts have to deal with results in a huge backlog of cases, which also has an impact on the proper functioning of the judiciary. The same failures appear in the Supreme Court whose tasks are hampered by the heavy burden of administrative cases. Out of a total of about 5 000 cases currently pending before the Supreme Court, the vast majority are administrative cases at first instance (around 10% are civil appeals and 1 to 2% are criminal appeals).

The government adopted a Strategy and an Action Plan on Judicial Reform in November 2004 which mainly aims at increasing the independence and efficiency of the judiciary. The reform affects the structure of the judiciary and will require changes to the Constitution. The strategy identifies a set of measures which includes changes in the selection and training of judges, allowing a professional and merit-based system of selection and career development (eliminating the role of Parliament in appointments and dismissals of judges and prosecutors). It includes a reform of the Judicial Council and the creation of a special supervisory body to monitor the performance of judges. The reform also includes ways to alleviate the workload of courts, through changes in the courts' internal organisation (a dual system of first instance courts and higher courts, and the establishment of specialised chambers in the basic courts), the transfer of competence in administrative cases from the Supreme Court to lower court(s), and the transfer of competence for misdemeanours to administrative bodies. The law establishing an academy for the training of judges and prosecutors is under discussion in Parliament. The main principles presented by the government for changes to the Constitution were approved by Parliament in May 2005 by a broad majority. Draft amendments were presented by the government in June, and in August Parliament adopted 15 draft amendments which have been debated publicly.

Some changes in the legal framework are already being implemented. Changes were made to the Criminal Code and the Law on Criminal Procedure in autumn 2004 to shorten the court procedure and limit the scope for abuse of the rights of parties and their attorneys. A new law

on enforcement of civil judgements was adopted in May 2005 to abolish the separate motion for execution of judgements and create a privatised bailiff system under the control of the Ministry of Justice. It will apply from 2006, subject to the adoption of secondary legislation and the necessary preparatory measures to put the new system in place. A new Law on Civil Procedure was adopted in September 2005 to introduce changes which should make the court procedures more efficient. A new secondary legal framework will be needed to allow those changes to be implemented. The use of alternative dispute resolution methods for commercial cases is progressively increasing.

Implementation of the measures set out in the Strategy on Judicial Reform, once adopted, will require considerable efforts on the part of the authorities. This must include a substantial increase in the budgetary resources allocated (about € 20 100 000 for the judiciary and € 3 200 000 for the Public Prosecutor's Office). The financial situation of the courts is difficult and in some cases does not allow them to meet their most basic needs, which can weaken the independence of the judiciary. Infrastructure and equipment are additional serious problems.

1.1.4. Anti-corruption policy (see also Chapter 23 – Judiciary and fundamental rights)

International reports and surveys indicate that corruption is a serious and widespread problem which affects many aspects of social, political and economic life despite the intensification of efforts to fight it and increased awareness of its negative impact on the country's successful transition.

The causes of corruption are manifold. They include the often arcane administrative procedures for various dealings of citizens and enterprises with the State administration, the lack of transparency and compliance with these procedures, the extensive and non-transparent system of issuing licences and permits for various activities, the discretionary rights of certain government officials, the lack of well-defined rules on conflicts of interest and the still opaque management of State assets (including State-owned land, concessions and public procurement).

The former Yugoslav Republic of Macedonia has ratified the Council of Europe Criminal and Civil Law Conventions on Corruption and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. The Additional Protocol to the Criminal Law Convention on Corruption has been signed and ratified. The UN Convention against Corruption has been signed but not yet ratified and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions has yet to be signed. The country has been a member of the Group of States against Corruption (GRECO) since October 2000. Out of the 17 recommendations made by GRECO in 2002, 15 have been implemented or partly implemented. Efforts have to be made to implement the remaining two. Current proposals by the government provide for the necessary constitutional changes.

The former Yugoslav Republic of Macedonia has adopted various anti-corruption measures. In addition to indirect incrimination of corruption through a number of related criminal offences in the Criminal Code, a Law on Prevention of Corruption was adopted in 2002. Under this Law, a State Commission for the Prevention of Corruption was established in November 2002 as a consultative and preventive body. The Commission adopted a National Programme for Prevention and Repression of Corruption in 2003 and an annex on measures to prevent corruption at local level in June 2005. Under this Law, a large number of officials

and elected representatives are under an obligation to submit a declaration of assets to the State Commission when they are nominated or elected. The Law was amended in 2004 to extend this obligation to civil servants in the State administration. This obligation has been partly implemented and a few charges have been brought for failure to submit the declaration of assets.

In the Ministry of Interior a professional standards unit was created in 2003 to investigate, among other things, corruption cases in the police. It has produced its first results: police officers have been dismissed, disciplinary measures have been imposed and some criminal charges have been brought against police officers, as well as against judges and court officers. In 2005 new departments were established in the Ministry of Interior and in the Public Prosecutor's Office to combat organised crime and corruption. Cooperation between them is gradually being established. In the last two years three judges have been convicted and several others, including a former president of court, are currently under investigation or pre-trial procedures. The overall coordination and cooperation between law enforcement agencies (including the Public Prosecutor's Office, the Police, the Financial Police, the Directorate for the Prevention of Money Laundering and the judiciary) needs to be strengthened and the existing memoranda of understanding must be fully implemented. There is still confusion over competence and weaknesses in the collection and investigation of relevant evidence.

While progress has been made on implementation of the National Programme for Prevention and Repression of Corruption, much remains to be done. Beyond formal implementation of the programme, further efforts are needed to ensure effective enforcement of the provisions adopted. Implementation of the public procurement rules will have to be enhanced to detect fraud and corruption better. The legislative provisions on the financing on political parties, in particular the Law on the funding of political parties which entered into force in January 2005, will have to be fully implemented. This will require tightening up control by the State Audit Office.

In addition, the effectiveness of the State Commission for the Prevention of Corruption depends on an appropriate level of cooperation by the State bodies. The guidelines adopted in 2004 to facilitate this cooperation have contributed to improving the situation. Better cooperation with the Public Prosecutor would also enhance the effectiveness of the action against corruption.

Certain high-profile corruption cases have been prosecuted over the last two years and recently a number of pyramid tax evasion cases have been prosecuted. However, overall, the outcomes of the judicial proceedings have been slow. A number of old cases of corruption (especially in the context of privatisation, disposal of particularly important State assets, companies and land, tax evasion and fraud) have remained unsettled. The independence of the officials in charge of investigations and of the judges needs to be enhanced.

Progress on implementation of the State Programme for the Fight Against Corruption, on the follow-up given to the recommendations by the State Commission for the Prevention of Corruption and by the State Audit Office, including by Parliament, as well as on addressing the weaknesses of the institutions and the lack of transparency in public decisions would further demonstrate the political will to address the corruption phenomena. The fight against corruption would also benefit from progress on strengthening the independence and efficiency of the judiciary as well as overall administrative reform, including the de-politicisation of the public administration.

1.2. Human rights and the protection of minorities (*see also Chapter 23 – Judiciary and fundamental rights*)

Observance of international human rights law

The former Yugoslav Republic of Macedonia has a number of legislative provisions to guarantee the respect of human rights and the rights of minorities. The Constitution deals with fundamental freedoms and rights. These rights are also underpinned by certain international conventions, the foremost of which is the European Convention for the Protection of Human Rights and Fundamental Freedoms and its main additional protocols. Taken as a whole, this constitutes - pursuant to Article 6 of the Treaty on European Union - part of the *acquis* that any State wishing to join the EU must first have ratified.

The former Yugoslav Republic of Macedonia has been a member of the Council of Europe since November 1995 and ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and its additional protocols in April 1997. Individuals may take their case to the European Court if they consider that their rights under this Convention have been violated.

Among other *international instruments protecting human rights and minorities*, the former Yugoslav Republic of Macedonia has ratified the European Convention on the Prevention of Torture, the European Charter for Regional and Minority Languages and the 1996 European Social Charter. It has ratified the key existing UN conventions in the field of human rights and their Protocols.

In accordance with Article 118 of the Constitution, ratified international treaties are part of the internal legal order of the former Yugoslav Republic of Macedonia and take precedence over ordinary national legislation.

Since November 1998 the European Court of Human Rights has delivered three judgements concerning the former Yugoslav Republic of Macedonia, and there has been one friendly settlement. On two occasions the Court found that there had been a violation of the Convention and in one case no violation was found. The violations concerned the protection of property under Protocol 1, Article 1 of the European Convention for the Protection of Human Rights. There are currently 300 applications against the former Yugoslav Republic of Macedonia pending before a decision-making body of the Court.

Civil and political rights

Access to justice is guaranteed by the Constitution. By law, **legal aid** is available in criminal and civil cases, from the Bar Association, but the level of implementation of this provision, particularly in civil cases, is weak and would need to be enhanced. The Law on Criminal Procedure stipulates that in certain criminal proceedings a defence attorney is appointed. The **death penalty** was abolished in 1990 and prohibited under the Constitution in 1991. The former Yugoslav Republic of Macedonia has signed Protocol 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances, which entered into force in November 2004. **Torture and**

inhumane and degrading treatment are forbidden by the Constitution, as are **forced or obligatory labour**.

The former Yugoslav Republic of Macedonia has ratified the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment which entered into force in October 1997, and has adopted a comprehensive legislative framework to fight torture and inhumane or degrading treatment or punishment in State institutions. Improvement has been noted in the investigation of complaints of mistreatment but the investigation mechanisms are not yet fully implemented and there are indications that many cases go unpunished. A number of problem areas still need to be addressed.

Arbitrary arrest is forbidden by the Constitution. Nobody can be arrested or put into custody without a written judicial order. Any person arrested has the right to appeal to the court, which decides on the legality of the deprivation of liberty and must be immediately informed of the reasons for the arrest. In addition, the Constitution provides for compensation to be paid to any person unjustly arrested. The length of **pre-trial detention** is defined precisely by law, with guarantees for the person deprived of liberty that are in line with international standards. Current procedural legislation provides for cases in which pre-trial detention is mandatory, thus contradicting the case law established by the European Court of Human Rights. There is a lack of clarity on the use of “informative talks” by the police even though the Supreme Court has ruled that they cannot be mandatory.

Efforts to combat **trafficking in human beings** have been supported by the adoption of a National Programme for the Fight against Trafficking in Human Beings and Illegal Migration in 2002, in line with international standards, and the setting-up of a National Commission in 2001. An Action Plan to combat trafficking in children has been drafted but not yet adopted. The Criminal Code was amended in 2004 to criminalise the trafficking of human beings and the smuggling of migrants (*see also Chapter 24 - Justice, freedom and security*).

Privacy is guaranteed. Several constitutional provisions refer to the privacy of personal and family life, the freedom and confidentiality of correspondence and other forms of communication, the privacy of personal information and the inviolability of the home. That right may be restricted only by a court decision and a motivated search warrant. The Constitution was amended to regulate special investigative techniques in the fight against organised crime. However, telecommunication tapping takes place despite the absence of a proper legal framework. This legal vacuum has to be addressed quickly and proper judicial control will have to be ensured.

Freedom of thought, conscience and religion are guaranteed by the Constitution. Conscientious objection on religious grounds is allowed by the Law on Defence. The right of citizens to establish private educational institutions is guaranteed by the Constitution for all levels except primary education. The Constitution recognises the Macedonian Orthodox Church (MOC), the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelical-Methodist Church and the Jewish Community as religious communities. Other religious groups can be established under the conditions provided for by the Law on Religious Communities and Religious Groups which is currently being revised. However, according to international experts, the draft revisions are not fully in line with the requirements of the European Convention for the Protection of Human Rights. The legislation proposed will have to be harmonised with international law in this field. Moreover, a number of observers have referred to problems for smaller religious groups and communities linked to property issues

and lack of worship facilities, as well as to the particular difficulties encountered by members of the “Ohrid Archbishopric” set up in 2004 under the authority of the Serbian Orthodox Church (SOC) which does not recognise the autonomy of the Macedonian Orthodox Church (MOC). They are also linked to Article 8 in the current Law on Religious Communities and Religious Groups which stipulates that there can be only one religious community per religious confession. The issue has taken a new turn after the failure of the negotiations between the two churches, and the sentencing in August 2005 of a former bishop of the MOC, designated as exarch by the SOC, for “incitement of national, racial and religious hatred”, pursuant to the Penal Code. It is essential to intensify dialogue between the MOC and the SOC in good faith and based on respect for religious tolerance. In addition, all legal avenues must be pursued to resolve this matter in a manner that reflects the established principle of religious tolerance. The authorities should ensure that effective religious freedom for all believers and denominations is respected.

Freedom of expression is guaranteed by the Constitution. However, there is concern that libel cases, which according to the Criminal Code may lead to fines and prison sentences, could result in the imprisonment of journalists despite the existence of an exemption for “freedom of public expression of thought”. There have been few convictions of journalists, though, and most of them are on appeal before the Supreme Court.

The **media** feature a high number of electronic media with 30 public and 123 commercial broadcasters. The press is pluralist and diversified but there is a certain degree of concentration of ownership. Another characteristic of the media is their political and economic ties, one of the reasons being that broadcasting media cannot rely only on the domestic market but need subsidies/sponsorship from the government, political parties or politically affiliated companies. Proper mechanisms are needed to ensure the independence of the media, in particular a stronger and independent Broadcasting Council. The Law on Broadcasting is under revision in order to address shortcomings in the functioning of the public broadcasting company (MRTV) and the independence of the Broadcasting Body, and the comments made by the Council of Europe and the Commission should be fully taken into account (*see also Chapter 10 – Information society and media*).

Professionalism in the media would be substantially improved if training programmes were further developed and if education for journalists were reformed. Investigative journalism could also be enhanced if a proper legal framework for access to information were adopted. The role of the media in informing the public on EU-related issues is essential and will have to be enhanced. The media are still frequently adopting views where ethnic ties prevail. Although progress has been made in this respect, the media could play a much greater role in promoting social cohesion and strengthening interethnic relations.

The **right to vote** is guaranteed and defined by the Constitution for all citizens who have reached the age of 18 years and elections are organised only in the country (citizens abroad cannot vote).

Freedom of association and assembly are guaranteed by the Constitution. The Law on Association of Citizens and Foundations entered into force in 1998. Associations can be established by at least five nationals. Foreigners resident for more than one year can also establish associations. However, nationals and foreigners cannot found an association together. The Law neither allows legal persons to establish associations nor associations to have political or religious goals. This has had negative consequences for social dialogue, as

companies have not been able to create their own employers' associations, but only to join the Chambers of Commerce.

The Constitution prohibits all forms of **discrimination**, including on the basis of race, colour and ethnic origin. There is no specific criminal provision forbidding acts of xenophobia, however, and non-discrimination on grounds of sexual orientation is not prescribed as such. Homosexuality was decriminalised in 1996. A new law on labour relations was adopted in July 2005 which explicitly forbids discrimination based on race, colour of skin, gender, age, state of health, religious, political or other beliefs, sexual orientation or on the grounds of any other personal circumstances. Implementation of the existing provisions against discrimination could be further facilitated by the adoption of anti-discrimination legislation (*see also Chapter 19 – Social policy and employment*).

The **right to property** is guaranteed by the Constitution. However, foreigners are still subject to certain limitations defined by law, notably regarding ownership of agricultural land (foreigners may only hold a concession or a long-term lease with consent by the Minister of Justice subject to a prior opinion from the Ministry of Agriculture, Forestry and Water Economy). Foreign physical and legal persons may become owners of real estate on condition of reciprocity. In the case of inheritance, foreigners must meet the condition of reciprocity. Foreigners cannot own construction land except on long-term lease for the purpose of erecting business buildings and premises, upon consent by the Minister of Justice. The cadastre covers only 45% of the national territory. A reform is being prepared to modernise it with the aim of covering 100% of the territory by 2010.

The process of restitution of property expropriated during the Yugoslav communist regime is regulated by a law adopted in 1998 and amended in 2000. The process has started. However, since 2002 implementation of the decisions taken where properties could not be handed back and owners are compensated by bonds has been encountering difficulties, due to delays in the committee deciding in second instance on administrative denationalisation matters.

More active involvement of **NGOs** in public policymaking and reforms is observed, whether on fighting corruption, social care and services, environmental issues or on the protection of human and minority rights, gender equality, refugees and humanitarian activities and supporting the decentralisation process. The number of registered NGOs and foundations is approximately 5 700. Progress has been made on building networks of organisations. Since 2002 the government has provided financial support to some NGOs, albeit without clear and transparent criteria. The development of professional organisations and civic associations is still hampered by the lack of financial resources and remains predominantly dependent on external resources, public or foreign. Government initiatives, such as tax incentives and better coordination between the public authorities and NGOs, remain necessary to further facilitate and support the development of civil society.

Economic and social rights

In December 2004 the former Yugoslav Republic of Macedonia ratified the 1961 **European Social Charter** and Protocol No 2 reforming the control mechanism, which entered into force in March 2005. It has signed but not yet ratified Protocol No 1.

The Government adopted a National Plan for **Gender Equality** in 2002. A number of policies have been defined to enhance equal opportunities, including the 2004 National Action Plan

for Employment, the 2002 National Strategy for Reducing Poverty, the 2004 Strategy for the Development of Education and the 2003 National Programme for the Development of Culture. Positive discrimination is also an aspect of implementation of the Ohrid Framework Agreement.

Primary **education** is compulsory and free. Private schools can be established except for primary education. Higher education institutions can be State-owned or private. The education budget remains limited, however. The impact of the current decentralisation process on the education system remains to be assessed.

As a successor of the former Federal Republic of Yugoslavia, the former Yugoslav Republic of Macedonia acceded to the UN Convention on the Rights of the **Child**. A National Action Plan for Children and a National Youth Strategy have been adopted, while a National Plan on the Fight against Trafficking in Children is being prepared. A special department for protection of children's rights has been set up in the Ombudsman's Office. It is a member of the European Network of Ombudsmen for Children. The Law on Family and the Criminal Code were amended in 2004 in order to prevent domestic violence more effectively but implementation of the new provisions and their impact remain to be demonstrated. Domestic violence, sexual harassment and rape are issues which would require more active measures, including revision of the definition of rape in criminal law.

A National Strategy for the Rights of **Persons with Disabilities** was adopted in 2001. Its implementation is monitored by a coordination body which, however, suffers from a lack of resources. Only limited progress could be made. Legal incentives are provided to promote the employment of persons with disabilities and the Law on Employment of Persons with Disabilities introduces affirmative action.

There are no obstacles to establishing **trade unions**. The right to strike is guaranteed, with some restrictions. There are two main trade union federations, the Federation of Independent Trade Unions and the Union of Trade Unions, and a third has been established (Federation of Free Unions).

Social dialogue remains very formal due to the weaknesses of the social partners and needs to be developed. Bipartite social dialogue and sectoral social dialogue are practically non-existent. Development of employers' organisations has been difficult because of the legislation on associations and the monopoly position inherited by the Chamber of Commerce from the previous system. (*See also Freedom of association and assembly (above) and Chapter 19 – Social policy and employment.*)

Minority rights, protection of minorities and cultural rights

The former Yugoslav Republic of Macedonia has signed and ratified the Framework Convention for the Protection of National Minorities (which entered into force in February 1998) as well as the UN Convention on Civil and Political Rights. The European Charter for Regional and Minority Languages has been signed and is awaiting ratification. The country has concluded a bilateral agreement on protection of national minorities with Serbia and Montenegro.

According to the internationally monitored census of population, households and dwellings, carried out in November 2002, 64.2% of the population are ethnic Macedonians, 25.2% are

ethnic Albanians, 3.9% Turks, 2.7% Roma, 1.8% Serbs, 0.8% Bosniaks, 0.5% Vlachs and 1.0% belong to the other ethnic communities. The six national minorities within the meaning of the Framework Convention for the Protection of National Minorities (Albanians, Turks, Roma, Vlachs, Serbs and Bosniaks) make up 35.8% of the population.

Beside obligations under the European Conventions, the basic framework for the policy towards minorities in the former Yugoslav Republic of Macedonia has been the 2001 Ohrid Framework Agreement. The Constitution sets the legal framework for minority rights and has been considerably influenced by implementation of the Framework Agreement, which required a number of constitutional and legislative changes providing a high level of protection of the rights of minorities.

Implementation of the Framework Agreement has had a significant impact on improving ethnic relations. This has been a major undertaking. Building trust between the ethnic groups remains a condition for achieving sustainable progress, while further efforts to encourage the sense of ownership of the process and bringing communities together are essential. In this respect, in addition to continuous implementation of the main principles set out in the Agreement, implementation of the decentralisation process has become crucial as it encourages participation by citizens in democratic life and promotes the identity of the communities. Committees for inter-community relations are gradually being established in municipalities where at least 20% of the population belong to minorities (20 out of the 84 municipalities), as provided for by the Framework Agreement and the 2002 Law on Local Self-Government. Their role should be promoted so that they contribute significantly to further initiatives at local level.

The level of **participation of minorities** in the public administration and public enterprises, at central and local level, has substantially improved. Considerable efforts have been made to address the key principle of “equitable representation of non-majority communities” in the Framework Agreement. Strategic measures were adopted in 2003 and training programmes were specifically designed. The overall representation of members of minorities in the administration rose from 16.7% in December 2002 to 20.5% in July 2005. For instance, representation of ethnic Albanians rose from 11.6% to 15.3% during the same period. Progress has been most significant in the security sector. In the Ministry of Interior, representation of members of non-majority communities climbed from 12.1% in December 2002 to 19.5% in July 2005. More specifically, the proportion of uniformed police officers belonging to non-majority communities is higher. There are detailed plans for more equitable representation in the armed forces where the representation of minorities rose from 8.5% in December 2002 to 16% in December 2004. Ethnic Albanians rose from 3% of the armed forces in 2002 to 10.2% in 2004, and the other minorities made up 5.8%.

No such planning exists in the rest of the public sector, however, including in the judiciary where better representation would contribute to greater confidence in the judicial system on the part of minorities.

Improving participation by minorities in the public sector is an effort which has to be sustained in the medium term. Sensitive arbitration is needed from the government and only a strong political will can sustain the process. A medium-term strategy for equitable representation of all minorities would facilitate that process.

The Constitution grants members of the minority communities the right to primary and secondary **education** in their language. That right is implemented. However, incidents at some schools underlined that the various communities concerned should ensure that this contributes to promoting cultural identities and, at the same time, social cohesion. Access to higher education is another area where substantial improvements have been made in recent years and was another consideration in the Framework Agreement. In 2001 the South East European University became the first private university using Albanian, Macedonian and English as working languages to open, with the support of the international community. The Law on Higher Education was amended to provide for affirmative action in the enrolment process at State universities (Skopje, Bitola) and in 2004 a third State university was founded in Tetovo. In practice, this new university was based on the so-called “University of Tetovo” which had no legal status. It started its first academic year in 2004/2005.

As a result of these efforts, the number of students belonging to minorities increased from 12.6% of the total number of students enrolled in 2001/2002 to 20.6% in 2004/2005. In particular, the number of ethnic Albanians rose from 6.7% to 15.5%. In 2004/2005 students from the Serbian community represented 1.5%, the Turk community 1.3%, the Vlach community 0.8% and the Roma community 0.3%.

Any language spoken by more than 20% of the population is an **official language** following the amendment of the Constitution in 2001. After the 2002 census, Albanian was therefore recognised as an official language. It can be used in communications with the central administration and with the local administration in municipalities where the ethnic Albanian community makes up at least 20% of the population. Personal registers have to be maintained in both languages in those municipalities. Other languages can also be used at municipal level if so decided by the municipalities. The use of Albanian is also recognised in Parliament and in court proceedings. Implementation of these provisions has started and further progress will require heavy investments. The Broadcasting Law imposes an obligation on public national broadcasters to broadcast programmes in the languages of all communities and Macedonian Radio and Television has allocated its third channel to such programmes. A package of legislation has been adopted so that ID cards and passports can be issued in both Macedonian and Albanian. This has been implemented since May 2003 for ID cards and since December 2004 for passports. The same principle is about to be implemented for driving licences.

Furthermore, the coalition partners have agreed that, although not formally required by the Framework Agreement, a law on the use of languages should be adopted to complement the substantial number of existing sectoral laws specifying use of the Albanian language.

The **Ombudsman** also has a role to play in ensuring that there is no discrimination against minorities. In line with the Framework Agreement, he should pay particular attention to safeguarding the principles of non-discrimination and equitable representation at all levels in public bodies and other areas of public life. The new Ombudsman elected in 2004 has undertaken to be more active in this area but it is still too early to judge his effectiveness properly.

Since independence the **Roma** have been participating in political life by establishing political parties. One Roma party has a Member of Parliament. However, the Roma community suffers from a very difficult economic and social situation, high unemployment, a low level of education, dependence on welfare and a lack of health care protection. With a view to closer integration of the Roma in society, in January 2005 the government adopted a National

Strategy for Roma. All ministries concerned have been invited to plan funds and activities in their budgets for its implementation and a national working group has been set up to coordinate the activities of the government aiming at implementing the objectives of the Strategy and of the Roma Decade (2005-2015).

The number of **internally displaced persons** (IDPs) has been reduced from a peak of 76 000 after the crisis in 2001 to about 1 420 in 2005. The Ohrid Framework Agreement provided for arrangements for the return of IDPs, including security conditions, reconstruction and the “revitalisation” of the former crisis areas. The plan for the return of the police was implemented, notably through the creation of mixed police to facilitate their work in the field and the reconstruction of police stations and construction of new police stations in areas needing tighter security. An extensive reconstruction programme has almost been completed (more than 6 000 houses reconstructed). The conditions for the return of those still wishing to do so include resolution of the outstanding issues for the completion of the reconstruction programme (around 200 houses), but mainly an improved economic situation and further consolidation of the rule of law.

There are still 2 200 **refugees** from Kosovo in the country. In September 2003 temporary protection for refugees from Kosovo was abolished. A new Law on Asylum and Temporary Protection entered into force in August 2003 which, overall, meets the European and international standards in a satisfactory manner. Refugees were allowed to file individual applications for recognition of the right to asylum. It is notable, however, that so far very few have been recognised as refugees, and most applicants have been granted humanitarian protection which is a status with limited entitlements and duration. Asylum-seekers and refugees are encountering difficulties with regard to their capacity to exercise their rights, and adequate reception facilities are missing. The Ministry of Labour, in charge of providing advice to refugees and ensuring inter-ministerial and inter-agency coordination on implementation of the Law, lacks the necessary resources. The government commission which is the competent body for hearing appeals against first instance decisions on refugee status remains untransparent and lacks independence (*see also Chapter 24 - Justice, freedom and security*).

1.3. Regional issues and other obligations defined by the EU Council conclusions of 29 April 1997

Regional cooperation

The former Yugoslav Republic of Macedonia is an active member of several regional and sub-regional initiatives, such as the Stability Pact, the South-East European Cooperation Process (SEECPP), the Central European Initiative (CEI) and the South-East European Cooperation Initiative (SECI). It is, in particular, actively participating in the initiatives related to the SEE Core Transport Network and the establishment of an Energy Community for South-East Europe. It is also participating in activities under the Adriatic-Ionian Initiative and participated in the Danube and Szeged processes.

The former Yugoslav Republic of Macedonia signed and ratified the Succession Agreement on the distribution of the assets of the former Federal Republic of Yugoslavia.

The country has signed free trade agreements with all countries in the region, as provided for in the Memorandum of Understanding on Trade Facilitation and Liberalisation, signed in June 2001 in the framework of the Stability Pact.

Relations with **Albania** are good. A Memorandum for Cooperation in their European integration process has given an impetus to bilateral relations, and an agreement on good neighbourly relations is under consideration. Common objectives as regards NATO membership and participation in the Adriatic Charter have also intensified relations between the two countries. A number of bilateral agreements provide a legal framework for the development of this cooperation, including agreements on border cooperation, on cooperation between the ministries of justice in the area of mutual legal assistance, signed in April 2005, and on cooperation on combating terrorism, organised crime and illicit trafficking. A readmission agreement and an agreement for the protection and sustainable development of Lake Ohrid were signed in July 2005. A Free Trade Agreement was signed in March 2002 and entered into force in July 2002.

Relations with **Bulgaria** have developed in many fields and substantially improved since the beginning of the 1990s. The two countries are engaged in a number of cooperation agreements. Their cooperation focuses on trade, regional development, infrastructure, judicial cooperation, and joint efforts to achieve their common European aspirations. A Memorandum of Cooperation for supporting the country's efforts on European integration was signed in August 2004. A Free Trade Agreement was signed in 1999 and entered into force in January 2000.

Relations with **Serbia and Montenegro** were normalised in 1996. Since then the two countries have engaged in developing their cooperation and signed a number of bilateral agreements, including a border agreement in 2001. A Free Trade Agreement was signed in 1996, and a new agreement has been negotiated and is about to be signed. In spite of the religious dispute between the Macedonian Orthodox Church and the Serbian Orthodox Church and additional tension in summer 2005 due to the imprisonment of Mr Vraniskovski, there was no major negative impact on relations between the two countries. The governments of both sides should refrain from interfering in religious affairs in order to preclude the risk of stirring nationalist feelings.

As regards **Kosovo**, the former Yugoslav Republic of Macedonia is supporting UN Security Council Resolution 1244 and has taken the stance that any future status of Kosovo should not result in destabilising the region. On the basis of the border delineation agreement of 2001, the government has started demarcation of the border. However, it has not yet been possible to complete physical demarcation of the border on the part of Kosovo. Trade relations with Kosovo are developing, and a Trade Office was opened in Pristina in March 2005. An interim Free Trade Agreement with UNMIK was signed in September 2005.

Relations with **Bosnia and Herzegovina** have been developing at political level but still need to be further developed at economic level. A few bilateral agreements have been signed, for example on regular air traffic and social insurance. Discussions on agreements on extradition and mutual execution of court rulings in criminal matters have been finalised and agreements on mutual legal assistance and extradition are under consideration. A Free Trade Agreement was signed in April and entered into force in July 2002.

Relations with **Croatia** are good and have been developing in the last few years, fostered by the two countries' common European aspirations. As provided for by Article 12 of the Stabilisation and Association Agreement, a bilateral agreement on regional cooperation was signed in September 2004, and ratified in February 2005. The two countries are also cooperating within the Adriatic Charter to make progress towards NATO membership.

Relations with **Greece** have improved in the last few years. Greece is the most important investor in the country (57% of the total foreign investments) and trade has been constantly increasing. However the dispute over the name of the country has remained an open issue since 1993. In 1993 the former Yugoslav Republic of Macedonia was recognised in the UN under this provisional name. In UNSC Resolutions 817/93 and 845/93, the UN Security Council urged the former Yugoslav Republic of Macedonia and Greece to continue their efforts under the auspices of the UN Secretary General to arrive at a speedy settlement of the issue. In 1995 an Interim Agreement created a framework for bilateral relations which stated, amongst other elements, that talks would continue between the two parties under the auspices of the UN to find a compromise. Article 11 (1) of this Agreement stated that “*Upon entry into force of this Interim Accord, ...[Greece] agrees not to object to the application by or the membership of the ...[former Yugoslav Republic of Macedonia] in international, multilateral and regional organisations and institutions of which... [Greece] is a member; however, ...[Greece] reserves the right to object to any membership referred to above if and to the extent the ...[former Yugoslav Republic of Macedonia] is to be referred to in such organisation or institution differently than in paragraph 2 of the UN Security Council Resolution 817 (1993²).*”

In 2005, the UN Mediator submitted proposals which have not been accepted by the parties as common basis for negotiations. Efforts should be intensified with a constructive approach in order to find rapidly a negotiated and mutually acceptable solution within the framework of UN Security Council Resolutions 817/93 and 845/93 and in the interest of regional co-operation and good neighbourly relations.

Co-operation with the International Criminal Tribunal for the former Yugoslavia

The former Yugoslav Republic of Macedonia is fully cooperating with the International Criminal Tribunal for the former Yugoslavia (ICTY). Cooperation is regulated by the Law on Criminal Procedure.

In response to the decision adopted by the ICTY in October 2002, the Ministry of Justice transferred five cases to ICTY competence in November 2002; “NLA leadership”; “Mavrovo construction workers”; “Lipkovo Water Reserve”; “Ljuboten” and “Neprosteno”. The amnesty provided for by the 2002 Amnesty Law adopted in the wake of the Ohrid Framework Agreement does not apply to persons who are covered or indicted by the ICTY.

On the basis of the investigation carried out since November 2002, with the cooperation of the authorities, on 9 March the ICTY decided to indict two persons in relation to the Ljuboten case. These two indictees were transferred to The Hague, one by the Croat authorities, the other by the former Yugoslav Republic of Macedonia's authorities, as soon as the Tribunal requested assistance.

² “the former Yugoslav Republic of Macedonia”

Taking into consideration the UN Security Council Resolutions, the Tribunal also decided not to pursue its investigations of the other cases and to refer them back to the national authorities for possible further investigations. The decision to be taken on these cases when returned by the ICTY will have to be handled carefully.

International Criminal Court

The former Yugoslav Republic of Macedonia ratified the Rome Statute on 6 March 2002. However, despite the European Commission's recommendations, it signed and ratified in November 2003 a bilateral immunity agreement with the United States of America. The agreement is not in line with the 2002 "EU Guiding Principles Concerning Arrangements between a State Party to the Rome Statute of the International Criminal Court and the United States Regarding the Conditions to Surrender of Persons to the Court". In particular, the bilateral agreement contains no operative provision ensuring investigation and prosecution by national jurisdictions and the scope of persons covered by the agreement goes beyond what is recommended in the EU guiding principles.

1.4. General evaluation

The former Yugoslav Republic of Macedonia has stable democratic institutions which function properly, respecting the limits of their competences and co-operating with each other. Despite repeated recommendations made by the OSCE-ODIHR following the 2002 elections, the local elections in 2005 displayed a series of serious irregularities. Timely and appropriate implementation of the recommendations of the OSCE-ODIHR and commitment of the political parties will be decisive to ensure the full integrity of the next parliamentary elections. While the opposition generally plays a normal part in the operation of the institutions, one opposition party has decided to abstain from participating in the Parliament's work since April 2005.

There has been strong commitment to the implementation of the Ohrid Framework Agreement and important progress made since 2001 has been crucial for strengthening the country's stability. To further strengthen the climate of confidence and consolidate achievements, the government should continue effective implementation of the Agreement.

The rule of law is being gradually consolidated. Considerable efforts at reforming the police have been made since the crisis in 2001. However, steps remain to be taken to secure the rule of law all over the territory. This includes pursuing the reform of the police, which is crucial for more effective policing and the prevention of the possible escalation of incidents. Efforts to improve the independence and efficiency of the judiciary, starting with the modification of the Constitution in line with the recommendations of the Council of Europe, need to be sustained. The level of corruption remains high and affects many aspects of the economic, social and political life of the country. The effectiveness of the fight against corruption therefore needs further strengthening.

There are no major problems in the area of respect for fundamental rights. A number of constitutional and legislative changes have been made providing a high level of protection of the rights of minorities. It is important that these legislative provisions continue to be properly implemented.

The country fully co-operates with the International Criminal Tribunal for the former Yugoslavia. It ratified a bilateral immunity agreement with the USA regarding the International Criminal Court, which is not in line with the relevant EU guiding principles. The country is committed to regional co-operation. Sustained efforts are needed in this area, in particular in order to resolve the name issue with Greece in the interest of good neighbourly relations.

2. ECONOMIC CRITERIA

In 1993, the European Council in Copenhagen defined the following economic criteria for accession to the EU:

- the existence of a functioning market economy;
- the capacity to cope with competitive pressure and market forces within the Union.

These criteria are linked. Firstly, a functioning market economy will be better able to cope with competitive pressure. Secondly, in the context of membership of the Union, the functioning market is the internal market. Without integration into the internal market, EU membership would lose its economic meaning, both for the former Yugoslav Republic of Macedonia and for its partners.

A candidate country must commit itself permanently to the economic obligations of membership. This irreversible commitment is needed to provide the certainty that every part of the enlarged EU market will continue to operate by common rules. The capacity to take on the *acquis* has several dimensions. On the one hand, the former Yugoslav Republic of Macedonia needs to be capable of assuming the economic obligations of membership, in such a way that the single market functions smoothly and fairly. On the other hand, the capacity of the country to cope with the competitive pressures of the internal market requires that the underlying economic environment must be favourable and that the economy must have flexibility and a sufficient level of human and physical capital, especially infrastructure. In their absence, competitive pressures are likely to be considered too intense by some groups of society, and there might be a call for protective measures, which, if implemented, would undermine the single market.

2.1. Economic developments

The former Yugoslav Republic of Macedonia is a small, land-locked economy with a population of 2 million and a GDP of € 4.2 billion (2004). This equals about 0.04% of the GDP of the EU-25. Per-capita GDP is roughly € 2,100 at current exchange rates, which, in terms of purchasing power, is about 25% of the EU-25 average. Population growth has been averaging about 0.2% per year in recent years, while the annual increase in the working age population has been about 1.3% on average since the mid-1990s. About 60% of the population live in urban areas. Income disparities between the capital and rural areas are significant.

Macroeconomic background

The country's economy was one of the most underdeveloped in the Socialist Federal Republic of Yugoslavia (SFRY). After 1991 the separation from its traditional markets as well as the loss of financial support from the federal budget of the SFRY aggravated the economic recession, which had already clouded the last years of its membership of the SFRY. Furthermore, the economy was hampered by the interruption of crucial north-south trading routes by regional conflicts. During most of the first half of the 1990s, the economy had to cope with the sanctions imposed by the United Nations on the remainder of the SFRY. Moreover, in 1994-1995 Greece imposed a trading embargo on the former Yugoslav Republic of Macedonia due to the dispute regarding the country's name.

As in many other newly independent transition economies, the first years of transition were marked by a sharp decline in economic activity. Key factors were the breakdown of traditional production links and financial intermediation, the loss of preferential trading arrangements and a surge in inflation, reaching 1700 percent in 1992. By 1994 economic activity had declined to about three-quarters of the production level before independence. During 1993 and in early 1994 the authorities implemented a stability-oriented policy mix, by pursuing a tight fiscal policy, limiting the growth of credit and wages and pegging the currency to the German mark. As a result, inflation declined to single digits and output started to expand again. However, the trade embargo by Greece during 1994-1995 slowed down economic recovery.

The years 1996-2000 were characterised by relative economic stability and slow, but important, structural reforms. Privatisation gained speed and first steps were taken towards liberalising the labour market. The trade regime was liberalised in 1996. In mid-1997 a step devaluation of the currency took place, which triggered neither a significant acceleration of inflation nor any noteworthy improvement in export performance. In 1999 the war in neighbouring Kosovo led to a sudden influx of a large number of ethnic Albanian refugees. The uncertainties created by the war in Kosovo also had a negative impact on financial markets, leading to liquidity bottlenecks and pressure on the exchange rate. The crisis in 2001 led to a period of increased economic uncertainty. GDP declined by 4.5% in 2001, while the financial costs of the crisis pushed the public-sector deficit up to about 7% of GDP.

Since 2001 the economy has returned to positive growth rates, although the speed of recovery is rather slow. By 2004 real output was some 17% above the 1996 level. However, this was still 10% below pre-independence levels. In nominal terms, GDP was MKD 265 billion (€ 4.3

The former Yugoslav Republic of Macedonia - Main economic trends

(as of 30 September 2005)

		2000	2001	2002	2003	2004	2005	
Gross domestic product	ann. % ch	4.5	-4.5	0.9	2.8	2.9	3.7	1st half
Private consumption	ann. % ch	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	
Gross fixed capital formation	ann. % ch	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	
Unemployment ¹	%	34.8	33.9	34.8	39.6	39.3	38.0	1st half
Employment ¹	ann. % ch	0.3	-1.7	-0.1	-1.9			
Wages	ann. % ch	4.4	1.1	6.4	4.9	3.5	2.2	Jan-Jul
Current account balance	% of GDP	-1.9	-6.5	-9.5	-3.3	-7.7	N.A.	
Direct investment (FDI, net)	% of GDP	4.5	11.8	2.1	2.0	2.8	N.A.	
CPI	ann. % ch	6.6	5.2	2.3	1.1	-0.4	0.4	Jan-Sep
Interest rate (3 months depo)	% p.a.	11.2	10.0	9.6	8.0	6.5	6.6	Jan-Sep
3 months T.B yield	% p.a.	N.A.	N.A.	N.A.	N.A.	8.49	10.3	Jan-Sep
Stock markets	Index	N.A.	1000	1095	1179	1352	1775.6	Jan-Sep
Exchange rate MKD/EUR	Value	60.7	60.9	61.0	61.3	61.3	61.3	Jan-Sep
Nominal eff. exchange rate	Index	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	
Central government balance ²	% of GDP	2.5	-6.3	-5.6	-0.1	0.7	N.A.	
Public sector debt ²	% of GDP	48.0	48.8	42.9	39.0	37.6	N.A.	

1: LFS data; 2: GFS data.

Source: Eurostat, ECOWIN, national sources

billion) in 2004. Rough estimates of the size of the informal sector suggest that about one third of economic activity might not be registered, especially in the low-value-added service sector and in small enterprises.

Central government finances registered considerable deficits in the early years of independence, but were brought close to balance in the second half of the 1990s. However, the crisis in 2001 and its aftermath brought a major increase in public spending, which resulted in significant general government deficits. In 2003 and 2004, public finances were again close to balance. Nevertheless, the social security system constitutes a major drain on public finances. With respect to public debt levels, the former Yugoslav Republic of Macedonia is in a relatively favourable position with a total public sector debt-to-GDP ratio of some 44% at the end of 2004. Slightly more than 60% of this debt (27% of GDP) is financed externally.

The external accounts show substantial deficits. The main factor behind these imbalances is the trade account, which deteriorated substantially during the second half of the 1990s and reached more than 20% of GDP in the early 2000s. This widening trade gap reflects increasing commodity imports which are not counterbalanced by exports. The trade deficits are financed to a large extent by current transfers amounting to some 10% of GDP (workers' remittances, donations, etc.) and, to a smaller extent, by FDI, which amounted to some 2% of GDP in recent years. Total external debt accounted for some 45% of GDP at the end of 2004.

The former Yugoslav Republic of Macedonia joined the Bretton Woods institutions in 1993 and has since then benefited from substantial technical and financial support. The country has also benefited from EU support in the form of CARDS projects and macro-financial assistance.

Structural change

When the former Yugoslav Republic of Macedonia became independent, its economic structures strongly reflected the specific features of the economic and social system in the SFRY, into which it had been integrated for nearly five decades (1944-1991). While based on communist principles, Yugoslavia had developed a very particular economic model, where large parts of the means of production were "socially owned" (i.e. not owned by the State but by the employees), with a relatively high degree of local self-determination. As a result, economic operators enjoyed a comparatively high level of freedom and independence. Private ownership of production means was possible, and prices were to a large extent determined by market processes. However, one important feature of this system was the de-facto soft budget constraint for socially-owned enterprises, which allowed politically well-connected enterprises easy access to credit from the banking sector and gave them the possibility to accumulate huge arrears of unpaid taxes, social contributions or payment obligations to other companies. This practice allowed unviable enterprises to survive, albeit at the expense of a sharp deterioration in the health of the financial sector and price stability.

During the five decades when the former Yugoslav Republic of Macedonia was part of the SFRY, its economic structures had undergone significant reorientation and modernisation, with a strong emphasis on transport infrastructure and industrialisation. These efforts transformed the basically agricultural economy into a semi-industrialised one, with considerable emphasis on the textile and metal industries. As in many other transition economies, restructuring started with an economic structure which was dominated by

manufacturing (48% of the total value added in 1990, including mining). The share of the trade sector was also relatively high (nearly 20% of total value added), while agriculture amounted to about 10%. Tourism accounted for only 2%. During the first half of the 1990s the economy appears to have diversified. Available data indicate, for this period, a significant decline in the importance of manufacturing and mining and an increase in the role of agriculture, while trade appears to have remained fairly constant. This trend was also reflected in the employment structure, with a decline in employment in the manufacturing sector, while the share of employment in the service sector, such as transport but also public administration, increased. The share of agriculture in total employment has remained substantial (if unpaid family workers are included, the share of persons in the agricultural sector was about 22% in 2003).

The commodity structure of exports was highly concentrated before independence, with manufactured goods (manufactured iron, textiles, etc.) accounting for more than 75% of total exports. Since then the range of commodity groups has diversified to some extent, reflecting the diversification of trading partners. On the import side, the share of industrial intermediate products has declined, while the share of consumer products has increased. Concerning trading partners, the former Yugoslav Republic of Macedonia started with a strong orientation towards the markets of former Yugoslavia (to which about three-quarters of the country's industrial output was exported). To a large extent this reflected preferential trade arrangements among the members of the SFRY. Trade with other immediate neighbours was relatively low during the Yugoslav period, as Albania increasingly reduced international trade while trade with the Council of Mutual Economic Assistance (CMEA) area faced political obstacles. Nevertheless, compared to transition economies which traded either in the framework of the Soviet Union or through CMEA agreements, trade integration with Western countries was relatively high. However, the embargo imposed by the United Nations on the remainder of the SFRY and the trade boycott by Greece had a strong – although probably to a large extent only temporary – impact on regional trade flows. The share of exports and imports to and from the EU has increased from some 43% of total trade in 1990 to about 55% in 2004, to some extent due to increased trade with Greece. The share of exports to the former SFRY (Serbia and Montenegro, Croatia, Slovenia and Bosnia and Herzegovina) “recovered” from 22% in 1992 to some 30% in 2000, but slipped back to about 28% in 2004.

The labour market situation was already difficult when the country became independent but has further deteriorated since then. As a result of the economic crisis in the SFRY in the late 1980s, the former Yugoslav Republic of Macedonia entered independence with an unemployment rate of approximately 24%. The restructuring of the economy has led to an overall decline in labour demand, as the low growth dynamics and the poor business

**The former Yugoslav Republic
of Macedonia - Main indicators
of economic structure (2004)**

Population (average)	<i>Million</i>	2.0
GDP per head	<i>€ PPS</i>	:
	<i>% of EU-25 average</i>	25e
Share of agriculture in:		
- gross value added ¹	<i>% of total</i>	13.4
- employment ¹	<i>% of total</i>	10.1
Gross fixed capital formation	<i>% of GDP</i>	16.3n
Gross foreign debt of the whole economy	<i>% of GDP</i>	38.0
Exports of goods and services ¹	<i>% of GDP</i>	37.9n
Stock of foreign direct investment	<i>Million €</i>	115.0
	<i>€ per head</i>	56.7
Employment rate	<i>% of 15-64 age group</i>	33.8
Long-term unemployment rate	<i>% of labour force</i>	33.5

1: 2003; e: estimate; f: forecast; n: national sources;
Source: Eurostat

environment have failed to create a sufficient number of job opportunities. A high tax burden on registered labour and the lack of flexibility of the labour legislation to allow for part-time and fixed-term jobs are other major reasons for the low job creation in the former Yugoslav Republic of Macedonia. As a result, the participation rate, i.e. the share of working age population (15-64 years) which is economically active, has remained particularly low (some 55% of the labour force in 2004), especially among women and, even more so, among ethnic minorities. The employment rate has basically remained static at an extremely low level with fewer than 40% of persons of working age being registered as employed. Officially registered unemployment rose to some 39% of the labour force in 2004. However, officially registered unemployment also includes persons who register as unemployed mainly in order to be included in the health insurance system. The Employment Agency was established in 1997. The Agency's budget amounts to some 3% of GDP (€ 127 million in 2004). Unemployment contributions cover about 16% of its revenue while budget contributions cover about 80% (2.5% of GDP). 97% of its expenditure is on unemployment benefits.

After independence, the authorities succeeded in establishing the institutions that are necessary for the functioning of a market economy. Important examples are the establishment of a largely independent National Bank in 1992, the establishment of a stock exchange in 1996, the creation of financial sector supervisory and regulatory bodies in the late 1990s and the establishment of a Treasury in 2000. Modernisation of the tax system has started although important challenges still lie ahead, the most prominent ones being to improve tax collection and address the informal sector. In the financial sector, tensions created by the collapse of the pyramid scheme in 1997 were overcome, while other challenges, such as weak governance and the existence of a relatively high number of relatively small banks, persist.

Overall, the pace of reform has been relatively slow. To some extent this reflects the periods of economic crisis and hardship caused by regional or ethnic conflicts. However, even during periods of relative economic stability (e.g. from 1996 to 2000, or after 2001) progress with reforms has been slow in many areas or has turned out to achieve only suboptimal results.

Socio-economic developments

Economic and social disparities among the eight NUTS III regions are relatively high, despite the small size of the country. In particular, the differences in infrastructural endowment and income levels between the capital and rural areas are significant. GDP per capita in purchasing power standards (PPS) is nearly twice as high in the capital region (approximately 50% of the EU average, compared to a national average of some 25% of the EU average). Moreover, social disparities seem to have been widening. During the period 1998-2002, the capital was the only region with positive growth in per-capita income. Labour mobility appears to be rather low despite significant differences in unemployment rates between regions, ranging from 30% to 50% of the labour force.

2.2. Assessment in terms of the Copenhagen criteria

The existence of a functioning market economy

The existence of a functioning market economy requires that prices, as well as trade, are liberalised and that an enforceable legal system, including property rights, is in place. Macroeconomic stability and consensus about economic policy enhance the performance of a

market economy. A well-developed financial sector and the absence of any significant barriers to market entry and exit improve the efficiency of the economy.

There seems to be an increasingly broad political consensus on the fundamentals of economic policy. After independence, the authorities soon realised the need to stabilise the economy. With technical and financial support from the Bretton Woods institutions, the former Yugoslav Republic of Macedonia implemented an economic stabilisation programme, with a strong emphasis on achieving price stability and sound public finances. Following a sharp recession after independence, the authorities managed to stabilise the economy within a relatively short period of time. However, with respect to second-generation reforms, such as the modernisation and strengthening of institutions (public administration and independent supervisory and regulatory agencies), the authorities appear to have been less determined. Necessary reforms were frequently sidelined by political developments, such as the crisis in 2001 or the referendum on the new municipal boundaries in November 2004. As a result, progress with politically difficult structural reforms, such as labour market liberalisation or the tightening of revenue collection, has only recently gained momentum. Overall, the prospect of accession has spurred a noticeable acceleration in politically difficult reforms, such as the liberalisation of the labour market or the intensification of reforms in the judicial sector. In August 2005 the authorities and the IMF signed a new Stand-by Arrangement for 2005-2008 with a strong emphasis on structural reforms. Furthermore, in cooperation with the World Bank, a series of important structural reform projects have been prepared and have already entered the implementation phase.

Real GDP growth has remained relatively low after recovering from the disruption of traditional trade links and from the crisis in 2001. After a sharp recession during 1991-1993, which led to a fall in production levels to about three-quarters of pre-independence levels, the economy started to recover during 1996-2000. The crisis in 2001 resulted in a sharp decline in output by 4.5%. Since then economic growth has been positive, but rather low. Over the whole period of 1996-2004, average annual growth reached a very modest 1.8%. As a result, by 2004 economic output stood at only about 90% of pre-independence levels. During this period economic growth was mainly driven by private consumption and exports, while the contributions made to growth by investment and public consumption remained low. Considering the low capacity utilisation rates and high unemployment, the supply side would have allowed significantly higher growth rates. In 1999 the economy was affected by the Kosovo crisis, which triggered a massive, but short-lived, inflow of refugees. Despite major tensions on financial markets, the impact on the economy remained limited. Taking into account the small size of the economy, which leads to strong effects of single economic events, such as the closure or opening of a few but relatively important companies, the economy appears to have weathered external shocks surprisingly well. However, the existence of a substantial informal sector, providing income to households, as well as the inflow of substantial transfers from abroad (workers' remittances, grants, etc.) might help to maintain domestic demand on a level which is not supported by domestic income generation.

The trade balance and the current account show significant and persistent deficits. During the period 1996-2004, the current account showed a deficit of some 6.2% of GDP on average. The actual balances fluctuated between -10% of GDP in 1996 and -0.9% in 1999. The main sources of these imbalances were continuous and substantial trade deficits, averaging nearly 16% of GDP annually (with fluctuations between -9.3% in 1996 and -21.4% in 2002). Merchandise trade (exports and imports) amounted to approximately 85% of GDP. Export and import flows of merchandise are strongly correlated, indicating a stable level of imports

for domestic purposes, such as consumption, and a high import content of exports. Export and import of services account for some 17% of GDP, with export and import fairly balanced. So far the current account deficit has been financed through transfers from abroad, amounting to some 12% of GDP on average. A significant share of these transfers (about 10% of GDP) are workers' remittances. High external imbalances are quite common in the case of rapidly expanding economies, which import capital goods to modernise their production facilities. However, in the case of the former Yugoslav Republic of Macedonia the existence of significant trade account deficits in spite of relatively low growth and weak investment could indicate substantial macro-economic imbalances.

Unemployment has continued to increase to very high levels and hardly responds to economic growth. The former Yugoslav Republic of Macedonia started its transition to a market economy in 1991 with an already high unemployment rate of some 24% of the labour force. The weak economic dynamics and the process of privatising former socially-owned enterprises have further increased the level of unemployment, which rose to about 39% in 2004. At the same time, the participation rate remained at some 55%. So far, employment growth appears to be driven mainly by restructuring processes and is hardly responding to the acceleration of economic activity. Overall, employment growth has been very low or even negative, leading to an overall decline in officially registered employment by some 0.3% per year on average. A significant share of the unemployed labour force has become long-term unemployed. Such structural unemployment will be difficult to reduce, even at times of strong growth. However, due to the significance of the informal sector for employment, official labour market data contain a high degree of uncertainty. In July 2005 the Law on Labour Relations was substantially amended in order to simplify procedures for hiring and laying off workers and to facilitate new forms of employment such as part-time and fixed-term contracts. (See also Part 3, Chapter 19 – Social policy and employment.)

After a short period of hyperinflation, the former Yugoslav Republic of Macedonia has been successful in maintaining low inflation rates. During the early years of independence (1991-1995) inflation averaged some 400% per year, with a peak of some 1700% in 1992. However, a stabilisation programme adopted in 1994 with a strong focus on maintaining strict fiscal and monetary discipline, controlling wage developments and pegging the exchange rate to an external anchor helped to bring down inflationary pressures quite rapidly. During the period 1996-2004, consumer price inflation was 2.3% on average, with peak values of 6.6% and 5.2% in 2000 and 2001. Core inflation showed a similar profile. The current main inflation indicator appears outdated with food items accounting for some 50% of the basket weighting. The State Statistical Office and Eurostat are working on the introduction of an updated inflation indicator, which should be published in the course of 2005.

Monetary policy has moved towards supporting price stability. The National Bank, established in 1992, is largely independent. After initially being obliged to accommodate the credit demand of the banking sector, in 1994 the National Bank moved towards stricter control of monetary aggregates to bring credit growth into line with economic developments. In 2002 the Law on the National Bank was brought further into line with the EU *acquis*, leading to a significant strengthening of the independence of the National Bank. Under the current law the main objective is to maintain price stability. Interest rate policy is subordinated to this end. With a view to maintaining price stability, the National Bank has pursued a policy of targeting a stable exchange rate against the euro since 1995. In order to withdraw excess liquidity from money markets, twice a week the National Bank organises auctions for National Bank bills with maturities of 7 and 28 days. So far, the National Bank's

interest rate policy has had only limited influence on lending and deposit rates of the banking sector, although some impact on the foreign exchange holdings of the sector is noticeable. At the end of 2004 the Bank's foreign exchange reserves amounted to approximately 2.9 months of projected imports of goods and services.

The exchange rate has remained stable against the euro. The former Yugoslav Republic of Macedonia introduced its own currency in April 1992 in the form of a coupon with an equivalent value as the Yugoslav dinar. On 5 May 1993 the official currency, the Macedonian denar (MKD), was introduced, replacing the coupons. The currency was de facto pegged to the German mark in 1994. In 1997 the authorities decided on a step devaluation by 15%. Since then the exchange rate has remained largely stable against the euro in a narrow band of 60.5-61.5 MKD to 1 euro. Even during the events in Kosovo in 1999 and the crisis in 2001, the stability of the exchange rate was maintained. In order to keep the exchange rate stable, the National Bank uses open-market operations, foreign exchange interventions and changes in the interest rates. In this respect, the National Bank recently increased the interest rate on 28-day Central Bank bills to 10%.

Public sector deficits are under control but the quality of governance is low. In terms of revenue, the central government accounts for about one third of GDP. This is below the average of the EU-25 but is rather high taking into account the income level of the economy. Municipal governments have played a very limited role so far. However, their responsibilities and financial resources will increase within the next two years due to the ongoing fiscal decentralisation. Furthermore, the general government sector includes social security and a few extra-budgetary funds. Overall, the efficiency of the public sector appears to be low, with overstaffing in some areas, such as health services, and critical under-staffing in other areas, such as audit and expenditure control. Significant reforms of the public administration and of public accounting still have to be implemented. Despite several periods of crisis, public finances have remained fairly balanced, mainly due to restraints on expenditure. Key weaknesses are the notoriously unbalanced social security sector and payment arrears. The decentralisation of public finance competences to lower levels of administration will be a considerable challenge in terms of maintaining control standards and fighting corruption. So far, the central authorities have been cautious about decentralising tax collection and expenditure entitlements. In view of the sometimes weak local administrative capacity, this approach appears reasonable. As a result of the pension reform of 2000, a second pillar (mandatory pension contributions to private pension funds) is being established. From 1 January 2006 part of the social security contributions will be allocated to this private pillar. Public sector debt is still at a relatively low level of 37% of GDP (2004) and has remained largely stable. Debt sustainability does not seem to be at risk.

The policy mix has succeeded in stabilising the economy after the initial turbulence, but has failed to foster economic growth, employment and structural change. Soon after independence, fiscal and monetary policy was geared towards stabilising the economy. Inflation came down rapidly and public sector balances improved. However, while this policy was very effective in the initial stage of economic stabilisation, supply-side measures were less successful. Privatisation failed to attract new foreign or domestic investment, unemployment remained high and insufficient administrative and regulatory reforms impeded improvement of the business climate. As a result, economic dynamics and structural change remained significantly below potential. The speed of structural reforms has accelerated only recently.

Liberalisation of prices and trade has been largely completed. The country inherited a price system from the SFRY where prices were to a large extent determined freely. However, when it gained independence, a system of price controls existed, which encompassed about 40% of the items in the retail price basket. In the framework of a structural adjustment programme, the government reduced price controls step by step. Since 2003 energy prices have been set by the Energy Regulatory Commission. The share of administered prices in the CPI basket has declined from some 20% in the mid-1990s to 11.3% in mid-2005. However, the cost and price structure still seems to be distorted by State aid and weak tax collection. Trade has been liberalised to a large extent, the country being a member of the WTO and having signed a number of bilateral Free Trade Agreements. Furthermore, the Stabilisation and Association Agreement with the EU envisages a clear path towards trade liberalisation.

The share of the private sector in output generation has reached a high level, accounting for 75% of GDP in 2003. So far, the public sector is still providing public utilities, such as education, health services, water and electricity, etc. Privatisation of the electricity sector is scheduled for 2006. Liberalisation of the railways is under preparation. The telecommunication sector was privatised in 2001. One important issue with respect to the establishment of private companies is the still incomplete registration of land and real estate. In a relatively large number of cases, the return of ownership rights over former socially-owned property has not yet been completed. Key weaknesses in this respect are the still incomplete land registry and the slow speed of the judicial system to settle ownership disputes.

Privatisation of socially-owned companies has been largely completed, while the nominal value of State property still amounts to some 22% of GDP. Before independence, two forms of public ownership existed in parallel: social property, which was considered to belong to the workers, and State property. Privatisation largely focused on socially-owned companies and went through various phases. The first wave of privatisation gave managers and employees the right to choose the privatisation method, which led to a series of management or employee buy-outs. In the mid-1990s and in 2000 further attempts were launched to accelerate privatisation, focusing on the largest loss-makers. By the end of 2003, privatisation of socially-owned companies had been largely completed, while the State still owns shares in a number of companies, with a nominal value of 22% of GDP (about € 930 million at the end of 2004). However, in many cases, the real market value might be substantially lower. The most significant single State asset appears to be the 100% ownership of the electricity company, with a nominal value of some € 680 million (16% of GDP). Unbundling into energy generation and transmission and the sale of (parts of) the energy generation component are scheduled for 2006. The biggest remaining item of State property (€ 220 million, 5% of GDP) consists of minority shares in some 530 companies. Until the end of 2004, the main holders of those shares were the central government (€ 77.5 million, 1.8% of GDP), the Pension Fund (€ 74 million, 1.7% of GDP) and the Privatisation Agency (€ 63 million, 1.5% of GDP). The Privatisation Agency is in the process of being closed down and its remaining assets will be transferred to the Pension Fund and government institutions.

During the privatisation process, a large part of the enterprises were sold through preferential share sales to managers and employees. This approach helped to improve acceptance of privatisation by staff and to generate revenue for covering transition-related public expenditure. However, at the same time it led to a slowdown in structural adjustment as in many cases the new owners did not have the necessary means (or intention) to modernise and restructure their company. As a result, a block of unviable companies remained, which

survived by virtue of politically motivated lending from the banking sector or by retaining the payment of taxes, social contributions or payment obligations towards other companies. Furthermore, a lack of effective financial control also allowed many rent-seekers to benefit from the privatisation process. The weak economic performance of some privatised companies, combined with large accumulated payment arrears (taxes, social contributions, etc.), leads to a situation where they are driven into bankruptcy and revert into public ownership as public authorities are their largest creditors.

Significant barriers to market entry and exit appear to impede economic expansion. Low numbers of market entry and market exit indicate serious impediments for establishing new companies or closing down unviable ones. Slow administrative and judicial procedures for matters such as providing licences or proceeding with bankruptcy procedures appear to be a major bottleneck for market entry and exit. This has a negative impact on the economic dynamics, as it slows down structural change. Political intervention and unequal treatment of licence applications lead to further distortions, reducing the predictability of administrative decisions and eroding business confidence. Furthermore, access to financing appears to be difficult, especially for SMEs. In order to facilitate start-ups, preparations for establishing “one-stop shops” for registering and obtaining licences are underway. It is planned that this service should be available by 1 January 2006. The banking sector does not channel sufficient funds into the private sector. SMEs especially find it difficult to access the capital market. High interest rates, unsettled property rights and a resulting lack of collateral are important hurdles for accessing the capital market. An insufficient variety of financial instruments and insufficient competition among banking institutions add to the difficulties. Bankruptcy legislation is in the process of being amended. So far, bankruptcy procedures have often proved to be very time-consuming and the dismantling of enterprises has often been blocked by difficulties with agreeing on the settlement of payment arrears. Insufficient capacity on the part of the judiciary to deal with commercial cases is a major bottleneck in this respect.

Overall, the legal system does not yet provide sufficient clarity on property rights and requires further modernisation and strengthening. In recent years, important amendments to the legal framework have been adopted. For example, the Company Law was improved in 2004 and 2005 and a new Law on Audit as well as a Law on the One-Stop-Shop System and the Maintenance of the Trade Register and the Register of other Legal Entities were adopted in September 2005. However, a considerable part of the economic legislation still seems to be outdated and would require substantial changes in order to comply with international standards. Legal certainty and the enforcement of legislation are an important issue. Insufficient clarity on real estate property rights is another substantial impediment to economic activity. The registration of property rights is at a relatively early stage. So far, the ownership rights of only 45% of land plots and 30 to 40% of other real estate have been registered. The authorities envisage completing registration by 2009, with substantial technical and financial support from abroad. Important reasons for the slow progress are resource constraints, but also slow judiciary procedures. (See also Part 1, Political Criteria.)

While the stability of the financial sector has improved, the degree of financial intermediation is still low. After independence the financial system of the former Yugoslav Republic of Macedonia was rudimentary, focusing to a large extent on the provision of politically determined credits to socially-owned companies. Supervisory and prudential standards were very low. After an initial phase of uncontrolled credit growth, the National Bank started to raise supervisory standards. In order to privatise State-owned banks, a considerable amount of

bad loans had to be recapitalised. As a result, banking capitalisation is relatively high, but banking intermediation is still low.

As in many other transition economies, the financial sector is dominated by banks. Banks are regulated by the Law on Banks adopted in 2000, which considerably enhanced the legal and supervisory framework for the banking system. Further amendments to strengthen prudential standards and supervision are under preparation. The number of banks declined from some 25 in the first half of the 1990s to 20 in mid-2005. Considering the size of the economy, this is a relatively high number. It includes 8 branches of foreign banks operating on the financial market in the country. Additionally there are 15 savings houses whose main function is to attract household deposits. Despite the large number of banks, the sector is small in relation to GDP, accounting for some 41% (end 2004). The concentration in the banking sector is fairly high, with the top three banks accounting for some 65% of the total assets of the banking sector, about 75% of the total credit activity and about 65% of total deposits. As a result, competition is relatively low, although it seems to have intensified in recent years. With the exception of a smaller development bank, which is 100% publicly owned, the sector is in private hands. The share of foreign ownership is relatively high, accounting for some 47% of the sector's capital. Two of the three largest banks are foreign-owned and foreign investors hold a majority in eight banks, of which six are more than 90% foreign-owned.

The level of banking intermediation is low but has recently increased significantly. In 2004 the gross loan-to-GDP ratio increased to slightly above 20%, which is about 49% of total assets. The main reasons for the low level of intermediation are the history of bad loans (mainly due to former socially-owned companies with access to soft loans), the lack of creditworthy projects, an insufficient legal framework to proceed with pledges and guarantee collateral, a low level of economic activity and resulting low investment demand, insufficient availability of information on creditors (accounting, reporting etc.) and a high share of short-term deposits. Interest rate spreads are relatively wide, at some 6%, but are narrowing. The high spreads partly reflect an unfavourable asset structure, with a relatively high share of big deposits in foreign banks. Furthermore, the operational efficiency of local banks is relatively low.

There has been some improvement in the quality of credit and the soundness of commercial banks in the last few years. At the end of 2004, non-performing loans classified "C", "D" and "E" (substandard, doubtful and loss respectively) still added up to a relatively high 13.3% of total assets compared with 29% in 1999. These figures reflect for the most part the weaknesses in the smaller banks' balance sheets. Non-performing loans are an important issue, with 7.6% of loans in the worst performance group and another 10% of the total credits classified as "potential loss" in 2004. The share of long-term credits increased from 38% of total credits in 1999 to 43% in 2004. A significant share of savings (35% of total assets) is still deposited abroad, reflecting insufficient confidence in the stability of the financial system. The degree of dollarisation/euroisation is rather high. This is partly still a result of the 2001 crisis, when households switched into foreign currencies.

The average capital adequacy ratio of the banks, although declining, is very high. At the end of 2004 it was 23% (compared to 8% required by the EU's Capital Adequacy Directive), which is more a reflection of the limited role of the banks than of strong profitability. Indicators of bank efficiency are also high (e.g. return on equity: 6.23%), although the share of non-performing loans is rather high too. The sector's profitability is relatively low with a return on assets of approximately 1% (2004).

The share of the non-banking sector is very small and the absence of international investors is striking. So far, no investment funds have been established in the former Yugoslav Republic of Macedonia, probably due to insufficient political stability. The Macedonian Stock Exchange has some 62 listed companies with a total market capitalisation of some 16% of GDP. (See also Part 3, Chapter 9 – Financial services.)

The capacity to cope with competitive pressure and market forces within the Union

The ability to fulfil this criterion depends on the existence of a market economy and a stable macro-economic framework, allowing economic operators to make decisions in a climate of predictability. It also requires a sufficient amount of human and physical capital, including infrastructure. State enterprises need to be restructured and all enterprises need to invest to improve their efficiency. Furthermore, the more access enterprises have to outside finance and the more successful they are at restructuring and innovating, the greater will be their capacity to adapt. Overall, the more an economy is integrated with the Union before accession, the better it will be able to take on the obligations of membership. Both the volume and the range of products traded with EU Member States provide evidence of this.

The former Yugoslav Republic of Macedonia has succeeded in restoring economic stability but has failed to unleash the growth potential of the country. Despite negative external shocks from regional and ethnic conflicts, the authorities managed to stabilise the economy by the mid-1990s. Price stability has been achieved and public sector accounts are close to balance. The financial sector appears to be stable, although intermediation is very low. Privatisation is largely completed and prices and foreign trade are predominantly determined by market forces. The basic elements of the legal framework for a functioning market economy are to a large extent in place. However, the definition of property rights has not yet been completed and market entry and exit are impeded by non-transparent procedures, insufficient banking intermediation and slow administrative and judicial procedures. Overall, the pace of structural reforms has been slow, which has avoided social hardship but delayed structural adjustment and kept economic dynamics and job creation at low levels. The accumulation of high levels of unemployment is a result of insufficient flexibility of the legal and institutional framework and highlights the need to address the structural bottlenecks in the economy. Key challenges in this respect are improvement of the business environment by strengthening the rule of law and by augmenting institutional capacities, in particular law enforcement, auditing, governance and administrative capacity.

Overall, the educational level of the labour force has deteriorated during the last two decades. The educational system of the former Yugoslav Republic of Macedonia consists of four levels: (1) pre-school care and education, (2) primary education, (3) secondary education and vocational education and training (VET) and (4) tertiary education. The most frequently attained level of education is secondary education (ISCED level 4), which is reached by about 50% of the labour force. The majority in this group (some 65%) attend vocational training, which should offer education for non-academic careers. The share of university graduates in the labour force is about 15%. Education for adults is underdeveloped.

The enrolment ratio for primary education is high, which is reflected in relatively high literacy rates. However, insufficient investment in the higher levels of education during the last two decades has had a negative impact on the overall quality and relevance of education. Educational programmes have become outdated, with the result that graduates often enter the

labour market with out-dated skills which are of limited use for employers. As a result, unemployment rates among secondary school-leavers are high and job search periods are long. The bleak labour market prospects have resulted in an increase in the number of students. However, due to the unchanged resource endowment at universities, the student/teacher ratios have deteriorated, increasing from about 23 students per teacher in the early 1990s to about 30 students some 10 years later. International assessments of student competencies at various levels, such as PISA, point to the relatively low efficiency of the education system. Emigration of highly educated students is a serious problem. (*See also Part 3, Chapter 26 – Education and culture, and Chapter 19 – Social policy and employment.*)

The share of investment in GDP has been relatively low in recent years. During the period 1996-2004, gross fixed capital formation accounted for some 16 to 17% of GDP on average, which is low for a catching-up economy. This low share reflects the high degree of uncertainty and weak growth during the period. However, in order to modernise the economy, significantly higher investment ratios will be required. Public investment has been particularly low, as this category of expenditure has frequently been used to restrain public expenditures in view of tight deficit targets.

FDI inflows have remained very low in recent years. The main reasons for the reluctance of foreign investors seem to be related to political instability in the region, legal uncertainty and administrative barriers to foreign investment, but also the relatively high unit labour costs, resulting from low productivity. During the period 1996-2004, annual FDI inflows amounted to about 3% of GDP on average. In 2001 the telecommunication privatisation led to a peak in inflows at some 12% of GDP. In recent years the level of inflows has been at around 2% of GDP. In 2004 inflows increased to about 2.9% of GDP. One important impediment to FDI are cumbersome and bureaucratic procedures. In order to improve the business environment and to raise the country's attractiveness for FDI, the authorities plan to establish a one-stop shop, located at the central registry, for registration and licensing. A new Company Law is in preparation. Another measure to increase FDI inflows has been the establishment of an Agency for Investment Promotion, which has been operational since January 2005.

The quality of basic infrastructure appears to be in line with the income level of the economy. However, two decades of limited maintenance have led to degradation of the existing infrastructure network. The railway network suffers from underinvestment and overstaffing. Currently, the loss-making State-owned railway company MZ is in the process of being restructured with a view to possible privatisation. In early 2005, 755 of the more than 3 600 employees were laid off. However, further declines in employment appear necessary to match the productivity levels of comparable services. The restructuring plan envisages splitting the railway company into separate maintenance and transport units. The high-level road network is still in reasonably good shape. However, considering the country's position as a transit country, long-distance transport infrastructure is underdeveloped. The same holds true for transport connections within the Balkan region, which impede trade with neighbouring countries. In order to meet the challenges ahead, significant upgrading of the basic infrastructure would be necessary. Public research and development expenditure has remained significantly below 1% of GDP, with a continued decline from 0.4% of GDP in 2000 to 0.2% in 2003. (*See also Part 3, Chapter 14 – Transport policy, Chapter 21 – Trans-European networks, and Chapter 25 – Science and research.*)

Enterprise restructuring has been slow and insufficient. The degree of enterprise restructuring appears to have been very low, which is probably closely related to the privatisation approach,

favouring insider buy-outs and attempts to maintain existing structures. This helped to avoid economic volatility, but structural change has been relatively slow as a result. In the area of network industries, such as telecommunications, privatisation has led to foreign involvement, significant modernisation and increased competition. Preparations for the restructuring of the electricity and railway sectors seem to be relatively well advanced and should produce positive results in 2006. The most important development in this respect appears to have been the rapidly increasing number of SMEs. This might to some extent reflect the scarcity of the investment capital required for industrial restructuring.

The structure of the economy has diversified, albeit at a very slow pace. Like many other transition economies, the former Yugoslav Republic of Macedonia has experienced a shift in output generation, with a declining share of industry and an increasing contribution by services. The share of industry declined from some 29% of gross value added in 1997 to about 24% in 2003. At the same time, the contribution of services increased from some 51% of GDP in 1997 to about 56% in 2003. The most noteworthy development in this respect is the significant increase in trade and transport, which appears to reflect a comparative advantage of the country, being at the crossroads of important north-south and east-west trading routes. These sectoral shifts are also reflected in employment statistics. Industry's share of employment declined from 28% in 1997 to 25% in 2003, while trade's share of employment increased from 12.9% in 1997 to 14.7% in 2003.

The number of small firms has increased considerably, although their share in employment is still relatively low. The transition process has resulted in a considerable increase in the number of enterprises, partly as a result of the dismantling of previously large companies into smaller ones, but also to a larger extent due to new start-ups. The main increase in the number of enterprises occurred in the first half of the 1990s, soaring from approximately 2 000 in 1989 to about 33 500 in 1997. By 2003 their number had further increased to 39 199. At the same time, however, employment in these enterprises declined from 432 400 in 1989 to 283 142 in 1997 and 262 728 in 2003. The vast majority of the increase in the number of companies is due to small companies with up to 50 employees, which by 2003 accounted for 98% of all enterprises. The number of medium-sized and large companies remained fairly stable on around 600 or about 1.5% of all companies. However, these 1.5% employ about 58% of the labour force in industry and services. On average a small company employs 2.9 employees, while medium and large companies average 246.5 employees. The very small size of small companies and the low number of medium-sized enterprises could be an indication of difficulties to expand from start-ups to bigger enterprises. Lack of financial intermediation and insufficient experience and know-how in managing larger companies seem to be important bottlenecks. (See Part 3, Chapter 20 – Enterprise and industrial policy.)

The business environment appears to be one of the key weaknesses of the economy of the former Yugoslav Republic of Macedonia. Administrative procedures, such as licensing procedures, are perceived as cumbersome, unpredictable and slow. The costs of hiring and laying off employees are relatively high. The functioning of the judiciary is another weakness in this context. Moreover, small-scale corruption appears to be a serious problem, especially at the lower levels of administration. The process of obtaining licences appears to be easier for those with "good contacts". The weakness of the land registration system is another major impediment for investment.

Indirect State aid still leads to major distortions in market behaviour. The legal framework for State aid is defined by the country's international obligations stemming from its

membership of the WTO and national provisions allowing State aid in certain cases such as for social purposes (disaster compensation etc.), regional development and promotion of SMEs. No precise data on the actual volume of direct State aid are available at present. However, there are indications that indirect State aid, in the form of accumulated payment arrears of taxes and social security contributions, leads to significant distortion of the competitive position of enterprises in the market. Such indirect aid may well pose bigger problems than direct subsidies. (*See Part 3, Chapter 8 – Competition policy.*)

Labour productivity is relatively low, reflecting insufficient investment and a specialisation in industries with relatively low value-added. The level of labour productivity and the rate of increase in labour productivity have both remained low, reflecting weak output growth in combination with a fairly stable employment situation. Nominal value added per employee increased from some € 6 500 in 1996 to about € 8 300 in 2004. This is slightly higher than in neighbouring countries, but still some 10% lower than at the beginning of transition. However, looking at the period 1996-2004, average annual labour productivity growth was 1.9%, largely compensating for productivity losses during the first years of independence. Significant productivity gains were achieved in certain sectors of the economy. For example, in the mining industry labour productivity increased, on average, by some 8% each year, while in the transport sector labour productivity rose by some 7%. At the same time, real wage increases appear to have been above productivity levels, which led to a deterioration in unit labour costs. The real effective exchange rate (based on unit labour costs) depreciated in 1997 (due to the nominal devaluation by almost 16%) but has appreciated since then. In combination with deteriorating unit labour costs, this implies a considerable loss of price competitiveness.

Trade integration with the EU is moderate but increasing. In contrast to most other transition economies, trade integration with Western Europe was already relatively high when the country was part of the SFRY, while trade with other neighbouring countries (Bulgaria, Romania, Albania) was rather low. This trade pattern changed to some extent during the 1990s, partly due to regional conflicts. Trade with the EU-25, as a market with high purchasing power, has grown further in importance. The share of exports to the EU increased from 45.3% in 1999 to 54.7% in 2003 while the share of imports from the EU rose from 40.7% in 1999 to 43.7% in 2003. However, the commodity composition of exports is still highly concentrated on a few items, with textile and clothing products accounting for approximately 30% of total exports, and manufactured iron and zinc products some 25%. The increased trade integration with the EU reflects to some extent the impact of the Interim Agreement on Trade and Trade-Related Matters between the EU and the former Yugoslav Republic of Macedonia, which entered into force on 1 June 2001, and of the Stabilisation and Association Agreement, which entered into force on 1 April 2004, which have resulted in gradual and asymmetric liberalisation of trade in industrial and agricultural products between the EU and the country. (*See Part 3, Chapter 30 – External relations.*)

2.3. General Evaluation

In the former Yugoslav Republic of Macedonia there is a broad political consensus on the essentials of economic policies. The economy has achieved a high degree of macroeconomic stability, with low inflation, balanced public finances and low public indebtedness. Price and trade liberalisation, as well as privatisation, are largely completed. The financial sector appears to be stable. The labour force is equipped with sound basic education and the

country's endowment of transport and telecommunication infrastructure is fairly good. Economic integration with the EU is well advanced.

However, the functioning of the market economy is impeded by institutional weaknesses, such as the slow and cumbersome administrative procedures, shortcomings in the judiciary and limited progress in land and property registration. As a result, the business climate is not conducive to stimulating investment, particularly foreign direct investment, and growth. In addition, the functioning of the labour and financial market is deficient, which impedes the reduction of the particularly high unemployment and hinders credit provision to enterprises. Domestic and foreign investment has been insufficient, resulting in low productivity growth and a deterioration in competitiveness. The existence of a considerable informal sector leads to major distortions in the economy. The commodity structure of exports is unbalanced. At this stage, the economy would thus face major difficulties in sustaining competitive pressures in the single market. Addressing the identified weaknesses by proceeding with structural reforms should contribute to enhancing the functioning of the market economy and its competitiveness.

3. ABILITY TO ASSUME THE OBLIGATIONS OF MEMBERSHIP

The European Council in Copenhagen in June 1993 included among the criteria for accession “the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union”.

In applying for membership on the basis of the Treaty, the former Yugoslav Republic of Macedonia has accepted without reserve the basic aims of the Union, including its policies and instruments. This part of the Analytical Report examines the country’s capacity to assume the obligations of membership – that is, the legal and institutional framework, known as the *acquis*, by means of which the Union puts into action its objectives.

As the Union has developed, the *acquis* has become progressively more onerous and presents a greater challenge for future accessions than was the case in the past. The ability of the former Yugoslav Republic of Macedonia to implement the *acquis* will be central to its capacity to function successfully within the Union.

In this respect, alignment with the *acquis* is a necessary but not sufficient condition to meet the obligations of EU membership. The former Yugoslav Republic of Macedonia must also take all necessary measures to create the necessary implementing structures, to bring its administrative and judicial capacities to the required level and to ensure effective enforcement. An analysis and assessment of the country’s administrative and judicial capacities is therefore included in each of the chapters below.

3.1. Chapters of the *acquis*

This part of the Analytical Report follows the structure of the 33 negotiating chapters into which the *acquis* has been divided for the purpose of conducting accession negotiations. Each chapter examines the current situation and prospects in the former Yugoslav Republic of Macedonia. The description and analysis in each chapter starts with a brief summary of the *acquis* and mentions the provisions of the Stabilisation and Association Agreement where they are relevant. Finally, each chapter includes a brief assessment of the country’s ability to assume the obligations of membership in a medium-term perspective. For the purpose of this Analytical Report, and without prejudging any future date of accession, the medium-term perspective in the assessments has been defined as a period of five years.

Chapter 1: Free movement of goods

The principle of the free movement of goods implies that products must be traded freely from one part of the Union to another. In a number of sectors this general principle is complemented by a harmonised regulatory framework, following the “old approach” (imposing precise product specifications) or the “new approach” (imposing general product requirements). The harmonised European product legislation, which needs to be transposed, represents the largest part of the *acquis* under this chapter. In addition, sufficient administrative capacity is essential to notify restrictions on trade and to apply horizontal and procedural measures in areas such as standardisation, conformity assessment, accreditation, metrology and market surveillance.

The *Stabilisation and Association Agreement* (SAA) contains a number of obligations in the field of the free movement of goods, such as the establishment of a free trade area. This implies a gradual reduction or elimination of tariffs in trade between the parties. The SAA also provides for gradual alignment with Community technical regulations and standards as well as metrology, accreditation and conformity assessment procedures.

Regarding the **general principles**, the former Yugoslav Republic of Macedonia needs to make sure that its legislation, including distinctly as well as indistinctly applicable measures, is compatible with Articles 28–30 of the EC Treaty and the related jurisprudence of the European Court of Justice (with special emphasis on the principle of mutual recognition).

In the area of **horizontal and procedural measures**, the former Yugoslav Republic of Macedonia adopted new legislation on standardisation, accreditation and metrology in 2002. Gradual harmonisation with the principles of the *new and global approach* has also been sought by adopting a new law on technical requirements for products and conformity assessment.

In the area of *standardisation*, the framework law has been in force since July 2002. The new principles underpinning work on standardisation are voluntary use of standards, transparency, consensus and public availability. There are currently 11 610 Macedonian standards. Most of these standards are compulsory, since they were adopted under the Law on Standardisation of 1995 and have not been repealed yet. So far only five European standards (ENs) have been adopted as national standards of the former Yugoslav Republic of Macedonia.

The Institute for Standardisation of the Republic of Macedonia (ISRM) is a member of the International Organisation for Standardisation (ISO) and an associate member of the International Electrotechnical Commission (IEC) as well as an affiliate member of the European Committee for Standardisation (CEN) and the European Committee for Electrotechnical Standardisation (CENELEC). ISRM was planning to apply for membership of the European Telecommunications Standards Institute (ETSI) during the first half of 2005. It is estimated that ISRM will need five to six years to achieve full membership of CEN and CENELEC.

A work programme for the adoption of EN standards, including a database of harmonised standards, is being drafted with the participation of technical committees and should accompany the transposition of the sectoral new and global approach directives. However, no timetable seems to be available at the moment.

Future work will address reinforcement of human resources in the ISRM, provision of new information technology equipment and the establishment of technical committees. The current ISRM staffing level of 12 is clearly insufficient. The present number of technical committees is twenty, involving more than 200 national experts. The establishment of another forty technical committees is planned in order to adopt the European standards as national standards of the former Yugoslav Republic of Macedonia. Additional financing is needed for increasing the number of personnel, organising training, enhancing IT capabilities as well as transposing European standards to national standards.

The Institute for *Accreditation* of the Republic of Macedonia (IARM) is a public, non-profit body established by the Law on Accreditation. It applied for associate membership of the European Co-operation for Accreditation (EA) in October 2004.

Functioning *conformity assessment* infrastructure still needs to be established. A network of independent conformity assessment bodies should be developed. There is an inherited network of laboratories, certification and inspection authorities, whose status has been based on the old legal framework and old principles of approval, authorisation and accreditation. In future they will be accredited in accordance with the Law on Accreditation and the relevant international and European standards. Approximately 30 accreditation applications have been submitted so far; no bodies have yet been accredited on the basis of the new legislation. Legislation concerning designation and notification of conformity assessment bodies is also required; the relevant authorities should be identified and their tasks and procedures regulated.

A new Law on Product Safety is under preparation. This Law would transpose the general Product Safety Directive (*see Chapter 28 - Consumer and health protection*). It would also include general provisions concerning technical requirements for products, conformity assessment procedures, CE marking as well as market surveillance. The new law aims to address the shortcomings of the 2002 Law on Prescribing Technical Requirements for Products and Conformity Assessment.

The *Metrology* Law is the framework law in the field of metrology and also establishes a Bureau of Metrology within the Ministry of Economy. The current metrological infrastructure is entirely oriented towards legal metrology. In certain areas that are not traditional for legal metrology, the existing scientific metrology (seismology, genetics and biochemistry) needs to be integrated into the metrology system. Traceability of the measuring instruments through the Bureau of Metrology is difficult to ensure due, in particular, to inadequate equipment and insufficient technical personnel. A special government regulation on approved laboratories has introduced a partnership agreement with the Bureau of Metrology. This is a temporary arrangement for a maximum of three years and will be repealed when the new system of asserting the competence of laboratories, calibration, certification and inspection bodies has been implemented.

The former Yugoslav Republic of Macedonia has a system ensuring that products meet mandatory technical requirements before entering the market. The system is based on the Law on Market Inspection of 1997 and the Consumer Protection Law of 2004. The *market surveillance* structure required under the new approach still needs to be developed and the pre-market controls need to be phased out. The draft Law on Product Safety and the draft Law on Market Surveillance should contribute to creating a more comprehensive market surveillance system.

At present, the State Market Inspectorate functioning under the Ministry of Economy is the main body responsible for market surveillance, but a number of other authorities are also active in this area. An information exchange network between them is under development, as well as a co-ordination body for all market surveillance activities. Public or outsourced laboratories will need to be made available to market surveillance authorities.

The former Yugoslav Republic of Macedonia has not yet transposed the vast majority of **sector-specific legislation**. As regards sectors covered by the *old approach directives* major

discrepancies from the *acquis* remain to be addressed, e.g. in the field of motor vehicles. Legislation regarding cosmetics, pre-packaging, textiles, footwear, medicinal products for human use, medicinal products for veterinary use, chemicals, glass and wood will also need to be aligned.

In areas covered by the *new and global approach directives*, the former Yugoslav Republic of Macedonia has not yet transposed the vast majority of directives. At this stage it has only adopted legislation aiming at alignment in the field of safety of toys and a new Law on Construction, which entered into force in June 2005. The *acquis* on low-voltage equipment, electro-magnetic compatibility, machinery, simple pressure vessels, appliances burning gaseous fuels, hot water boilers, medical devices, in vitro diagnostic medical devices, lifts, energy efficiency requirements for household electric refrigerators, freezers and their combinations, recreational craft, radio and telecommunications terminal equipment, non-automatic weighing instruments, pressure equipment and personal protective equipment is to be transposed first.

Regarding **procedural measures**, the former Yugoslav Republic of Macedonia has not yet transposed the directive on provision of information in the field of technical standards and regulations. External border checks on imported products are performed by the State Market Inspectorate and the State Sanitary and Health Inspectorate. Before the customs procedure starts, these inspectorates inspect the declarations and instructions for use accompanying the product. A procedure needs to be established whereby the customs authorities can check products in accordance with Community legislation.

The Law on Protection of Cultural Heritage, which entered into force at the beginning of 2005, aims to harmonise the legislation of the former Yugoslav Republic of Macedonia with the directive on the *return of cultural objects* unlawfully removed from the territory of EU Member States. The country has also acceded to a number of relevant international conventions in this field. As regards civil *firearms*, a new Law on Weapons was adopted in January 2005 aiming at harmonising the national legislation with the *acquis*.

Conclusion

Although the former Yugoslav Republic of Macedonia has taken first steps to harmonise its national legislation with the principle of free movement of goods, most elements of the *acquis* are not yet in place.

In particular, **horizontal and procedural measures** and **product legislation** need to be harmonised with EU legislation. Framework legislation on technical regulations for products and conformity assessment procedures needs alignment with the *acquis*. The basic separation of standardisation, accreditation and metrology functions has been established, but further implementing measures are necessary. Existing implementing structures must be improved and new implementing structures will also have to be established (e.g. for standardisation, conformity assessment and market surveillance). Administrative capacities must be reinforced. Major efforts towards transposition of directives will be necessary.

Overall, in the field of free movement of goods, the former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term. However, the country might

not be able to comply with the requirements for membership of CEN and CENELEC in the medium term unless efforts are speeded up.

Chapter 2: Freedom of movement for workers

The *acquis* under this chapter provides that EU citizens of one Member State have the right to work in another Member State. EU migrant workers must be treated in the same way as national workers in relation to working conditions, social and tax advantages. This *acquis* also includes a mechanism to co-ordinate national social security provisions for insured persons and their family members moving to another Member State.

Concerning **access to the labour market**, current legislation in the former Yugoslav Republic of Macedonia requires EU citizens to apply for a work permit (pursuant to the Law on Conditions for Employment of Foreign Nationals). No distinction is made between EU nationals and other foreign nationals in this respect. Further, all foreign nationals who have obtained a permanent residence permit in the former Yugoslav Republic of Macedonia will be issued with a work permit of the same validity. The same applies to migrant workers holding temporary residence permits.

By the time of its accession to the EU, the former Yugoslav Republic of Macedonia must have implemented the *acquis* on freedom of movement of workers. The national law will have to ensure that EU nationals will be able to look for and take up work in the former Yugoslav Republic of Macedonia without any restriction and without being subject to a work permit scheme. The law will also have to ensure that EU nationals who have made use of their right to take up employment have the right to reside in the country.

Furthermore, the national law will have to secure the right of family members to reside in the country, the right of family members to take up employment or self-employment, and the right of children of Community workers to be admitted to educational institutions under the same conditions as the nationals of the former Yugoslav Republic of Macedonia.

As regards employment in the public sector, currently only nationals of the former Yugoslav Republic of Macedonia can be civil servants. The legislation will have to be adapted to take account of the *acquis* (including, in particular, the case law) on employment in public services and exercise of public authority.

Concerning the future participation of the former Yugoslav Republic of Macedonia in the European Employment Services (**EURES**) network, along with ensuring the language skills of potential EURES advisers, attention should be paid to preparations for connection to the European Job Mobility Portal to ensure the availability of all job vacancies displayed on the Public Employment Services website.

As regards the **co-ordination of social security systems**, the social security system in the former Yugoslav Republic of Macedonia includes all traditional branches of social security which come within the scope of Community co-ordination rules. The system includes benefits and characteristics similar to those included in the systems of many Member States of the European Union. It is based on the principle of compulsory insurance in the country of work and contains clear definitions of employed and self-employed persons as well as of family members. The country's social security legislation does not provide for any discriminatory treatment with regard to nationals from other countries.

The Pension and Disability Insurance Fund, the Health Insurance Fund, and the Employment Agency will be responsible for applying the Community provisions in the field of the co-ordination of social security systems. The former Yugoslav Republic of Macedonia has already gained some experience in this field from the application of its bilateral social security agreements with Member States, which are normally based on the same principles as the Community co-ordination rules. Over the last few years the country has concluded eight bilateral social security agreements with other countries, including three Member States. Furthermore, it has taken over old social security agreements concluded by ex-Yugoslavia with thirteen Member States.

The development of sufficient administrative capacity in order to fully apply Regulations 1408/71 and 574/72 as from accession will be the greatest challenge for the country in this field. In addition, preparatory measures are required for the introduction of the European Health Insurance Card.

Conclusion

Overall, the former Yugoslav Republic of Macedonia will have to make further efforts in the field of movement for workers in the medium term. In particular, sufficient administrative capacity will need to be developed to implement EU rules on the co-ordination of social security systems.

Chapter 3: Right of establishment and freedom to provide services

Member States must ensure that the right of establishment of EU natural and legal persons in any Member State and the freedom to provide cross-border services is not hampered by national legislation, subject to the exceptions set out in the Treaty. The *acquis* also harmonises the rules concerning regulated professions to ensure the mutual recognition of qualifications and diplomas between Member States; for certain regulated professions a common minimum training curriculum must be followed in order to have the qualification automatically recognised in an EU Member State. As regards postal services, the *acquis* aims at opening up the postal services sector to competition in a gradual and controlled way, within a regulatory framework which assures a universal service.

The *Stabilisation and Association Agreement* provides for the gradual liberalisation of the right of establishment and the supply of services between the EU and the former Yugoslav Republic of Macedonia.

As regards the **freedom of establishment**, the country's regulatory framework needs to be adapted so as to ensure that remaining barriers for natural and legal persons from the EU are abolished. The Company Law regulates the establishment of trade companies and their subsidiaries and does not discriminate against subsidiaries of foreign companies, as regards their rights and obligations. Under the Law on Movement and Residence of Foreigners and the Law on Terms for Establishing Working Relations with Foreign Citizens, the employment of foreigners is conditional on obtaining a work permit, which is the pre-condition for approval of temporary residence. Such preconditions would have to be eliminated to ensure compliance with the *acquis*.

As regards the **freedom to provide services**, the former Yugoslav Republic of Macedonia will need to remove barriers to the provision of cross-border services by EU natural and legal persons. Its legislation makes no distinction between foreign operators providing services on a temporary basis and those providing services through a permanent establishment. For example, the Company Law requires that foreign operators must establish either a subsidiary or a branch in order to provide services in the country. Such a requirement is incompatible with the *acquis*. In addition, a wide range of economic activities are regulated and additional permits are required to exercise them, including reciprocity requirements or other limitations. The justification of such licensing systems will have to be assessed in detail to ensure that their aims, scope and practical application are compatible with the *acquis*, and all incompatible measures will have to be amended or repealed.

In the area of **mutual recognition of professional qualifications**, the scope of the regulated professions in the country seems to include the professions covered by EU Directives on the co-ordination of training. Adjustments to the legal framework will be necessary to achieve compliance with the *acquis*, e.g. as regards curricula for minimum training requirements. It will also be necessary to abolish all nationality, residence and linguistic requirements as well as reciprocity clauses. Regarding mutual recognition, the country's legislation provides only for the recognition of foreign higher education qualifications, not of foreign professional qualifications. Recognition of foreign qualifications is based on the Law on Higher Education and is performed by expert commissions established within the relevant higher educational institutions. It is unclear to what extent this recognition gives access to regulated professions in practice, and in any case it would only cover higher education qualifications. The country will have to establish administrative structures and procedures to allow specifically the mutual recognition of professional (as opposed to higher education) qualifications.

The legal framework for **postal services** is based on the Law on Postal Services, which was adopted in 2002 and could not, therefore, take into consideration the amendments to the Postal Directive of the same year. The Law already approximates the country's legislation to the *acquis* to some extent. Nevertheless, significant divergences remain, notably in relation to some aspects of the universal service, authorisation and notification procedures, reserved area, accounting principles, price regulation in the field of universal service, and the quality of service requirements. No independent national regulatory authority currently exists and the Ministry of Transport and Communications acts as the regulatory authority. It is therefore not clear how operational independence from the Universal Service Provider can be ensured. Once an independent national regulatory authority in the field of postal services is established, adequate resources will need to be provided to ensure its effective functioning.

Conclusion

Barriers to establishment or provision of cross-border services by natural or legal persons from the EU need to be abolished. Legislation for the recognition of foreign professional qualifications needs to be adopted and administrative structures and procedures need to be established for this purpose. A postal policy based on the postal directives needs to be adopted.

Overall, the former Yugoslav Republic of Macedonia will have to make further efforts to align its legislation with the *acquis* in these areas and to effectively implement and enforce it in the medium term.

Chapter 4: Free movement of capital

Member States must remove, with some exceptions, all restrictions on the movement of capital, both within the EU and between Member States and third countries. The *acquis* also includes rules concerning cross-border payments and the execution of transfer orders concerning securities. The directive on the fight against money laundering and terrorist financing requires banks and other economic operators, particularly when dealing in high-value items and with large cash transactions, to identify customers and report certain transactions. A key requirement to combat financial crime is the creation of effective administrative and enforcement capacity, including co-operation between supervisory, law enforcement and prosecutorial authorities.

The *Stabilisation and Association Agreement* sets out a timetable for capital liberalisation in the years following its ratification. It also provides for freedom and convertibility of current account payments and transfers.

With regard to **capital movements and payments**, the former Yugoslav Republic of Macedonia assumed the obligations of Article VIII of the IMF Articles of Agreement and hence full current account convertibility in June 1998. Over the period 1996-2004 total foreign direct investment amounted to about € 1 billion. Most of these inflows originated in EU-25 (84% during the same period). Approximately 47% of the banking system (in terms of assets) is in foreign hands.

The Law on Foreign Exchange Operations, in force since October 2002, aligns definitions with the *acquis* and provides a framework for progressive capital liberalisation. Direct investments by non-residents in the country are liberalised, except in a few specific fields (military industry; natural, cultural and historical treasures; trade in arms; trade in narcotics). Portfolio investment is partially liberalised. Inward investment in real estate by non-residents is subject to the provisions of special laws or an international agreement on condition of reciprocity. Under the special laws, foreign nationals may not acquire property rights in construction and agricultural land or forest ownership. In addition, investment in real estate is hampered by the serious weakness of the country's land registration system.

Alignment with the *acquis* will also be required in the areas of investment rules for institutional investors (e.g. pension funds), special rights of the government in privatised companies (e.g. Macedonian Telecommunications), as well as the elimination of the remaining restrictions on short-term capital movements.

As regards **payment systems**, the Law on Foreign Exchange Operations and a Decision of the National Bank establish the basic rules for cross-border payment operations. However, further alignment will be necessary, e.g. concerning ex-ante information requirements and compensation arrangements. The former Yugoslav Republic of Macedonia must also establish effective complaints and redress procedures for the settlement of disputes related to cross-border transfers. The country is apparently making a commendable effort to adopt the basic principles of the EC Directive on Settlement Finality in the current revision of its Bankruptcy Law.

The former Yugoslav Republic of Macedonia has built up an **anti-money laundering** framework in recent years. A new Law on the Prevention of Money Laundering, including a

wide range of entities and also regulating the area of terrorist financing, entered into force in December 2004. In general, the Law is aligned with the existing EU directives, although some differences remain to be addressed. For example, in the event of legal privilege the Law exempts legal professions from all obligations, including the reporting obligation, the identification requirement and the record-keeping obligation, whereas the *acquis* creates an exemption from the reporting obligation only when the legal position of a client is ascertained. Furthermore, the Law also needs alignment with the recommendations of the Financial Action Task Force. The former Yugoslav Republic of Macedonia ratified the Council of Europe Convention on Money Laundering in 2000 and the UN Convention for the Suppression of the Financing of Terrorism in 2004. Money laundering is considered a criminal offence and all crimes under the country's legislation are predicate offences. However, prior conviction for the underlying offences is needed, which hampers the prosecution of money laundering offences. It is unclear whether anonymous accounts and anonymous pass books are forbidden.

The enforcement record of the country's anti-money laundering defences is a cause for concern, in particular since the effectiveness of anti-money laundering defences is seriously hampered by corruption and the high level of cash transactions.

Awareness of the fight against money laundering among reporting institutions as well as feedback to reporting entities seem limited. Most reports of suspicious transactions are submitted by banks, while other entities subject to the Law hardly report. Whether reporting entities meet their obligations, such as to identify and verify clients, to report, and to train members of staff, is difficult to ascertain as supervision of non-banking institutions is still under development. Infringements of obligations under the Law can be sanctioned, but it is not clear whether these sanctions are dissuasive.

The Financial Police is a law enforcement agency within the Ministry of Finance which collects information and investigates financial crime, including money laundering. It needs further strengthening in terms of staff, equipment and training. The Financial Police is supported by the Directorate for Prevention of Money Laundering (DPML), an administrative unit of the Ministry of Finance which acts as the country's financial intelligence unit (FIU). The DPML, which has no investigative power, acts as an interface between the entities subject to the Law and law enforcement institutions such as the Financial Police, the Ministry of Interior and the Prosecutor's Office. Large cash transactions are recorded. Clarification of the roles of the various enforcement institutions seems necessary.

The position of the DPML has been strengthened in recent years. Amongst other measures, insufficiencies in technical and human resources have been largely overcome and co-operation with neighbouring countries has been established. Against this background, the DPML has obtained membership of the Egmont Group.

So far there have been no prosecutions, convictions, confiscations or seizures in the area of money laundering while the number of investigations remains very low. This seems to be due, in particular, to problems with proving the predicate offences, lack of know-how, lack of resources, lack of experience and corruption. Furthermore, the possibilities to freeze, seize and confiscate need further improvement.

Although institutional measures have been taken to facilitate co-operation between the DPML, supervisors and law enforcement bodies within the former Yugoslav Republic of

Macedonia, such co-operation needs further enhancement. The former Yugoslav Republic of Macedonia has signed Memoranda of Understanding that enable co-operation with its main neighbours (except Greece). However, so far no request for mutual legal assistance has been received. Co-operation and exchange of information with other countries need to be significantly strengthened.

Conclusion

Overall, the former Yugoslav Republic of Macedonia will have to make further efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the area of capital movements and payments in the medium term. The country has made progress on the establishment of anti-money laundering defences. However, legislation needs further alignment with international standards and enforcement of the legislation remains very weak.

Chapter 5: Public procurement

The *acquis* on public procurement includes general principles of transparency, equal treatment, free competition and non-discrimination. In addition, specific EU rules apply to the co-ordination of the award of public contracts for works, services and supplies, for traditional contracting entities and for special sectors. The *acquis* also specifies rules on review procedures and the availability of remedies. Specialised implementing bodies are required.

The *Stabilisation and Association Agreement* stipulates that Community companies established in the former Yugoslav Republic of Macedonia shall have access to contract award procedures in which they must be treated no less favourably than national companies as of 1 April 2004. At the latest as of 1 April 2009 the same will hold true for Community companies not established in the country.

Whereas the **general principles** applying to public procurement in the internal market seem to be implemented, not all the provisions of the public procurement directives have been transposed yet.

The main legal act governing the **award of public contracts** is the Law on Public Procurement adopted in March 2004. A significant number of implementing measures have also been adopted in 2005 and operational tools, such as standard bidding documents, are being developed. The legislation of the former Yugoslav Republic of Macedonia seems largely consistent with the *acquis* in the classical sectors (supplies, works and services), although certain further amendments will be required. Legislative alignment in the utilities sector still seems at an early stage. Moreover, the legislation would have to be amended to take into account the new directives adopted in 2004. The same applies to concessions which are governed by a separate law of 2002. As regards the modernisation of the Law on Public Procurement, preparatory activities have been initiated.

As regards *administrative capacity*, the Law on Public Procurement provides for the establishment of a Public Procurement Bureau with responsibility *inter alia* for monitoring implementation of this Law, for developing standard tender documentation, and for issuing operational tools for the use of contracting authorities. In May 2004 a Sector for Public Procurement was established within the Ministry of Finance to serve as a basis for setting up

the Public Procurement Bureau (PPB). The Director of the PPB was recently appointed and activities are currently underway to establish the PPB's organisational structure and staffing levels, as well as to define its internal procedural rules. This is a necessary precondition for achieving professional and fair handling of tenders.

As to the **remedies** system, there are two levels of administrative review: by the public procurement commission of the contracting entity and by the Appeals Commission for Public Procurement within the government. The decisions of the Appeals Commission are open to judicial review. Although the legislation in the former Yugoslav Republic of Macedonia seems broadly consistent with the Remedies Directive, some important issues will have to be addressed. In particular, the legislation restricts the range of parties that may have recourse to remedies; the two-day deadline for the submission of complaints also appears excessively short. The effectiveness of the system will have to be significantly enhanced in order to ensure fair competition and deter corruption and fraud.

Conclusion

While the current situation provides a starting point to develop an effective public procurement system, the country will have to make considerable and sustained efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term.

Chapter 6: Company law

The company law *acquis* includes rules on the formation, registration, merger and division of companies. In the area of financial reporting, the *acquis* specifies rules for the presentation of annual and consolidated accounts, including simplified rules for small- and medium-sized enterprises. The application of International Accounting Standards is mandatory for some public interest entities. In addition, the *acquis* specifies rules for the approval, professional integrity and independence of statutory audits.

The former Yugoslav Republic of Macedonia took an important step towards approximation of its legislation with that of the EU with the adoption of the new **Company Law** in May 2004. Minimum capital requirements are laid down by law and there are safeguard clauses for the protection of authorised capital. Various obligations exist for the protection of creditors. The right of information is one of the fundamental rights of shareholders, and rules to protect minority shareholders are well developed, although enforcement remains to be tested in practice. Companies are required to publish information about major decisions affecting them. In general, this legal framework provides a good basis for further alignment with the company law *acquis*.

As regards *administrative capacity*, for the time being the key role in registration of companies is played by three regional courts (in Skopje, Bitola and Štip). The registration procedure is extremely complex and the average time necessary for registration from the day of application to the final registration of a trade company exceeds 50 days. The level of computerisation and information systemisation is rather low. About one third of companies failed to file annual financial reports in recent years. It is envisaged that in the course of 2005 and 2006 the courts' responsibilities will be gradually transferred to the Central Registry (an administrative entity with 30 local offices), which would be responsible for the establishment of a "one-stop-shop" system and for giving each company a unique ID number. There are also

plans to fully systemise and computerise the company-related information system. These plans constitute essential steps to improve the country's business environment and should be implemented as soon as possible.

Faster and more effective procedures for the registration of companies and of representative offices of foreign companies, respectively, are expected to result from the recent adoption of the Law on the One-Stop-Shop System and the Maintenance of the Trade Register and the Register of Other Legal Entities and of the Decree on the Procedure for Entry and the Body Competent for Registration of Representative Offices of Foreign Companies.

The main legal acts in the area of **corporate accounting** are the Company Law of 2004 and the Rulebook for Accounting Standards (adopted before the new Company Law). International Accounting Standards (IAS) have generally not been implemented yet, although a translation is available and the Company Law stipulates that financial reports for 2005 should be prepared in accordance with them. There are specific accounting rules for banks and insurance companies. The Company Law empowers the Ministry of Finance to issue regulations concerning the accounts of companies that do not apply IAS, i.e. small companies, although no such regulations have been issued so far. Under the Company Law, all large and medium-sized joint stock companies and limited liability companies, as well as listed companies, must subject their financial reports to a statutory audit. Any company that has a controlling influence over one or more companies is obliged to produce consolidated accounts in accordance with IAS. All consolidated accounts must be audited.

As regards *administrative capacity*, an Accounting Standards Committee was established in 1997 to monitor, harmonise and explain International Accounting Standards. However, the Committee was not yet operational in mid-2005. Enforcement of accounting and financial reporting requirements has been weak and the quality of financial statements has consequently suffered. None of the relevant public authorities has the capacity to ensure that disclosure and financial reporting requirements are met. Enforcement should therefore be addressed as a matter of priority.

The main legal act in the area of **auditing** is the new Law on Audit, enacted by Parliament in September 2005. The new Law seems to introduce a modern regulatory framework, including requirements for auditor independence and audit quality assurance. In order to be approved, auditors must have obtained an appropriate higher education qualification and minimum professional experience of between three and five years (depending on the area of experience), as well as passing a professional examination organised by the Ministry of Finance, the quality of which has increased since 2002. The new Law introduces requirements for continuing professional education. Although the 1998 IFAC code of ethics was published by the Ministry of Finance, there have been persistent concerns about auditor independence, which does not appear to meet the standards in the Commission recommendation on auditor independence of May 2002. Effective implementation of the new Law should address this issue.

As regards *administrative capacity*, the Ministry of Finance is currently responsible for the authorisation of auditors. 20 audit companies have been licensed and 136 auditors have been authorised so far, although not all are in public practice. The new Law on Audit provides for transfer of most of the Ministry's powers in this area to an independent public oversight body (Council for Promotion and Supervision of Audit) and to a professional association of auditors (Institute of Authorised Auditors). Implementation of these provisions is expected to

strengthen the regulation and public oversight of the auditing profession. The supervisory body should be properly resourced and have the capacity to ensure the development of the profession in line with best international practices. The International Standards of Audit were last published in the Macedonian language in 2004. In general, enforcement of audit standards and audit quality need to be further strengthened.

Conclusion

The new Company Law and Law on Audit constitute positive steps in the legislative area, but effective implementation is now required. There is an urgent need to pursue reforms of the company registration process in order to reduce the complex and lengthy procedures. Attention should also be paid to the enforcement of disclosure requirements. Enforcement of financial reporting requirements needs to be improved in order to ensure reliable corporate financial reporting, which will require determined efforts to strengthen administrative capacity. Proper management of the audit profession needs to be ensured.

Overall, the former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its legislation with the *acquis* in the area of company law and, in particular, to effectively implement and enforce it in the medium term.

Chapter 7: Intellectual property law

The *acquis* on intellectual property rights specifies harmonised rules for the legal protection of copyright and related rights. Specific provisions apply to the protection of databases, computer programs, semiconductor topographies, satellite broadcasting and cable retransmission. In the field of industrial property rights, the *acquis* sets out harmonised rules for the legal protection of trademarks and designs. Specific provisions apply to biotechnological inventions, pharmaceuticals and plant protection products. The *acquis* also establishes a Community trademark and Community design. Finally, the *acquis* contains harmonised rules for the enforcement of both copyright and related rights as well as industrial property rights. Adequate implementing mechanisms are required, in particular effective enforcement capacity.

The *Stabilisation and Association Agreement* imposes an obligation on the former Yugoslav Republic of Macedonia to guarantee, by June 2006, a level of protection of intellectual, industrial and commercial property rights similar to that existing in the Community, including effective means of enforcing such rights. This obligation covers, *inter alia*, copyright, including copyright on computer programs, and neighbouring rights, the rights related to databases, patents (including supplementary protection certificates), industrial designs, trademarks and service marks, topographies of integrated circuits, geographical indications, including appellations of origin, as well as protection against unfair competition as referred to in Article 10a of the Paris Convention for the Protection of Industrial Property and the Protection of Undisclosed Information on Know-How.

The former Yugoslav Republic of Macedonia acceded to the WTO in April 2003 and, hence, is a party to the TRIPs Agreement. It is also a party to some of the main international agreements in this area, such as the Berne Convention (Protection of Literary and Artistic Works), the Paris Convention (Protection of Industrial Property) and the Rome Convention (Protection of Performers, Producers of Phonograms and Broadcasting Organisations). It

acceded to the WIPO Copyright Treaty in 2003 and to the WIPO Performances and Phonograms Treaty in 2004. The country intends to accede to the Patent Law Treaty and the Trademark Law Treaty. It has signed an extension agreement with the European Patent Organisation. Existing legislation provides for measures to prevent and control the import of counterfeited and pirated products, including the new Law on the Customs Administration, which further aligns the country's legislation with the *acquis*. Intellectual and industrial property cases are dealt with by ordinary courts, which often have insufficient capacity to effectively enforce legislation in this area.

As regards **copyright and related rights**, the main legal act is the Law on Copyright and Related Rights of 1996, most recently amended in January 2005, which also covers the protection of databases and of satellite broadcasting and cable retransmission. This law seems to bring the legislation further into line with the *acquis*. There is a specific law covering the protection of semiconductors.

However, collective rights management and enforcement are lagging behind the legal framework. Efforts need to be stepped up to give right-holders the means to enforce their rights and to combat piracy.

As regards **industrial property rights**, the main legal act is the Law on Industrial Property of 2002, most recently amended in 2004. A number of implementing regulations (covering patents, industrial designs, trademarks, etc.) were adopted in March 2004. Pharmaceuticals and chemicals are patentable, but there are no specific rules regarding biotechnological inventions, and computer programmes are not patentable. Rules for issuing supplementary protection certificates were adopted in December 2004 and appear to be largely in line with the *acquis*, although further legislative changes are necessary in this area.

The Industrial Property Protection Office (IPPO) is the body responsible for registering applications for patents, designs and trademarks (as well as geographical indications). The Action Plan to implement the European Partnership envisages several measures to strengthen the administrative capacity of the IPPO.

The Geneva Act of the Hague Agreement Concerning the International Deposit of Industrial Designs has been adopted.

Regarding **enforcement**, there are no reliable statistics which would allow accurate assessment of the level of piracy and counterfeiting in the former Yugoslav Republic of Macedonia. Following the latest amendment of the Law on Copyright and Related Rights, the State Market Inspectorate is now competent to enforce the Copyright Law. The new Law on Customs Measures for the Protection of Intellectual Property Rights and the Law on Enforcement are designed to give the State Market Inspectorate competence to enforce industrial property rights as well. The police and the Ministry of Culture are also active in these areas. In addition, the new Law on the Customs Administration, adopted in 2005, has further regulated the duties of customs officers in cases of violation of intellectual property rights. From June 2005, customs officers have the right to confiscate pirated goods *ex officio*. Until then, they could only take action upon complaint, which rendered them inactive.

A Co-ordinating Body for Copyrights and Other Related Rights was established by the Ministry of Culture in May 2003 but has no decision-making powers. In June 2004 the Government asked it to prepare an awareness-raising and education programme on

copyrights, as well as an Action Plan for the effective implementation of those rights. It would be useful to create a web-based tool for exchange of information between enforcement bodies.

Seizures of pirated and counterfeited goods remain limited, especially at the border. Moreover, while criminal laws and intellectual and industrial property laws permit the seizure and destruction of equipment used to make pirated goods, law enforcement bodies reportedly fail to do so in practice. There have been only a small number of court decisions concerning intellectual and industrial property rights, mainly in civil cases. The full range of possible criminal sanctions has not been used in practice over the past few years. The sanctions that have been applied have not had a dissuasive effect, as prices of some pirated goods (notably CDs) have further declined in recent years.

Despite recent improvements in some sectors, such as increasing use of legal business software in the public sector, copyright enforcement remains weak. This is partly due to the fact that inspectors, police officers, prosecutors and customs officials lack the necessary equipment and expertise to detect and prosecute infringements.

To ensure proper enforcement of the legislation, the country's constitutional order would need to be changed, without prejudice to the right of judicial review, so that the State Market Inspectorate, the police and other enforcement bodies could impose fines or other sanctions directly, without having to pass through the courts.

Conclusion

The former Yugoslav Republic of Macedonia has made significant efforts to align its legislation with the *acquis*. However, effective enforcement of intellectual and industrial property rights is a key challenge which should be addressed through a combination of political determination and the allocation of adequate human, financial and technical resources, especially at the level of collective rights management, law enforcement, prosecution and the judiciary. Unless such steps are taken, the country might not be able to comply with the requirements of the *acquis* in the medium term.

Chapter 8: Competition policy

The competition *acquis* covers both anti-trust and state aid control policies. It includes rules and procedures to fight anti-competitive behaviour by companies (restrictive agreements between undertakings and abuse of dominant position), to scrutinise mergers between undertakings, and to prevent governments from granting state aid which distorts competition in the internal market. Generally, the competition rules are directly applicable in the whole Union, and Member States must co-operate fully with the Commission in enforcing them.

The *Stabilisation and Association Agreement* provides for a competition regime to be applied in trade relations between the EU and the former Yugoslav Republic of Macedonia based on the criteria of Articles 81 and 82 of the EC Treaty (agreements between undertakings, abuses of dominant position), Article 86 (public undertakings and undertakings with special or exclusive rights) and Article 87 (State aid). An operationally independent public body must be entrusted with the powers necessary for the full application of this competition regime. Furthermore, the Agreement stipulates specific State aid disciplines for the steel sector,

including the obligation for the country to present a restructuring and conversion programme for its steel industry to the Commission.

In the **antitrust sector**, a new Law on Protection of Competition has been in force since January 2005. It reflects the *acquis* in this area and covers all sectors. Secondary legislation incorporating the Community's regulations on block exemptions, *de minimis* rules and mergers is under preparation. The Law provides for both block exemptions and individual exemptions from the prohibition of restrictive agreements. The limitation period for the prosecution of cartels is only two years and needs to be brought into line with EU rules (five years). The definition of professional secrecy also needs to be aligned as it is currently left to undertakings themselves to define what falls under this term. The Law should provide that undertakings have to justify claims for confidentiality in the light of objective standards. Because of constitutional requirements, fines can be imposed only by a court upon an application by the Commission for Protection of Competition (CPC). To ensure proper enforcement of the legislation, the country's constitutional order would need to be changed, without prejudice to the right of judicial review, so that the CPC could impose fines or other sanctions directly, without having to pass through the courts. This is particularly important in view of the possibility that court backlogs, in combination with short limitation periods, could make the imposition of fines only a theoretical possibility.

As regards *administrative capacity*, the CPC is in charge of implementing the Law on Protection of Competition. Its five members were elected by Parliament in February 2005. The CPC is independent and answerable only to Parliament. The number of staff is insufficient for the time being. It remains to be seen whether the staffing will be adequate to deal with the changing case load under the new Law. In view of the new legal and institutional set-up, the institutional capacity of the CPC needs to be reinforced through support for education and training, as well as through the development of procedures and mechanisms for institutional communication between the CPC, sectoral regulators, the State aid authority, government entities and consumer associations. In addition, investigation procedures need to be strengthened, clear guidelines and interpretations of competition law developed, and transparency and accountability promoted through information dissemination, public awareness campaigns and publication of cases solved and decisions made.

Given the recent entry into force of the legal framework, there is not yet sufficient information concerning the *enforcement record* of the CPC, although it has taken a number of decisions under the old competition legislation (15 were taken in 2004). No cartel investigations have been opened. None of the CPC's decisions has been published; this practice needs to be changed, in particular in view of the need to create awareness of the competition rules among companies and to build up a credible reputation of the CPC. Furthermore, a credible enforcement record should be combined with active engagement in competition advocacy by making the knowledge and information in this field accessible to undertakings, consumer organisations, government bodies and other public authorities, judicial bodies and the general public.

The Law on **State Aid** was enacted in March 2003 and implementation started in January 2004. Secondary legislation and guidelines have also been adopted, including rules on granting aid for the rescue and restructuring of firms in difficulty. Some amendments will be necessary to bring the latter into line with the new guidelines adopted in October 2004. The government's Manual of Procedures imposes on all government agencies and departments a duty to notify all envisaged aid measures to the State Aid Commission (SAC), although in

practice this rule appears to be observed only partially. In the future, the former Yugoslav Republic of Macedonia will need to adopt rules for horizontal aid measures, as well as a methodology for setting the level of compensation for companies entrusted with the performance of services of general economic interest. Substantial work will need to be undertaken to ensure that the country's industrial policies are made compatible with the State aid rules.

As regards *administrative capacity*, the SAC is the authority charged with monitoring and control of State aid. The three members of the SAC hold full-time positions as officials of ministries and have to perform their tasks as Commissioners in addition to these positions. The Commission does not have its own offices and is financially dependent on the budget of the Ministry of Economy. Besides its members, the administrative staff comprises only two employees. This raises concerns over the SAC's ability to enforce the State aid rules both effectively and independently.

Considerable efforts will be needed to strengthen the institutional capacity of the SAC. In addition, education and training for the staff need to be supported, transparent procedures for communication between the SAC, the CPC, the industrial policy unit of the Ministry of Economy and other relevant government entities established, procedures for handling cases and carrying out investigations improved, a system to monitor and evaluate the current structure of State aid developed, and awareness-raising campaigns organised and implemented. There is still low awareness among government institutions and the general public, including the business sector, of the notification process and of the functioning of the State aid control system in general. It is therefore necessary to foster State aid culture at all levels of the country's public administration.

One particular problem with regard to the distortion of competition by State aid is the high degree of evasion of social security contributions and taxes, which impairs the establishment of a level playing field for companies. The widespread and systematic non-payment of social security contributions and taxes by many industrial companies leads to unfair competition and is not acceptable in a territory which is to be integrated into the internal market.

Furthermore, the SAC will have to concentrate to a much greater extent on the establishment of a credible *enforcement record*. Only by correctly applying the State aid rules will the SAC be able to enforce adequate State aid discipline among State aid providers and the business community.

Conclusion

Progress has been made regarding the adoption of appropriate and EU-compatible antitrust and State aid legislation. It is now important to adopt the relevant implementing legislation and to visibly enforce the antitrust and State aid rules. The country needs to promote competition by encouraging liberalisation, the improvement of public procurement practices, and an approach to privatisation designed to foster competition.

To make the antitrust rules an effective tool, the Commission for Protection of Competition should be given efficient means directly to enforce the law and impose sanctions, including fines.

The lack of administrative staff and adequate premises for the State Aid Commission limits its capacity to perform its task properly and should be addressed. Its ability to act independently should also be ensured. Transparency should be promoted by establishing a comprehensive inventory and reporting all aid measures in force. The large-scale non-payment of social security contributions and taxes by a large number of enterprises can lead to considerable distortions of competition and is incompatible with the internal market. Efforts need to be made to remedy this situation.

Overall, the former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its legislation with the *acquis* and to implement it in the medium term. The country might not be able to effectively enforce the legislation in the medium term unless the State Aid Commission and the Commission for Protection of Competition succeed in establishing a credible enforcement record.

Chapter 9: Financial services

The *acquis* in the field of financial services includes rules for the authorisation, operation and supervision of financial institutions in the areas of banking, insurance, supplementary pensions, investment services and securities markets. Financial institutions can operate across the EU in accordance with the “home country control” principle, either by establishing branches or by providing services on a cross-border basis.

The **banking sector** is by far the most developed component of the financial sector in the former Yugoslav Republic of Macedonia. The degree of financial intermediation performed by banks, although gradually increasing, is nevertheless still limited as total deposits and gross loans account for about 30% and 20% of GDP respectively. This is due, *inter alia*, to limited investment opportunities and to risks linked to the legal and judicial framework, such as an inadequate legal framework for pledges and collateral, as well as long and inadequate bankruptcy procedures. Furthermore, confidence in the banking system has not yet fully recovered from the breakdown of pyramid savings schemes in 1997. Bank lending to the private sector is still mainly short-term. After some consolidation in the second half of the 1990s, the number of banks has remained stable for the last few years (20 in mid-2005) while there are also 15 small savings houses. The sector is dominated by the three largest banks, which account for about two thirds of total assets. The capital adequacy ratio is still high (25% at the end of 2004) but has been gradually decreasing as the lending activities of the banks increase. Privatisation of the banking system is almost complete, although the government still holds minority stakes in a number of banks. Foreign-owned banks (including two of the three largest banks) accounted for 49% of total assets at the end of 2004.

The main legislation for the banking sector is the Banking Law, the Law on Micro-Financing Banks and Chapter II “Savings Houses” of the Law on Banks and Savings. The Banking Law was amended in 2003, regulating banking system operations and banking supervision by the National Bank. Banks are established as joint stock companies while savings banks are established as joint stock companies or limited liability companies. The conditions for admission and for operating as a bank require further harmonisation with the *acquis*. The Banking Law currently requires initial capital of € 3.5 million in denar counter-value (€ 9 million for banks performing certain activities including cross-border payment operations, foreign currency transactions and trading in securities); amendments are planned to increase the initial capital requirement to € 5 million in denar counter-value by the end of 2005. The

required minimum capital adequacy ratio is 8% but the National Bank may increase it to up to 16%. EU credit institutions can establish subsidiaries but important parts of the banking *acquis*, including issues such as cross-border services, branching and language requirements, have not yet been incorporated into the legislation. The Law on the Deposit Insurance Fund seems to have incorporated, to a large extent, the principles of the corresponding EU directive.

The National Bank seems to be an independent institution with regard to the performance of its activities, including its function as bank supervisor. The Bank seems to meet international standards in respect of its operational independence and seems to have adequate resources (there are currently 34 staff in the Department for Bank Supervision and 6 in the Department for Bank Regulation). However, it should continue to develop and strengthen banking supervision practices, including risk-based supervision. Priority should be given to training staff on the new capital requirements framework, which is the key challenge for banking supervisors.

The **insurance sector**, including private pension insurance, remains small and underdeveloped. Gross written premiums totalled approximately € 82 million or about 2% of GDP in 2003; both figures have in fact gradually decreased since the late 1990s. The sector has suffered from weak governance. The number of insurance companies has increased from four in 2001 to nine at the end of 2004. Only one of them offers life insurance. Non-life insurance represents 98% of gross written premiums and is dominated by third party liability motor insurance with about 44% of total gross premium income (figures for 2003). The market is highly concentrated. The former state-owned insurance company dominates the market and is now majority foreign-owned. Although the former Yugoslav Republic of Macedonia has recently moved towards a three-pillar pension system, second-pillar private pension funds, which will manage mandatory contributions, have not yet become operational.

The main legislation in the field of insurance is the Law on the Supervision of Insurance adopted in 2002 and part 5 of the Law on Insurance; the latter regulates compulsory motor insurance. Secondary legislation has also been adopted. In general, the regulatory framework seems fairly advanced given the level of development of the domestic market. However, some important principles are missing and significant amendments will be required to bring the legislation into compliance with the *acquis*. For example, with regard to capital requirements, the required guarantee funds are significantly below the requirements of the *acquis* for all classes of insurance. Similarly, the minimum amounts of compensation for all personal injuries and material damage are far below the amounts specified in the motor insurance *acquis*. While third party liability motor insurance is mandatory, there is reportedly a significant proportion of uninsured cars. Appropriate measures should be taken to decrease the proportion of uninsured cars to a more manageable level.

Insurance is regulated and supervised by specialised departments at the Ministry of Finance. The Insurance Supervision Division has three employees and is responsible for on- and off-site supervision, while the Insurance System Division has two employees and is responsible for licensing and regulation. The former currently employs a single actuary. The insurance legislation in place seems to provide for basic supervisory powers and imposes reporting obligations on insurance undertakings. However, the Insurance Supervision Division does not possess a sufficient level of independence and enforcement of the existing legislation is insufficient. Therefore, an independent supervisory authority needs to be established, with appropriate powers and resources, including a sufficient number of trained staff.

The **securities markets** in the country are small. The Macedonian Stock Exchange (MSE) operates a two-tier market. Since 2002 all companies meeting the MSE's listing requirements are required to list their shares on the MSE. As a consequence, there was a significant increase in the number of companies listed in 2003 and a 64.3% increase (year-on-year) in market capitalisation for shares. Nevertheless, total market capitalisation, including shares as well as bonds, remains small at about 15.1% of GDP in 2004. Moreover, total turnover in shares on the official market represented 3.2% of market capitalisation in 2004 (up from 2.0% in 2003), suggesting limited market liquidity. Notwithstanding the enactment of the Investment Fund Law in 2000, no investment fund industry has yet come into existence.

The main legal acts for the securities and fund management sector include the Securities Law adopted in 2000, which has subsequently been amended several times, the Law on Takeovers adopted in 2002 and the Law on Investment Funds adopted in 2000. In general, while some efforts have been made to align domestic legislation with certain aspects of the *acquis*, the legislative framework regulating securities markets and collective investment undertakings does not yet provide a basis for the necessary alignment.

The Macedonian Securities and Exchange Commission (MSEC) is the competent regulatory and supervisory authority for the securities sector. Its Board is made up of a President and six members, appointed by Parliament upon a proposal by the government. The MSEC currently employs nine staff. It is an independent agency accountable to Parliament but lacks an enforcement function. It should get appropriate supervisory and enforcement powers in the future. The MSEC has not yet concluded formal memoranda of understanding or other agreements with domestic or foreign authorities, nor has it made meaningful attempts to coordinate with foreign counterparts.

The Central Securities Depository, a joint stock company in compliance with the Securities Law, maintains records in dematerialised form. It is modern and efficient and utilises best international practices.

Conclusion

The former Yugoslav Republic of Macedonia has made progress on approximating its legal framework for financial services with the *acquis*, and banking supervision is relatively advanced in terms of international and EU standards. However, both the legislation and the corresponding supervisory framework, including enforcement, need to be significantly reinforced, in particular regarding the insurance sector and securities markets, which remain small and underdeveloped.

Overall, the country will have to make further efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term.

Chapter 10: Information society and media

The *acquis* includes specific rules on electronic communications, on information society services, in particular electronic commerce and conditional access services, and on audio-visual services. In the field of electronic communications, the *acquis* aims to eliminate obstacles to the effective operation of the internal market in telecommunications services and networks, to promote competition and to safeguard consumer interests in the sector, including universal availability of modern services. As regards audio-visual policy, the *acquis* requires the legislative alignment with the Television without Frontiers Directive, which creates the conditions for the free movement of television broadcasts within the EU. The *acquis* aims to the establishment of a transparent, predictable and effective regulatory framework for public and private broadcasting in line with European standards. The *acquis* also requires the capacity to participate in the community programmes Media Plus and Media Training.

The *Stabilisation and Association Agreement* (SAA) stipulates that the former Yugoslav Republic of Macedonia shall align its legislation with the telecommunications *acquis*, as it was in 2001 (usually referred to as the “1998 *acquis*”), by 1 April 2005.

As regards **electronic communications and information technologies**, the SAA imposes an obligation to abolish the exclusive rights granted to the incumbent, especially on fixed voice telephony and leased lines services, by June 2004. In addition, the former Yugoslav Republic of Macedonia should have achieved “ultimate alignment with the *acquis*” in April 2005, which means that all the basic starting conditions for liberalisation and harmonisation had to be in place by then, such as cost accounting and/or tariff transparency, interconnection reference offer (interconnection completely available on non-discriminatory conditions), carrier selection and pre-selection, and fixed number portability. This applies in particular to the transitional obligations on operators with significant market power (SMP). Local loop unbundling, which is proving to be increasingly important for the development of competition and the roll-out of broadband services, should also have been implemented. However, opening of the market has been frustrated by a lack of commitment at political level which, in conjunction with poorly designed regulatory institutions, has led to delays in adopting these important liberalising measures. The former Yugoslav Republic of Macedonia has to ensure that no further breaches of its obligations under the SAA occur.

The new Law on Electronic Communications, which entered into force in March 2005, replaced the 1996 Telecommunications Act as the main legal framework. The new Law is a good approximation of the 2002 *acquis* and provides for transitional obligations with regard to competitive safeguards for SMP operators. Proper implementation of the Law should create sufficient conditions for further liberalisation. Some important deadlines set in the Law for adoption of the necessary implementing legislation need to be confirmed. In addition, the new Law requires all existing electronic communications concessions to be brought into line with its provisions.

The Law on Electronic Communications establishes the Electronic Communications Agency as a new separate administrative body. The Agency has been operational since June 2005. To transpose and implement the *acquis*, it will have to demonstrate its capacity to act as a fully independent regulatory authority that has the powers and resources to implement a liberalisation policy. There should be effective procedures for enforcing decisions of the regulator and also an effective appeals procedure. In particular, the procedures should not create opportunities for using the appeals system to delay implementation of the regulator’s

decisions. In addition, a clear work plan and proper organisation should be established for adoption of by-laws. Co-ordination will be needed between the Agency and other relevant institutions, such as the Ministry of Transport and Communications and the Commission for Protection of Competition.

In the field of **information society services**, the former Yugoslav Republic of Macedonia has ratified the Council of Europe Convention on Cybercrime, but it has not yet adopted domestic legislation concerning electronic commerce or conditional access services.

In the **audiovisual** sector, the main piece of legislation is the 1997 Broadcasting Law. It introduces a system of concessions for the private sector, designates Macedonian Radio and Television as the public service broadcaster and establishes the Broadcasting Council as the independent regulatory body. The status and activity of the public service broadcaster is provided for in a separate law. The former Yugoslav Republic of Macedonia is a party to the Council of Europe Convention on Transfrontier Television.

The 1997 Broadcasting Law does not meet the requirements of the Television without Frontiers Directive, as it contains no provisions concerning the principles of jurisdiction, surreptitious advertising, the transmission of events of major importance and the promotion of European works. However, a new broadcasting law which is broadly in line with the *acquis* has been drafted and submitted to Parliament. The independence of regulatory bodies as well as public broadcasters should be ensured. The procedure for review of decisions of the Broadcasting Council should be brought into line with the *acquis*.

Other issues also require attention. In particular, there is a need to ensure that the legislation on defamation, as amended in 2004, reflects European standards (*see also section 1.2.1. – Civil and political rights*).

As regards *administrative capacity*, the independence and powers of the Broadcasting Council need to be reinforced. The independence of the public broadcaster, Macedonian Radio and Television, should be enhanced and the media regulatory bodies strengthened. There is also a need for a strategy on the broadcasting sector.

Conclusion

As regards electronic communications and information technologies, the former Yugoslav Republic of Macedonia is currently not meeting its obligations under the Stabilisation and Association Agreement (SAA). Although the quality of the network and the privatisation of the incumbent would have allowed significant market opening, the country has made little progress on liberalising its market for electronic communications. However, the adoption of a new Law on Electronic Communications which, *inter alia*, establishes an independent regulatory authority has created new momentum for competition in the market. The Macedonian authorities are now facing new challenges for implementing by-laws. The regulatory authority should be properly empowered and resourced and its independence from political concerns will have to be ensured. Competitive safeguards on significant market power (SMP) operators should be secured as a matter of priority.

The country needs to adopt legislation on electronic commerce and conditional access services.

In the field of audiovisual policy, a new broadcasting law in line with European standards and the EC audiovisual *acquis* needs to be adopted. Reinforcing the independence, capacity and enforcing powers of the media regulatory bodies is also essential.

Overall, the former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its legislation with the *acquis* on electronic communications, information society services and audiovisual policy and to effectively implement and enforce it in the medium term. The country should take immediate measures to fulfil its SAA obligations as regards electronic communications.

Chapter 11: Agriculture and rural development

The agriculture chapter covers a large number of binding rules, many of which are directly applicable. The proper application of these rules and their effective enforcement and control by an efficient public administration are essential for the functioning of the common agricultural policy (CAP). Running the CAP requires the setting up of management and quality systems such as a paying agency and the integrated administration and control system (IACS), and the capacity to implement rural development measures. Member States must be able to apply the EU legislation on direct farm support schemes and to implement the common market organisations for various agricultural products.

Agriculture is an important sector in the economy of the former Yugoslav Republic of Macedonia. Gross value added (GVA) by agriculture accounted for almost 12% of total GDP in 2003. Adding related processing activities this share increases to about 18% of GDP. The share of agriculture (including hunting and forestry) in employment was 13.9% in 2003, down from 17.3% in 2001 according to national statistics. The country's agriculture is dominated by small and highly fragmented family farms. In 2003, there were some 456 000 hectares (ha) of cultivated land owned by 178 000 rural families, with an average of 2.6 ha per family. 54% of families owned less than 1 ha of cultivated land and only 14% owned 3 ha or more. Most of the farms are fragmented into four or more non-contiguous parcels. Former socially owned land was nationalised in 1993, and by 2002 about 95% of the former social sector farms had been privatised. Very few of them are profitable, as insider privatisation resulted in little new capital and few changes to management. According to the World Bank, private farms cultivated about 80% of cultivable land and 13% of permanent pastures in 2002. Private farms have responded positively to the opportunities created by economic transition. Agricultural production by individual farms has grown steadily and in 2002 was 24% above the production levels observed at the start of independence. By contrast, production by agricultural enterprises has decreased significantly. In 2002 it was only 40% of the 1990 production levels.

Since 2001 preferential trade in agricultural products has been regulated by the Interim Agreement and the Stabilisation and Association Agreement (SAA), whereby the former Yugoslav Republic of Macedonia has duty-free access to the Community for its exports of all basic agricultural products with the exception of "baby-beef", wine and sugar, which are subject to tariff quotas. Bovine meat is excluded from preferential treatment. The entry price system for fruit and vegetables is suspended under the autonomous trade measures (ATM). In turn, the former Yugoslav Republic of Macedonia has agreed to dismantle gradually its trade barriers to imports from the EU to achieve a substantial degree of liberalisation by 2011.

Trade preferences for certain wines, including the reciprocal recognition, protection and control of wine names and designations for spirits and aromatised drinks, are covered by the Additional Protocol to the SAA on wine (currently without lists of geographical indications and traditional expressions).

Agricultural exports, consisting mostly of tobacco and tobacco products and wine, accounted for 17% of total exports in 2003, whereas imports of agricultural products stood at 15% of total imports. The main trading partners are the EU and Serbia and Montenegro.

Trade in primary agricultural products with EU-25 in 2004 totalled € 63 million in EU imports and € 122.8 million in EU-25 exports. The trade balance in favour of the Community was reduced from € 69.4 million in 2003 to € 59.6 million in 2004.

Concerning **horizontal issues**, as yet there is no structure equivalent to a *paying agency or Integrated Administration and Control System (IACS)*. Major changes will have to take place in the former Yugoslav Republic of Macedonia to implement the *acquis*.

Two different cadastres exist: the Land Cadastre is a database on land and land users/owners, but does not clearly identify property rights, whereas the Real Estate Cadastre represents a legally defined system of the overall physical ownership and legal components of real estate. A large proportion of agricultural land has not yet been registered in the Real Estate Cadastre, which hampers the correct functioning of the land market. Obtaining information from the Land Cadastre, in the absence of sophisticated equipment, is admittedly slow and complicated.

Supervision of the agricultural sector is carried out by the State Agricultural Inspectorate with 26 inspectors of whom 23 are based in regional units; there are 16 inspectors at border crossings. However, there is no integrated control system. Computerisation is in general at a very low level. Besides, there is no system for the identification and registration of payment entitlements.

Management of CAP direct payments will require the introduction of the necessary tools from scratch, i.e. in particular a paying agency with sufficiently trained personnel and a functioning Land Parcel Identification System (LPIS). Experience shows that this is a difficult and lengthy task, but it is achievable if good key decisions are taken as a priority at the very beginning of the process: setting-up of the administrative structure (paying agency and LPIS body), initial planning of the full process and adequate financial means.

The State Statistical Office is responsible for collection and analysis of all statistical data in the country. The Ministry of Agriculture does not have a unit responsible for agricultural information systems.

The basis for a Farm Accountancy Data Network (FADN) appears to exist. The National Extension Agency started a farm monitoring system in 2001 with support from the World Bank and Statistics Sweden. This system includes records on 800 farms; financial and technical aid has been provided for monitoring and assessing the quality of data gathering and processing. The goal of the National Extension Agency for the future is the development of the farm monitoring system in order to transform it into a functioning FADN network. However, all the activities of the National Extension Agency are subject to the availability of funds.

With regard to State aid, some of the schemes/projects are financed entirely from the State budget, while others are co-financed with international organisations such as USAID, the International Fund for Agricultural Development, the Swedish Agency for International Development or the World Bank. Several measures, such as *Sale of fertiliser*, *Diesel fuel coupons*, *Provision of masut*, *Vesting State-owned agricultural land on usufruct to certain categories of persons*, would *prima facie* seem to be contrary to the Community rules on State aid in the agricultural sector.

It appears that the former Yugoslav Republic of Macedonia already has a system of sorts for the protection of traditional product names, which does, however, in some respects diverge from the *acquis*.

The country's policy in the agricultural and food sector is based mainly on market/price mechanisms and basically covers market interventions through customs-based protection and trade limitations. Until 2003, prices of certain agricultural products were subsidised but since 2004 a new scheme of "direct aid" per hectare or head of livestock has been introduced for certain commodities. However, the amount that each beneficiary receives is not fixed but depends on the budget allocation for that year and on the total number of applications.

Thus, pursuant to the Law on Instigation of Development of Agriculture, starting from 2004 maize and barley producers (17% of total arable land in the country) and sunflower producers have been granted non-repayable subsidies per hectare. Wheat (21% of total arable land) was not included in the area-based system in either 2004 or 2005 but the country is proposing to apply an area payment for wheat in 2006.

Other existing measures for cereals are duties and tariff quotas, preferential tariff treatment for imports and import/export licenses. Except for customs duties, no policy support measures are applied for protein seeds, starch production, rice, dried fodder and legumes, fibre flax and hemp, olive oil, vegetables, cotton, silkworms, hops, potatoes, beef and veal. "Non-food" set-aside is not applied. Certain schemes are based on headage payments for sheepmeat (subsidy for maintenance and enlargement of the basic flock of sheep) and pigmeat (incentive for artificial insemination).

On the basis of a ten-year programme, several annual plans have been developed since 1999 with the aim of encouraging the use of artificial meadows and pastures for livestock production. This measure is apparently related more to the environment and rural development than to market management. The beneficiary of the aid is the State-owned Public Enterprise for Pastures, which is responsible for establishing the management and financial plans. The compatibility of this Public Enterprise with EU market provisions would have to be examined.

Regarding sugar, two types of measures are in place: aid for the production of sugar beet (payment linked to the quantity of sugar beet produced and actually sold to the sugar industry) and import duties and preferential tariff quotas. It appears that there is no mechanism in place which would correspond to the key management instruments provided for under the current Common Market Organisation (CMO) for sugar (production control, inter-professional agreements, intervention price system, etc.). The production incentive applied in the case of sugar beet in the form of a direct payment based on quantity produced is not compatible with the *acquis* and would have to be abolished upon accession.

Regarding *specialised crops*, production of vegetables is quite significant in the overall agricultural GDP (predominantly potatoes, peppers, tomatoes, beans and melons), with fruit less significant (apples, peaches, apricots and plums). There are no marketing standards for fruit and vegetables and no quality inspection body. Some *producer organisations* exist with different functions. There is no support for setting up producer organisations and operational funds. *Price reporting* exists to some extent: the State Statistical Office gathers prices on a weekly basis on a range of markets and prints the reports once a month. There is *support* only for the acquisition of material for improving orchards and through tariffs, including higher seasonal tariffs for certain vegetables. Such measures are compatible with the CMO. There is no support for processing fruit and vegetables and no withdrawal measure.

Olive cultivation is of very limited importance. It started only in 1999 and the total number of trees at the end of 2003 was 36 770. Given the extremely limited cultivation, there is no computerised system on olive cultivation. No policy measures other than customs duties are applied.

Regarding *wine*, apart from a subsidy for the planting of new vineyards which can be received only when using certified high-quality planting material, no aid schemes are in force which could be considered similar to those provided for under the wine CMO (grubbing-up, private storage, distillation, use of grape must, export subsidy). The Law on Industrial Property includes arrangements for the protection of geographical indications, as provided for under the TRIPS agreement. The administrative capacity is not yet sufficient to comply with the *acquis*. The powers of inspectors appear to be in line with Community provisions, as inspectors are entitled to carry out checks along the entire production chain, from plantations through processing plants up to circulation, including the related documentation. Preparations for the establishment of the vineyard register are under way. It appears that the requirements are well understood but the necessary software and hardware still need to be put in place. It appears that data entry and preliminary controls are to be carried out by the wineries, which would be unusual.

Tobacco production appears to be decreasing. Customs duties and tariff quotas are in place. Foreign direct investment of USD 6.6 million was made in the tobacco industry between 1996 and 2002.

Soft wheat seed constitutes the bulk of *seed* production, which has decreased considerably in recent years. Subsidies have been paid to seed material producers on the basis of previously concluded contracts.

As regards *animal products*, no CMO measures appear to have been applied in the *milk and dairy* sector. The only agricultural policy instrument in this sector is a now discontinued milk price support scheme for quantities sold to dairies in 2002. There are no plans to introduce a milk quota management system or market intervention measures. Taking into account the small size of milk-producing farms, raw milk hygiene could be a problem. This could contribute significantly (besides other factors such as possible high milk collection costs and underused processing capacity) to low competitiveness of the milk sector.

In the *beef* sector, no agricultural policy measures are applicable other than customs duties. Legislation regarding beef carcass classification must still be developed, and the necessary administrative structures put in place. In particular, attention should be given to the overall

organisation of the carcass classification system, effective training of classifiers and inspectors, and the establishment of adequate control procedures. On the basis of the carcass classification system, a price reporting system should also be developed. Correct implementation of the carcass classification and price reporting legislation is essential for the possible application of market support measures such as private storage aid, public intervention, etc.

The former Yugoslav Republic of Macedonia is supporting its *pigmeat* sector, in part through pig premiums paid per head. This form of support is incompatible with the pigmeat CMO and would have to be discontinued upon accession. The country will have to make the appropriate administrative arrangements to operate the EU scheme of private storage of pigmeat and export refunds. It will also have to apply the EUROP carcass classification, to be linked to the domestic price reporting system. Operation of the CAP for pigmeat requires, in particular, weekly reporting of the producer price of standard E quality carcasses and piglets.

Regarding *sheep and goat meat*, a price reporting system to provide weekly representative prices for lambs has to be put in place. The country operates import quotas and export subsidies paid by kilogramme, unlike the EU first-come-first-served quota management system adopted for all third countries from 2004 onwards and replacing the licence system. The former Yugoslav Republic of Macedonia makes a headage payment, which poses no problem of conformity with the CAP. A system for the identification and registration of ovine and caprine animals in line with the current *acquis* has to be put in place.

Regarding *eggs and poultry*, no policy support is applied other than subsidies for selection purposes and customs duties. A control body has to be put in place, exercising effective checks on compliance with marketing standards for eggs and poultry meat and preparing quarterly and annual reports. Weekly price information (from packers and wholesale markets) and monthly, quarterly and annual hatching statistics (from hatcheries and foreign trade in poultry chicks) should be collected and processed.

Concerning **rural development**, employment in the primary sectors is high (above 50% in rural areas), implying that over the coming years considerable restructuring will take place, with the associated requirement for adequate accompanying policies (training, support for diversification, early retirement measures, development of employment outside agriculture etc.). A range of programmes and measures which fall under the broad heading of “rural development” are being implemented by several different institutions. However, there is currently no overall strategy or coherent rural development policy to integrate these different initiatives, and no institution has overall responsibility for rural development policy. There does not appear to be any integration of the different measures, nor co-operation between the different programmes to develop synergy or added-value. In order to address this deficit, a new department within the Ministry of Agriculture was created in early 2004, responsible for co-ordinating the development of rural areas. Efforts to enhance rural development capacity in line with the EU approach are underway. A “strategic group” to address rural development issues has been established within the Ministry of Agriculture but it seems that its activities are at an early stage and that no broad discussion or consultation with other relevant bodies has yet taken place. Of the total budget of the Ministry of Agriculture, a high proportion of operational expenditure appears to be allocated to rural development measures. Funded activities include afforestation and revitalisation of rural villages as well as more traditional agricultural development schemes. Although these two measures account for only a small proportion of total expenditure, they are evidence that the Ministry of Agriculture is not

simply concentrating on agricultural issues but is developing a broader view of rural development.

Maintenance and renovation of irrigation systems currently represents a major part of rural development activity, and receives significant state funding. Existing rural development measures consist, in some cases, of activities which are not a major part of EU-funded rural development programmes (e.g. provision of rural credit, micro-credit facilities, etc.) but which are more important in candidate countries. There are some valuable elements such as training in business management, which is provided to potential beneficiaries of agricultural loans, and provision of advisory and extension services. There appears to be little agri-environment activity, although some support for organic farming is provided. Some measures include aspects which are not compatible with the EU rural development *acquis* (e.g. subsidies/loans for input purchase). A rural development paying agency will have to be created at the latest by the time of accession, but in practice earlier still, in order to implement the relevant pre-accession assistance.

Conclusion

In the field of agriculture, the former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term. Some measures currently in force in its agricultural policy are not in line with the *acquis* and should gradually be brought into line before accession. The country will need to start timely preparations to set up the basic instruments for managing the Common Agricultural Policy, in particular an EU-compliant paying agency and an Integrated Administration and Control System (IACS). Due attention should be paid to strengthening administrative capacity to manage common market organisations and rural development activities.

Chapter 12: Food safety, veterinary and phytosanitary policy

This chapter covers detailed rules in the area of food safety. The general foodstuffs policy sets hygiene rules for foodstuff production. Furthermore, the *acquis* provides detailed rules in the veterinary field, which are essential for safeguarding animal health, animal welfare and the safety of food of animal origin in the internal market. In the phytosanitary field, EU rules cover issues such as quality of seed, plant protection products, harmful organisms and animal nutrition.

In the area of **food safety**, framework legislation (the Basic Law on Safety of Foodstuffs and Products and Materials in Contact with Foodstuffs) has been adopted and aims at achieving preliminary alignment with the *general food safety principles* and requirements laid down in the *acquis*. Secondary legislation is in preparation and concerns the following areas: *labelling, presentation and advertising, contact materials, nutritional labelling, additives, contaminants, food for particular nutritional uses (including infant-formulae and follow-on formulae, cereal-based foods and other baby foods, foods for special medical purposes), food supplements, genetically modified foodstuffs, hygiene and microbiological requirements*. Adoption and implementation of this legislation will constitute an important step towards alignment with the *acquis*, although certain areas (*flavourings, extractions solvents, mineral waters, ionising radiation, quick frozen foodstuffs*) are missing from the current legislative programme.

As regards *official controls*, efforts have been made for the development of annual control plans, with guidelines and general rules for inspections at the central and local levels. However, respect for these plans should be ensured and attention needs to be paid to the proper provision of the requested information (e.g. elements required for the monitoring plans of veterinary residues, medicines, use of hormones, details of methods of analysis etc.).

The general capacity of the country's laboratories is deficient and should be further developed. There are no accredited laboratories, the methods of analysis are not validated as the legal basis is lacking, and in some cases, such as for the laboratory authorised to test veterinary residues, the competence of laboratories is not clearly defined.

Food assessment bodies and control activities in sensitive areas such as *novel foods* and *GMOs* are lacking and should be established.

Special attention should be paid to the co-ordination of the activities of the established Food, Veterinary and Plant Protection Directorates (bodies respectively within the Ministries of Health and Agriculture) in order to avoid duplication of checks and ensure integration of control plans and laboratory activities. A co-ordination protocol may thus be envisaged, also in order to develop multi-annual integrated control plans along the entire food chain and to upgrade hygiene standards of the relevant establishments. This should also include other authorities that may be involved in food safety controls, such as the Ministry of Environment.

In the **veterinary sector**, the main legislative provisions are the Law on Veterinary Health, the Law on Safety of Foodstuffs as regards products of animal origin, the Law on Pharmaceutical Drugs and the Law on Animal Identification and Registration. The Veterinary Directorate in the Ministry of Agriculture, Forestry and Water Economy is the competent authority for the identification of animals, for animal health and animal welfare issues and for the safety of products of animal origin. The former Yugoslav Republic of Macedonia has started the process of transposition of EU legislation by adoption or alignment of the framework legislation. The new hygiene-related *acquis* needs to be transposed. The capacity of the Veterinary Service needs to be reinforced considerably at both central and local level.

Although efforts have been noted in the handling of *transmissible spongiform encephalopathies* (TSE) and *animal by-products*, the former Yugoslav Republic of Macedonia has to prove its capacity to align its legislation strictly with the *acquis* (in particular TSE compliance), implement and control its enforcement and set up the necessary collection and treatment system. Basic elements of the *control system needed in the internal market* are in place but need to be strengthened. A system for *identification of animals and registration of their movements*, in particular for bovines and sheep and goats, is being set up. It needs to be assessed once it becomes operational.

Veterinary checks on third country imports and rules on imports for live animals and meat products in the former Yugoslav Republic of Macedonia should be brought into line with its international sanitary and phytosanitary (SPS) obligations and with the EU *acquis*. Checks are performed by eight border inspection posts. The administrative organisation, import procedures and control arrangements need to be reviewed. Basic *animal disease and animal health control systems* exist but need to be further aligned with the EU legislative and institutional requirements. Contingency plans for List-A diseases need to be aligned.

With regard to *public health in agro-food establishments*, all establishments have to be assessed for compliance with EU legislation. It is very likely that a large number of establishments will need substantial investments to upgrade their facilities. A national programme including financing should be set up. Each establishment which intends to comply with EU legislation should be subject to an upgrading plan. The new hygiene-related *acquis* needs to be transposed urgently and requires revision of current applications.

The former Yugoslav Republic of Macedonia is well advanced on *common measures* regarding animal diseases, although effective implementation needs to be assessed. This is also the case for the capacity of the laboratories performing residue monitoring. Basic principles of the EU legislation on *animal welfare* have not yet been transposed in the national legislation. The Livestock Law, governing *zotechnical legislation*, needs to be brought into line with the *acquis*.

The country needs to make significant efforts to bring the management of the *national system of veterinary checks*, the system of *veterinary checks on imports from third countries*, and *import rules* into line with EU requirements, in particular concerning staffing and training of inspectors.

In the **phytosanitary** sector, the former Yugoslav Republic of Macedonia has started the process of transposition of EU legislation by adoption or alignment of the framework legislation. The main legal basis governing the sector is the Law on Plant Protection. It sets the rules on plant health protection (protection of plants and plant products from plant pests, plant health protection in trade and imported consignments) and plant protection products (registration, production, trade in plant protection products, and prevention of harmful consequences of their application on humans and animals, plant health and the environment). The Law also created the legal basis for establishment of the national plant protection service, the Plant Protection Directorate within the Ministry of Agriculture, Forestry and Water Economy. The phytosanitary services lack appropriate laboratory capacity. Currently there is no properly functional single plant health authority. Staffing has been reduced and is insufficient.

As regards *plant varieties*, the former Yugoslav Republic of Macedonia has to transpose the aspects related to marketing and protection of breeders' rights. Important EU directives in the field of *seeds and propagating material* will need to be transposed. Currently it does not carry out Distinctness, Uniformity, Stability (DUS) testing and does not have a seed testing laboratory accredited under the International Seed Testing Association (ISTA). The former Yugoslav Republic of Macedonia is not a member of the International Union for the Protection of New Varieties of Plants (UPOV).

In the field of *plant health/harmful organisms*, the country has partially transposed the *acquis*. The country should introduce the concept of protected zones in its legislation, without having an obligation to establish protected zones within its own territory, and should continue work on the EU control directives. The ten border inspection posts currently performing import controls require new equipment. The former Yugoslav Republic of Macedonia is a contracting party to the International Plant Protection Convention (IPPC) and a member of the European and Mediterranean Plant Protection Organisation (EPPO).

The issue of *plant protection products* needs to be brought into compliance with the *acquis*. Residue monitoring legislation and capacity need to be developed.

The *plant hygiene* aspects are not covered by the current legislation.

The former Yugoslav Republic of Macedonia has to ensure that any international veterinary and phytosanitary agreements that the country has concluded are brought into compliance with the *acquis*.

Conclusion

In the field of food safety, the former Yugoslav Republic of Macedonia has taken steps to align its legislation with EU requirements. However, efforts should continue to complete the drafting of legislation, to ensure the dissemination of information on the new legislation to all interested parties, and to effectively implement it in the medium term. A strategy should be defined in order to ensure proper co-ordination between all relevant authorities as well as for the development of the administrative capacity necessary to implement the *acquis*.

The country has made an effort to start alignment with the EU standards in the veterinary and phytosanitary sectors. Significant efforts are necessary to set up systems in line with the EU *acquis*, in particular as regards internal and import controls. Important gaps remain, and significant efforts are required to consolidate the recent reforms and modernisation of the legal framework and to further adapt the administration. The country also needs to identify legal and institutional priorities to be addressed in future. Special attention should be paid to training inspectors and staff in the administrations, to modernising laboratories and to supporting efforts to bring the food processing sector into line with EU public health requirements.

Overall, the former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term.

Chapter 13: Fisheries

The *acquis* on fisheries consists of regulations, which do not require transposition into national legislation. However, it requires the introduction of measures to prepare the administration and the operators for participation in the common fisheries policy, which covers market policy, resource and fleet management, inspection and control, structural actions and state aid control. In some cases, existing fisheries agreements and conventions with third countries or international organisations need to be adapted.

The *Stabilisation and Association Agreement* regulates preferential trade in fish and fisheries products.

Concerning **resource and fleet management**, annual catches of freshwater fish amount to around 1 400 tonnes, of which 45% are caught in the three natural lakes (Ohrid, Prespa and Dojran). The rest of the catches are taken in ponds. The dominant fish species are trout and carp with one half and one fifth of the annual catches respectively. Only small vessels operate on the lakes and ponds. There is no developed fish processing industry.

Most of the Common Fisheries Policy legislation does not apply to the former Yugoslav Republic of Macedonia because the country has no access to the sea (resource management, technical rules, quotas, inspection and control, fleet register, vessel monitoring system, etc.). The country is not party to any international fisheries agreement.

The relevant parts of the *acquis* are the **structural and market policies**. It will be necessary for the former Yugoslav Republic of Macedonia to establish an administration responsible for these policy elements. Currently there are no specialised fisheries authorities in the country. This administration will, for example, have to prepare the required national plans, plus an operational programme for fisheries, and manage the structural projects as well as deal with common marketing standards and consumer information requirements.

State aid to fish stocking in the lakes and ponds is very limited but will need to be brought into line with the Community rules on State aid to fisheries and aquaculture.

Conclusion

As most of the relevant *acquis* does not apply to the former Yugoslav Republic of Macedonia, integration into the Common Fisheries Policy should not pose any particular difficulties.

Chapter 14: Transport policy

EU transport legislation aims at improving the functioning of the internal market by promoting safe, efficient, environmentally sound and user-friendly transport services. The transport *acquis* covers the sectors of road transport, railways, inland waterways, combined transport, aviation, and maritime transport. It relates to technical and safety standards, security, social standards, state aid control and market liberalisation in the context of the internal transport market.

Co-operation between the European Community and the former Yugoslav Republic of Macedonia on transport issues dates back to the 1997 agreement in the field of transport. The Agreement liberalises transit through the Community and the country and establishes conditions for co-operation on bilateral inland transport relations, including the development of adequate priority infrastructure facilities. In addition, the Stabilisation and Association Agreement lays down certain obligations.

In the area of **road transport**, the rules currently applied are not in line with the *acquis*. *Access to the market* for goods and passenger transport both for national and international operations is regulated, but the criteria for admission to the profession (financial standing, professional competence and good repute) are not applied. The rules on the validity and control of licences are not in accordance with the *acquis*, and nor is the existing possibility of access to the market for third-country operators. In the area of the *social acquis*, the existing rules are not in conformity with the Community approach to driving times. Rest periods and the use of tachographs are not obligatory and the latter may be substituted by a logbook.

Concerning the *transport of dangerous goods*, the country is a party to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR). However, it does not apply the terms of the ADR to national transport services, and controls are performed only at borders rather than throughout the country. There is no legislation on

transportable pressure equipment and the quality system relating to the accreditation of inspection bodies for transportable pressure equipment should be adapted. The country's legislation is not fully compliant with the *technical acquis* on driver licensing and weights and dimensions. The legislation on and organisational arrangements for roadworthiness testing are in place. However, technical roadside checks should be performed randomly throughout the country. The requirements for registration documents are not in conformity with the *acquis*, and nor are the rules on speed limitation devices.

As regards the *fiscal acquis for heavy goods vehicles*, the former Yugoslav Republic of Macedonia applies annual user charges (road fees) on public roads to be paid by nationals and non-nationals. In addition, tolls are applied on motorways and national roads. The application of a double system of user charges and tolls is not in line with the *acquis* and tolls are not related to the costs of the infrastructure concerned as required by the *acquis*. No annual vehicle tax is levied in the country. On *road safety*, the data collection on road accidents is generally in line with the requirements for the CARE database.

As far as *administrative capacity* is concerned, responsibilities for the road transport sector lie mainly with the Ministry of Transport and Communications. Enforcement is performed jointly with the Ministry of Interior. Therefore, in order to ensure effective implementation of the *acquis*, cooperation between these ministries and the current capacity in the Ministry of Transport need to be strengthened. In addition, legislation needs to be enforced more vigorously, in particular by ensuring sufficient levels of control to enforce EU standards in the field of social legislation and technical requirements.

In the **rail sector**, the current framework law is not in compliance with the *acquis*. New legislation should be adopted to implement the first and second railway packages as well as the interoperability directives. Separation of accounts between the infrastructure management and railway operations should be ensured. The incumbent operator, Macedonian Railways, is currently being restructured in order to achieve separation between operations and infrastructure. Its management is formally independent but *de facto* its autonomy is limited as the Management Board is appointed by the government which also adopts its Annual Programme. The company is entirely State-owned and is in a poor financial position; it is highly indebted and cannot sustain investment costs for maintenance and development. The current law does not provide for separation of passenger and freight train operation and, in order to minimise the future risk of non-permissible cross-subsidisation, such separation would be advisable. It also allows the imposition of public service obligations (PSO) on railways without compensation, a practice not in line with the *acquis*. Instead, public service obligations should be put out to tender. A regulatory body that is independent from the infrastructure manager and any railway undertaking should be rapidly established. A safety authority responsible for issuing safety certificates should also be established.

In the field of *transport of dangerous goods*, the former Yugoslav Republic of Macedonia does not properly apply the terms of the European Agreement concerning the International Carriage of Dangerous Goods by Rail (RID), to which it is a Party, in national transport. Controls are only performed at the borders.

Administrative capacity in this area will need to be significantly strengthened, also with a view to implementation of the new railway *acquis*.

Inland waterways transport in the former Yugoslav Republic of Macedonia is limited to internal passenger (tourist) services on natural and artificial lakes. The EU *acquis* is only marginally relevant to the country.

Combined transport is virtually non-existent. The country plans to develop its combined transport options in a regional context, and is a signatory to the Memorandum of Understanding on Support and Development of Combined Transport in the countries of South-East Europe of September 2003.

In the field of **air transport**, a significant part of the *acquis* remains to be transposed and implemented. The former Yugoslav Republic of Macedonia is a member of the International Civil Aviation Organisation (ICAO), the European Civil Aviation Conference (ECAC) and Eurocontrol, but it is not yet a full member of the Joint Aviation Authorities, which implies it will still need to pursue further alignment with safety rules. A new aviation law is in the last phases of preparation and should bring considerable alignment with the aviation *acquis*. At this moment, however, the legislation on the licensing of air carriers and provisions on ground handling, slot allocation, computer reservation systems and fares remain to be aligned. A horizontal air transport agreement providing reciprocal aviation market access was initialled on 31 March 2005, and the country also participates in the European Common Aviation Area (ECAA) Agreement negotiations, which necessitate accelerated transposition of the aviation *acquis*. The recommendations of the ECAA assessment visit carried out in June 2005 should be implemented.

The *administrative capacity* needs to be significantly strengthened, and the division of tasks between the different organisations with responsibilities in the field of civil aviation needs to be better defined. The institutional and structural reorganisation of the Civil Aviation Authority should be implemented as planned.

The former Yugoslav Republic of Macedonia is a landlocked country with no ports and, for the time being, no maritime register. Therefore the *acquis* concerning **maritime transport** is not relevant. Nevertheless, the country is a contracting party to the International Maritime Organisation (IMO) Convention of 1948.

Conclusion

Overall, the country will have to make considerable and sustained efforts to align its legislation with the *acquis* in the areas of inland transport and aviation and to effectively implement and enforce it in the medium term. In particular, these efforts should be directed towards further alignment in the fields of market access, social rules, technical rules and fiscal provisions in road transport and alignment with the railway packages as well as legislation on the transport of dangerous goods. In the field of aviation, efforts should be made in the field of safety and the functioning of the market.

In order to ensure effective implementation of the transport *acquis*, the country's administrative structures would need to be significantly strengthened for all relevant transport modes.

Chapter 15: Energy

EU energy policy objectives include the improvement of competitiveness, security of energy supplies and the protection of the environment. The energy *acquis* consists of rules and policies, notably regarding competition and state aids (including in the coal sector), the internal energy market (opening up of the electricity and gas markets, promotion of renewable energy sources), energy efficiency, nuclear energy and nuclear safety and radiation protection.

The former Yugoslav Republic of Macedonia has some domestic energy sources (solid fuels, renewable energy sources, geothermal resources). It depends to a significant extent on imports of oil, natural gas, electricity and solid fuels. Its energy consumption consists mainly of oil, gas and solid fuels. The fuel input is used mainly in transformation processes - refineries (oil products, district heating, petrochemicals) - and for thermal power generation. Electricity generation is largely based on thermal power generation, which in turn is mainly fired by solid fuels and gas. The country's energy demand is mostly driven by industry, the residential sector, the tertiary sector and transport. There is an oil refinery in Skopje, linked with the pipeline to Thessaloniki.

The former Yugoslav Republic of Macedonia is a party to the Athens Memorandum of Understanding concerning the establishment of a South-East European regional energy market. In May 2005 it initialled the Energy Community Treaty which aims to create a regionally integrated energy market for electricity and natural gas as part of the wider EU market.

With respect to **security of supply** and in particular oil stocks, the country currently possesses 43 days of consumption. The 2004 Law on Commodity Reserves provides for the progressive increase of oil stocks to the 90 days of consumption required by the *acquis* by 2010. The Commodity Reserves Bureau is responsible for the management of oil stocks. The administrative capacity of this body needs to be strengthened.

In the field of **competitiveness and the internal energy market**, the most important piece of legislation is the Energy Law, as amended in 2003. The Law regulates the energy market as a whole and contains special provisions for electricity. However, it does not comply with the new Electricity Directive and does not include the structural and functional aspects of the future electricity market. The main discrepancies in the current situation are the absence of provisions for market opening, third-party access and procedures for authorising new capacity. At present, a State-owned company has a near monopoly in the electricity sector. Further efforts are needed to open up the market.

The Energy Regulatory Commission was established in 2003 as an independent legal entity. However, its activities are not in line with those laid down in the Electricity Directive.

In order to align with the *acquis* on the internal energy market, the country should adopt a new energy law, a law on the electricity market and the necessary secondary legislation. An energy agency, with tasks and powers clearly separated from the energy regulator, should be established to oversee the implementation of reforms in the energy sector and to establish an open competitive market.

In the field of solid fuels, the country produces 7.5 to 8 million tons of lignite per year, but no hard coal. The domestic production of lignite is covered by the general legislation on state aid

and no specific state aid programme for the sector exists. Almost all lignite is used for electricity generation. No restructuring of the sector is envisaged.

As concerns **energy efficiency and renewable energy sources**, the existing Energy Law is not in line with the relevant *acquis*. A new law and the related secondary legislation should be developed. A programme on efficient energy use until 2020 was adopted in 1999, followed in 2004 by a strategy for establishing the necessary institutions, strengthening administrative capacity and performing technical activities (energy audits, energy codes, equipment standards). Special programmes have been set up for energy efficiency in houses, offices, public buildings, industrial facilities and street lighting.

As for electricity production, 19% is derived from hydropower, and there is potential for even higher production of renewable energy from hydropower, biomass and biogas. The country expects to be able to meet a renewable energy target of 22% of total internal production. However, the promotion of both energy efficiency and renewable energy is hampered by the low price of electricity, which does not cover all costs.

In the area of **nuclear energy and nuclear safety** a high level of safety must be ensured by any prospective candidate for accession. The former Yugoslav Republic of Macedonia has no nuclear installations for energy production or research and no nuclear fuel cycle facilities. Nor has it any intention of developing any nuclear capacity. Under the existing national legislation no authorisations for buying, owning or selling nuclear material are given, and no authorisation for physical handling of nuclear material is granted, except for medical purposes. A verification agreement with the IAEA that contains a small quantities protocol has entered into force. Nevertheless, the country should sign and ratify the additional protocol to the verification agreement. Significant further efforts are needed to ensure full and proper implementation of the legislation on **radiation protection**.

Conclusion

The former Yugoslav Republic of Macedonia is currently far from meeting the requirements of the *acquis* on several key aspects of the energy chapter and it will have to make significant efforts to align its legislation and to effectively implement and enforce it in the medium term. Particular efforts are needed in the area of legislation on internal electricity and gas markets, energy efficiency and renewable energy sources. The country's administrative capacity should be significantly strengthened in all energy sectors. Particular attention should be given to the Energy Regulatory Commission.

Chapter 16: Taxation

The *acquis* on taxation covers extensively the area of indirect taxation, namely value-added tax (VAT) and excise duties. It lays down the scope, definitions and principles of VAT. Excise duties on tobacco products, alcoholic beverages and energy products are also subject to EU legislation. As concerns direct taxation, the *acquis* covers some aspects of taxing income from savings of individuals and of corporate taxes. Furthermore, Member States are committed to complying with the principles of the Code of Conduct for Business Taxation, aimed at the elimination of harmful tax measures. Administrative co-operation and mutual assistance between Member States is aimed at ensuring the smooth functioning of the internal market as concerns taxation and provides tools to prevent intra-Community tax evasion and

tax avoidance. Member States must ensure that the necessary implementing and enforcement capacities, including links to the relevant EU computerised taxation systems, are in place.

In the area of **indirect taxation**, the former Yugoslav Republic of Macedonia has a VAT system in place. VAT accounts for more than 25% of the total State revenues (in 2003). The current VAT system is based on the EU's Sixth VAT Directive and includes definitions of taxable transactions, taxable persons, VAT liability and the provisions on the place of supply of goods and services. Foreign entrepreneurs who are not residents may register for VAT purposes. A taxable person is not obliged to register for VAT when his annual turnover does not exceed MKD 1 300 000 (approximately € 21 300), which is above the threshold provided for in the *acquis*.

Currently the country applies a standard VAT rate of 18% and a reduced rate of 5%. The reduced rate is applicable to supplies such as food products, water from public supply systems and written publications. No zero-rate VAT is applied in the country. These provisions therefore appear to be broadly in line with the *acquis*. As the rate applicable is in principle the same as that applied to similar domestic products, it would seem that there is no discrimination against imported goods. The exemptions from VAT without the right to claim an input credit applied to the supply of certain goods and services appear to be quite similar to the provisions in the *acquis*.

In accordance with the *acquis*, supplies of goods to and within free zones and free and bonded warehouses are exempted. However, the territorial application of the VAT Act excludes the free zones, something which is not in line with the EU *acquis*. Specific profit tax reliefs are also granted to these free zones. This will need to be assessed against the rules of the Code of Conduct for Business Taxation.

The rules on VAT deduction are broadly in line with the *acquis*. Taxable persons, including foreign companies without any establishment within the country, are entitled to deduct VAT incurred on their purchases of goods and services for business purposes. The VAT Law stipulates, however, that there are some exceptions to this right of deduction, namely gifts, entertainment, transportation vehicles, hotel accommodation, refrigerators, audio and video devices, carpets and artistic items.

The VAT Act provides for special schemes applicable to tour operators and second-hand goods that are broadly in line with the *acquis*. There are no special schemes for electronically supplied services or investment gold. Such schemes will need to be introduced.

As regards VAT obligations (registration, declaration, invoicing, record-keeping, etc.), the legislation is broadly in line with the *acquis* but further harmonisation will be necessary, mainly in the area of invoicing.

Excise duties accounted for more than 13% of the total State revenue in 2003. The uniform act governing excise duties (the Law on Excises) is already aligned with the EU excise directives to a great extent, although further harmonisation in this area remains necessary.

Most of the products that are part of the EU harmonised excise system (i.e. alcohol and alcoholic beverages, tobacco products and mineral oils) are subject to excise duties. However, the provisions of the Energy Directive still need to be implemented, as within this category of products only mineral oils are today subject to excise duties. The duty structure for excisable

products is broadly in line with the *acquis*, but further alignment will be necessary, notably for beer and intermediate products.

The former Yugoslav Republic of Macedonia recently introduced an excise duty on passenger cars, which might not be fully in compliance with the *acquis* as it could require border-crossing formalities if it is kept after accession.

As regards duty rates and exemptions, some aspects of the legislation will need further alignment with the *acquis*. The minimum duty rates on cigarettes and fine-cut smoking tobacco will need to be raised in order to reach the minimum levels required by the *acquis*. To a lesser extent, some of the rates applicable to mineral oils and alcoholic products will also need to be raised. As regards tobacco products, excise duties on cigarettes are discriminatory against imported products but a levelling of these duties is scheduled by 2007. As regards alcohol and alcoholic products, the former Yugoslav Republic of Macedonia currently applies a duty exemption for wine and spirits produced for own consumption. In the case of spirits, no provision exists in the EU legislation for such an exemption. Concerning mineral oils, an exemption is provided for special vehicles used by the Ministry of Defence and Interior. This is not allowed under EU law.

Provisions on excise warehousing as well as other aspects of Directive 92/12/EC on the holding and movement of excisable products are already integrated in the legislation. However, further harmonisation in this area remains necessary, mainly to implement the intra-Community suspension regime.

As regards *administrative capacity*, the Public Revenue Office is the body which is responsible for the assessment, collection and control of all taxes and other types of public revenues (with the exception of VAT and excise duties on imports). It is under the responsibility of the Ministry of Finance and employs a total of 1 246 persons. It consists of headquarters, 6 regional offices and 24 tax units. The tax administration's competences and powers as well as taxpayers' rights and obligations are clearly defined. The information system of the tax administration is already partly computerised and activities are currently ongoing to complete this process.

According to the available data, the size of the grey economy is significant (estimated at more than 45% in 2000/2001; *see also Chapter 2 – Economic Criteria*). Moreover, the efficiency of tax collection is also far lower than the average in the EU. The control strategy for VAT, excise duties and direct taxes is determined by the Sector for Supervision in the Public Revenue Office. Annual Control Plans are established, together with operative three-month plans. The Public Revenue Office has a total of 270 tax inspectors, which is clearly considered insufficient. Tax inspectors can carry out audits for all types of taxes.

There is the possibility to appeal against decisions of the Public Revenue Office. The first instance is the Ministry of Finance and the second instance is the Supreme Court. An appeal does not delay the execution of the decision.

A Sector for Internal Control has been set up within the Public Revenue Office and a free telephone line has been introduced in order to tackle the serious problem of corruption within the tax administration. However, only five cases have been registered so far and led to a dismissal, which appears to be insufficient.

As concerns **direct taxation**, the former Yugoslav Republic of Macedonia will have to make efforts to align its legislation with the *acquis* in this area. Profit tax accounts for less than 4% of total State revenue. Some provisions concerning the taxation of interest, royalties, dividends and fees paid by corporations of the country to non-residents need further alignment with the Parent-Subsidiary Directive and the Interest and Royalties Directive. Furthermore, the former Yugoslav Republic of Macedonia will have to prepare for the introduction of a cross-border exchange of information between Member States concerning the payment of interest to EU resident individuals, as required by the Savings Directive. Transposition of the Merger Directive will be necessary in order to remove tax obstacles to cross-border business reorganisations.

The former Yugoslav Republic of Macedonia currently applies several preferential schemes for profit and income tax. These measures will need to be assessed against the criteria of the Code of Conduct for Business Taxation. If they are regarded as harmful tax measures, they will need to be rolled back in order to comply with the principles of the Code of Conduct.

As concerns **administrative co-operation and mutual assistance**, the experience of the country is so far very limited for both VAT and excise duties. Relevant structures and procedures will need to be created for collection and exchange of information as well as for the cross-border recovery of tax debts. IT systems for the exchange of information will need to be developed.

In this respect, the VAT Information Exchange System (VIES), the application for VAT on e-services, the computerised system for the intra-Community movement and monitoring of excisable goods (EMCS), as well as other excise systems (MVS, EWS/E and SEED) will need to be fully operational by the date of accession. This will require major efforts, a stable organisational framework, a strong commitment to devote the necessary human and financial resources and a reasonable period of time (at least four years).

Conclusion

Further amendments to the VAT system will be necessary to bring it into line with the *acquis*. Attention must be paid mainly to VAT obligations and to certain special schemes that still need to be introduced. As regards excise duties, the legislation is already to a great extent aligned with the *acquis*. Attention will mainly need to be paid to implementing the provisions of the Energy Directive, which provides for harmonisation of rates for energy sources other than mineral oils (such as electricity). The taxation regime for tobacco products needs to be amended in order to put an end to the existing discrimination between domestic and imported products. In the area of direct taxation, further efforts will be necessary in order to achieve full alignment with the *acquis*.

The capacity of the tax administration requires considerable further strengthening. The size of the grey economy and the level of tax evasion by economic operators show that structural measures need to be taken urgently to reform the control policy and improve control capacity. Measures to modernise the tax administration and adopt modern technologies should be pursued, and strong and sustained efforts will be needed to achieve full interconnectivity with EU computerised systems. The fight against corruption within the Public Revenue Office should be strengthened in order to ensure non-discriminatory application of tax legislation. In addition, considerable efforts are needed in order to strengthen the administrative capacity of the Public Revenue Office both in terms of human and technical resources and in terms of

administrative structures and procedures so that the tax legislation is effectively implemented and applied in a non-discriminatory way.

Overall, the former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its legislation with the *acquis* in the area of taxation and to effectively implement and enforce it in the medium term.

Chapter 17: Economic and monetary policy

The *acquis* in the area of economic and monetary policy contains specific rules requiring the independence of central banks in Member States, prohibiting direct financing of the public sector by the central banks and prohibiting privileged access of the public sector to financial institutions. Upon accession, new Member States will be expected to co-ordinate their economic policies. As regards their public finances, they will notably be subject to the provisions of the Excessive Deficit Procedure as well as of the Stability and Growth Pact. Their national central banks will be subject to the Statute of the European System of Central Banks. New Member States are also committed to seek compliance with the criteria laid down in the Treaty for adopting the euro. Until they adopt the euro, they will participate in the Economic and Monetary Union as Member States with a derogation and shall treat their exchange rate policy as a matter of common concern.

Central bank independence is largely in place in the former Yugoslav Republic of Macedonia. Indeed, the Law on the National Bank of 2002 seems to be almost compliant with EU legislation. It stipulates that the Bank shall neither seek nor take instructions from other authorities and that it is the sole institution responsible for monetary and foreign exchange policies in the country. Its primary objective is to achieve and maintain price stability. The Bank is financially independent and, in general, has sufficient administrative capacity in place to function effectively.

However, some provisions of the Law on the National Bank need to be further improved. In terms of the personal independence of Council members as well as regarding the central bank's accountability, the provisions on the bank's independence should be further aligned with the *acquis*. In particular, the provisions concerning grounds for dismissal of Council members should reflect the ESCB Statute more closely, while the reporting obligations on monetary policy should only be ex-post, in order to prevent any possibility of external influence.

As regards the prohibition of **direct financing of the public sector by the central bank**, the Law explicitly prohibits extending credit directly to the State, though not to other public institutions. The possible coverage of a shortfall between income and expenditures of the National Bank by debt securities of the State could involve a form of monetary financing to the extent that the Bank is obliged to acquire them.

Regarding the prohibition of **privileged access**, all acts that presently provide specific rules or incentives to the financial sector to lend to the public sector or to purchase public securities need to be aligned with the *acquis*. In particular, the Law on Supervision of Insurance and the Law on Mandatory Fully Funded Pension Insurance contain provisions on the investment of certain assets which effectively give the public sector privileged access to financial institutions.

Conclusion

The former Yugoslav Republic of Macedonia should not have major difficulties with applying the *acquis* in the field of economic and monetary policy in the medium term. However, some aspects of the legislation on central bank independence, monetary financing and privileged access of the public sector to financial institutions need to be further aligned with the *acquis*. The country's preparation for participation in the third stage of EMU as a Member State with a derogation should not pose major problems prior to accession.

Chapter 18: Statistics

The *acquis* in the field of statistics requires the existence of a statistical infrastructure based on principles such as impartiality, reliability, transparency, confidentiality of individual data and dissemination of official statistics. National statistical institutes act as reference and anchor points for the methodology, production and dissemination of statistical information. The *acquis* covers methodology, classifications and procedures for data collection in various areas such as macro-economic and price statistics, demographic and social statistics, regional statistics, and statistics on business, transport, external trade, agriculture, environment, and science and technology. No transposition into national legislation is needed as the majority of the *acquis* takes the form of regulations.

The **Law on State Statistics** of the former Yugoslav Republic of Macedonia, adopted in 1997, is partly compliant with European standards in this area. It enshrines the principles of reliability, professional independence, impartiality and confidentiality. However, the definitions used in the law (e.g. the term "official statistics" is not defined) and the procedures for appointment of the director and the deputy director of the State Statistical Office (SSO) need to be revised. The law could be made more universal by giving the SSO the authority to implement new *acquis*-based standards and classifications directly, without a new law being required. At present, the adoption and implementation of laws relating to statistics is a slow process and hampers harmonisation.

The SSO plays the leading role within the **statistical system**. The Director is appointed by the government for a period of four years; however, there has been a tendency to appoint new directors more frequently following changes in the government, which might endanger the principle of independence. The SSO has 239 employees, of whom 79 work in the eight regional offices. The latter mainly collect data and do the primary processing of questionnaires. Many of the existing personnel of the SSO are well-qualified, but the high turn-over of some categories of staff creates difficulties. Training is mostly provided by international organisations and it is important to increase the capacity in this area within the country. The SSO is relatively well-equipped with information technology. A further improvement would be the introduction of meta-databases.

The planning and programming system of the SSO is based on a five-year Programme of Statistical Research which is created in co-operation with the other producers of official statistics (the National Bank, the State Office for Health Services, the Fund for Pension and Disability Insurance, the Directorate of Hydrometeorological Affairs and the Ministry of Justice) and the main stakeholders. Inclusion of the Ministry of Finance in the Programme

should be considered. Agreements between the SSO and the competent governmental bodies are in place, but only partially implemented in the case of ownership, data transfer and new standards and methods. Working parties with the main users of statistics have recently been established and should be made fully operational.

The monitoring of the Programme of Statistical Research is weak in practice as there are no performance indicators. Moreover, there is no direct link between the Programme and the budget. In order to make plans more realistic and possible to monitor, they should be linked with the available human and financial resources. There is no accounting system giving information on the costs of separate statistical products. If such a system were introduced, the SSO would be better able to monitor performance, to carry out internal audits and to make further plans.

The national **classifications** that are used in the national statistical system are almost in line with EU requirements. A computerised classification database should be established. The SSO should take steps to conclude an agreement with Eurostat on statistical regions that are compatible with the NUTS (*Nomenclature des unités territoriales statistiques*). The future production of **regional statistics** can start once the statistical regions have been defined (at present, statistics are only produced at national level and partly at municipal level).

Agricultural statistics are not of adequate quality and progress has almost come to a halt due to the continuous postponement of the agricultural census. Once the census is finally held, its results should be used as a basis for creating a farm register, which will secure a better sampling frame for agricultural surveys. Moreover, big gaps in agricultural statistics remain to be addressed. For example, there are no statistics on land use and remote sensing, no modelling is taking place, and food safety is not yet covered.

Environment statistics are generally not compliant with EU requirements, although some basic statistics are produced, e.g. on pollution and waste. In the field of **transport statistics**, there are serious weaknesses in the coverage of transport of goods by road, especially in the case of small enterprises. Inter-modal freight statistics need to be developed.

Concerning **demographic and social statistics**, a population census, harmonised with international principles, was carried out in 2002 and the results were widely accepted. Vital statistics are generally kept in accordance with international recommendations. However, the lack of registration of emigrants and immigrants hampers the determination of net migration and, therefore, the calculation of annual population estimates. A Labour Force Survey is conducted regularly, although measures must be taken to obtain a harmonised questionnaire.

With regard to **macro-economic statistics**, national accounts are partly in line with EU standards but require substantial further improvement, in particular as far as national accounting is concerned. Purchasing power parities are produced in accordance with EU requirements. However, a Harmonised Consumer Price Index is not yet available. Work on **Government finance statistics** needs to continue, especially regarding the municipalities. Public deficit statistics need to be developed further.

The framework for **business statistics** is in place, but the coverage is insufficient for lack of an operational statistical business register. A business census should be carried out in order to build a homogeneous basis for a statistical register. The SSO is still responsible for both an

administrative and a statistical business register. The administrative register should have been transferred to the Central Register but the date of transferral has been postponed.

The quality of **external trade statistics** is already quite good, using the Harmonised System and the Combined Nomenclature. Work on further quality improvements should continue, particularly to develop tools for mirror statistics with other Balkan and EU countries.

Conclusion

The basic principles and the framework for producing statistics are in place in many areas. There is no severe divergence from the *acquis* that cannot be overcome within a reasonable timeframe and with the appropriate resources, although numerous gaps need to be filled before the statistical system of the country becomes sustainable and harmonised. The administrative capacity of the SSO must be enhanced to enable it to produce the statistics which are required in the EU. Co-ordination between the ministries and agencies involved in the National Statistical System needs to be reinforced. Strategic planning needs to be linked to the availability of human and financial resources, including staff training. Human resources should be strengthened in order to allow the timely implementation of strategic priorities such as the agricultural census and the business census. Operational registers on businesses, the population and territorial units need to be established.

Overall, the statistical system of the former Yugoslav Republic of Macedonia has made remarkable progress towards compliance with international and EU standards. If the necessary human and financial resources are made available, the country should have no major difficulties to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term.

Chapter 19: Social policy and employment

The *acquis* in the social field includes minimum standards in the areas of labour law, equality, health and safety at work and anti-discrimination. The Member States participate in social dialogue at European level and in EU policy processes in the areas of employment policy, social inclusion and social protection. The European Social Fund is the main financial tool through which the EU supports the implementation of its employment strategy and contributes to social inclusion efforts (implementation rules are covered under Chapter 22, which deals with all structural instruments).

As regards **labour law**, the national legislation, notably the new Law on Labour Relations of 2005, seems to cover a number of basic principles laid down by the EU labour law *acquis*, in particular as regards working time and the information of workers on individual employment conditions. There are no provisions ensuring appropriate protection of workers in the case of insolvency of their employer. More information is needed in order to assess the legal situation with regard to other issues covered by the *acquis*, such as fixed-term work, health and safety related to fixed-term work and temporary unemployment, posting of workers, and workers' involvement, in particular their information and consultation.

The basic legal text on **health and safety at work** is the Law on Safety at Work. Although it covers several areas of the *acquis*, most of the legislation seems obsolete and therefore needs to be revised. Differences exist as regards risk assessment, consultation of workers and

workers' representation in organisations with fewer than 10 workers. Further efforts will also be needed to transpose the *acquis* on subjects such as asbestos, work equipment, workplaces, personal protective equipment, manual handling of loads, extracting industries, carcinogens, display screen equipment, safety signs, chemical, physical and biological agents, explosive atmospheres, and medical treatment on board vessels and fishing vessels. The strategy to be adopted in 2005 should pave the way for a clearer view of the need for updating legislation in accordance with the *acquis* and provide for a schedule for the main action to be taken in the short term.

The administrative capacity of the Labour Inspectorate needs to be significantly strengthened in terms of staff and technical equipment. In particular, the abilities and knowledge of inspectors need to be enhanced. At present, the ability of the Labour Inspectorate to enforce effective and dissuasive sanctions is also limited by weaknesses in the judicial system.

As concerns the **social dialogue**, an Economic and Social Council acts as a tripartite advisory body. It consists of representatives of the three social partners: the government, the Association of Workers, and the Association of Employers. The representatives of the social partners review the economic and social issues and agree on general and common economic and social interests. The predominant trade union is the Federation of Trade Unions of Macedonia. It organises about 250 000 members in 17 branch unions, but the number of ethnic Albanians is very limited. As for employers' associations, the role and representativeness of the chambers of commerce need to be considered. The stipulations of the Law on Labour Relations, adopted in July 2005, which establish clear representativeness criteria for employers' associations and eliminate the automatic presence of the Chamber of Commerce in the Economic and Social Council, are a step in the right direction. There are two national collective agreements (one with the government and one with the Chamber of Commerce) and 30 branch agreements. As the provisions of these agreements are not systematically respected, they have not yet been successful in preventing industrial conflicts. No information is available on the number of collective agreements at enterprise level, nor on their enforcement.

The former Yugoslav Republic of Macedonia has had persistently high unemployment since the beginning of the transition. The situation in the country is marked by a high level of long-term unemployment, low and static participation and a low and falling employment rate (*see also the section on the Economic Criteria*). The official unemployment rate has been above 35% over recent years, particularly affecting young people. The lack of reliable statistics – primarily attributable to the scale of the grey economy, but also to the lack of standard indicators and poor reliability of data due to distorting factors such as the significant number of people registering as unemployed only to gain access to health care – is a serious impediment to assessment of the labour market. This also partly explains why withdrawals from the labour force have been relatively limited and why participation is rather static around 60 to 62%. **Employment policy** reforms started only very recently. In addition to a revision of the labour regulations, the employment policy is currently being transformed into a concept of active labour market measures directed at promoting the creation of new job opportunities, at activating jobless people and at human resource development. The measures are implemented mainly by the Employment Agency. However, there is a need to modernise the administration in this field and to provide adequate resources. In 2003 the former Yugoslav Republic of Macedonia adopted a National Action Plan on Employment in accordance with the EU Employment Guidelines, but a major effort is needed to further develop the capacity for analysis, strategic policy-making, implementation and assessment of employment policies.

As regards preparations for the **European Social Fund (ESF)**, the former Yugoslav Republic of Macedonia will have to prepare its structures and adopt new legislation in order to strengthen its administrative capacity for management, implementation, monitoring, audit and control of ESF-type measures at both national and regional levels. One area where further progress is needed is the alignment of national poverty data with the “Laeken” poverty indicators.

Progress is necessary in the fight against **social exclusion**. A strategic multi-dimensional approach to social exclusion and poverty in Macedonian society is needed as a basis for future programmes for vulnerable groups.

The **social protection** network in the country does not cover all the affected groups, due to a shortage of financial, human and institutional resources. The pension and insurance system will need to be reformed to meet the demographic challenges, in order to make it more adequate, sustainable and adapted to changes in society. In the health care sector, equitable access for all and geographical disparities of care supply are important issues to be addressed. The efficiency of the system could be improved through the increased use of primary and outpatient care as opposed to hospital care. Although important efforts have been made, the system still suffers from past difficulties associated with the 2001 crisis and the ensuing economic downturn.

In the area of **anti-discrimination and equal opportunities**, there are some anti-discrimination provisions in Article 9 of the Constitution – which covers gender, race and religion, but not age, disability and sexual orientation –, in the Criminal Code and in international human rights instruments ratified by the country. However, national measures taken so far are by no means comprehensive. Further efforts are required to implement EC legislation concerning discrimination on grounds of racial or ethnic origin, religion or belief, age, disability and sexual orientation.

The principal rules on **equal treatment for women and men** are contained in the Labour Relations Law. It covers equal pay, access to employment and maternity protection, including maternity leave but not parental leave. The retirement age for civil servants differs by five years between men and women and may have to be equalised in accordance with the principle of equal treatment laid down by the Treaty. Provisions regulating damages have been introduced by the Law on Labour Relations, but the upper limit will need to be removed. Legal adjustments are necessary in connection with the overprotection of female employees. There are restrictions on women working night shifts in industry or construction, and women are generally not allowed to perform strenuous physical labour, underground work, work under hyperbaric atmosphere or work that could be hazardous or harmful. Furthermore, legal adjustments are necessary to introduce parental leave in conformity with relevant EC provisions. The categorical ban on night work for pregnant employees should be softened. The law should allow associations which have a legitimate interest in ensuring that the principle of equal treatment is applied to engage, either on behalf or in support of the complainant, in any judicial or administrative procedure. The Equality Body required by the *acquis* needs to be established. Rules concerning occupational social security will have to be put in place.

Conclusion

Legislation on labour law and health and safety at work needs to be amended in a number of areas and inspection capacity will have to be substantially strengthened. Legislation on equal opportunities between men and women also needs to be further developed. Measures are needed to bring down the very high unemployment level. A more strategic approach to employment needs to be developed and matched by appropriate capacity-building for analysis, implementation and assessment. A strategic approach to social exclusion and poverty is needed, and attention should be paid to the preparations for the implementation of the ESF.

Overall, the former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the area of social policy and employment in the medium term. The country also needs to prepare itself for participation in the co-operation processes developed at European level in the fields of employment, social inclusion and pensions.

Chapter 20: Enterprise and industrial policy

EU industrial policy seeks to promote industrial strategies enhancing competitiveness by speeding up adjustment to structural change, encouraging an environment favourable to business creation and growth throughout the EU as well as domestic and foreign investments. It also aims to improve the overall business environment in which small and medium-sized enterprises (SMEs) operate. It involves privatisation and restructuring (*see also Chapter 8 – Competition policy*). EU industrial policy mainly consists of policy principles and industrial policy communications. EU consultation forums and Community programmes, as well as communications, recommendations and exchanges of best practices relating to SMEs aim to improve the formulation and co-ordination of enterprise policy across the internal market on the basis of a common definition of SMEs. The implementation of enterprise and industrial policy requires adequate administrative capacity at national, regional and local level.

The former Yugoslav Republic of Macedonia does not have an **industrial strategy** document, although most strands of relevant policy-making are brought together in the National Strategy for the integration of the country into the EU.

The principle of *better regulation* implies that regulation should have minimum negative impact on competitiveness. The former Yugoslav Republic of Macedonia has a lot of progress to make in this field, as there are currently no regulated procedures for assessing the impact of new legislation on business. Some ministries and universities occasionally carry out assessments of the expected impact of new regulations, but not in any systematic way.

As regards the *exploitation of synergies between policies*, many of the elements required appear available among policy instruments deployed by the government, including programmes and initiatives to boost the competitiveness of companies and to develop science and technology capacity in industry. However, most initiatives in this field are heavily donor-dependent and are still in their infancy.

Regarding the principle of *complementing horizontal policies with measures taking account of sectoral specificities*, sector-level policies in the former Yugoslav Republic of Macedonia are much less developed than horizontal ones and the precise linkage between them has therefore yet to be addressed. Sectoral policies appear limited to the steel conversion

programme and the setting-up of five clusters on lamb and cheese, tourism, wine, textiles, and information and communication technology (ICT). Sectors which are suffering from intense competition from low-cost countries should be assisted to modernise and to restructure.

Industry makes a modest contribution to the economy as a whole. Its share of GDP has declined from 22.5% in 2000 to 20.7% in 2003. Employment in industry has declined from 160 591 in 2000 to 132 614 in 2003. The total number of enterprises has been gradually increasing and stood at 56 201 in 2003. 98% of these enterprises are small (fewer than 50 employees). The most important industrial sectors in terms of production and employment are food products, basic metals and steel, textile and clothing and mechanical/electrical engineering.

With a share of 20.9% of total industrial production and 3.83% of total GDP, the *food products and beverages* industry is the biggest industrial sector. It employs 12.8% of the labour force in industry, one third of whom work in the manufacture of bread, pastry and cakes. The sector is characterised by the diversity of its activities, from the production of ice-cream and chocolate products to spirits, beer and soft drinks. Exports account for almost a quarter of total production and go mostly to Serbia and Montenegro and the EU. The level of FDI is particularly low and has decreased further in recent years. The main companies in the food products and beverages industry are privately owned. Growing competition imposes a need for restructuring and improvement of their competitiveness.

The *basic metals* sector contributes 8.6% of total gross industrial product and 4.8% of industrial employment. It is the largest export sector with 30% of industrial exports. It is almost entirely in foreign ownership. The former Yugoslav Republic of Macedonia is a net exporter of basic metals exporting primarily to Germany, Italy and Serbia and Montenegro, while the Ukraine, Serbia and Montenegro and Bulgaria are the main sources of imports. Production in the sector consists mainly of steel products, although the country also produces small quantities of copper, aluminium, zinc and nickel. The mines are significant job providers in some regions and account for 2.6% of industrial employment. In the steel sector, productivity has gradually been approaching the EU average and the restructuring process is advanced. A National Restructuring Programme has been approved by the Government and is being analysed by the Commission in the light of Protocol 2 of the Stabilisation and Association Agreement.

Non-metallic mineral products (notably marl, limestone and dolomite) contribute 5.4% of total industrial output and 3.3% of industrial employment. The main sub-sector is brick and tiles production. The sector consists mainly of small companies, although there is one large cement producer. Output has been stable in recent years, although capacity utilisation is relatively low and the numbers of companies and employees have been falling.

The *textile and clothing* sector generates a small share of total GDP (textiles 0.38% and clothing 1.96% in 2003) but makes a large contribution to total employment (8.5% in 2003). Manufacture of underwear, other clothing and accessories and textile weaving are important manufacturing and export areas. Subcontracted production of clothing products has reached higher levels than other domestic production since 2000, particularly in underwear articles. Foreign capital is present at low levels. While production values in textiles have dropped since 2000, the clothing sub-sector has been growing in terms of employment and has recorded the highest employment rates among industrial sectors, reaching 25.7% of the total industrial labour force in 2003. Small enterprises contribute 59% to the sector's total gross

value added and 62% to its employment. The textiles and clothing industry is highly export-oriented and, with a contribution of 30% to total industrial exports, ranks as the second biggest export industry.

Mechanical and electrical engineering accounts for 7.9% of industrial output and 10.5% of industrial employment, although production gradually declined between 2001 and 2003, mainly due to lower exports, a sign of decreasing competitiveness. FDI is small and in 2003 reached less than a third of its 2001 level.

In the *forest-based industry*, pulp and paper, wood and wood products and furniture are relatively small-scale, while *printing, publishing and reproduction of recorded media* are somewhat larger, with 3.5% of gross industrial output and 3.1% of industrial employment. Although FDI has been very modest, this industry has recorded significant productivity increases, unlike the other forest-based sub-sectors.

The *construction sector* has been showing fairly stable figures over recent years. Gross value added is slightly lower (6-7%) than the EU average (8-10%). The sector is labour-intensive, accounting for 7.4% of total jobs in industry, and consists of few big companies and a large number of small ones. FDI has decreased dramatically over the last four years. The country covers its national demand on the domestic market.

The information technology, transport equipment, chemical and pharmaceutical and leather and footwear industries are all very small.

Finally *tourism* appears to be an area with potential and the country has developed a strategy to support it. Capacity has remained stable over the last four years, but there seems to be potential to benefit from alternative forms of tourism (sports, nature and rural destinations). The country would be well advised to develop a marketing and promotion campaign for main tourist sites, including sustainable development and security aspects.

As regards **privatisation and restructuring**, the 1995 Law on Restructuring Loss-Making Enterprises led to a first wave of restructuring of 25 enterprises representing 13% of GDP, 55 000 employees and 80% of losses in the enterprise sector. Out of the 25 enterprises some 160 smaller companies were formed, most of which were privatised. A second wave of restructuring, privatisation and/or liquidation followed in 2000 as part of a special action plan drawn up at the instigation of the World Bank and included another 40 loss-making enterprises involving more than 10% of employees in the enterprise sector, ten of which remain to be restructured and privatised under the new Bankruptcy Law. Restructuring and privatisation of the Electric Power Company is planned under a special law adopted in March 2004.

Foreign investment played a relatively modest role in the privatisation process as the country was not considered an attractive location for FDI. Greenfield investment has also been limited, hence the importance of the recently launched foreign investment programme and agency. FDI amounted to some 2% of GDP in 2003.

The country has taken several initiatives to improve the investment climate, the **business environment** and the competitiveness of companies. A programme for the promotion of foreign investment was adopted in 2003 and an Agency for Investment Promotion started working in 2005. In co-operation with the World Bank's Foreign Investment Advisory

Service (FIAS) a study on the reduction of administrative barriers to investment and for attracting foreign direct investment was prepared and the government has responded with an Action Plan to reduce investment barriers.

The former Yugoslav Republic of Macedonia has a **national SME strategy** (2002-2012), a national **SME programme** of specific measures (2003-2007) and an **SME Agency** in place. The government adopts annual financial allocations for implementation of the programme. The SME Agency has only recently become active and still needs to build up credentials. Generally, together with the setting-up in 2003 of the National Entrepreneurship and Competitiveness Council and a regional network of business support centres, this is an appropriate institutional framework for policy-making, although the different elements of this framework are not yet sufficiently known or valued in the business community itself. SMEs account for 99.2% of the companies in the country (93.3% are small, with fewer than 50 employees), 76.6% of employees, 69.1% of GDP and 52.8% of exports.

The existing **SME definitions** in the Company Law are not fully in compliance with the new Commission recommendation 2003/361/EC, which defines an enterprise as any entity engaged in an economic activity, irrespective of its legal form. The SME definition in the former Yugoslav Republic of Macedonia defines a micro, small or medium-sized enterprise as a commercial entity. The SME definition is in compliance with the staff headcount threshold, but not fully compliant regarding the annual turnover thresholds and annual balance sheet; the latter is not mentioned at all with respect to micro-entities. In the Commission recommendation a distinction is drawn between autonomous, partner and linked enterprises, which is not the case in the former Yugoslav Republic of Macedonia.

As regards soft policy *acquis*, the country joined the **European Charter for Small Enterprises** in 2003 and has been participating effectively in the implementation process, although the national co-ordinator has changed three times in the last two years. The structure of the ten policy action lines of the Charter is followed in this Analytical Report to provide a short analysis of SME policies in the country.

As regards *education and training for entrepreneurship*, the country has entrepreneurship programmes in education through the international Junior Achievement Programme, but this is still optional and extracurricular. Management and business has been introduced as a compulsory subject in vocational training. University education focusing on entrepreneurship has improved, mainly due to the increasing number of private universities. There is a post-graduate Master's degree in entrepreneurship at the Economics Institute in Skopje.

Regarding *cheaper and faster start-ups* of companies, the new Company Law (2004) provides a new typology of companies and seeks to speed up registration at the courts (*see Chapter 6 – Company law*). The law introduced the concept of one-stop shops for this purpose, but this has not been implemented although it has been discussed for several years. Online registration is not possible. Despite some progress, company start-up remains an important obstacle for entrepreneurs. Craftsmen and artisans have access to simpler registration formalities and the “silence is consent” principle applies to their registration applications.

The principle of *better legislation and regulation* would suggest regulatory impact assessments, the adoption of user-friendly documents, the simplification of rules and the exemption of small enterprises from some regulatory obligations. Currently, there are no regulatory impact exemptions or specific regulatory exemptions for SMEs. Only craftsmen

and artisans can benefit from certain regulatory simplifications. Administrative barriers to investment need to be reduced.

Little assessment of the *availability of SME skills* and the corresponding training needs has been carried out. A project for the establishment of an SME Observatory could start addressing this question. Business Advisory Services (BAS) is successfully promoting a local SME consultancy market in the country.

In the area of *improving online access*, progress has been made on publishing web-based information for companies and an e-signature act has been passed, but all websites are one-directional and there is no interactive use. There are numerous difficulties with the use of online services, such as internet access, the prices of ICT equipment and telephone charges. Also the entrepreneurs are only at the beginning of a learning curve, discovering the benefits of internet and e-business alike. The “e-Macedonia for all” initiative of the government and the development of an SME information portal by the SME Agency should be encouraged.

To *improve market access* for small companies, the former Yugoslav Republic of Macedonia has taken steps to increase the general quality of products in certain areas and to allow their sale on national and international markets. The country is harmonising its products with international quality standards including ISO standards.

Regarding *taxation and financial matters*, the existing tax system does not provide for tax exemptions related to the size of an enterprise. However, corporate income or profit tax is low with a 15% tax on profit and a reduced rate of 7.5% for companies listed on the stock exchange. Access to finance has been improving and significant progress has been made through the establishment of the Procredit Bank. A few private banks are increasingly catering to the needs of SMEs while the penetration of foreign banks in domestic ones is also improving lending opportunities. However, lending to SMEs is generally still hampered by conservative lending approaches and high collateral demands, based on the low management culture amongst SMEs. A public guarantee fund has not yet been established.

The former Yugoslav Republic of Macedonia has no special programme to *strengthen the technological capacity of small enterprises*. *E-business* is non-existent in the country and there is no legal framework for electronic trade. Generic *business support services*, including some 20 business support centres and 7 incubators, have gradually developed across the country, but more specialised and sophisticated services, such as IT incubators and technology parks, should be a next step. *Representation of small enterprises* is organised through the Chambers of Commerce, which are represented in social dialogue, and the National Entrepreneurship and Competitiveness Council, set up in 2003 by the government to advance public-private dialogue on policy development.

The country's *administrative capacity* for enterprise and industrial policy design and delivery is limited. Within the Ministry of Economy the three departments for Industry and Structural Reforms, Entrepreneurship Promotion and FDI Promotion have a combined staff of 24 persons. Some of the relevant national and regional agencies (Agency for Investment Promotion, SME Agency, Privatisation Agency, SME support centres and others) can make up for parts of this shortfall in human resources, but are themselves considered under-resourced and have yet to establish their credentials.

Conclusion

The former Yugoslav Republic of Macedonia needs to define an industrial strategy conducive to growth and innovation that will enhance economic competitiveness. A particular effort is required to improve the business environment and to simplify the licensing regime and procedures, as are assessments of the impact of new regulation. Administrative capacity for policy design and delivery is too low, although the basic infrastructure for SME policy has been set up. The country needs to align its SME definition and make further progress in most of the areas covered by the European Charter for Small Enterprises. FDI inflows remain insufficient and the country should rapidly improve conditions for domestic and foreign investments. If it continues its efforts, the country should be able to meet EU requirements in the field of enterprise and industrial policy in the medium term.

Chapter 21: Trans-European networks

This chapter covers the trans-European networks policy in the areas of transport, telecommunications and energy infrastructures, including the Community guidelines on the development of the trans-European networks and the support measures for the development of projects of common interest. The establishment and development of trans-European networks and the promotion of proper interconnection and interoperability of national networks aim to take full advantage of the internal market and to contribute to economic growth and the creation of employment in the European Union.

As regards **transport networks**, the former Yugoslav Republic of Macedonia stands at a relatively important land transport crossroads in the region, located on pan-European corridors VIII and X. The main transport infrastructure network is described in the Memorandum of Understanding of the South-East Europe Core Regional Transport Network, which was signed in June 2004. The country is also participating in the high-level group on the extension of the major trans-European transport routes to the neighbouring countries and regions. The former Yugoslav Republic of Macedonia invests a significant percentage of GDP in transport infrastructure (3% in 2004). Its infrastructure provides sufficient capacity for road and rail transport but its condition ranges from average to poor.

As regards **energy networks**, the Regional Energy Market in South-East Europe, covering electricity and gas, has put in place a phased transition programme attuned to the specific characteristics of the region. The aim is to reintegrate the state and sub-state energy markets with a view to eventual accession to the EU's Internal Energy Market. There is an oil pipeline between the former Yugoslav Republic of Macedonia and Greece, and there are plans to build new pipelines to Serbia and Montenegro, Bulgaria and Albania. The country already has a gas link with Bulgaria. The existing electricity interconnections with Serbia and Montenegro and Greece are being strengthened and new transmission lines to Bulgaria and Albania are under construction.

Conclusion

As an immediate neighbour of the EU, the former Yugoslav Republic of Macedonia is part of some important infrastructure networks. Significant investments will be needed in order to

bring these networks to the required level of development. The country should not encounter major difficulties in this field in the medium term.

Chapter 22: Regional policy and coordination of structural instruments

The *acquis* under this chapter consists mostly of framework and implementing regulations, which do not require transposition into national legislation. They define the rules for drawing up, approving and implementing Structural Funds and Cohesion Fund programmes reflecting each country's territorial organisation. These programmes are negotiated and agreed with the Commission, but implementation is the responsibility of the Member States. Member States must respect EU legislation in general, for example in the areas of public procurement, competition and environment, when selecting and implementing projects. Member States must have an institutional framework in place and adequate administrative capacity to ensure programming, implementation, monitoring and evaluation in a sound and cost-effective manner from the point of view of management and financial control.

In 2005 the former Yugoslav Republic of Macedonia introduced a **territorial organisation** based on 84 self-governing municipalities. There is no other level of regional self-government. The government adopted a NUTS (*Nomenclature des unités territoriales statistiques*) classification in 2001, according to which the country comprises one unit at NUTS I level, 8 units at NUTS III, 34 units at NUTS IV and, following this year's reform, 84 units at NUTS V level. In view of its small size, the entire territory of the country constitutes a single NUTS II region. The NUTS III units are purely statistical and do not correspond to any administrative entities. To make it possible to determine the eligibility of its regions under the Structural Funds, the country should reach agreement with Eurostat on statistical regions that are in line with the NUTS regulation.

In the absence of regional administrative entities between the municipal level and the State, a problem is posed by the fact that the municipal level is not homogeneous, with a large number of very small municipalities. This might not allow Structural Funds programming at regional level and will have a negative impact on the establishment of the appropriate partnership arrangements and the implementation of a decentralised bottom-up approach.

Regarding the **legislative framework**, national policy operations with a specific regional or local focus or objective are covered by several pieces of legislation (Laws on Promotion of Economically Underdeveloped Areas, Organisation and Operation of State Administrative Bodies, Local Self-Government, Territorial Organisation of Self-Government, City of Skopje, etc.). Specific decision-making, implementation and monitoring systems are defined by each law.

There is no specific law on regional policy. Although this is not necessary in order to participate in EU regional policy, existing laws should be brought into line with the obligations contained in the EU Structural and Cohesion Funds regulations.

Successful preparation for participation in the Structural Funds and the Cohesion Fund is closely connected with alignment with EU rules on public procurement, State aid, the environment and equal opportunities for men and women (*see Chapters 5 – Public procurement, 8 – Competition policy, 27 – Environment and 19 – Social policy and employment*). In particular, preference clauses discriminating against Community companies

are not allowed, thorough State aid reviews must be carried out, compliance with public procurement rules must be ensured and environmental impact assessments need to be performed systematically before projects are implemented.

A new Law on Budgets is under preparation, which should include mechanisms for multi-annual budget programming. There are no legal provisions yet which would allow budget transfers between programmes.

There is no clearly defined **institutional framework** for the implementation of regional policy let alone for the implementation of the Structural and Cohesion Funds. The Law on Organisation and Operation of State Administrative Bodies empowers the Ministry of Local Self-Government to conduct regional policy operations in the country. However, the relevant responsibilities are largely restricted to economically underdeveloped areas at present. It needs to be defined which body will have responsibility for defining a regional policy (in the sense of the Structural and Cohesion Funds) for the whole country in the future. Clear decision-making and efficient implementation mechanisms need to be defined at all levels. Specific attention must be given to the establishment of administrative entities and mechanisms for implementing and monitoring programmes and operations at regional level. Eventually, the former Yugoslav Republic of Macedonia will have to designate authorities for programming and implementing the Structural and Cohesion Funds in line with the regulations applicable then.

While the country has some experience with inter-ministerial mechanisms (e.g. for co-ordinating foreign assistance), these are not yet used for regional policy matters. For its future participation in the Structural and Cohesion Funds, the country will be required to establish specific inter-ministerial co-ordination bodies and to elaborate relevant co-ordination procedures.

Moreover, besides the clear definition of the role of local or regional administrations in the future management of the Structural and Cohesion Funds, the relationship between the national and regional levels will need to be clarified. At present, co-ordination between national and local levels is neither regular nor structured.

While the new municipalities have their own sources of funding, it is not clear whether these sources would allow them to co-finance Structural or Cohesion Fund programmes and projects in the future.

Upon accession, the former Yugoslav Republic of Macedonia will need to have the **administrative capacity** in place to participate in EU structural policy. Besides identification of the ministries and other administrative bodies involved in the management of Structural and Cohesion Funds and their responsibilities, it will need to establish effective organisational and human resources development strategies and action plans, which will allow these bodies to build up sufficient administrative capacity for efficient implementation of Structural and Cohesion Fund operations (including financial management and control as well as monitoring and evaluation). Attention must also be paid in this context to building up sufficient capacity at the level of the beneficiaries (i.e. notably at local and regional level), to build up a pipeline of eligible projects and subsequently implement them.

With regard to **programming**, the country intends to prepare both a National Development Plan (NDP) and a Regional Development Plan by the end of 2006. However, work on these documents has barely started and no timetable is available.

The country has introduced some active labour market measures which, to some extent, resemble those funded by the **European Social Fund**. Given the difficult situation on the country's labour market, considerable attention will need to be given to human resource development in national and regional development plans.

There is no clearly defined structure for implementing the **partnership principle**. Co-ordination between the central and local levels is currently informal and ad hoc. Partnership structures should be established for each form of assistance, covering the preparation, implementation, financing, monitoring and evaluation of the assistance.

There are no proper national systems and mechanisms for **monitoring and evaluation** of the quality and impact of development programmes.

Financial management and control systems will need to be set up in line with pre-accession funds and Structural Funds requirements. Adoption of the new Law on Budgets and the establishment of a Central Financing and Contracting Unit in the Ministry of Finance would be useful first steps in this direction.

Progress is also needed on the availability of relevant and reliable regional **statistics**. No data are available on GDP per capita harmonised at NUTS III level. The country should therefore strengthen its capacity to prepare adequate statistical data (GNP/cap/PPS, unemployment rates) at NUTS III level for determining eligible areas and for programming and monitoring purposes.

Conclusion

The country's regional policy mechanisms are at a very early stage. Considerable and sustained efforts to define strategies, create administrative structures and procedures, and build up or strengthen administrative capacity at national, regional and local level will be necessary to allow the former Yugoslav Republic of Macedonia, in the medium term, to apply Community rules and channel the funds from the EU structural instruments.

Chapter 23: Judiciary and fundamental rights

The areas of the judiciary and fundamental rights are important parts of the overall EU policy on freedom, security and justice. Policies in these areas aim to maintain and further develop the Union as an area of freedom, security and justice. The establishment of an independent and efficient judiciary is of paramount importance. Impartiality, integrity and high standards of adjudication by the courts are essential for safeguarding the rule of law. This requires a firm commitment to eliminating external influences over the judiciary and to devoting adequate financial resources and training. Legal guarantees for fair trial procedures must be in place. Equally, Member States must fight corruption effectively as it represents a threat to the stability of democratic institutions and the rule of law. A solid legal framework and reliable institutions are required to underpin a coherent policy of prevention and deterrence of

corruption. Member States must ensure the respect of fundamental rights and EU citizens' rights as guaranteed by the *acquis* and by the Charter of Fundamental Rights.

Judiciary (see also *Political Criteria – Democracy and the rule of law*)

Independence and impartiality

Judges are *appointed and dismissed* by Parliament on a proposal by the Judicial Council of the Republic, also appointed by Parliament. The President of each court is proposed by the Judicial Council and approved by Parliament. Parliament approves or rejects the candidates without any obligation to elaborate on its decision. The decisive role of Parliament has led to party-political influence.

To become a judge, a lawyer has to comply with qualification and professional experience requirements. These are checked by the Judicial Council, which, if relevant, also requests an opinion from the court where the candidate has previously served as expert associate (which is the case for most candidates). The Minister of Justice and the President of the Supreme Court participate *ex officio* in the sessions of the Judicial Council and give a non-binding opinion.

Judges have permanent status, guaranteed by the Constitution. The office of judge is incompatible with carrying out any other public office or profession or with membership of political parties. Political organisation and/or activity within the judiciary are prohibited.

Disciplinary measures against judges are taken by the Judicial Council. However, beyond an informal reprimand, the only sanctions available are salary cuts and dismissal which must be approved by Parliament. In practice evaluation of the performance of judges remains largely theoretical, notably due to the scarce resources of the Judicial Council (nine employees). Citizens and parties to a legal conflict cannot submit a complaint to the Judicial Council and must rely on the Court President to file it for them. This also explains in part the relatively low number of disciplinary proceedings. Judges also enjoy immunity in accordance with the Constitution and the Law on Courts which can be lifted only by Parliament on a proposal by the Judicial Council. While judges should be protected when exerting their functions, the immunity should be defined in a way that does not allow possible abuses. A code of ethics has been adopted by the Association of Judges for its members but is not legally binding. There is no code applicable to all judicial officials.

Prosecutors are appointed, for a period of six years, and dismissed by Parliament. Opportunities for undue political influence were reduced in 2004 by the Law on the Public Prosecutors' Office which introduced a Public Prosecutor Council. Composed of nine members, seven of whom are prosecutors, the Council is entitled to give an opinion on the appointment of prosecutors. Once appointed, prosecutors take instructions only from their hierarchy and are not bound by instructions issued by the Minister of Justice.

The 2004 Judicial Reform Strategy includes comprehensive plans for the reform of judges' career system and the role of the Judicial Council. The changes envisaged, in the form of amendments of the Constitution and the setting-up of an academy for training judges and prosecutors, are expected to be in place by the beginning of 2006 and should suppress the role of Parliament in the appointment process and introduce an anonymous examination for future judges. The recruitment of prosecutors should also be modified, leaving Parliament with only a formal role. However, the role of Parliament in disciplinary proceedings is not part of the reform planned so far.

Efficiency and quality

Continuous *training* of judges, prosecutors and expert associates is provided by the Centre for Continuing Education of Judges (CCEJ), operational since March 1999 within the Macedonian Judges Association. The topics covered by the training programmes are criminal, civil, administrative and commercial law as well as EU and international law, regional co-operation, IT courses and languages courses. Training programmes on the EU *acquis* started at the beginning of 2003. No pre-service training exists, however. Two percent of the total judicial budget is supposed to be spent on training. However, the CCEJ has no permanent, regular funding guaranteed by the State. Reforming the training of judges and prosecutors is a major component of the ongoing reform of the judiciary, and the establishment of an academy for pre- and in-service training is currently under consideration in Parliament. Training of court officials and clerical staff, who up to now benefited from some training courses run by the CCEJ, would also have to be strengthened. The law establishing the academy should be adopted in time for the first selection to take place for the academic year 2006/2007. It will have to reflect fully the underlying objectives of the reform of ensuring greater professionalism in the judiciary. Appropriate and regular funding will also have to be guaranteed by the State.

Infrastructure and equipment for the judiciary are serious problems. Computerisation of the courts is ongoing and Local Area Network is currently used at all court levels, but there is no computerised network linking up the different courts. Efforts are being made to establish an operational IT unit in the Supreme Court which would manage the overall IT system in the judiciary. Courts have no access to databases of other law enforcement bodies. Court buildings are often in need of refurbishment or reconstruction.

The establishment, in 2004, of an independent *budget* for the courts was a positive step, but despite the recent increases the financial situation of the courts remains difficult and, in some cases, does not allow them to meet their most basic needs. All courts in the country have serious problems with operating costs and are highly indebted for lack of resources. This situation could weaken the independence of the judiciary. The budget for the courts in 2005 totalled about € 20 million, compared to about € 19 million in 2004. This amount includes about 75% for salaries, 4% for investments and 17% for supplies and services. An independent Court Budget Council was set up in 2004, chaired by the President of the Supreme Court, but still lacks administrative support to make it operational. The level of salaries of judges and public prosecutors has been increased but is lower than for most senior officials.

In March 2005 the total number of pending cases was 730 700 (among them 296 000 execution cases and 227 000 "misdemeanour" cases, i.e. 71% of the total). The *backlog* of pending cases has increased by about one third compared with the end of 2003, which

indicates clearly the constraints in the judiciary's ability to handle the workload. The reasons for the backlog have been identified and include the excessive number of acts defined as misdemeanours which fall under the competence of the courts (comprising not only minor criminal offences but also a large number of cases of administrative misconduct) and deficiencies in the system of summons delivery and the current system of administrative justice.

The Supreme Court, as first and final instance for judicial protection against administrative decisions, is overloaded with administrative cases. Out of a total of about 5 000 cases currently pending before the Supreme Court, only around 10% are civil appeals and 1 to 2% are criminal appeals. The vast majority are administrative cases at first instance. Currently nine judges (out of 25) in the Supreme Court are dealing exclusively with administrative disputes. The intended reform of the legal framework for administrative disputes aims at transferring competence for administrative cases to a court of first instance, thus allowing the Supreme Court to become an administrative appellate court.

The *average duration* of civil proceedings is nine and a half months at first instance, and one month and 24 days at appeal. In criminal cases it is nine and a half months. However, when it comes to serious crime, proceedings take much longer (34% of cases dealt with by the Skopje I Court take over one year). Structural improvements could be made to speed up proceedings, including streamlining the conduct of hearings through procedural and technical innovations and legislative changes facilitating more robust treatment of obstructive behaviour by parties or their attorneys. Specialisation in the courts would also improve the hearing of complex cases, whether commercial or criminal.

The 2004 Judicial Reform Strategy envisages a number of changes to the legal framework to enhance the efficiency and quality of the judicial system, some of which are already being implemented. Major changes will be made to the legal framework with regard to the composition, selection and scope of competence of the Judicial Council, the selection and training of judges and prosecutors, the competence of the courts as well as a number of procedural reforms designed to increase the efficiency of the administration of justice. Full implementation of the reform will require considerable efforts on the part of the authorities, as well as the necessary financial commitment. Moreover, some of the procedural and jurisdictional amendments necessary to address these problems require amendments to the Constitution which are currently under discussion by Parliament.

Legal guarantees, including access to justice

Basic principles such as the *right to public trial*, the *presumption of innocence*, the *legality of criminal offences* and the *proportionality* of punishment for a criminal offence are guaranteed by the Constitution and/or the Criminal Code.

Detention can be ordered only by the investigative judge of a competent court upon request by the prosecutor. However, for crimes punishable with life imprisonment this request is not necessary and detention can be ordered by the judge *ex officio*. The Law on Criminal Procedure sets time limits for pre-trial detention (up to a year for criminal offences punishable by a prison sentence of up to 15 years, and up to two years for offences punishable with life imprisonment). The overall duration of detention in the course of investigation prior to a detention order being made may not be longer than 180 days. For less serious offences, for which summary proceedings are prescribed, detention may last only as long as necessary to

conduct certain investigations, but no longer than 8 days. The average duration of detention has been increasing since 2001 (from 39 days to 46 days in 2004). Detention is mandatory in cases of reasonable suspicion of a crime punishable with life imprisonment, which contradicts the case law of the European Court of Human Rights.

Concerning the *right to legal aid*, free legal assistance is regulated by the Criminal Procedure Code and by the Law on Litigation Procedure of 1998. Legal assistance is provided by the Bar Association. While free legal aid is granted in criminal matters, in civil cases the situation in practice is different. There are no country-wide standards defining a person in need, practices differ from court to court, and the capacity of the Bar Association is low.

The right of defence is guaranteed by the Constitution and defined in greater detail in the Law on Criminal Procedure. It is noteworthy that defendants have a right to be informed immediately, in a language they understand, of the charges and evidence against them. Translation and interpretation services are provided and bilingual forms are available in areas where a language other than Macedonian is recognised as an official language. The Law on Criminal Procedure also regulates the defendant's right to have adequate time and facilities for preparation of the defence. The principle of the defendant's presence as one of the prerequisites for the main hearing is ensured. The right to an attorney is guaranteed, as well as the right of the defendant to cross-examine the witnesses. In case of trial *in absentia*, the Law guarantees the right to a defence attorney, as well as the option to reopen the proceedings. Care should be taken to further develop the legal framework for witness protection, in such a way as to ensure that the safety of vulnerable witnesses is appropriately balanced with the accused's right of defence.

The Constitution states that laws and other regulations may not have *retroactive effect*, except in cases where this is more favourable for the citizens. This applies to the legal provisions determining criminal offences and criminal sanctions. If a law has been changed after the crime was committed, the more lenient provisions must be applied.

As regards the principle of *ne bis in idem*, the prohibition of double trial or punishment has been incorporated in the Constitution and the Law on Criminal Procedure. Extraordinary remedies are allowed against a final verdict, but may only be filed on behalf of the defendant. Court practice also rejects the possibility to try in criminal proceedings a person already convicted for a misdemeanour for the same facts.

Anti-corruption policy and measures (*see also Political Criteria – Democracy and the rule of law*)

The former Yugoslav Republic of Macedonia has adopted various anti-corruption measures.

Corruption is incriminated indirectly through the definition of a number of crimes sanctioned in the Criminal Code (such as passive and active bribery, unlawful intermediation and abuse of official position and public authority). Money laundering is also incriminated as a specific offence.

Furthermore, a Law on Prevention of Corruption was adopted in 2002, which defines a number of measures and activities to prevent corruption and conflict of interests and under which the State Commission for the Prevention of Corruption was set up in the same year. This Commission prepared a State Programme for Prevention and Repression of Corruption

in 2003 and adopted an annex on measures to prevent corruption at local level in June 2005. The same Commission started its work by collecting reports on the assets of public office holders. In 2004 the obligation to submit an assets declaration was extended to civil servants in the state administration. The legislative programme provided for by the programme is being progressively implemented. As a consultative and preventive body, the State Commission for the Prevention of Corruption's effectiveness relies on co-operation from the state bodies. Guidelines adopted in 2004 on co-operation with administrative bodies, public enterprises and entities and legal entities with state capital have contributed to improving the situation. Better co-operation between the State Commission and the Public Prosecutor would enhance the action against corruption.

Specific administrative anti-corruption structures are in place. A professional standards unit was created in the Ministry of Interior in 2003 to investigate corruption cases in the police and in 2005 new Departments on Organised Crime and Corruption were set up within the Ministry of Interior and the Public Prosecutor's Office.

Despite the existence of memoranda of understanding, the overall co-operation between law enforcement agencies (including the Public Prosecutor's Office, the police, the Financial Police, the Directorate for the Prevention of Money Laundering and the judiciary) needs to be strengthened. There is still confusion over competence and weaknesses in the collection and investigation of relevant evidence. Moreover, the independence of the officials in charge of the investigation and of the judges needs to be enhanced.

Overall there is a high level of corruption affecting many aspects of social, political and economic life. Much remains to be done to implement the State Programme for the Fight against Corruption, fully to follow up the recommendations by the State Commission for the Prevention of Corruption and, above all, to address the weaknesses of the institutions and the lack of transparency in public decisions and to ensure implementation of the legislation adopted. The capacity to investigate and prosecute corruption must be increased and co-operation among law enforcement bodies and between the administrative bodies, as well as between the Public Prosecutor's Office and the State Commission for the Prevention of Corruption, needs to be enhanced. Progress in these areas would further demonstrate the political will to address the corruption phenomena.

At the international level, the UN Convention against Corruption has been signed but not yet ratified and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions still has to be both signed and ratified. Most of the 17 recommendations made by GRECO in 2002 have been put into action. Four have been partially met, and two have yet to be implemented. The two remaining recommendations concern immunity rules and require changes in the Constitution before they can be implemented. Current proposals by the government to amend the Constitution include the necessary changes.

Fundamental rights *(see also Political Criteria – Democracy and the rule of law)*

The constitutional and legal framework is in line with the European Convention on the Protection of Human Rights and Fundamental Freedoms, which has been in force in the former Yugoslav Republic of Macedonia since April 1997. Applications to the European Court of Human Rights have been made invoking Articles 2, 3, 4 and 5 of the Convention but judgements are still pending.

The *Ombudsman* was introduced in 1997. The Ombudsman investigates citizens' complaints about bureaucratic abuse and discrimination both by state authorities and by individual public servants. In addition to investigating individual cases, the Ombudsman studies other matters relevant to the protection of constitutional and legal rights brought to his knowledge from other sources (such as mass media) reporting on irregularities in the work of state administration bodies and agencies. Overall the Ombudsman's activities have a strong impact which could be improved. The cooperation from the Ministry of Interior in particular is not yet fully satisfactory.

The Constitution prohibits the *death penalty, slavery and forced labour*.

As regards protection of the *integrity of the person*, the country has signed but not yet ratified the Oviedo Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (the Convention on Human Rights and Biomedicine) and two additional protocols - one on Transplantation of Organs and Tissues, the other on the Prohibition of Cloning Human Beings.

Torture and inhumane or degrading treatment or punishment are prohibited by the Constitution. A comprehensive legal framework has been set up to prevent torture and degrading treatment and public officials have been given training to implement it. Improvement has been noted in the number of alleged instances of police torture or ill-treatment and in the efforts by the Ministry of Interior as well as in the Public Prosecutor's Office to investigate complaints of mistreatment. However, the investigation mechanisms are not yet fully implemented and there are indications that many cases go unpunished. The situation in establishments under the authority of the Ministry of the Interior, the Ministry of Justice, the Ministry of Health and the Ministry of Labour and Social Policy should be improved. A number of problem areas also still need to be addressed, which include compliance with the legal provisions regarding police detention limits, notification of custody, access to a lawyer, access to a doctor, recording of various aspects of police custody, detention conditions as well as the use of "informative talks" by the police to interview citizens.

The Law on Asylum prohibits expulsion or extradition to a State where there is a serious risk that the person may be subjected to the death penalty, torture or other inhumane or degrading treatment or punishment. In view of the unresolved situation of the Kosovo refugees still in the country, particular attention should be paid to the compliance with the principle of "non-refoulement" in any future decision.

Right to privacy is constitutionally guaranteed. Some aspects of the *right to marry* and found a family are covered by the Constitution, and a Law on the Family further defines the protection. There are cases of forced marriages and more should be done to prevent these.

As regards the right to the *protection of personal data*, new legislation on personal data protection and the free movement of such data entered into force in February 2005. It is broadly in line with the main provisions of the *acquis* and with the 1981 Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. Further efforts are needed to achieve alignment with the Council of Europe recommendation regulating the use of personal data in the police sector and the additional protocol to Convention 108 regarding supervisory authorities and trans-border data flows. An

independent supervisory authority was established in June 2005 but is still in need of additional human resources.

Freedom of expression is ensured by the Constitution. As regards freedom of expression in the media, the Criminal Code classifies as criminal offences conduct such as “libel” and “insult”. Both may result in fines and prison sentences (up to one year if the act of libel or defamation had “grave consequences”). Exemption from incrimination for insulting statements is provided in a number of circumstances, including “freedom of public expression of thought”.

Freedom of thought, conscience and religion are ensured by the Constitution. The Constitution recognises the Macedonian Orthodox Church, the Islamic Religious Community in Macedonia, the Catholic Church, the Evangelical-Methodist Church and the Jewish Community as religious communities. Other religious groups can be established under the conditions provided for by the Law on Religious Communities and Religious Groups. Due attention should be given, however, to avoid application of the Law leading to difficulties for all groups to worship.

Freedom of association and assembly are guaranteed by the Constitution. The Law on Association of Citizens and Foundations entered into force in 1998. Associations can be established by at least five nationals. Foreigners resident for more than one year can also establish associations. The impossibility for legal persons to establish associations under the Law, as well as to found associations with political or religious aims, is an obstacle to the development of civil society. There are no obstacles to forming political parties.

The *right to property* is enshrined in the Constitution but there are some legal limitations on the acquisition or construction of property by foreigners.

The Constitution prohibits all forms of *discrimination*, including on the basis of race, colour and ethnic origin. The Criminal Code prescribes criminal liability for all who violate the equality of citizens on the basis of race and for all who violate basic human rights and freedoms on the basis of difference in race, sex, colour of skin, ethnic or social background. There is no specific criminal provision forbidding acts of xenophobia, however, and non-discrimination on grounds of sexual orientation is not prescribed as such. Homosexuality was decriminalised in 1996. A draft law on labour relations under consideration by Parliament would explicitly forbid discrimination based on sexual orientation. (*See also Chapter 19 – Social policy and employment.*)

EU citizens’ rights

As regards the *right to vote and stand as a candidate in elections*, only nationals have the right to vote under the Constitution. When the time comes, citizens of the Union residing in the country who are not nationals will have to be allowed to vote and to stand as a candidate in elections to the European Parliament and in municipal elections.

Regarding *residence rights*, EU citizens (and all non-EU nationals) need to apply for temporary residence in order to obtain a residence permit for longer than three months. Foreigners lawfully residing in the country for an uninterrupted minimum of three years may be issued a permanent residence permit if they come to the country for education, specialisation, medical treatment, professional activity, marriage to a Macedonian citizen,

ownership of immovable property and/or any other reason justifying staying in the country for longer than three months.

Conclusion

See the conclusion of Part 1 – Political Criteria.

Chapter 24: Justice, freedom and security

EU policies aim to maintain and further develop the Union as an area of freedom, security and justice. On issues such as border control, visas, external migration, asylum, police co-operation, the fight against organised crime and against terrorism, co-operation in the field of drugs, customs co-operation and judicial co-operation in criminal and civil matters, Member States need to be properly equipped to adequately implement the growing framework of common rules. Above all, this requires a strong and well-integrated administrative capacity within the law enforcement agencies and other relevant bodies, which must attain the necessary standards. A professional, reliable and efficient police organisation is of paramount importance. The most detailed part of the EU's policies on justice, freedom and security is the Schengen *acquis*, which entails the lifting of internal border controls in the EU. However, for the new Member States substantial parts of the Schengen *acquis* are implemented following a separate Council decision to be taken after accession.

The *Stabilisation and Association Agreement* provides for intensive cooperation between the former Yugoslav Republic of Macedonia and the EU on issues such as visas, border control, asylum, readmission of illegal migrants and organised and drug-related crime.

In the field of Schengen and external borders, efforts are being made by the authorities to modernise and transform their **border management**. However, further steps are needed both from a legislative and implementation point of view. The government adopted a National Strategy on Integrated Border Management in December 2003. This was followed by the decision to establish a border police and to gradually transfer responsibility for state border security to the Ministry of Interior, as well as to approximate the legislation to EU standards. The full transfer of competence for border security from the Ministry of Defence to the Ministry of Interior was completed in August 2005. However, given the very short three-month course provided to the staff transferred from the Ministry of Defence, additional training is required. An in-depth assessment of the training needs of the new border police and the establishment of a multi-annual training plan should be envisaged. Remaining steps to be taken in the reform of the border management regime include the adoption and implementation of the Law on Surveillance of the Border (including the provisions on the Integrated Border Management Strategy) and of the new Law on Aliens (migration law). With a view to the effective implementation of the Integrated Border Management Strategy, strict monitoring of the related Action Plan is required.

Effective border policing will require further improvements in co-operation between the various authorities involved in border management. There is also a need to develop the main databases in line with the Schengen requirements and ensure that they are connected. Technical equipment and infrastructure at border points should be upgraded. As a minimum, basic equipment in line with Schengen best practices should be available at all border crossing points. Written manuals laying down border procedures in accordance with the Schengen

Manual should be used at all border control points. New travel and identity documents incorporating higher quality and security standards will need to be introduced.

Significant developments have taken place in the field of **visa policy**. Several laws have been adopted during the last two years aimed at modernising the visa regime, following international and EU standards (Law on Movement and Residence of Aliens, Law on Administrative Fees, Law on Crossing the State Border, Rulebook and Guidelines on the procedure for issuing visas). With the adoption of the draft Law on Aliens (migration law) the visa regime of the former Yugoslav Republic of Macedonia is expected to be in compliance with the basic EU visa provisions (types of visas, conditions and procedures). However, after the entry into force of the new law, implementing measures need to be adopted. Equipment to detect forged and falsified documents should be available in diplomatic missions and consular offices and adequate training of staff should be a priority. Alignment with the Council Regulation listing the third countries whose nationals must be in possession of valid visas when crossing the external borders and those who are exempt from this obligation is at an advanced stage. The country currently has no visa requirements for six States on the EU visa negative list, including Bosnia and Herzegovina, Serbia and Montenegro and Turkey. Despite a temporary lifting of the visa obligation for the period between mid-July and mid-December 2005, the citizens of most of the new Member States are still under a visa obligation for entry into the former Yugoslav Republic of Macedonia.

As regards the on-line connection between the Ministry of Foreign Affairs and the diplomatic and consular missions abroad, a visa centre within the Ministry of Foreign Affairs has yet to be established, including a national register with a database of all visas issued or rejected.

Regarding **migration**, legislation on residence permits, family reunification and long-term residents is largely in place. The majority of the residence permits issued by the authorities concern citizens from neighbouring countries. Measures to advance integration are planned in the context of the National Action Plan on Migration and Asylum and foreigners enjoy the same basic rights as Macedonian citizens under the Constitution. However, new legislation on movement and residence of aliens is needed in order to achieve full alignment with EU standards. A new Law on Aliens (migration law) is still to be adopted.

The former Yugoslav Republic of Macedonia is predominantly a transit country for illegal immigration rather than a destination country. In the first ten months of 2004, the government reports that 1 122 people were apprehended and/or returned by the competent authorities, primarily from Albania. The number of apprehended illegally present aliens and of those who were returned has been increasing steadily over the last three years but it is still far lower than in previous years. There is a need to develop and implement a common strategy to fight illegal immigration and trafficking in human beings.

Several readmission agreements have been concluded, including with four Member States. It is particularly important, however, to implement correctly the agreements which have entered into force with neighbouring countries. Appropriate facilities must be provided for the temporary accommodation of illegal immigrants subject to return measures. Voluntary return programmes should be developed and promoted.

The right to **asylum** is guaranteed by the Law on Asylum and Temporary Protection in force since 2003. The Law is largely in line with EU standards, although it is necessary to adopt secondary legislation to ensure proper implementation. It contains provisions on normal and

accelerated procedures, safe countries of origin, the principle of non-refoulement, manifestly unfounded claims and humanitarian protection but lacks provisions for subsidiary protection. In the normal procedure, there are two levels of administrative review followed by a judicial review by the Supreme Court. In the accelerated procedure, intended for manifestly unfounded or abusive claims, there is no recourse to judicial review. The principle of non-refoulement needs to be respected also in accordance with international obligations. Legislation is in place to register asylum seekers and those granted refugee status and humanitarian protection as well as to regulate the reception conditions for asylum-seekers. Asylum-seekers are prevented from working pending a decision on their claim, and access to education for asylum-seekers is not provided by law although the Macedonian authorities confirm it is available in practice. Further adjustment of legislation will be required in order to comply fully with the criteria and mechanisms for determining the responsible Member State (Dublin II). After the huge influx of refugees in 1999, the number of asylum-seekers has decreased over the last few years. In the first six months of 2005 only 11 persons applied for asylum. Nevertheless, the country should be better prepared for a possible mass influx.

The management of asylum-seekers and refugees, including procedural management aspects, needs to be improved in order to meet international standards. Resources in the administration to implement reforms and process asylum cases should be increased. Also, further training as well as technical and material support to all staff is needed to improve their expertise, independence and transparency with regard to asylum cases. Although the National Action Plan on Migration and Asylum includes some measures on integration, a reception and integration policy still needs to be developed. A new reception centre needs to be established. With a view to preparing for possible future participation in EURODAC, the country should start to develop a national database for checking asylum seekers' personal data, including fingerprints.

In the field of **police co-operation and the fight against organised crime**, there is a strong need for more effective crime prevention and control. As an important transit and destination country on the Balkan route to Western Europe for trafficking in human beings as well as for smuggling of arms, drugs and stolen cars, the former Yugoslav Republic of Macedonia has launched a comprehensive reform of the police organisation, including the specialised structures to fight organised crime (*see also section 1.2, Political Criteria*).

Although the general tasks, organisation and powers of the police largely correspond to those of most EU Member States, the government has rightly put a comprehensive organisational and operational reform of the police services as well as of the Ministry of Interior high on its agenda of priorities. A National Police Reform Strategy was adopted in February 2004, but the action plan for implementation of the reforms needs to be updated and implemented within the deadlines. Implementation of the reform requires substantial legislative amendments, which include, *inter alia*, a new law on the police and secondary legislation. Successful completion of the police reform depends on adequate funding and training. Co-ordination and co-operation need to be strengthened both between police bodies and between the police and other law enforcement agencies and the judiciary. The country needs to create an integrated intelligence system for inter-agency use to support a combined fight against organised crime, including a well-structured and trained unit specialised in undercover policing. It is also important to ensure adequate resources for the protection of witnesses and to strengthen the capacity to investigate computer crimes.

Police equipment, infrastructure and training need further improvement, particularly in the specialised areas of investigation such as forensics. Introduction to the principle of intelligence-led policing is also important. The budget for appropriate salaries in the police service must be secured. A comprehensive human resources and training directorate at strategic level is still missing. The recruitment and training of police officers should take the principle of equitable representation of the ethnic communities into account. The decentralisation process should continue.

The former Yugoslav Republic of Macedonia has bilateral police cooperation agreements in place with Albania, Bulgaria and Serbia and Montenegro and is a member of Interpol. Further efforts, especially on data protection, are needed to prepare for an operational agreement with Europol. As a first step, a strategic agreement with Europol would be welcomed. Efforts to improve regional law enforcement and judicial co-operation in the Western Balkans should be continued and enhanced.

The country has ratified the 2000 UN Convention against Trans-National Organised Crime and the related Protocols on trafficking in persons and smuggling of migrants as well as the 2001 Council of Europe Convention on Cyber-Crime. Regional and inter-agency co-operation on organised crime needs to be strengthened and the Protocol on Firearms still remains to be signed and ratified. A National Action Plan with concrete action-oriented measures against organised crime, as presented to the EU-Western Balkans Forum in November 2003, has been adopted.

The government has adopted a number of legal provisions for combating trafficking in human beings, including in the Criminal Code, and law enforcement has been quite effective, although the conviction rate is low in relation to the number of arrests. The draft Law on Aliens (migration law) and the Law on Witness Protection, adopted in May 2005, include provisions on assistance to and protection of victims of trafficking in human beings, including residence rights for victims. In 2002 the former Yugoslav Republic of Macedonia enacted a National Programme for the Fight against Trafficking in Human Beings and Illegal Migration. The government has also established a National Commission for the Fight against Trafficking in Human Beings and Illegal Migration, including a Sub-Group for the Fight against Trafficking in Children.

The former Yugoslav Republic of Macedonia has adopted most of the structural and legal reforms to fight **money laundering** (see also *Chapter 4 – Free movement of capital*). The financial intelligence unit (FIU) was accepted within the Egmont Group in June 2004. Customer identification procedures have been set up as well as the capability to access a database which receives data from banks. Large cash transactions are recorded. Procedures for freezing assets are in place between the FIU and the public prosecutor. New provisions for confiscation of ill-gotten gains are in place. The FIU has concluded Memoranda of Understanding which permit cooperation with the country's main neighbours (except Greece). However, no request for mutual legal assistance has been received so far. Prior conviction for the underlying offences is needed, which hampers the prosecution of money laundering and no successful case for money laundering has been registered. Urgent measures need to be taken to ensure effective implementation of the legislation. Regional co-operation and exchanges of information on suspicious transactions should be strengthened.

As regards protection of the euro against counterfeiting, the former Yugoslav Republic of Macedonia is a member of the 1929 International Convention on the Suppression of

Counterfeiting. The Criminal Code covers the offence of counterfeiting of foreign currencies, including the euro, and seems to be generally in line with the *acquis*. Enforcement measures fall under the competence of the Ministry of Interior which consults the National Bank on policy issues.

The former Yugoslav Republic of Macedonia has ratified various international instruments on the **fight against terrorism**, such as the 1977 European Convention on the Suppression of Terrorism. Ten of the twelve UN Conventions in force against terrorism have been ratified; the thirteenth UN Convention for the Suppression of Acts of Nuclear Terrorism has been signed. The country has aligned itself with the EU common position on the application of specific measures to combat terrorism. In general, the type of authorities and ministries involved is similar to the structures in Member States. However, a better definition of the roles and responsibilities of individual services is required. With the support of the international community, significant efforts have been undertaken with regard to specialised training. The country will need to fully implement the eight special recommendations on terrorist financing of the Financial Action Task Force (FATF). An effective exchange of information on terrorist groups and their support networks should be put in place as well as the legislative framework to allow the use of strong investigative techniques.

The former Yugoslav Republic of Macedonia is not a major producer of illicit **drugs**. However, it is a significant transit country along the “Balkan route”. Some progress has been made in combating drug trafficking. Due to more effective enforcement procedures, drug seizures in 2004 increased by approximately 50 percent over the previous year. A Law on Control of Precursors, which brought Macedonian law into compliance with UN Office on Drugs and Crime and European Union standards, came into effect in June 2004. Although the government has demonstrated increased political will to combat narcotics trafficking, counter narcotics operations are often hindered by ineffective inter-agency coordination and lack of central strategic planning. A new draft strategy, covering all aspects of drugs policy, as well as corresponding action plans are being developed and should be drafted in line with the EU Drugs Strategy for 2005-2012 and the EU Drugs Action Plan for 2005-2008. More detailed provisions for confiscation/asset forfeiture in trafficking cases need to be put in place. The health care and social welfare systems are still unprepared to deal efficiently with the effects of drug abuse and dependence. The official Macedonian statistics regarding drug abuse and addiction are generally unreliable.

The country is party to the 1988 UN Drug Convention, the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and the 1971 Convention on Psychotropic Substances.

Efficient **customs co-operation** requires an adequate level of infrastructure and equipment, including computerisation and investigation resources, and the establishment of an efficient customs organisation with a sufficient number of qualified and motivated staff showing a high degree of integrity. The former Yugoslav Republic of Macedonia should start preparing for ratification and implementation of the Convention on Mutual Assistance and Cooperation between the Member States (Naples II) and the Convention on the Use of Information Technology for Customs Purposes (CIS).

Regarding **judicial cooperation in civil and criminal matters**, the former Yugoslav Republic of Macedonia has concluded agreements on legal assistance with several countries. Regarding judicial cooperation in criminal matters, recognition and enforcement of foreign

judicial decisions is incorporated in the Law on Criminal Procedure. The country is party to the 1959 European Convention on Mutual Legal Assistance in Criminal Matters with additional protocols of 1999 as well as to the 1983 European Convention on the Transfer of Sentenced Persons. Bilateral conventions are in place with a number of neighbouring and other countries. Several other key conventions have also been ratified, including the Hague Conventions of 1954 and 1980. Successful judicial co-operation is highly dependent on the correct implementation of on-going justice reforms aiming at enhanced efficiency and independence.

Improvements should be made to the training of judges and prosecutors in areas such as international cooperation and new investigation techniques.

Conclusion

The former Yugoslav Republic of Macedonia has made efforts to align its legislation with the *acquis* in the field of justice and home affairs and has started to make progress with the implementation of reforms within the law enforcement agencies. However, considerable work remains to be done to bring the legislation further into line with the *acquis* and to transform the law enforcement agencies into effective institutions capable of addressing the tasks they face. Furthermore, considerable investments will be necessary in equipment and infrastructure as well as in strengthening administrative capacity.

Overall, the country will have to make considerable and sustained efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the area of justice, freedom and security in the medium term.

Chapter 25: Science and research

The *acquis* in the field of science and research does not require transposition of EU rules into the national legal order. Implementation capacity relates to the existence of the necessary conditions for effective participation in the EU's Framework Programmes. In order to ensure full and successful association with the Framework Programmes, Member States need to ensure the necessary implementing capacities in the field of research and technological development including adequate staffing.

The former Yugoslav Republic of Macedonia participates in the activities of the 6th Framework Programme of the European Communities for research and technological development in a limited way as a third country.

Science and research is under the authority of the Ministry of Education and Science. The Scientific Research Council has the task of proposing measures and making recommendations for the promotion and development of science and research. The legislative framework in the domain of research and technological development consists of Article 47 of the Constitution, the Law on Scientific Research, the Law on the Macedonian Academy of Science and Arts, the Law on Stimulation and Facilitation of Technological Development and the Law on Enhancement of Facilitation of Technical Culture. The research system consists of 5 universities, 30 research and development centres in the industry sector and 6 regional research centres.

In 2002, the former Yugoslav Republic of Macedonia spent about 0.27% of its GDP on research and development. Estimated business expenditure amounts to about 3 to 7% of the amount allocated by the State budget. Accordingly, the country is far below the EU target of 3% of GDP spent on research and development by 2010. The EU average is about 2% at present. The country is encouraged to stimulate investments in research and innovation.

Full participation in the Framework Programmes should be the first step towards implementation of the *acquis* in the field of research and requires the development of research policy, infrastructure and the appropriate institutional set-up. It also depends on budgetary availability for payment of the association fee.

Despite the government's willingness to integrate the former Yugoslav Republic of Macedonia into the European Research Area, no concrete policy or action plan to achieve this has been decided. The country became a member of the intergovernmental framework for European co-operation in the field of scientific and technical research (COST) in 2002 and has participated in 12 projects. Until now, its participation in projects under the 6th Framework Programme has been very low.

Conclusion

Making research and technological development in the former Yugoslav Republic of Macedonia competitive at European level will require significant changes in the country's scientific institutions, as well as substantial resources over a long period. Successful participation in the Framework Programme will require thorough preparation. Although this area is unlikely to pose major problems in the perspective of accession, effective participation in the European research area might only be achievable in the long term.

Chapter 26: Education and culture

The areas of education, training, youth and culture are primarily the competence of the Member States, but EU action supports efforts to develop quality education and cultural diversity. The *acquis* includes rules on education of the children of migrant workers, and action programmes, Council resolutions and recommendations. Member States need to have the legal, administrative and financial framework in place to ensure sound financial management of the education, training and youth Community programmes such as Leonardo da Vinci, Socrates, Youth and Culture 2000.

Few children of EU nationals are enrolled in Macedonian schools at present. By the time of accession, appropriate measures for **children of migrant workers** will need to be adopted to meet the specific requirements of the *acquis*.

In order to participate effectively in the **Community programmes** in the fields of education, training and youth, the former Yugoslav Republic of Macedonia will need to make considerable efforts to set up sound financial management structures, including an adequate system of financial control.

As regards the **reforms in the field of education**, the government has adopted a national programme for the development of education together with action plans for a comprehensive reform in this area. The languages of instruction in primary schools are Macedonian,

Albanian, Turkish and Serbian. In the field of higher education, the Law on Higher Education, adopted in 2000 and amended in 2003, provides the framework for implementation of the principles of the Bologna process to which the country has been contributing since 2003. The Tempus and the Erasmus Mundus programmes have extended the opportunities for student and scholar exchanges and partnerships with other European universities.

Vocational education and training (VET) in the former Yugoslav Republic of Macedonia is based on three- to four-year programmes, as well as two-year specialised education and training programmes, all of which are developed and regulated by the state. In order to adjust the VET system to the social and economic changes and the requirements of the labour market, the country is currently transforming the secondary VET and redefining the role, structure and curricula of lower vocational education, as well as post-secondary education. Improvements in this area should help reduce unemployment levels. The reform needs to be completed by setting up appropriate support structures (involving social partners) to improve labour market relevance and information on skill needs, as well as the overall quality of education. Currently, there is no adult learning strategy or wider strategy for the development of human resources.

The Youth and Sports Agency subsidises NGOs by allocating grants for **youth** projects on the basis of set criteria on an annual basis. Becoming an EU Member State would imply that the country agrees with the Common Objectives for Participation by and Information for Young People, as decided by the Council in November 2003, as well as with the Common Objectives for Voluntary Activities and for a Greater Knowledge and Understanding of Youth adopted by the Council in November 2004. The country should also be ready to implement the European Pact for Youth. It already benefits from the third country strand of the Youth programme.

The cultural policy of the former Yugoslav Republic of Macedonia seems to be compatible with the Community objectives defined in the EC Treaty.

Conclusion

The former Yugoslav Republic of Macedonia should not have major difficulties in applying the *acquis* in this field in the medium term, provided that the current modernisation efforts continue and are effectively implemented despite the adverse budgetary and economic environment. Considerable efforts will be necessary to prepare for effective participation in Community programmes and to create a modern educational system in line with EU employment and social policies.

Chapter 27: Environment

EU environment policy aims to promote sustainable development and protect the environment for present and future generations. It is based on preventive action, the polluter pays principle, fighting environmental damage at source, shared responsibility, and the integration of environmental protection into other EU policies. The *acquis* comprises over 200 major legal acts covering horizontal legislation, water and air quality, waste management, nature protection, industrial pollution control and risk management, chemicals and genetically modified organisms (GMOs), noise and forestry. Compliance with the *acquis* requires

significant investment. A strong and well-equipped administration at national and local level is imperative for the application and enforcement of the environment *acquis*.

Ensuring compliance with the *acquis* requires significant investment, but also brings significant benefits for public health and reduces costly damage to forests, buildings, landscapes and fisheries. A strong and well-equipped administration at national and local level is imperative for the application and enforcement of the environment *acquis*.

The Constitution of the former Yugoslav Republic of Macedonia enshrines the key principles of sustainable development and provides for specific protection for all natural resources, flora and fauna. The **basic legal framework** for environmental protection is provided by the new Law on Environment, applied since September 2005. One of the aims of the Law is to bring the legal framework into line with Community legislation, but a large number of by-laws must still be adopted before the Law can be fully implemented. In addition, some environmental issues are governed by sectoral legislation, which shows some measure of alignment with the *acquis*. There is no National Strategy for Sustainable Development and the Second National Environmental Action Plan should be developed as a priority.

Regarding *administrative capacity*, the Ministry of Environment and Physical Planning (MEPP) is in charge of formulating and implementing environmental policy. It is under an obligation to prepare a report on the state of the environment every three years. The MEPP has insufficient staff and, in particular, lacks specialised staff in areas such as environmental impact assessment, monitoring, integrated pollution prevention and control, and climate change. The Environmental Laboratory (12 staff and well equipped) carries out measurements and analyses of pollution. Staff levels and skills should be enhanced to ensure adequate performance. The Spatial Information System and the Environmental Information System cover spatial information and environmental data management respectively. The State Environmental Inspectorate (8 inspectors in mid-2005, of whom 4 in Skopje), which operates within the MEPP, supervises the implementation of laws and other acts, as well as enforcement of and compliance with the conditions stipulated in individual permits. The number of inspectors is clearly insufficient while the number of prosecutions for breaches of environmental law indicates that enforcement levels are very low. This can be attributed to various factors, such as the lack of human and financial resources, the weakness of the legal system and the judiciary, and deficiencies in the legislation.

In addition to the MEPP, a number of other ministries and bodies are directly responsible for environmental matters. The existing fragmentation is partially being overcome by the adoption of new environmental laws providing for greater integration of environmental management. Monitoring of different environmental sectors is not clearly defined and co-ordinated between the competent institutions and the situation is similar with enforcement.

The environmental administration will need to be significantly strengthened to implement the *acquis*, as well as to ensure the necessary planning and preparation of financing strategies. At local level particular care should be taken to ensure that local self-government units have the resources necessary to implement their responsibilities effectively.

To ensure proper enforcement of environmental legislation, the country's constitutional order would need to be changed, without prejudice to the right of judicial review, so that the State Environmental Inspectorate and other relevant enforcement bodies could impose fines or other sanctions directly, without having to pass through the courts.

The former Yugoslav Republic of Macedonia has either ratified or signed a number of major international and/or European agreements and participates actively in various regional environmental initiatives such as the Regional Environmental Reconstruction Programme. It also co-operates with the European Environment Agency.

With regard to **climate change**, the country is a party to the UN Framework Convention on Climate Change. It is also a party to the Kyoto Protocol, which it ratified in 2004. Implementation of the Action Plan for the abatement of greenhouse gas emissions, the clean development mechanism and the emissions trading scheme will require substantial management resources and organisational arrangements.

Investments in environmental infrastructure are very low and will need to be increased significantly in order to comply with the requirements of the *acquis*. An overall environmental investment plan specifying the investments required for implementation of the *acquis* as well as financing sources is missing. This will be particularly important in areas such as water treatment and waste management. The main economic instruments foreseen in the Law on Environment are the national budget and specific charges. Sectoral legislation provides for the collection of fees, taxes and customs duties, also used for environmental protection activities.

There are mechanisms for the **integration** of environmental aspects into other policies, particularly at the level of strategic documents and in sectors where the link with the environment is clear, such as spatial planning, energy efficiency, health, agriculture and research. However, the actual use made of them appears to be limited.

Regarding **horizontal legislation**, the former Yugoslav Republic of Macedonia acceded to the Aarhus Convention in 1999. A strategy for implementation of the Aarhus Convention has been prepared and guides have been produced, but implementation of the Convention is only partial at present. Alignment with horizontal legislation, particularly concerning environmental impact assessment and strategic impact assessment, needs to be pursued as a matter of priority.

On **environmental liability**, the Law on Environment, the Law on Waste Management and the Law on Nature Protection contain elements of the *acquis* on environmental liability concerning prevention and remedy of environmental damage.

Civil protection activities are regulated by the Law on Protection and Rescue, which includes specific measures to protect the environment in case of disaster. There is no national protection and rescue strategy at present.

Air quality legislation is not aligned with the *acquis*. Work is ongoing to identify all pollution sources in the country. Air quality standards should be further aligned with the Guidelines on Air Quality of the World Health Organisation. Data collection should be unified, and a National Programme for Ambient Air Quality Monitoring should be drawn up. Standards on liquid fuel quality and volatile organic compound (VOC) emissions need to be further aligned with the *acquis*. The country ratified the Stockholm Convention on Persistent Organic Pollutants in 2004.

Waste management is one of the most serious environmental issues in the former Yugoslav Republic of Macedonia. The Law on Waste Management needs to be aligned with the *acquis* and the waste management policy defined in the National Environmental Action Plan of 1996 needs to be reviewed to include *acquis*-related targets. Moreover, there is a need to develop and implement waste management plans in accordance with the *acquis*. A register and maps for pollutants and polluting substances for solid and hazardous waste and waste waters were completed in June 2005. The lack of suitable infrastructure hampers adequate waste disposal in general and disposal of hazardous waste in particular. There is only one licensed (though not *acquis*-compliant) landfill in the country compared to around a thousand illegal dumps, there are no incineration (except for medical waste), no composting and few recycling facilities. Hazardous waste is exported in accordance with the Basel Convention. Responsibility for waste management is split among several institutions. There is a need to reinforce administrative capacity by completing the establishment of the relevant institutions and procedures as well as strengthening the enforcement capacity of inspectors.

The Law on Waters provides the legal basis for **water quality** and management, although it is not based on the concept of integrated water management. In addition a wide range of laws, decrees and rulebooks regulate specific aspects of water management, water classification, water quality, drinking water, water protection, prevention of pollution at source, emissions control, water extraction, storage and handling of substances endangering or potentially endangering waters. They provide a good basis for alignment with the *acquis*. A Water Management Master Plan exists. Water management is undertaken at the level of river basins, but responsibilities are fragmented. There are persistent problems with the quality of the water in the Vardar, the country's main river. In order to comply with the *acquis* in the field of water quality, significant investments will need to be made in the area of drinking water treatment and supply as well as wastewater collection and treatment. There is active international co-operation with neighbouring countries.

The legal basis for **nature protection** is found in the Constitution, the Law on Environment, international agreements signed or ratified by the country and laws regulating the use of certain natural resources. Most of the EU legislation on nature conservation has been transposed in the Law on Nature Conservation. However, significant efforts are required on the development of secondary legislation as well as to ensure the implementation of legislation. The CITES Convention has been ratified but the former Yugoslav Republic of Macedonia is not fully compliant with its provisions and is required (following a decision of the Conference of the Parties) to enact adequate legislation by September 2006. Protected areas cover 7.3% of the country and there are plans to increase this to 11.6%. Management of protected areas is incomplete, with the exception of national parks, and is non-existent in certain cases, despite legislation providing for integrated protection both inside and outside protected areas.

Regarding **industrial pollution control and risk management**, the MEPP has compiled an inventory of installations to be subjected to integrated environmental permits, but an integrated pollution prevention and control system has yet to be fully established. The law requires operators of industrial sites to prepare contingency plans but it does not seem to have actually been implemented. Some elements of EU legislation on the control of major accident hazards involving dangerous substances appear to have been transposed into national law, but full transposition still has to be completed. The capacity of the MEPP and other concerned parties (local governments, businesses) to implement industrial pollution control and risk management measures needs to be strengthened.

The Law on Environment provides a basis for the application of **environmental audit schemes** (EMAS) and **eco-labelling**. However, further alignment of legislation with the *acquis* is needed and structures have to be put in place to implement EMAS and apply the European eco-label scheme.

There is no general law on **genetically modified organisms** (GMOs). However, there are several laws which directly or indirectly regulate specific aspects of GMOs. The National Overview for Biosafety has been completed, and a National Strategy and Action Plan for Biological Diversity have been adopted. Legislation dealing with **biotechnology** is dispersed. There is no complete system for the protection of **laboratory animals** as required by EU legislation.

There is no framework law on **chemicals** which would regulate the management of chemicals in line with EU legislation. Major efforts will be needed to align chemical legislation with the *acquis* and implement it effectively. There is no official register of chemicals meeting EU requirements, although there is a register of poisons and a list of plant protection materials, both of which, however, need to be aligned with the requirements of the *acquis*. Regarding “new” chemical substances, in accordance with existing national legislation only poisons have to be identified. There is no competent authority for the notification of “new” substances. There is no single data collection and risk assessment procedure for chemicals in conformity with EU legislation, and there is a lack of integrated chemicals management. Health risk assessment is regulated under the World Health Organisation Guidelines of 2000. There is specific legislation on inflammable and explosive substances and on precursors. The distribution of responsibilities concerning the management of chemicals among the involved institutions is not clearly defined. There is no specific legislation on biocides and major efforts will need to be made to comply with the *acquis* in this area. The national legislation also needs to be aligned with EU legislation on import and export of chemicals and transposing the Rotterdam Convention on Prior Informed Consent.

Efforts are required to align national legislation with the *acquis* taking on board the commitments under the Montreal Protocol on **substances that deplete the ozone layer**. A National Programme for the elimination of substances that deplete the ozone layer was adopted in 1996, since when consumption of ozone-depleting substances has been reduced by more than 90%.

Regarding **noise**, legislation needs to be aligned with the *acquis*, and existing national standards (measuring methods) need to be harmonised with European norms.

As regards **forestry**, there is a centralised system for the collection of data on all forest fires. Although forest owners and entities in charge of management are required to take preventive measures, there is no strategy for forest fire prevention. Forestry management issues are the responsibility of the Ministry of Agriculture, Forestry and Water Economy.

Conclusion

The basic elements of a legislative framework are in place, although much of the legislation is quite recent. Implementation and enforcement are in some cases only in their initial stages. Major weaknesses in the country’s enforcement capacity need to be addressed before the *acquis* can be effectively implemented. Data collection needs to be strengthened in a number

of areas to enable the country to adopt, implement and enforce legislation in a satisfactory manner.

Administrative capacity needs to be significantly reinforced. There is a need to streamline the management of responsibilities currently fragmented between different ministries and bodies. In some sectors there is a need to clearly define responsibilities in order to ensure that existing legislation is implemented in the most efficient and effective way. At local level particular care should be taken to ensure that local self-government units have the resources necessary to implement their responsibilities effectively.

Overall, the former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its legislation with the environmental *acquis*, and especially to implement and enforce it, in the medium term. However, effective compliance with EU legislation requiring a high level of investment and considerable administrative effort (e.g. in the areas of waste management and water treatment) could be achieved only in the long term.

Chapter 28: Consumer and health protection

The consumer protection *acquis* covers the safety of consumer goods as well as the protection of the economic interests of consumers in a number of specific sectors. Member States need to transpose the *acquis* into national law and to put in place independent administrative structures and enforcement powers which allow for effective market surveillance and enforcement of the *acquis*. Appropriate judicial and out-of-court dispute resolution mechanisms as well as consumer information and education and a role for consumer organisations should be ensured as well. In addition, this chapter covers specific binding rules in the area of public health.

In the former Yugoslav Republic of Macedonia the **Consumer Protection Act**, adopted in 2004, largely covers the EU directives on misleading and comparative advertising, contracts negotiated away from business premises, unfair terms in consumer contracts, timeshare, distance contracts, the indication of the prices of products as well as certain aspects of the sale of consumer goods and associated guarantees. The Law on Tourism would transpose the directive on package travel. On the other hand, the directives on general product safety and on consumer credit are only partially covered by the Consumer Protection Act, while no legislation has been adopted so far to transpose the directives on distance marketing of consumer financial services and on injunctions for the protection of consumers' interests.

The main **administrative structures** to implement and enforce consumer protection legislation are in place. They include an authority with overall responsibility for general consumer policy (Ministry of Economy), market surveillance bodies, a formal channel for consultation of consumer representatives (Consumer Protection Council), as well as non-governmental consumer associations.

Regarding **general safety aspects** of products, the State Market Inspectorate, which has 157 inspectors, seems to be focusing more on the economic than on the safety interests of consumers. A co-ordination body for market surveillance activities should be established as the relevant responsibilities are divided among a considerable number of separate authorities. Additional human and financial resources should be allocated for setting up test laboratories, training mechanisms, etc.

The mechanisms at the disposal of public authorities for the enforcement of the laws should be strengthened, such as investigative powers to obtain evidence of an infringement or powers to seek injunctions to put an end to a practice quickly. At present, fines can only be imposed by courts, weakening the operational effectiveness of the market surveillance bodies. To ensure proper enforcement of the legislation, the country's constitutional order would need to be changed, without prejudice to the right of judicial review, so that the State Market Inspectorate and other surveillance bodies could impose fines or other sanctions directly, without having to pass through the courts.

No specific legislation has been adopted to facilitate consumers' **access to justice**. The Law on Civil Procedure provides general rules for small claims litigation. Specific systems or procedures for alternative resolution of consumer disputes, in line with the relevant Commission recommendations, have not yet been developed. Out-of-court dispute settlement procedures are not yet envisaged in the legislation.

With regard to consumer information and education, the former Yugoslav Republic of Macedonia has developed some activities with the support of European consumer organisations. Such initiatives should be pursued and strengthened in the future in order to exchange experience and best practices.

Two non-governmental **consumer organisations** have been registered in the country, the Macedonian Consumer Organisation and the Club of Associations of Citizens-Consumers. The Macedonian Consumer Organisation is more active and is a full member of BEUC, the European consumer organisation. It carries out some of the main functions of consumer organisations, such as to provide information and advice to consumers, represent consumers' interests vis-à-vis the government and the business sector, carry out comparative product testing and try to influence consumer legislation and consumer policy. Consumer organisations need to be supported to enhance their role in building up and implementing a national consumer policy, including with respect to market surveillance (e.g. active participation in standardisation activities). Their lack of financial resources needs to be addressed.

Relations with other countries on consumer protection issues (e.g. cross-border co-operation activities, exchanges of information and best practices) are relatively well developed and the Macedonian Consumer Organisation maintains contacts and carries out projects with consumer associations in EU countries as well as other Balkan countries.

As regards **public health**, the level of health sector funding (both in terms of overall levels and as a proportion of the public budget) as well as levels of key inputs into the health care sector, such as clinical staff, are in line with international trends. The government's drive to increase the transparency and accountability of its financial and governance structures for health (such as the Health Insurance Fund and the health service providers) is important. However, one key challenge for the health system is the high allocation of resources to the hospital sector, which is reflected in high levels of hospital bed supply. This is at the expense of public health and the primary care sector and is also reflected in the sub-optimum average hospital occupancy level. By contrast, rates of out-patient contacts per person per year are low. A strong primary health care sector, combined with a focus on health care prevention, is the most cost-effective way to meet health needs in a population. The government is aware of

these inefficiencies and needs to take further action to redress the balance. It should implement the OECD manual “A System of Health Accounts” at an early stage.

Regulatory measures concerning a system to control *communicable diseases* are in place. Epidemiological data are processed, analysed and published regularly. The country has been developing a national early warning system since 2004. However, the current list of notifiable diseases is not in compliance with the EU list. The EU case definitions should be adopted, although some of them are already in use (HIV/AIDS). Most of the EU provisions on personal data protection in the area of health care have been transposed into national legislation. The basic institutional capacity for co-operation with EU structures is in place. However, the field structures of the early warning system and the IT programme for the transfer of epidemiological data are under development.

Several pieces of legislation cover the area of *blood* quality, although there is no specific law addressing the quality and safety of the blood supply. There appears to be a shortage of material resources to fulfil the requirements of the Blood Directive.

The country is gradually harmonising its legislation on *tobacco* control with the Tobacco Products Directive. A number of requirements of the *acquis* remain to be met, in particular regarding the control of yields of harmful substances from cigarettes as well as warnings. Smoking rates remain very high, at 43% of the population.

Conclusion

The former Yugoslav Republic of Macedonia will have to make further efforts to align its legislation with the *acquis* in the area of consumer protection and public health, and to effectively implement and enforce it in the medium term. In particular, the market surveillance system needs to be enhanced in order to meet EU requirements, access to justice should be improved and the development of an independent and representative consumer movement should be supported. The on-going reforms of the health care sector need to continue in order to provide more effective protection of public health.

Chapter 29: Customs union

The customs union *acquis* consists almost exclusively of legislation which is directly binding on the Member States. It includes the EU Customs Code and its implementing provisions, the combined nomenclature, common customs tariff and provisions on tariff classification, customs duty relief, duty suspensions and certain tariff quotas, and other provisions such as those on customs control of counterfeited and pirated goods, drugs precursors, export of cultural goods as well as on mutual administrative assistance in customs matters and transit. Member States must ensure that the necessary implementing and enforcement capacity, including links to the relevant EU computerised customs systems, is in place. The customs services must also ensure adequate capacity to implement and enforce special rules laid down in related areas of the *acquis* such as external trade.

The *Stabilisation and Association Agreement* (SAA) provides for the establishment of a free trade area with the Community and the immediate or progressive removal of customs duties on a wide range of products. It places an obligation on the former Yugoslav Republic of Macedonia to approximate its customs legislation to the EU *acquis*. It also contains provisions

for administrative cooperation on customs matters, as well as rules of origin which have to be observed in order to benefit from the trade preferences.

The **Customs Law** of the former Yugoslav Republic of Macedonia and its implementing provisions are modelled on the Community Customs Code and implementing provisions. They include rules on customs procedures with economic impact (customs warehousing, inward and outward processing, processing under customs control and temporary importation) which are broadly in line with the *acquis*, but further approximation will be necessary. There is only one free zone. Adaptation of the legislation on free zones will be necessary to achieve alignment with the *acquis* (see also *Chapter 10 – Taxation*). Provisions for Binding Tariff Information and Binding Origin Information also broadly reflect the provisions of the Customs Code but in practice no Binding Origin Information has been issued so far. Rules on non-preferential origin are broadly in line with the *acquis*. Rules on valuation are broadly in line with the *acquis* and with international standards but the explanatory notes from the WTO do not seem to be included in the legislation. Some simplified procedures for customs declarations (incomplete declaration, simplified declaration and declaration based on an entry in the records) are applied but further approximation with the *acquis* will be required. The legislation on transit, where for example no simplified procedure is currently applied, will require very extensive adaptation, which must include the legal requirements of the New Computerised Transit System (NCTS).

A new Customs Code was adopted in May 2005 and should come into force in January 2006, further aligning customs procedures with EU standards.

Limited provisions on customs control of counterfeit and pirated goods, allowing customs to intervene upon request, are already applicable but very little experience has been gained in this area up to now. However, further approximation with EU legislation, mainly to regulate *ex-officio* interventions by the customs authorities, has been provided for in a new Law on Intellectual Property Rights which was adopted in May 2005. Customs control systems for imports and exports of cultural goods and precursors are already in force.

Several customs clearance fees (and notably a general customs fee of € 19 for each declaration and a fee of € 100 for every request submitted for the allocation of tariff quotas) are currently applied under the Customs Law. These are contrary to the *acquis* as well as to the SAA and will have to be removed.

The former Yugoslav Republic of Macedonia applies **preferential rules of origin** in the framework of its existing Free Trade Agreements, including the SAA. It does not apply any preferential rule of origin based on the Generalised System of Preferences (GSP) or any autonomous arrangements. EUR 1 certificates are verified by the Origin Unit of the Customs Administration. This is done both spontaneously (based on statistical data on the production capacity of the country) and at the request of foreign customs administrations.

The **Customs Tariff** is based on the Combined Nomenclature, as required by the provisions of the *Stabilisation and Association Agreement*. An electronic version of the national tariff is also available to the public via Internet in the form of an electronic document and a database. The version currently published is almost compatible with the Combined Nomenclature for 2005. Comparison of the two nomenclatures has shown some differences in the units of measures as well as regarding the lack of identification of new and changed codes. The former Yugoslav Republic of Macedonia does not apply tariff suspensions for unlimited

quantities. It applies tariff quotas but does not operate any tariff ceiling. Tariff quotas are allocated on the basis of the date of acceptance of the customs declaration (“first come, first served” principle) or in accordance with a licensing procedure. The first procedure, which is managed by the customs administration, is in principle in accordance with the *acquis* but the technical solutions for management of these quotas are different from the EU Tariff Quota System (TQS). The second procedure, where quotas are allocated to the traders offering the highest bid, which is applied to a limited number of sensitive goods and is managed by the Ministry of Economic Affairs, is not in line with EU legislation. There is no integrated tariff system similar to TARIC, which provides the customs administration and economic operators with comprehensive tariff information on the basis of the current legislation.

As regards *administrative capacity*, the necessity to dismantle customs controls at the borders with EU Member States upon accession and the need for more resources to reinforce the border posts along all frontiers with non-EU countries will require careful strategic planning. The Customs Administration will need to make sustained efforts in order to fully implement all customs procedures throughout the country in accordance with EU standards. At present, there are a total of 997 posts within the Customs Administration, of which 360 are at central level and 637 at regional or local level. One positive development is the recent establishment of a human resources management sector which will adopt yearly training plans. The training policy needs to be implemented effectively and extended to the whole range of customs issues, including those which are accession-related. No training for the business community is organised, which is a weakness that needs to be addressed. The new staff policy (including rules on recruitment) which was adopted in 2004 seems to be in line with EU standards. The turnover of the customs staff is decreasing, which is also a good sign.

A Code of Ethics for the customs service has been available for many years. In addition, a sector for professional standards was established in order to detect cases of misbehaviour, including corruption. There is, however, no clear sign of the effectiveness of this anti-corruption policy. Sustained efforts are therefore still needed to tackle this problem as a matter of priority.

Risk analysis and selectivity of controls are reported to have been the rule since 2002 but full implementation of these procedures is still to be achieved. Post-clearance controls are taking place.

The use of information technology (IT) within the Customs Administration is still at an early stage. A computerised Customs Declaration Processing System (Asycuda) is being used by most customs houses for most procedures, but the selectivity modules are still underused. It will take major efforts, a stable organisational framework, a strong commitment to devote the necessary human and financial resources and a reasonable period of time (at least four years) to ensure full interconnectivity with the EU’s computerised systems.

Conclusion

The customs legislation of the former Yugoslav Republic of Macedonia is to a large extent aligned with the *acquis*. Further approximation is necessary, mainly in the areas of transit, simplified procedures and tariff quotas. Several customs clearance fees also need to be dismantled. The general customs clearance fee of € 19, as well as the special fee of € 100 for every request submitted for allocating tariff quotas, are contrary to the *acquis* and infringe the provisions of the Stabilisation and Association Agreement.

The former Yugoslav Republic of Macedonia will have to make considerable and sustained efforts to align its customs legislation and procedures with the *acquis* and to effectively implement and enforce it in the medium term. In particular, major efforts are required to strengthen the Customs Administration and to tackle the problem of corruption. Particular attention will also have to be given to the need to achieve full interconnectivity with the EU's computerised systems.

Chapter 30: External relations

The *acquis* in this field consists mainly of directly binding EU legislation which does not require transposition into national law. This EU legislation results from the EU's multilateral and bilateral commercial commitments, as well as from a number of autonomous preferential trade measures. In the area of humanitarian aid and development policy, Member States need to comply with EU legislation and international commitments and ensure the capacity to participate in the EU's development and humanitarian policies. Applicant countries are required to progressively align their policies towards third countries and their positions within international organisations with the policies and positions adopted by the Union and its Member States.

The *Stabilisation and Association Agreement* includes provisions in several areas requiring the parties to act in accordance with the rules of the WTO or of other relevant international obligations.

The former Yugoslav Republic of Macedonia has been a member of the **World Trade Organisation** since April 2003. Upon accession, it took on ambitious commitments which it is gradually implementing. The country has not yet started negotiations to accede to the WTO Government Procurement Agreement but is in the process of acceding to the Agreement on Trade in Civil Aircraft. Upon accession to the EU, the former Yugoslav Republic of Macedonia would have to apply all the obligations under the multilateral and plurilateral WTO agreements to which the Community is a party. In particular, it would have to apply the Community's Common Customs Tariff and the external provisions of the Common Agricultural Policy. The agreed transitional period for the country to implement its WTO schedule of concessions and commitments on goods ends by 2012. By then, the former Yugoslav Republic of Macedonia will feature simple average duties of approximately 6.3% on industrial goods, 16% on agricultural goods and 1% on fishery products. The equivalent current levels for the EU stand at 3.6% on industrial goods, 16.2% on agricultural goods and 12.4% on fishery products.

Upon accession to the EU, the former Yugoslav Republic of Macedonia would become bound by the Community's **common commercial policy** and the Community's various preferential trade agreements. It would also become party to the European Economic Area. Furthermore, it would have to apply the autonomous preferential trade regimes which the Community grants to certain third countries, including notably the EU's Generalised System of Preferences. Conversely, the former Yugoslav Republic of Macedonia would have to terminate all its preferential trade agreements with third countries and bring all other agreements, including non-preferential trade agreements, into conformity with the obligations of EU membership. Currently, in addition to the Stabilisation and Association Agreement

with the Community, the former Yugoslav Republic of Macedonia has free trade agreements in force with Albania, Bosnia and Herzegovina, Switzerland, Liechtenstein, Norway, Iceland, Turkey, Serbia and Montenegro, Croatia, Ukraine and Moldova. It has concluded free trade agreements with the two acceding countries (Bulgaria and Romania) which will elapse upon accession of these countries to the EU. The former Yugoslav Republic of Macedonia is in the process of negotiating its accession to the Central European Free Trade Agreement (CEFTA) and has signed an interim Free Trade Agreement with UNMIK relating to Kosovo.

In the area of services, the former Yugoslav Republic of Macedonia's commitments under **GATS** are not entirely in line with those of the Community. The country should ensure that, upon its accession, its multilateral commitments under the GATS are as consistent as possible with those of the Community. To this end, it should closely co-operate and co-ordinate with the European Commission, mainly with regard to the Doha Development Agenda negotiations.

The former Yugoslav Republic of Macedonia has adopted secondary legislation in the field of safeguard measures and countervailing duties; it does not currently have legislation allowing it to take anti-dumping measures. Upon accession, it would have to repeal any national legislation and measures in the field of **trade defence instruments**, as Community legislation will become directly applicable on its territory.

The former Yugoslav Republic of Macedonia does not yet operate any formal export credit schemes. However, the establishment of such schemes is planned. In addition, the Bank for Development Promotion already provides loans and credit lines for export promotion. Upon accession, the former Yugoslav Republic of Macedonia should ensure that its short-term export credit insurance system is in line with Community competition rules. As far as medium- and long-term export credits are concerned, the country will need to align its legislation with Community legislation and the EU's international obligations.

Exports of **arms and dual-use goods** are currently controlled. In addition, the former Yugoslav Republic of Macedonia has adopted specific national legislation to subject dual-use items and technology to export control. Upon accession, it would have to abide fully by the relevant EU legislation.

With regard to *administrative capacity*, participation in EU trade decision-making mechanisms and implementation and enforcement of the *acquis* will require strengthening of the Bilateral and Multilateral Co-operation Sector of the Ministry of Economy and, to a lesser extent, of the WTO and Trade Sector of the same Ministry. Co-ordination mechanisms are in place between the various ministries dealing with trade issues.

The former Yugoslav Republic of Macedonia has concluded **bilateral investment treaties** with 26 countries; the exclusions provided for in these agreements are not entirely in line with the *acquis*. Before its accession to the EU, the country would have to ensure that the content of these agreements will be fully compatible with its EU membership obligations and the EU *acquis*. To this end, it should make sure that the necessary procedures to renegotiate or renounce the agreements, as applicable, are launched early enough to ensure conformity with EU obligations by the date of accession. In doing so, the former Yugoslav Republic of Macedonia should consider the long initial duration of certain agreements, some of which can run for 20 to 40 years.

As regards **development policy and humanitarian aid policies**, strengthening the administrative structure inside the government and its ability to participate in the EU decision-making process is just as important as in other areas of external relations. The authorities must also be aware of the obligations taken on by the EU concerning the total contribution to external assistance as a percentage of GNI, and that EU-managed aid must be complemented by bilateral national programmes to achieve the necessary figures. Targets for the new Member States have recently been increased by the Council. Such a change from recipient to donor of external assistance will probably require the active support of an informed civil society if the necessary political backing is to be achieved.

Conclusion

With regard to external relations, the former Yugoslav Republic of Macedonia should not have major difficulties in applying the *acquis* in the medium term, provided alignment with the *acquis* continues and the institutional capacity to implement and enforce it is strengthened. With a view to smooth preparation for membership, the country should ensure that its actions and commitments within international organisations are aligned and co-ordinated with those of the EU.

Chapter 31: Foreign, security and defence policy

The common foreign and security policy (CFSP) and the European security and defence policy (ESDP) are based on legal acts, including legally binding international agreements, and on political documents. The *acquis* consists of political declarations, actions and agreements. Member States must be able to conduct political dialogue in the framework of CFSP, to align with EU statements, to take part in EU actions and to apply agreed sanctions and restrictive measures. Applicant countries are required to progressively align with EU statements, and to apply sanctions and restrictive measures when and where required.

Following the entry into force of the *Stabilisation and Association Agreement* on 1 April 2004, a Stabilisation and Association Council and a Stabilisation and Association Committee were set up. An extensive political dialogue has taken place in these bodies.

As foreseen in the Thessaloniki Agenda for the Western Balkans, the EU regularly invites the former Yugoslav Republic of Macedonia to align itself with certain EU demarches, declarations and common positions. The former Yugoslav Republic of Macedonia has generally done so over the last two years and, overall, has taken the first steps to put them into practice. Further legislative work will be needed to allow for the full implementation of the decisions taken on restrictive measures and sanctions.

The country has supported the establishment of the International Criminal Court and ratified the Rome Statute in 2002. However, in June 2003 it signed a bilateral agreement with the USA concerning the non-surrender of certain persons to the ICC which was not in line with the EU position (*see Part 1 – Political Criteria – Other obligations defined by the EU Council conclusions of 29 April 1997*).

In November 2004 the former Yugoslav Republic of Macedonia adopted a decision on unilateral acceptance of the principles and criteria of the EU Code of Conduct on Arms Exports. In May 2005 it adopted a decision to align itself with the 2003 EU common position

on the control of arms brokering followed, in June, by a decision to adopt the EU programme for preventing and combating illicit trafficking in conventional arms. The country is party to most of the existing international arrangements for the non-proliferation of weapons of mass destruction. It has not yet joined the Wassenaar Arrangement and the Australia Group, but has indicated its intention to do so. Nor is it a party to the UN Protocol against illegal production and trafficking of small arms and ammunitions. It has concluded an agreement with the International Atomic Energy Agency on monitoring mechanisms for verification of compliance with the international obligations on non-usage of nuclear programmes for developing nuclear weapons. It is a signatory to the Hague Code of Conduct against Ballistic Missile Proliferation and associated itself with the EU statement on the Missile Technology Control Regime.

However, the former Yugoslav Republic of Macedonia needs to adapt its legislation and strengthen the relevant law enforcement agencies in charge of the internal controls necessary for the full implementation of international non-proliferation arrangements and the relevant EU standards, including those pertaining to the control of trade both in small arms and light weapons and dual-use goods (*for dual-use goods, see also Chapter 30 – External relations*).

Concerning relations with neighbouring countries, the country has concluded cooperation agreements with all its neighbours (*see Part I – Political Criteria – Regional co-operation*).

The former Yugoslav Republic of Macedonia is a member of the United Nations, the OSCE, the Council of Europe and a member of or observer in many other international organisations and agreements. In addition, the country is an active participant in several regional and sub-regional initiatives. It hosted the UN Preventive Deployment Force from 1993 to 1999 (*see Part I – Political Criteria – Multilateral relations*).

It has a good record in acceding to the major international conventions on terrorism. It has signed all relevant UN conventions, but not yet ratified the Convention for the Suppression of Terrorist Bombings and for the Suppression of the Financing of Terrorism.

The former Yugoslav Republic of Macedonia is committed to increasing its participation in international peace-keeping efforts (ISAF - Afghanistan) and has dispatched military observers to certain UN missions. It provides logistical support to the KFOR mission in Kosovo. It is in the process of designating forces for further peace-keeping operations and is preparing the necessary restructuring measures. It has declared its willingness to support, participate in and contribute to civilian and military crisis management operations in the framework of the European Security and Defence Policy. However, the necessary resources still need to be allocated.

With regard to *administrative capacity*, the former Yugoslav Republic of Macedonia has 42 diplomatic and consular missions with some 330 staff. In order to be able to work with EU CFSP structures, it would need to establish the necessary functions and mechanisms within the Ministry for Foreign Affairs. Concerning the implementation of sanctions and restrictive measures, it will need to adjust its administrative capacity to EU standards. The legal framework for implementing restrictive measures at national level should also be clarified.

Conclusion

The former Yugoslav Republic of Macedonia has declared that, as a Member State, it would actively and unreservedly support the CFSP of the European Union. Assessment of the country's foreign and security policy to date leads to the expectation that it should be able to fulfil its obligations within the CFSP in the medium term, provided it takes the necessary legal and administrative measures and makes the necessary adjustments.

Chapter 32: Financial control

The *acquis* under this chapter relates to the adoption of internationally agreed and EU compliant principles, standards and methods of public internal financial control (PIFC) that should apply to the internal control systems of the entire public sector, including the spending of EU funds. In particular, the *acquis* requires the existence of effective and transparent financial management and control systems (including adequate ex-ante, ongoing and ex-post financial control or inspection); functionally independent internal audit systems; the relevant organisational structures (including central coordination); and an operationally and financially independent external audit organisation to assess, amongst others, the quality of newly established PIFC systems. This chapter also includes the *acquis* on the protection of EU financial interests and the fight against fraud involving EU funds.

In the former Yugoslav Republic of Macedonia, **public internal financial control** is subject to a number of laws and rulebooks relating to budget implementation, accounting and internal audit. Internal audit units carrying out ex-post controls have been established in most ministries and other State institutions, although the functions of internal auditors and inspectors need to be further clarified and separated. Internal audit should cover financial, regularity, systems-based and performance audits. The issue of introducing managerial accountability and concomitant financial management and control systems (e.g. ex-ante financial control) requires urgent attention. The PIFC system which is in the process of being set up at the national level should be mirrored at the municipal level, while taking into account considerations of economy and local circumstances.

In general, weak areas in the present system relate to overall financial management and controls and the absence of adequate audit trails and risk assessment and management techniques. Moreover, internal controls are performed by a multitude of institutions without harmonised standards. In order to introduce a comprehensive and consolidated system for internal control in the public sector, the Ministry of Finance should further develop its strategy paper reflecting the present situation of internal financial control, analysing its weaknesses and proposing guidelines and timetables for further development. The Ministry should also draft a Framework Law regulating the PIFC system for the public sector as well as a specific internal audit law. In this process, concepts of managerial accountability, effective internal control, and effective and functionally independent internal audit will need to be developed.

The Sector for Central Internal Audit of the Ministry of Finance is responsible for the development, co-ordination and harmonisation of internal audit in the public sector as well as

for training public auditors. It should develop directives based on the Guidelines for Internal Control Standards for the Public Sector of the International Organisation of Supreme Audit Institutions (INTOSAI). The Internal Audit Unit which assesses the management and control of the Ministry of Finance is currently part of the Sector but should be separated from it. In addition, the establishment of a separate Central Harmonisation Unit for financial management and control in the same Ministry is foreseen and should become a key player in this area. The responsibilities of the different internal audit units should be clearly defined and adequate and independent reporting lines should be established between them.

External audit is performed by the State Audit Office (SAO) on the basis of the State Audit Act of 1973. The Chief State Auditor is nominated by Parliament for a term of ten years. The SAO applies the INTOSAI Guidelines on State Audit Procedures as well as international auditing standards of the International Federation of Accountants (IFAC).

The SAO has adopted a Strategic Development Plan and establishes annual operational plans for carrying out audits. The audits are selected on the basis of a large number of criteria. The objective risk assessment criterion is among them, but further development is needed. So far audits are restricted to the classical financial audits and compliance audits. Performance audits and systems-based audits have not yet started.

SAO audits cover central and local government entities, extra-budgetary funds, the National Bank, political parties and beneficiaries of EU and other international funds.

Since the Ministry of Finance must approve expenditure for the human resources of the SAO, the SAO has no independent budget and its financial independence is therefore not guaranteed. The SAO has sent a proposal to the government to strengthen its functional and financial independence in the Constitution. This issue needs to be followed up.

The SAO reports its findings and recommendations to Parliament (Committee for Financing and Budget) and to the Ministry of Finance. Since the SAO has no executive and regulatory authority and cannot apply sanctions, suspicions of fraud and corruption are reported to the competent authorities (e.g. the Public Prosecutor and the State Anti-Corruption Commission). In practice, there appears to be little follow-up to the findings and recommendations in the reports of the SAO, which seriously diminishes the value of the institution's work.

The SAO and the Ministry of Finance are in the process of concluding a protocol for mutual co-operation and co-ordination, aiming at enabling the SAO to rely on internal audit reports and at common efforts to train staff and harmonise audit work programmes.

As regards **management and control of EU funds**, efficient systems for managing, monitoring, controlling and auditing EU funds will need to be developed in order to implement programmes under the new Instrument for Pre-Accession (IPA) under decentralised implementation conditions. The implementation system for the CARDS programme in the former Yugoslav Republic of Macedonia has not required the existence of such systems until now.

The country is also at an early stage of legislative and administrative preparations with regard to the **protection of the EC's financial interests**. Its legislation has been partly aligned with the 1995 Convention on the Protection of the Communities' Financial Interests and its protocols. Many institutions are working on the detection and resolution of cases of fraud and

other irregularities affecting national or international funds, but co-ordination is not sufficiently ensured. Most of the relevant procedures are based on the Criminal Code. Even though the Law on Organisation and Operation of State Administrative Bodies requires these bodies to co-operate with each other, no service currently exists that could ensure such co-ordination in order to guarantee proper protection of the EC's financial interests. For this purpose, it would be useful to create an anti-fraud co-ordination structure, which could also ensure co-operation with OLAF.

Conclusion

The former Yugoslav Republic of Macedonia has started to align itself with the *acquis* relating to PIFC. However, a global approach to the development of modern internal control systems in the public sector is needed, leading to a coherent combination of managerial accountability and functionally independent internal audit. Coherent legislation needs to be adopted and implemented for the entire field of internal control, covering all relevant aspects of managerial accountability, independent internal audit, central harmonisation as well as fraud prevention. The operational and financial independence of the SAO needs to be enhanced and adequate follow-up to the findings in its reports needs to be ensured. In the area of management and control of EU funds, efficient systems for managing, monitoring, controlling and auditing will need to be developed to implement programmes under the new Instrument for Pre-Accession (IPA) under decentralised implementation conditions. In addition, the country's administrative capacity to provide effective protection for the EC's financial interests will need to be ensured.

The country might not be able to comply with EU requirements in this field in the medium term, unless it makes considerable additional efforts to reorganise and strengthen its public internal financial control, external audit and anti-fraud capacities.

Chapter 33: Financial and budgetary provisions

This chapter covers the rules concerning the financial resources necessary for the funding of the EU budget ('own resources'). These resources are made up mainly from contributions from Member States based on traditional own resources from customs and agricultural duties and sugar levies, a resource based on value-added tax, and a resource based on the level of gross national income. Member States must have appropriate administrative capacity to adequately co-ordinate and ensure the correct calculation, collection, payment and control of own resources. The *acquis* in this area is directly binding and does not require transposition into national law.

The basic principles and institutions for the underlying policy areas affecting the own resources system are in place in the former Yugoslav Republic of Macedonia. A national VAT system is in operation, customs and agricultural duties are levied on imports, and national accounts and GNI are to some extent compiled following ESA95 standards, although further approximation is needed.

Steps have been taken to include the informal economy in national accounts statistics. However, further harmonisation measures to improve the coverage and quality of national accounts are necessary. The Ministry of Finance has overall responsibility for financial and budgetary issues.

Conclusion

There are no significant divergences between the systems in the former Yugoslav Republic of Macedonia and the EU in terms of the basic principles and institutions in the policy areas underlying application of the own resources system. However, the size of the informal economy poses a challenge to the coverage and quality of national accounts. If it continues its efforts to align with the relevant *acquis* chapters, in particular on customs, taxation, statistics and financial control, the former Yugoslav Republic of Macedonia should not have major difficulties in meeting the requirements of the own resources system in the medium term.

3.2. General evaluation

The ability of the former Yugoslav Republic of Macedonia to assume the obligations of membership has been evaluated according to the following indicators:

- The obligations set out in the Stabilisation and Association Agreement;
- Progress with adoption, implementation and enforcement of the *acquis*.

The former Yugoslav Republic of Macedonia has made progress with applying the Stabilisation and Association Agreement, although due attention needs to be paid to respecting the deadlines set out therein.

The country has made significant efforts to align its legislation with the *acquis*, particularly in areas related to the Internal Market and trade. These efforts need to be continued. However, the country faces major challenges in implementing and, especially, effectively enforcing the legislation. Administrative and judicial capacity remains weak in many areas and will need to be significantly strengthened for the *acquis* to be properly applied.

If it continues its efforts, the former Yugoslav Republic of Macedonia should not have major difficulties in applying the *acquis* in the medium term in the following fields:

- Fisheries;
- Economic and monetary policy;
- Statistics;
- Enterprise and industrial policy;
- Trans-European networks;
- Science and research;
- Education and culture;
- External relations;
- Foreign, security and defence policy;
- Financial and budgetary provisions.

The country will have to make further efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term in the following fields:

- Freedom of movement for workers;
- Right of establishment and freedom to provide services;
- Free movement of capital;
- Financial services;
- Consumer and health protection.

The country will have to make considerable and sustained efforts to align its legislation with the *acquis* and to effectively implement and enforce it in the medium term in the following fields:

- Public procurement;
- Company law;
- Information society and media;
- Agriculture and rural development;
- Food safety, veterinary and phytosanitary policy;
- Transport policy;
- Energy;
- Taxation;
- Social policy and employment;
- Regional policy and co-ordination of structural instruments;
- Justice, freedom and security;
- Customs union.

Unless efforts are speeded up considerably, the country might not be able to comply with the requirements of the *acquis* in the medium term in the following fields:

- Free movement of goods;
- Intellectual property law;
- Competition policy;
- Financial control.

On the environment, very significant efforts will be needed, including substantial investment and strengthening of administrative capacity for the enforcement of legislation. Full compliance with the *acquis* could be achieved only in the long term and would necessitate increased levels of investment.

C. EUROPEAN PARTNERSHIP: OVERALL ASSESSMENT

The European Partnership for the former Yugoslav Republic of Macedonia was adopted by the Council in 2004.³ Along with the present Opinion, a revised European Partnership is being proposed. The purpose of the European Partnership is to assist the authorities in their efforts to meet the accession criteria. It covers in detail the priorities for accession preparations, in particular implementation of the *acquis*, and forms the basis for programming pre-accession assistance from Community funds.

The priorities of the European Partnership have been selected on the basis that it is realistic to expect that the country can complete them or take them substantially forward over the next few years. A distinction is made between short-term priorities, which are expected to be accomplished within one to two years, and medium-term priorities, which are expected to be accomplished within three to four years.

The present section assesses briefly the overall extent to which the priorities of the 2004 European Partnership have been met.

With regard to the priorities related to the **political criteria**, the former Yugoslav Republic of Macedonia has launched major reforms in the judiciary, the police and in order to make further progress towards the full implementation of the Ohrid Framework Agreement, as well as with the aim of reinforcing democracy and the rule of law. Progress has been made in the area of human rights and the protection of minorities. The country has played an active role in regional co-operation.

Nonetheless, considerable and sustained efforts will be necessary to consolidate the rule of law, to fight against corruption and to make further progress in the areas of public administration reform and respect for human rights.

More generally, ensuring an effective implementation of the reforms and enforcement of the legislation adopted remain challenging tasks and will require a great deal of effort. In order to meet the priorities of the European Partnership, a considerable amount of work remains to be done and the pace of reforms should be accelerated.

The short-term priorities related to the **economic criteria** have been met to a significant extent, although the speed of adoption of the necessary legislation and its implementation has been rather slow and major efforts remain necessary to address the medium-term priorities.

The former Yugoslav Republic of Macedonia has sustained macroeconomic stability and has concluded a follow-up programme with the International Monetary Fund. The process of introducing market-oriented reforms has continued, leading to a further reduction in the role of the State in the economy. However, the playing field for economic actors remains uneven in many areas, mainly due to a lack of transparent procedures. As regards measures to improve the business environment, the legal framework for company registration has been improved and some progress has been achieved in simplifying and reducing licensing

³ Council decision 2004/518/EC of 14 June 2004 on the principles, priorities and conditions contained in the European Partnership with the former Yugoslav Republic of Macedonia (OJ L 222, 23.6.2004, p. 20).

procedures. However, market entry and exit procedures are still long, partly due to insufficient clarity on property rights and weaknesses in the administration and the judiciary.

The authorities have been implementing a National Action Plan for Employment, which was prepared on the basis of dialogue with all relevant actors and includes among other things the reform of the Law on Labour Relations and the reform of the Employment Agency. Despite these efforts, unemployment remains very high.

The authorities have also proceeded with improving public finance management. Fiscal decentralisation started on 1 July 2005 and wage decompression of the civil service salary structure has proceeded. Some measures to strengthen internal control and audit capacities of the Ministry of Finance and to broaden controls in the public sector have been taken, although significant challenges remain in this area. Steps have been taken to establish an effective treasury bill and bond market.

Progress regarding the priorities concerning the **ability to assume the obligations of membership** has been uneven. In general, while the former Yugoslav Republic of Macedonia has made substantial progress in the area of legal approximation with the *acquis* and the elaboration of strategic documents, progress has been much more limited regarding the implementation and, especially, enforcement of the approximated legislation. All institutions should devote maximum attention to improving their enforcement record.

Progress has been achieved regarding the implementation of the Partnership priorities in areas such as border management, police reform and financial services. Some progress has been made on approximation of legislation in the area of environmental protection.

However, considerable challenges remain in a large number of internal market related areas, such as the adoption of technical norms and standards, competition and State aid control, transparent public procurement, energy, and telecommunications. In most of these areas, it is particularly the implementation and enforcement of the legislation where most remains to be done.

Progress on the issues identified as priorities in the European Partnership is discussed in more detail in other parts of this Opinion. The revised European Partnership follows the same structure as the Opinion.

The revised European Partnership continues to be the main tool for guiding the country's work on preparation for accession to the EU. Implementation of the European Partnership needs to continue. It should be given the necessary political attention and should help the former Yugoslav Republic of Macedonia to set its legislative and institution-building agenda.

ANNEX - STATISTICAL DATA (as of 1 September 2005)
The former Yugoslav Republic of Macedonia

	Scale	Unit	Foot-note	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Basic data													
Population: total	Thousand	Number		1.957	1.975	1.997	2.008	2.018	2.028	2.035	2.020	2.027	2.030
Total area of the country	Unit (x1)	km ²						25.713	25.713	25.713	25.713	25.713	
National accounts													
	Scale	Unit		1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Gross domestic product	Million	National currency				186.019	194.979	209.010	236.389	233.841	243.970	251.486	
Gross domestic product	Million	EUR				3.310	3.193	3.448	3.893	3.839	4.001	4.105	
Gross domestic product per capita	Unit (x1)	EUR				1.658	1.590	1.709	1.921	1.887	1.981	2.025	
SI: Growth rate of Gross domestic product at constant prices (national currency), relative to the previous year	Unit (x1)	%				1,4	3,4	4,3	4,5	-4,5	0,9	2,8	
SI: Employment growth (national accounts), relative to the previous year	Unit (x1)	%					3,4	-0,6	0,3	-1,7	-0,6	-1,9	
Labour productivity growth: growth in GDP (constant prices) per person employed, relative to the previous year	Unit (x1)	%											
SI: Unit labour cost growth (national accounts), relative to the previous year	Unit (x1)	%					2,6	-1,5	-7,6	0,2	-0,7	2,8	
GDP per capita at current prices	Unit (x1)	PPS				4.314	4.519	4.791	5.150	4.997	5.206	5.356	
SI: GDP per capita at current prices, PPS, EU-25=100	Unit (x1)	%				26	26	26	26	24	25	25	
SI: Labour productivity, PPS (GDP per person employed), EU-25=100	Unit (x1)	%											
Agriculture (NACE Sections A+B): share of total gross value added	Unit (x1)	%				12,8	13,2	12,9	12,0	11,8	12,4	13,4	
Industry (excluding construction) (NACE Sections C to E): share of total gross value added	Unit (x1)	%				28,4	27,1	26,5	26,9	26,1	24,2	24,4	
Construction (NACE Section F): share of total gross value added	Unit (x1)	%				6,2	6,7	6,1	6,8	6,0	6,0	6,3	
Services (NACE Sections G to P): share of total gross value added	Unit (x1)	%				52,7	52,9	54,5	54,2	56,1	57,5	56,0	
Final consumption expenditure, as a share of GDP	Unit (x1)	%				92,6	92,6	90,3	92,6	94,8	99,5	97,0	
Final consumption expenditure: household and NPISH, as a share of GDP	Unit (x1)	%				72,8	72,4	69,7	74,4	70,0	77,1	76,3	
Final consumption expenditure: General government, as a share of GDP	Unit (x1)	%				19,7	20,3	20,6	18,2	24,8	22,4	20,7	
—Gross fixed capital formation, as a share of GDP	Unit (x1)	%				17,3	17,4	16,6	16,2	14,8	16,6	16,7	
—Stock variation, as a share of GDP	Unit (x1)	%				3,6	4,8	3,1	6,0	4,2	4,0	3,2	
Exports of goods and services, relative to GDP	Unit (x1)	%				37,3	41,2	42,2	48,6	42,7	38,0	37,9	
Imports of goods and services, relative to GDP	Unit (x1)	%				50,8	56,1	52,2	63,5	56,6	58,2	54,8	
Inflation rate													
SI: Consumer price index: total (CPI), growth relative to the previous year	Unit (x1)	%		15,7	2,3	2,6	-0,1	-0,7	5,8	5,5	1,8	1,2	-0,4
Balance of payments													
Balance of payments: current account total	Million	EUR		-227	-271	-259	-231	-32	-78	-276	-341	-118	-305
Balance of payments current account: trade balance	Million	EUR		-170	-251	-350	-441	-494	-742	-597	-767	-671	-816
Balance of payments current account: exports of goods	Million	EUR		916	916	1.120	1.107	1.185	1.419	1.311	1.060	1.079	1.228
Balance of payments current account: imports of goods	Million	EUR		1.086	1.167	1.470	1.548	1.678	2.161	1.908	1.827	1.750	2.044
Balance of payments current account: net services	Million	EUR		-153	-125	-125	-51	42	62	-22	-21	-8	-40
Balance of payments current account: net income	Million	EUR		-30	-41	-50	-39	-42	-49	-46	-28	-25	-29
Balance of payments current account: net current transfers	Million	EUR		125	146	265	300	462	661	389	475	586	581
Balance of payments current account: net current transfers - of which government transfers	Million	EUR		21	41	7	32	72	142	56	96	82	51
Direct investment (FDI) in the reporting economy	Million	EUR		7	9	27	109	33	188	501	74	76	115
Public finance													
General government deficit/surplus, relative to GDP	Unit (x1)	%						0,3	2,3	-2,5	-0,5	0,1	
SI: General government debt, relative to GDP	Unit (x1)	%						28,0	29,9	30,6	30,1	27,1	25,2
Financial indicators													
Gross foreign debt of the whole economy, relative to GDP	Unit (x1)	%						40,9	43,1	43,5	43,5	39,5	38,0
Gross foreign debt of the whole economy, relative to total exports	Unit (x1)	%						102,7	94,5	106,7	120,2	108,4	97,8
Money supply: M1	Million	EUR		257	237	229	249	325	368	415	432	445	449
Money supply: M2	Million	EUR		384	360	372	427	556	690	1.145	1.052	1.240	1.449
Money supply: M3	Million	EUR		463	437	437	497	647	786	1.267	1.141	1.318	1.532
Total credit: credit by monetary financial institutions (MFIs) to total residents (consolidated)	Million	EUR		375	477	428	517	527	624	620	657	747	931
Interest rates: day-to-day money rate, per annum	Unit (x1)	%				19,7	18,1	11,6	7,2	11,9	14,4	5,8	8,3
Lending interest rate (one year), per annum	Unit (x1)	%				20,5	20,0	19,0	19,2	17,7	14,5	12,0	
Deposit interest rate (one year), per annum	Unit (x1)	%				12,6	11,4	10,7	10,0	9,2	6,7	6,5	
EUR exchange rates: average of period - 1 euro= ... national currency	Unit (x1)	Number		49,152	50,077	56,198	61,065	60,616	60,725	60,913	60,978	61,264	61,337
EUR exchange rates: end of period - 1 euro= ... national currency	Unit (x1)	Number		48,710	51,297	61,163	60,914	60,617	60,788	60,961	61,071	61,293	61,310
Effective exchange rate index (1999=100)	Unit (x1)	Number											
Value of reserve assets (including gold)	Million	EUR		275	267	280	334	458	714	775	735	723	725
Value of reserve assets (excluding gold)	Million	EUR		257	240	257	305	429	683	721	667	693	661
External trade													
Trade balance: (all goods, all partners)	Million	EUR							-835	-596	-927	-588	
Value of exports: (all goods, all partners)	Million	EUR							1.436	1.291	1.178	879	
Value of imports: (all goods, all partners)	Million	EUR							2.271	1.887	2.105	1.467	
Terms of trade (export price index / import price index), relative to the previous year	Unit (x1)	Number						98,5	93,6	83,4	117,2	99,9	96,9
Share of exports to EU-25 countries in value of total exports	Unit (x1)	%							46,9	51,4			
Share of imports from EU-25 countries in value of total imports	Unit (x1)	%							48,7	52,5			
Demography													
Natural growth rate : crude rate of natural increase (births minus deaths)	Unit (x1)	per 1000		8,0	7,7	6,5	6,2	5,2	5,9	5,0	4,9	4,4	
Net migration rate: number of immigrants minus the number of emigrants	Unit (x1)	per 1000			0,6	0,5							
Infant mortality rate: number of deaths of children under one year of age relative to 1000 live births	Unit (x1)	Number		22,7	16,4	15,7	16,3	14,9	11,8	11,9	10,2	11,3	
Life expectancy at birth: male	Unit (x1)	Years		68,0	68,6			70,5	70,7	70,8	70,8		
Life expectancy at birth: female	Unit (x1)	Years		72,5	72,9			74,8	75,2	75,6	75,7		

Labour market		Scale	Unit	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Economic activity rate (15 - 64): proportion of the population aged 15-64 that is economically active	Unit (x1)	%	1)	.	.	.	57,7	55,7	55,4	56,0	55,0	57,0	55,8
SI: Employment rate (15-64): proportion of the population aged 15-64 that is in employment	Unit (x1)	%	1)	.	.	.	36,5	36,1	36,0	36,8	35,7	34,3	33,8
SI: Employment rate (15-64), male: proportion of the male population aged 15-64 that is in employment	Unit (x1)	%	1)	.	.	.	46,8	46,1	46,0	46,0	44,9	42,4	41,7
SI: Employment rate (15-64), female: proportion of the female population aged 15-64 that is in employment	Unit (x1)	%	1)	.	.	.	26,1	26,0	26,0	27,5	26,2	26,0	25,7
SI: Employment rate of older workers (55-64): proportion of the population aged 55-64 that is in employment	Unit (x1)	%	1)	.	.	.	23,3	23,2	23,0	23,7	22,5	24,4	21,9
Agriculture, forestry and fishing (NACE Sections A+B) as a share of total employment	Unit (x1)	%	1)	.	.	.	.	.	.	13,4	14,1	12,8	10,1
Industry (NACE Sections C to E) as a share of total employment	Unit (x1)	%	1)	.	.	.	.	.	.	33,8	31,2	30,8	28,1
Construction (NACE Sections F) as a share of total employment	Unit (x1)	%	1)	.	.	.	.	.	.	6,9	6,6	7,3	7,5
Services (NACE Sections G to P) as a share of total employment	Unit (x1)	%	1)	.	.	.	.	.	.	45,9	48,1	49,1	54,2
SI: Unemployment rate: proportion of the labour force that is unemployed	Unit (x1)	%	1)	.	.	.	36,5	34,8	34,8	33,9	34,8	39,6	39,3
SI: Unemployment rate, male: proportion of the male labour force that is unemployed	Unit (x1)	%	1)	.	.	.	34,0	33,4	32,1	31,6	33,5	38,7	38,3
SI: Unemployment rate, female: proportion of the female labour force that is unemployed	Unit (x1)	%	1)	.	.	.	40,6	37,3	39,1	37,5	37,1	41,0	40,9
Unemployment rate of persons < 25 years: proportion of the labour force aged <25 that is unemployed	Unit (x1)	%	1)	.	.	.	77,0	71,6	69,8	67,8	69,3	74,1	71,2
SI: Long-term unemployment rate: proportion of the labour force that is long-term unemployed	Unit (x1)	%	1)	.	.	.	30,2	29,2	29,0	29,4	29,4	33,7	33,5
Social cohesion		Scale	Unit	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Inequality of income distribution: ratio of top quintile to lowest quintile	Unit (x1)	Number		.	.	.	.	.	.	.	.	.	.
SI: Early school-leavers: proportion of the population aged 18-24 having not completed upper secondary education and who are currently not in any education or training	Unit (x1)	%	2)	.	.	.	.	.	.	.	32,2	.	.
SI: Children aged 0-17 living in jobless households: share of children aged 0-17	Unit (x1)	%		.	.	.	.	.	.	.	.	.	.
SI: Persons aged 18-59 living in jobless households: share of persons aged 18-59	Unit (x1)	%		.	.	.	.	.	.	.	.	.	.
Standard of living		Scale	Unit	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Number of passenger cars / population	Unit (x1)	per 1000		146,1	143,8	144,7	144,0	143,7	147,6	151,9	152,5	148,0	.
Number of main telephone lines (fixed) / population	Unit (x1)	per 1000	3)	177,8	186,3	204,1	227,6	388,7	397,7	389,2	392,6	356,6	360,9
Number of subscriptions to cellular mobile telephone services / population	Unit (x1)	per 1000		.	0,6	6,2	15,0	23,6	49,3	108,8	181,3	300,0	491,6
Infrastructure		Scale	Unit	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Density of railway network (lines in operation)	Unit (x1)	km ²		.	.	.	.	27,1	27,1	27,1	27,1	27,1	.
Length of motorways	Unit (x1)	km		138	144	144	144	144	144	145	208	208	196
Industry and agriculture		Scale	Unit	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Industrial production volume index (2000=100)	Unit (x1)	Number		90,5	93,4	94,9	99,2	96,6	100,0	96,9	91,8	96,1	94,8
Agricultural production volume indices of goods and services (at producer prices) (previous year = 100)	Unit (x1)	Number		.	.	.	.	101,1	101,0	90,2	97,5	104,5	.
Innovation and research		Scale	Unit	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Spending on human resources (public expenditure on education) as a share of GDP	Unit (x1)	%		.	.	.	.	.	.	.	3,50	.	.
SI: Gross domestic expenditure on research & development, relative to GDP	Unit (x1)	%		.	.	.	.	.	.	.	.	.	.
SI: Percentage of households who have Internet access at home. All forms of Internet use are included. The population considered is aged 16 to 74.	Unit (x1)	%		.	.	.	.	.	.	.	.	.	11,2e
Environment		Scale	Unit	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
SI: Total greenhouse gases emissions, CO ₂ equivalent (1990=100)	Unit (x1)	Number		.	.	.	.	.	.	.	.	.	.
SI: Energy intensity of the economy	Unit (x1)	kg of oil equivalent per EUR 1000 GDP		.	.	.	.	.	.	.	.	.	.
SI: Share of renewable energy in electricity consumption	Unit (x1)	%		.	.	.	.	.	.	.	.	.	.
SI: Road freight transport as a share of total inland freight transport (Modal split of freight transport)	Unit (x1)	%	

e estimate
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- 1) Unpaid family workers are excluded.
- 2) 2002: source is 2002 census.
- 3) 1995 to 1998: number of telephone subscribers.

Note:

The full set of Key indicators is available in http://europa.eu.int/estatref/info/sdds/en/coop_eur/coop_eur_base.htm. The definitions of the indicators that countries have been requested to follow can be found (in English) in http://europa.eu.int/estatref/info/sdds/en/coop_eur_definitions.pdf, which also includes the definitions of the few indicators extracted from Eurostat's database, and from Comext. When countries have indicated divergences from the definitions requested these are indicated in a list of the footnotes.