

RULE OF LAW IN THE REPUBLIC OF MACEDONIA OVER THE LAST DECADE EVALUATED BY INTERNATIONAL AUTHORITIES

Abdula AZIZI

Full Professor, Faculty of Contemporary Social Sciences, SEE University,
Tetovo, Republic of Macedonia
E-mail: a.azizi@seeu.edu.mk

Lindita NEZIRI-CEKA

PhD, Faculty of Contemporary Social Sciences, SEE University,
Skopje, Republic of Macedonia
E-mail: lc06876@seeu.edu.mk

Abstract

As the Republic of Macedonia (RM) is on its way to the European Union (EU), we consider it important to analyze the level of rule of law as one of the preconditions for membership. The issue of rule of law in the RM has been debated by other scholars over the years, but not from a ten-year perspective involving the evaluation of relevant international authorities.

The purpose of this research paper is to analyze the shortcomings in the functioning of the rule of law in RM.

As a framework of this research, the relevant data on the rule of law in the countries of Southeast Europe, the annual progress reports of the European Commission on the rule of law in the RM, the evaluations of other international actors, the results of previous research, such as government documents and institutional reforms devoted to the rule of law are used.

The critical assessment of the functioning of the rule of law in the RM in this research should create a positive and motivating effect for the political authorities to reform the justice system in accordance with the needs of the citizens and the key Euro-integration processes.

Finally, we will draw conclusions and make suggestions to serve the wider academic community, policymakers, and stakeholders who may raise issues as a problem that requires appropriate treatment.

Keywords: *justice reforms; European Commission; Republic of Macedonia*

1. Introduction

The rule of law, in addition to being a guarantee for democratic processes within a state, also expresses the level of its readiness to accept the values defined in the framework of international law.

The main question that is intended to be analyzed within this paper is whether the RM is on the right track to respect the rule of law. Therefore, within itself, this paper builds the analysis of the relevant documentation from international authorities, competent to evaluate the rule of law through their measuring instruments, without going into details about the methodology of reaching their findings.

In the first part of this paper, definitions are laid out on the theoretical concept of the rule of law by world-renowned authors of this issue, but also definitions in the relevant documents of international organizations that aim at the rule of law.

In the second part, the legal and institutional basis of the RM was analyzed, such as the evaluations by local authors regarding the independence of the judicial system and the analysis of national and international surveys regarding the index of the rule of law and the trustworthiness of citizens in the judicial system compared with other countries.

In the third part of this paper, the annual progress reports of the European Commission are being analyzed, including the improvements made, on an annual basis, the shortcomings and the challenges that the state has to face in the future.

The last part is about the conclusions and recommendations for establishing a functional system for the rule of law.

2. Literature review

The contemporary concept of the rule of law emerged from the British constitutionalist Professor Albert Venn Dicey in his book "Introduction to the Study of the Law of the Constitution" in 1885. Dicey referred to two principles: sovereignty and the rule of law, which are inherent in the British constitution. He saw the rule of law as an opportunity to limit the state power over the individual. According to Dicey, the rule of law had three main characteristics: first, no person should be convicted of a violation of the law retrospectively; second, no person should be above the law and all classes should be equally subject to the law; third, the rule of law should not derive from any written constitution but from a "common law". The last principle cannot survive in a contemporary society, while the other two elements were not universally acknowledged to the extent that he believed that any discretionary power would inevitably lead to the "arbitrary" exercise of power (Jowell, 2011).

In the first half of the twentieth century, the rule of law became a highly contested concept, with government intervention being particularly contested. By the middle of the twentieth century, the concept of the rule of law also introduced the possibility of discretionary power, which should not undermine the purpose of the law. Discretionary power is also limited by other principles

such as that: everyone has access to fair proceedings before an impartial and independent tribunal and the law is applied consistently, equitably and in a manner that is not arbitrary.

The rule of law has over time been interpreted in various ways, even in some countries it has even been distorted to be equivalent to "rule by law". These interpretations allowed for authoritarian action by governments and did not reflect the proper understanding of the rule of law (Holovaty, 2006).

The rule of law in its meaning is an integral part of any democratic society, and the notion of the rule of law requires that all persons be treated by all decision-makers with dignity, equality and rationality and in accordance not with the law and have the opportunity to challenged decisions concerning their legal judgements before independent and impartial courts about their illegality, through fair procedure. The rule of law thus addresses the exercise of power and the relationship between the individual and the state.

The rule of law is usually based on the concept that no one is above the law, while justice is accessible to everyone through an independent judiciary. Thus, two parameters are important for the rule of law:

- First, the quality of laws as being: clear, general, consistent, coherent and binding laws; and
- Second, the quality of the judicial system as capable, independent, accountable and impartial (Mendelski, 2018).

International organizations have differing views on how the rule of law can be realized. Some of them such as the European Union, USAID and World Bank consider that this can be achieved through building the capacity of the judiciary, while the European Council for Human Right uses respect for human rights and fair trial, combating corruption, judicial independence, impartiality and training Council of Europe and EU use combating corruption, judicial independence, impartiality and training and the OSCE is most concerned with minority rights (Mendelski, 2018).

In the United Nations the notion of the rule of law was mentioned in the Preamble to the Universal Declaration of Human Rights (1948). The United Nations Commission on Human Rights (2005), when emphasizing this principle, focuses on the elements of separation of powers, powers, the supremacy of law and equal protection under the law. A broad definition of the rule of law was provided by former UN Secretary-General Kofi Annan, who in his 2004 report states: "The rule of law refers to a principle of governance in which all persons public and private institutions, including the state itself, are responsible for the laws, to be applied equally, to be judged independently, and to comply with international human rights norms and standards. Measures are needed to ensure respect for the principles of the rule of law, equality before the law, accountability to the law, justice in law enforcement, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency" (UN Secretary General Report, 2004).

The concept of rule of law together with democracy and human rights, constitute the three pillars of the Council of Europe. The rule of law is outlined

in the Preamble to the Statute of the Council of Europe and the Preamble to the European Convention on Human Rights (ECHR), as well other international human rights instruments. The Committee of Ministers of the Council of Europe in a number of documents refers to the rule of law and is constantly working to strengthen the rule of law within its member states (CoE, 2008). The European Court of Human Rights applies the notion of the rule of law includes the legal process and security, separation of powers, equality before the law (CoE, 2016).

The OSCE summarized in the Copenhagen Document of 1990 the key elements of the rule of law, which states: "The rule of law does not simply imply formal legality which ensures regularity and consistency in achieving and enforcing democratic rule, but justice based on the full recognition and acceptance of the supreme values of human personality guaranteed by the institutions that provide a framework for its fullest expression" (OSCE Document 1990). The document enumerates various commitments to be made by participating States on the independence of the judiciary in the impartial functioning of the public judicial service and the administration of justice.

Another important document within the OSCE also approved by Helsinki Council of Ministers (Decision no. 7/08) entitled "Further Strengthening the Rule of Law in the OSCE Field" encouraged participating states to strengthen the rule of law in areas such as "independence of the judiciary; effective administration of justice; the right to a fair trial; access to court; accountability of state institutions and public administration officials; the right to legal aid and respect for the human rights of persons in detention; the prevention of torture; raising awareness and education on the rule of law for the legal professions and the public; providing effective remedies and access to them; respect for standards and practices of the rule of law in the criminal justice system; and the fight against corruption" (OSCE Decision 2008).

In the European Union, the concept of the rule of law is defined not only in the Preamble to the European Union Treaty (TEU), but also in its Article 2, according to which "the EU is based on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities." The exact content of the rule of law may vary from one Member State to another, depending on the constitutional system. However, the case law of the Court of Justice of the European Union provides a number of principles which define the essential meaning of the rule of law as a common EU value in accordance with Article 2 of the TEU. Those principles include legality, which implies a transparent, accountable, democratic and pluralistic process for enacting laws; legal certainty; prohibition of arbitrariness of the executive powers; independent and impartial courts; effective judicial review including respect for fundamental rights; and equality before the law (EC Communication, 2014). In fact, the rule of law is related to respect for democracy and fundamental rights. There is no democracy if fundamental rights and the rule of law are not respected.

In general, in the Western Balkans the rule of law has emerged as one of the main concerns in the EU membership accession process. Therefore, establishing an independent judiciary has been one of the top priorities for these States.

RM established the Academy for Judges and Prosecutors in 2010 to ensure the professional, independent, impartial and efficient performance of the judicial and public prosecution function.

The independence of the judiciary in RM is alleged to be formally guaranteed by the legal framework, while independent judicial and prosecutorial councils have been established to appoint and dismiss judges and prosecutors within the Academy for Judges and Prosecutors. The Government also adopted "The Judicial Reform Strategy 2017-2022" and a relevant Action Plan.

However, appropriate internal reforms (e.g. culture transformation, maturity) were lacking. Thus, there is a continuing political influence on the functioning of the judiciary, especially in the case of appointments, promotions and case distribution (Imeri, 2018).

From wiretapped conversations that emerged in late 2015, it was heard that the executive had full control over the judiciary, resulting in an atmosphere of pressure and uncertainty within the judiciary (Priebe²⁰¹⁵). Specifically, the Director of the Security Service and the Prime Minister's first cousin at the time maintained a list of qualified candidates for judges and gave orders for the career advancement system and the election of members to the Judicial Council and the Council of Public Prosecutors (McDevitt, 2016).

A Special Public Prosecution Office (SPPO) was established due to the public prosecutor's failure to investigate the intercepted materials. However, this office was initially hampered in its work and eventually it emerged that the first man of this institution had maligned the position for corruptive purposes in the "Racket" affair by cooperating with the defendants. Following a violent media and political backlash, the Macedonian Parliament dismissed the Special Prosecutor on September 14, 2019.

Other indicators of political interference in the judiciary include the allocation of sensitive files to individual judges, while a number of judges reported being transferred to another job or dismissed because they did not comply with political requirements.

Unfortunately, judicial and prosecutorial councils have long been a function of political parties. Politically motivated appointments and promotions were regularly used by the ruling parties to expand their influence in the judiciary (Preshova, 2017). The control and misuse of the judicial system by a small number of judges in powerful positions to promote their political interests has continued. Further, the manner in which the Council assesses and disciplines judges serves to undermine rather than guarantee their independence and autonomy (Priebe report, 2017).

The case of the Republic of North Macedonia (RNM), known as FYROM prior to February of 2019, Judicial Council demonstrates that the judiciary was not ready for such a high level of self-government. The Council

was introduced between the existence of strong links with the past judicial mentality and culture. In the absence of a true tradition of judicial independence in the country, the introduction of the Council could not lead to a positive outcome (Preshova et al., 2017).

The isolation of the judiciary from other branches of state power through the Council has not strengthened independence and accountability, but has had the disastrous consequences of exposing the judiciary to unnecessary political pressure from the executive and ruling elites (Preshova, 2018).

Following the change of government in June 2017 there has been a slight shift in the direction of adherence to merit-based principles in the procedure of electing court presidents and higher court judges (Imeri & Ivanovska, 2018). A year-later the Judicial Council for the first time selected the candidates based on the criteria for the promotion of judges set out in the Law on the Judicial Council (Imeri & Ivanovska, 2018).

Citizens also have their doubts about the functioning of the rule of law. Preliminary research in the field shows the low level of credibility with which the citizens hold the judicial system. The results show that there is an extremely high percentage of respondents who do not trust the system to make the right decisions. Since the rule of law is conditioned by the quality of the judicial system and the making of fair decisions, citizens were asked "To what extent do you believe that the judicial system adopts fair decisions"? The responses found that only 5.7% of respondents fully trust the judicial system; only 12% of respondents from the eastern region trust and only 4% from the Polog region; to some extent 34% of the respondents trust (48% in the eastern region and 23% in the Polog region) trust the judicial system, while 20% of the respondents do not trust the system, with 30% of the respondents have no confidence at all (Ananiev et al, 2015). This imposes the need for the state to take serious measures in relation to the reform of the judicial system.

In another survey conducted in November 2017 by the European Policy Institute in Skopje, it was concluded that "Rule of law and good governance; improving the level of democracy in the country, protecting minority rights, fighting corruption, independence of the court and successful judicial reforms will only be possible after the country joins the EU" (EPI, 2017). Thus, citizens have no confidence in the judicial system and further development of the rule of law can only take place after the state joins the EU.

In a report of the Bertelsmann Stiftung's Transformation Index (BTI), which assesses the transformation towards democracy, market economy and quality of governance in 137 countries, for the period from February 1, 2019 to January 31, 2021, RM was evaluated to have an index of seven out of ten in the rule of law. Some of the shortcomings of the system include: The political influence on the judiciary, the spread of corruption, the lack of genuine cooperation between the relevant institutions for criminal prosecution (Anti-Corruption Agency, Public Prosecution and Police), discrimination and the denial of basic freedoms of vulnerable groups such as the Roma, the poor infrastructure of prisons and their overloading on the real capacity, the solution of high-profile politicians in independent authorities for the guarantee of civil

rights as Ombudsman, Commission for Protection from Discrimination and Directorate for Protection of Personal Data (BTI 2022, pp. 12-14)

3. Positioning RM in international assessments of the rule of law

Rule of law can mean different things to different scholars and practitioners; it can also be measured by different methods, which can create different assessments of the rule of law in a given country. Rule of law assessments are often conducted in a narrow rather than systematic way, focusing on the quality and empowerment of the judiciary, which may in some cases result in the existence of an independent but irresponsible judiciary (Mendelski, 2018). The World Justice Project (WJP) uses a different evaluation criteria which seems to give more reliable results for judging the level of rule of law (WJP, 2019). This has been achieved through research that has linked more than 120,000 family surveys and 3,800 expert surveys. The world's most comprehensive database of its kind relies heavily on primary data, measuring a countries' respect for the rule of law from the perspective of ordinary people and their experiences. It identifies the strengths and weaknesses of the countries, based on the experiences and perceptions of the general public and experts around the world.

Data from the WJP 2019 report, which was used in this paper and compared with other preliminary findings serves for a comprehensive analysis. The results show the overall ranking of the Rule of Law Index in 2019 for 126 countries worldwide. Scores range from a minimum of 0 to a maximum of 1 to indicate the level of respect for the rule of law.

It appears that EU member states from the Southeastern European (SEE) region stand better in the rule of law than the Western Balkan countries, but not as well at world at large. Rule of Law Index in SEE countries is as follows: Slovenia (0.67) ranked 26th, Romania (0.64), Greece (0.62), Croatia (0.61), Bulgaria (0.54), RM (0.54), Bosnia & Hercegovina (0.53), Albania (0.51) and Serbia (0.50) or ranked 78th (WJP 2019). Kosovo and Montenegro were not included in this research.

So, when comparing data at the global level, three countries with the lowest level of rule of law are Venezuela (0.28), Cambodia (0.32) and Congo (0.33); while higher levels of the rule of law have Finland (0.87), Norway (0.89) and Denmark (0.90) (WJP, 2019).

In the table below, SEE countries are assessed for the level of rule of law separately in 8 groups of factors.

Table 1: Index of Rule of Law in SEE Countries by Evaluation Factors

State	Restrictions on government power		Lack of corruption		Open government		Basic rights		Order and Security		Implementation of norms		Civil Justice		Criminal justice	
	The result	Ranking	The result	Ranking	The result	Ranking	The result	Ranking	The result	Ranking	The result	Ranking	The result	Ranking	The result	Ranking
Slovenia	0.65	32	0.66	32	0.65	26	0.73	23	0.89	14	0.64	27	0.63	36	0.55	38
Romania	0.62	36	0.57	44	0.62	32	0.70	29	0.84	23	0.57	40	0.64	29	0.57	32
Greece	0.69	26	0.57	46	0.61	37	0.66	36	0.72	62	0.59	34	0.58	48	0.51	47
Croatia	0.58	52	0.57	45	0.61	36	0.65	39	0.82	25	0.55	44	0.58	49	0.51	48
Bulgaria	0.46	91	0.44	77	0.54	49	0.60	51	0.77	41	0.54	49	0.56	54	0.45	62
Macedonia	0.47	87	0.47	62	0.49	68	0.57	60	0.79	32	0.48	77	0.57	52	0.47	56
Bosnia and Herzegovina	0.45	96	0.44	72	0.47	73	0.59	53	0.76	48	0.49	71	0.51	71	0.50	50
Albania	0.49	79	0.35	103	0.46	77	0.61	49	0.79	31	0.44	97	0.44	100	0.47	58
Serbia	0.40	106	0.44	73	0.47	74	0.56	63	0.78	38	0.47	81	0.50	74	0.38	81

Source: WJP 2019

From Table 1 we can see that Slovenia ranks better in the ratings of the survey conducted on the rule of law on five factors lack of corruption, open government, fundamental rights, order and security, norm implementation. Albania appears to be the country with the lowest ranking in terms of rule of law, ranking last in four factors the rating lack of corruption, fundamental rights, implementation of norms, civil justice, followed by Serbia with three evaluation factors limiting government power, fundamental rights, criminal justice at the bottom. Romania is assessed as having two factors of assessment civil and criminal justice, while in none of the factors is it at the bottom of the table. Surprisingly, Greece as one of the oldest EU member states from the SEE region has failed to consolidate democracy. It is at the top of the table only for the limitation of government power and at the bottom of the table for order and security. Bulgaria and Croatia maintains a moderate level of rule of law, even though they are already EU member states.

In the table below, the rule of law sub-factors for RM are analyzed in more detail. The conceptual framework of the WJP Rule of Law Index is composed of eight factors divided into 44 sub-factors.

Table 2: Rule of Law Index in RM

Factor	Subfactor	Factor score	Global ranking
	1. Governmental powers are effectively limited by the legislature	0.59	87
	2. Governmental powers are effectively limited by the judiciary	0.38	

Rule of law in Republic of Macedonia over the last decade...

Limitations on government power	3. Governmental powers are effectively limited by independent auditing and review	0.49	
	4. Government officials are sanctioned for misconduct	0.36	
	5. Governmental powers are subject to non-governmental controls	0.49	
	6. The transfer of power is a legal subject	0.51	
Lack of corruption	1. Officials in the executive branch shall not use public offices for private gain	0.41	62
	2. Officers in the judicial branch shall not use public offices for private gain	0.53	
	3. Police and military officials do not use public offices for private gain	0.68	
	4. Officials in the legislative branch shall not use public offices for private gain	0.24	
Open government	1. Published laws and government records	0.50	68
	2. Right to information	0.51	
	3. Citizen participation	0.50	
	4. Grievance mechanisms	0.45	
Fundamental Rights	1. Equal treatment and non-discrimination	0.61	60
	2. The right to life and safety of the person is effectively guaranteed	0.64	
	3. The due process of law and the rights of the accused	0.56	
	4. Freedom of thought and expression is effectively guaranteed	0.49	
	5. Freedom of belief and religion is effectively guaranteed	0.71	
	6. The right to privacy and Freedom from arbitrary interference with privacy is effectively guaranteed	0.37	
	7. The freedom of association and association is effectively guaranteed	0.59	
	8. Fundamental labor rights are effectively guaranteed	0.58	
	1. Crime is effectively controlled	0.78	
	2. Civil conflict is effectively limited	1.00	

Order and security	3. Lack of violent compensation / People do not use violence to rectify personal grievances	0.59	32
Implementation of the regulation	1. Government regulations are effectively implemented	0.46	77
	2. Government regulations are implemented without undue influence	0.48	
	3. Administrative procedures shall be carried out without undue delay	0.49	
	4. The due process of law is respected in administrative proceedings	0.42	
	5. The Government shall not expropriate without due process and adequate compensation	0.54	
Civil Justice	1. People can access and allow civil justice	0.62	52
	2. Civil justice is free from discrimination	0.65	
	3. Civil justice is free from corruption	0.38	
	4. Civil justice is free from improper government influence	0.40	
	5. Civil justice is not subject to unreasonable delay	0.53	
	6. Civil justice is effectively implemented	0.66	
	7. Alternative dispute resolution mechanisms are accessible, impartial and effective	0.72	
Criminal justice	1. The criminal investigation system is effective	0.47	56
	2. Criminal proceedings are timely and effective	0.50	
	3. The correctional system is effective in reducing criminal behavior	0.37	
	4. The criminal justice system is impartial (no discrimination)	0.50	

Source: WJP 2019

Based on the evaluation sub-factors, we can conclude that RM is poorly positioned by:

- the restriction of government power by the judiciary;
- punishment of officials for abuse;
- the use of public offices by government and parliamentary officials for private purposes;
- guaranteeing the right to privacy;

- respect of legal deadlines in administrative procedures;
- corruption in civil justice;
- government pressure on the judiciary;
- the corrective system for reducing criminal behavior and the efficiency of criminal prosecution.

4. European Commission's annual progress reports

The European Commission reports on the annual progress of RM since 2013 did not specifically address the rule of law, but in the context of the corpus of issues related to Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and security).

Taking into consideration the evaluations of the European Commission during the last decade, some main findings divided into three categories were given as follows:

- Improvements: the judicial system is moderately prepared; the Strategy for judicial reforms (2018-2022) has been prepared; the legal framework for the protection of fundamental rights is in accordance with European standards, etc.

- Remarks: corruption is widespread; there is a lack of a comprehensive legal framework for non-discrimination and a body for equality; the bad situation in prisons; the lack of law enforcement, etc.

- Challenges: The Academy for judges and prosecutors must ensure correct and transparent access to these professions; implement recommendations regarding the treatment of detainees and convicts; criminal prosecutions and the closure of high-level corruption cases through final sentences; the increase of public trust in the courts; improving the human rights situation; appointing members of independent regulatory bodies based on merit and their functional independence, as well as distributing appropriate funds for them; fighting against organized crime; implementing reforms in justice etc.

For more, see the table attached to this paper as Annex 1, where the findings of the European Commission for the last three years are emphasized.

5. Conclusions

Taking into account the analysis of international evaluations on the rule of law in the RM, we can conclude that:

- Despite the legal changes undertaken for the reform and independence of the judiciary from political influences, the political influence on the judiciary is confirmed. Therefore, political actors must fight the politicization and instrumentalization of laws, reforms and institutions. Effective implementation of the legal framework is required as well as increased efforts by all actors to contribute to increasing public confidence in the judiciary. Perhaps, an interim international judicial and prosecutorial system (led by the EU) should be established to resolve serious cases involving senior government political officials. Thus, the judiciary would be unblocked from political influences.

- There is a lack of punishment for corruption and organized crime among high officials, also due to insufficient institutional capacity and lack of inter-institutional cooperation. A digital case management system should be established, including audio-visual recording and transcripts of court proceedings, to make the courts more transparent. This can reduce corruption and increase public confidence in judicial matters.

And finally, the rule of law is not only an institutional issue, but also requires social transformation and the incorporation of specific core values into everyday culture.

References

- Bertelsmann Stiftung, BTI 2022 Country Report-North Macedonia. Gütersloh: Bertelsmann Stiftung, 2022. More on the BTI at <https://www.bti-project.org> [accessed December 12, 2022]
- Commission staff working document, North Macedonia 2020 Report, Brussels, 6.10.2020 SWD(2020) 351 final
- Commission staff working document, North Macedonia 2021 Report, Strasbourg, 19.10.2021
- Communication from the Commission to the European Parliament and the Council: *A new EU Framework to strengthen the Rule of Law*, Strasbourg, 11.3.2014 COM (2014) 158 final
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Commission Staff Working Document, North Macedonia 2019 Report, Brussels, 29.5.2019 SWD(2019) 218 final
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Strasbourg, 17.4.2018, SWD(2018) 154 final, Commission Staff Working Document, The FYROM 2018 Report
- Council of Europe and the Rule of Law-An overview CM (2008)170, November 21, 2008
- Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, ETS 5, available at: <https://www.refworld.org/docid/3ae6b3b04.html> [accessed September 19, 2019]
- Decision No. 7/08 on further strengthening the rule of law in the OSCE area. OSCE Ministerial Council, 16th OSCE Ministerial Council, Helsinki, 4-5 December 2008. <https://www.osce.org/files/f/documents/9/8/35494.pdf> [accessed December 12, 2022]
- Dacey, A.V., 1982 (1885), *Introduction to the Study of the Law of the Constitution*, London: McMillan
- Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE Copenhagen 1990, OSCE, 29 June 1990.

- Available at: <https://www.osce.org/files/f/documents/9/c/14304.pdf> [accessed December 12, 2022]
- European Commission for Democracy through Law (Venice Commission): *Rule of Law Checklist*, Adopted by the Venice Commission at its 106th Plenary Session (Venice, 11-12 March 2016), Council of Europe, May 2016
- European Parliament Draft-Report on the 2021 Commission Report on North Macedonia, Rapporteur Ilhan Kyuchyuk, 15.02.2022
- European Policy Institute (EPI) & Centre for Deliberative Democracy at the University of Stanford, *Deliberative Polling*, Skopje, 18-19 November 2017.
- European Union, Charter of Fundamental Rights of the EU 2012, 2012/C 326/02, available at: <https://www.refworld.org/docid/3ae6b3b70.html> [accessed September 19, 2019]
- European Union, Treaty on European Union (Consolidated Version), Treaty of Maastricht, 7 February 1992, Official Journal of the European Communities C 325/5; 24 December 2002, available at: <https://www.refworld.org/docid/3ae6b39218.html> [accessed September 19, 2019]
- Holovaty S., *The Rule of Law*, Kyiv Phoenix Publishing House (2006) LXIV, 1747 (Vol. 1: The Rule of Law: From Idea to Doctrine)
- Imeri, A. et al. (2018), *The (in)effectiveness of EU benchmarking mechanism in the Western Balkan*, Reforming from the Bench-Marking offside. Skopje: European Policy Institute
- J. Ananiev, J. Denkova, A.N. Krstevska, Rule of Law and Inclusion in the Republic of Macedonia, International Journal of Sciences: Basic and Applied Research (IJSBAR) (2015) Vol.19
- Jeffrey J. (2011), "*The Rule of Law and its Underlying Values*", in *The Changing Constitution*, edited by Jeffrey Jowell and Dawn Oliver, 7th edition, Oxford University Press
- Jordanova, M.R. and Dimovska, K. (2016), *Monitoring and evaluation of the Rule of Law in the Republic of Macedonia*, Skopje: European Policy Institute
- Law on the Academy for Judges and Public Prosecutors, Official Gazette of the Republic of Macedonia, No.88, 2.07.2010
- McDevitt, A. (2016), *Fighting corruption in the Western Balkans and Turkey: Priorities for reform*, Berlin: Transparency International
- Mendelski, M. (2018), *The Rule of Law (in Central and Eastern Europe)*; in Fagan, A. and Kopecký, P. (Eds.), *The Routledge Handbook of East European Politics*, London: Routledge
- Preshova, D. (2017). *The effectiveness of the 'European Model' of judicial independence in the Western Balkans: Judicial councils as a solution or a new cause of concern for judicial reforms*, Centre for the Law of EU External Relations
- Priebe report-Senior experts' group (2015), *The FYROM: Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to*

- the communications interception revealed in spring 2015, Brussels: European Commission
- Priebe report-Senior experts' group (2017), *The FYROM: Assessment and recommendations of the Senior Experts' Group on systemic Rule of Law issues 2017*. Brussels: European Commission.
- The rule of law and transitional justice in conflict and post-conflict societies*, Report of the Secretary-General, Doc. S/2004/616, 23 August 2004
- United Nations (1948), Universal Declaration of Human Rights
- US DOS (2018d), *Macedonia 2017 Human rights report*, Washington DC: US Department of State
- World Justice-WJP (2019), *Project Rule of Law Index*, Washington DC

ANEX 1

YEAR	2020	2021	2022
Improvements	<p>The judicial system is thus moderately prepared.</p> <p>There has been good progress in implementing the Justice Reform Strategy.</p> <p>Mechanisms have been established to ensure the independence and accountability of the judiciary (e.g. merit-based appointments, property control, conflict of interest, disciplinary proceedings). Thus the Judicial Council has exercised its role more proactively (p. 5)</p> <p>The Law on Public Prosecution entered into force in June 2020 to resolve Special Prosecution cases and establish responsibility for crimes related to illegal wiretapping.</p> <p>Good progress has been made in investigating, prosecuting and adjudicating high-level corruption cases (p. 5)</p> <p>The country has a level of preparation in the fight against organized crime, but efforts to</p>	<p>The judicial system is moderately prepared (p. 18)</p> <p>Some progress has been made on the implementation of the Justice Reform Strategy (p. 5)</p> <p>Some progress has been made in the institutional framework, in particular the State Commission for the Prevention of Corruption (SCPC) and the Prosecutor's Office for Organized Crime and Corruption (OCCPO).</p> <p>In April 2021, Parliament adopted the National Strategy 2021-2025 for the Prevention of Corruption and Conflict of Interest (p. 5)</p> <p>In June 2020, a National Plan for reintegration, re-socialization and rehabilitation of returned foreign fighters was adopted, in order to prevent violent extremism and radicalization (p. 5)</p> <p>The Law on Prevention and Protection against Discrimination has entered into force and</p>	<p>31. Welcomes the progress made and the measures taken in the fight against corruption and organized crime;</p> <p>32. Encourages the finalization of security and intelligence sector reform;</p> <p>36. Welcomes the progress made towards systematic improvements in tackling trafficking in human beings, drugs, firearms and goods, together with cybercrime and surveillance, violent crime, extremism and terrorist threats</p>

	<p>implement strategies against organized crime must continue. Some progress has been made in the fight against terrorism and the prevention of violent extremism (p. 6)</p> <p>The legal framework for the protection of fundamental rights is largely in line with European standards. The implementation of the Justice Reform Strategy (2017-2022) continued. The Law on Public Prosecution and amendments to the Law on the Judicial Council entered into force.</p> <p>A new Judicial Ethics Council was established under the new Code of Ethics, which went into operation in February 2020.</p>	<p>the Law on Prevention and Protection from Violence against Women and Domestic has been adopted.</p> <p>The Law on Case Management in Courts entered into force in February 2020. It regulates the automatic and random distribution of cases to judges through the Automated Case Management Information System (ACCMIS).</p> <p>The Judicial Council established a Commission which was tasked with preparing an Action Plan for monitoring corruption in the judiciary (p. 19)</p>	
<p>Remarks</p>	<p>Corruption is widespread in many areas and a more proactive approach should be ensured by all actors engaged in preventing and combating corruption (p. 5)</p> <p>The effectiveness of law enforcement in combating specific forms of crime, such as money laundering and</p>	<p>A new draft law on the Academy for Judges and Prosecutors should keep the Academy as the only entry point into the judiciary and the prosecution and should ensure fair and transparent access to these professions (p. 5)</p> <p>The Ombudsman's Office needs to increase its budget, allowing the recruitment of specialized staff in</p>	<p>33. Underlines the importance of decision-making in relation to allegations of abuse of office, corruption and terrorism, including the April 2017 attacks on Parliament, illegal wiretapping and extortion;</p>

	<p>financial crime, needs to be improved (p. 6). The decision of the Constitutional Court to repeal the Law on Prevention and Protection against Discrimination means that the country currently lacks a comprehensive legal framework for non-discrimination and a body for equality. A new law is required to address this gap. Country to improve enforcement of hate speech legislation (p. 6)</p> <p>There have been delays in passing some legislative measures. Thus, the Council for Monitoring the Implementation of Justice Reform could not convene due to the COVID-19 crisis and did not approve the second annual implementation report.</p>	<p>order to better fulfill its role. It is essential to complete the appointment of members of independent regulatory bodies on the basis of merit in order to guarantee their financial independence (p. 17)</p> <p>It is important to continue implementing the legal framework and strategic plans regarding the reform of the Judicial Council and the Council of Public Prosecutors. Ongoing commitment is needed to provide automatically reliable statistical data, in line with recommendations and methodology for the performance of the judiciary and prosecution. Recommendations of European and international institutions regarding the treatment of detainees and convicts should be fully implemented without delay (p. 6)</p> <p>The mechanism of external civilian oversight of the police is not fully operational and this hinders efforts to address police impunity.</p>	<p>34. Underlines the importance of ongoing investigations and prosecutions and the closure of high-level corruption cases through final sentences;</p> <p>35. Calls for action against money laundering and financial crime; strengthening the capacity of competent bodies to fight organized crime.</p>
--	--	---	--

		Corruption is widespread in many areas and remains a concern even though there are concrete results in the fight against high-level corruption (p. 17)	
Challenges	<p>Effective implementation of the legal framework is required as well as increased efforts by all stakeholders to contribute to increasing public confidence in the judiciary.</p> <p>Efforts are still needed to ensure the systematic implementation of the updated action plan of the Justice Reform Strategy (p. 5)</p> <p>The Asset Recovery Office must demonstrate its capacity to support a proactive asset seizure policy (p. 6)</p> <p>Additional efforts are needed to address the recommendations of European and international human rights institutions regarding the treatment of detainees and convicts.</p> <p>The country needs to take urgent measures to further improve the situation in prisons and to support alternatives to detention (6)</p>	<p>Efforts are still needed to ensure the systematic implementation of the updated action plan on the Justice Reform Strategy and the Human Resources Strategies for the Judiciary and Prosecution (p. 5)</p> <p>The State Commission for the Prevention of Corruption should allocate additional funds for the recruitment of expert staff.</p> <p>Efforts to implement strategies against organized crime must continue. More needs to be done to improve law enforcement effectiveness in combating money laundering and financial crime (p. 5)</p> <p>The implementation of hate speech legislation needs to be improved.</p> <p>The country must continue to improve the situation in prisons and further increase alternatives to detention (p. 6)</p>	<p>27. The need to push for rule of law reform;</p> <p>28. Further steps in prosecuting high-level corruption and organized crime, strengthening independent oversight institutions;</p> <p>29. To update the Criminal Code, it should cover, among other things, economic crime and misinformation;</p> <p>30. The need to advance justice reform, the independence of the judiciary and the functioning of the bodies that ensure its self-government;</p> <p>36. Seeks to strengthen resilience to hybrid threats and fake news.</p>

	<p>Continued efforts are needed to improve the human rights situation in practice (p. 16)</p> <p>The appointment of members of independent and regulatory authorities on the basis of merit should be carried out, and then their functional independence at all times and the proper distribution of funds should be guaranteed.</p>	<p>In the coming year, the country should in particular:</p> <ul style="list-style-type: none">- enhances the sustainable implementation of the Justice Reform Strategy and the updated Action Plan, with a special focus on the adoption of a new law on civil procedure, in line with European standards;- Implements the Human Resources Strategies for the judicial system and the public prosecution network, using them as indicators for projections for future recruitments;- upgrades the ACCMIS system to ensure that it is fully functional and reliable (p. 18)	
--	---	---	--