



European Asylum Support Office

# EASO Country of Origin Information Report

## The former Yugoslav Republic of Macedonia



November 2016

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# EASO Country of Origin Information Report

The former  
Yugoslav Republic  
of Macedonia

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## Disclaimer

This report was written according to the EASO COI Report Methodology (2012)<sup>(1)</sup>. It is based on carefully selected sources of information. All sources used are referenced. To the extent possible and unless otherwise stated, all information presented, except for undisputed or obvious facts, has been cross-checked.

The information contained in this report has been researched, evaluated and analysed with utmost care. However, this document does not claim to be exhaustive. If a particular event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist.

Furthermore, this report is not conclusive as to the determination or merit of any particular claim to refugee status or asylum. Terminology used should not be regarded as indicative of a particular legal position.

'Refugee', 'risk' and similar terminology are used as a generic terminology and not as legally defined in the EU Asylum Acquis and the Geneva Convention.

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The target users are asylum caseworkers, COI researchers, policymakers, and decision-making authorities.

The drafting of this report was finalised on 14 September 2016. Any event taking place after this date is not included in this report. An exception to this cut-off date was made for the European Commission's Communication on EU Enlargement Policy issued 9 November 2016, the main findings of which were incorporated in this report.

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<sup>(1)</sup> The EASO methodology is largely based on the Common EU Guidelines for processing Country of Origin Information (COI), 2008, and can be downloaded from the EASO website: <http://www.easo.europa.eu>.



## Abbreviations

<b>CAHROM</b>	Ad Hoc Committee of Experts on Roma and Traveller Issues
<b>DCAF</b>	Democratic Control of Armed Forces
<b>ECHR</b>	European Convention on Human Rights
<b>ECRI</b>	European Commission against Racism and Intolerance
<b>ECtHR</b>	European Court of Human Rights
<b>fYRoM</b>	former Yugoslav Republic of Macedonia
<b>GRECO</b>	Group of Countries against Corruption
<b>IS</b>	Islamic State
<b>LPC</b>	Law on the Prevention of Corruption
<b>LPCI</b>	Law on Prevention of Conflicts of Interest
<b>Moi</b>	Ministry of Interior
<b>SDSM</b>	Social Democratic Union of Macedonia
<b>SEC</b>	State Election Commission
<b>SOCTA</b>	Serious and Organized Crime Threat Assessment
<b>OSCE</b>	Organisation for Security and Co-operation in Europe
<b>VMRO-DPMNE</b>	Internal Macedonian Revolutionary Organisation – Democratic Party of Macedonian National Unity

## Introduction

This Country Focus report on the former Yugoslav Republic of Macedonia is written at the request of the European Council for general background information and more detailed information relevant for international protection status determination and for the assessment of the applicability of the safe country of origin concept to the former Yugoslav Republic of Macedonia. For the designation of safe countries of origin, Annex I of the Asylum Procedures Directive foresees that:

‘A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive 2011/95/EU, no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.’<sup>(2)</sup>

In addition, ‘account shall be taken, *inter alia*, of the extent to which protection is provided against persecution or mistreatment’<sup>(3)</sup>. The former Yugoslav Republic of Macedonia Country Focus at hand covers the most important information needs related to the above-mentioned criteria for safe country of origin designation, namely state structure, socio-political landscape, rule of law and state protection, security situation and human rights situation. The [Terms of Reference](#) can be found at the end of the report.

The report aims at providing an objective and neutral information base (without assessment or policy recommendations) that will allow for more informed policy discussions. It should be noted that the situation of third country nationals in the former Yugoslav Republic of Macedonia (including persons transiting through the country or seeking international protection in the former Yugoslav Republic of Macedonia) does not fall within the scope of this report.

## Methodology

- Defining the Terms of Reference

The [Terms of Reference](#) were defined on 8 April 2016 based on comments by members of the EASO COI Strategic Network.

- Drafting process

The report was written by a Country of Origin Information (COI) specialist from Hungary, as listed under the [Acknowledgments](#) section. The drafting of this report was finalised on 14 September 2016. An exception to this cut-off date was made for the European Commission’s Communication on EU Enlargement Policy issued 9 November 2016, the main findings of which were incorporated in this report.

- Quality control

In order to ensure that the authors respected the EASO COI Report Methodology, review was carried out by COI specialists from the countries listed as reviewers in the [Acknowledgments](#) section.

All comments made by the reviewers were taken into consideration and most of them were implemented in the final draft of this report.

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<sup>(2)</sup> Council of Europe, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013.

<sup>(3)</sup> Council of Europe, Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013.

Map (4)



(4) UN, Geospatial Information Section, The Former Yugoslav Republic of Macedonia, August 2007, (<http://www.un.org/Depts/Cartographic/map/profile/macedonia.pdf>), accessed 11 October 2016.

# 1. State structure

## 1.1 Introduction

The former Yugoslav Republic of Macedonia declared independence on 8 September 1991 after the disintegration of the Social Federal Republic of Yugoslavia (SFRY) <sup>(5)</sup>.

According to data from the 2002 census (the last undertaken), quoted by the Bertelsmann Stiftung, ethnic Macedonians make up 64 % of the total population while ethnic Albanians are the second-largest group with 25%, making them the largest minority in the country. During the 1990s, the Albanians contested the nation-state approach of the former Yugoslav Republic of Macedonia politics, refusing the status of ethnic minority and urged for ‘an official bi-ethnic state-system’ <sup>(6)</sup>.

The security situation deteriorated in the former Yugoslav Republic of Macedonia after the Kosovo crisis in 1999 and, in 2001, the hostility between Albanians and Macedonians led to an armed conflict. In August 2001, seven months of violence between ethnic Albanian guerrillas and the former Yugoslav Republic of Macedonia authorities ended with the Ohrid Framework Agreement (OFA). The OFA, an EU/US-mediated agreement envisioned a series of political and constitutional reforms, fulfilling much of the demands of Macedonian Albanians <sup>(7)</sup>.

According to the EC Communication 2016, the country’s ‘name issue’ with Greece ‘needs to be resolved as a matter of urgency’ <sup>(8)</sup>.

In 2001 the former Yugoslav Republic of Macedonia signed a Stabilization and Association Agreement with the European Union. The EU supported the process of interethnic consolidation based on the OFA and the country received the status of official candidate for EU membership in December 2005. The European Commission (EC) gave recommendations to the European Council (CE) in 2013 and 2014 to open accession negotiations with the former Yugoslav Republic of Macedonia, which the CE did not follow <sup>(9)</sup>.

## 1.2 Constitution

The Constitution of the former Yugoslav Republic of Macedonia was adopted on 17 November 1991 and successively amended. The last amendment entered into force on 12 April 2011 (Amendment XXXII) and relates to citizenship. The constitution is the supreme law and defines the organisation of the state authority, the separation of powers and the rights of the former Yugoslav Republic of Macedonia’s citizens <sup>(10)</sup>.

The former Yugoslav Republic of Macedonia is as a sovereign, independent, democratic and social state with an indivisible and inalienable territory, although changes to its borders are foreseen in accordance with the constitution <sup>(11)</sup>.

According to Amendment V of the constitution (entered into force on 16 November 2001), the official languages of the country are Macedonian, written in Cyrillic alphabet, and ‘any other language [and alphabet] spoken by at least 20 % of the population’. Languages spoken by less than 20 % of the population may be used in public bodies under the decision of local self-government <sup>(12)</sup>.

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<sup>(5)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016, p. 3.

<sup>(6)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016, p. 3.

<sup>(7)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016, p. 4.

<sup>(8)</sup> EC, Communication on the EU Enlargement Policy 2016, 9 November 2016, p. 23.

<sup>(9)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016, p. 4.

<sup>(10)</sup> WIPO, FYRoM, Constitution of the Republic of Macedonia, 2011.

<sup>(11)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011, art. 1.

<sup>(12)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011.

The official state symbols are laid down in the constitution, namely the coat of arms, the flag and the national anthem <sup>(13)</sup>.

One of the most important amendments of the constitution occurred on 7 September 2001, following the approval of the Ohrid Agreement. The 16 November 2001 amendment gave improved rights to ethnic Albanians, via the revision of the preamble, the official languages, religion and local government <sup>(14)</sup>.

## 1.3 Executive branch

### 1.3.1 President

According to Chapter 2. of the constitution, the president must be a ‘citizen of the Republic of Macedonia’, be over 40 years of age, and have lived in the country for at least 10 of the previous 15 years. He is simultaneously head of state and commander-in-chief of the armed forces <sup>(15)</sup>.

Article 84 of the constitution determines the president’s mandate, which is proposing, appointing and dismissing holders of state and public office <sup>(16)</sup>. According to the Foundation Robert Schuman’s analysis on the 2014 presidential elections, the president’s powers are ‘relatively limited and the position is mainly an honorary one’ <sup>(17)</sup>.

Gjorge Ivanov is the current President of the former Yugoslav Republic of Macedonia <sup>(18)</sup>. Ivanov was elected after two rounds of elections held on 13 and 27 April 2014 <sup>(19)</sup>. Ivanov is serving his second and last term in office <sup>(20)</sup>.

According to *Presidential Power*, a scholars’ blog focused on presidents and presidential politics, Ivanov was the candidate of the ‘right-wing populist VMRO-DPMNE [Revolutionary Organisation-Democratic Party for National Unity] party’ <sup>(21)</sup>. The Globesec 2015 forum for foreign policy and security in Central Europe reports that although Ivanov was never a party member, he ‘was active in designing the reform policy of the political party VMRO-DPMNE, the party that supported his presidential nomination at the 2009 elections’ <sup>(22)</sup>.

According to the OSCE/ODIHR observation mission’s report, the April 2014 presidential elections <sup>(23)</sup> were ‘efficiently administered’, took place with no obstructions to the campaign and also respected the freedoms of assembly and association. The report adds that there was, however, ‘inadequate separation between party and state activities’, and ‘allegations of voter intimidation’ during the campaign, with appeals by the ruling ethnic-Albanian party to ethnic-Albanian’s boycott in the presidential elections, endangering the OSCE’s principle of voting ‘free of fear of retribution’ <sup>(24)</sup>.

### 1.3.2 Government

According to the constitution, the structure and organisation of the state’s authority is based on the clear division of state powers between the legislative, the executive and the judicial branches.

<sup>(13)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011.

<sup>(14)</sup> Kroc Institute for International Peace Studies, University of Notre Dame, Constitutional Reform: Ohrid Agreement, n.d.

<sup>(15)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011.

<sup>(16)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011.

<sup>(17)</sup> Foundation Robert Schuman, The authorities in office are due to strengthen their power after the presidential and legislative elections in Macedonia, 13 April 2014.

<sup>(18)</sup> President of the Republic of Macedonia Dr Gjorge Ivanov [website], Biography, n.d.

<sup>(19)</sup> OSCE, FYRoM, Presidential and Early Parliamentary Elections, 13 and 27 April 2014, Final Report, 15 July 2014.

<sup>(20)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011.

<sup>(21)</sup> Presidential Power [blog], Macedonia – Ruling party wins parliamentary election and presidential run-off, 13 April 2014.

<sup>(22)</sup> Globsec.org [website], Globesec 2015, Gjorge Ivanov, n.d.

<sup>(23)</sup> The 2014 Macedonian presidential and early parliamentary elections occurred simultaneously on 27 of April 2014.

<sup>(24)</sup> OSCE, FYRoM, Presidential and Early Parliamentary Elections, 13 and 27 April 2014, Final Report, 15 July 2014.

Executive power lies with the Government of the former Yugoslav Republic of Macedonia, which exercises its mandate within the framework of the constitution and the law <sup>(25)</sup>.

The Government holds executive power, is directly accountable to the Assembly, and is responsible for: policy formulation, execution of laws and regulations of the Assembly, regulation and supervision of the work of public administration entities and foreign policy <sup>(26)</sup>.

The Government is composed of a prime minister and several ministers, who cannot be representatives in the Assembly, nor hold any other public office or profession <sup>(27)</sup>.

In February 2015, a political crisis emerged when Zoran Zaev, head of the leading opposition party (Social Democratic Union - SDSM), unveiled the so-called 'wiretapping scandal', exposing hundreds of thousands of illegally recorded conversations from more than 20,000 telephone numbers <sup>(28)</sup>.

After months of political unrest, the EU facilitated the '2 June [2015] Agreement', where the four main political parties, VMRO-DPMNE, SDSM, DUI, and DPA reaffirmed their commitment to the Euro-Atlantic process and to the democratic principles <sup>(29)</sup>. This agreement created a transitional period until the following legislative elections, due to be held by the end of April 2016, and the setting up of a special prosecutor to investigate the wiretapping <sup>(30)</sup>.

According to the 'Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015', the wiretapping was carried out by the National Security Service of Macedonia (UKB), 'on behalf of the government, to control top officials in the public administration, prosecutors, judges and political opponents with a consequent interference in the independence of the judiciary and other relevant national institutions' <sup>(31)</sup>.

In January 2016, Prime Minister Nicola Gruevski resigned, under the terms of the EU 2 June Agreement and the Secretary-general of VMRO-DPMNE, Emil Dimitriev, was nominated as interim prime minister <sup>(32)</sup>.

On 12 April 2016, President Gjorge Ivanov issued a pardon to 56 top politicians, blocking the work of the special prosecution, which led to social unrest and anti-government demonstrations. After condemnation by the EU and the US, Ivanov revoked the pardons in June 2016 <sup>(33)</sup>.

According to the EC Communication 2016, 'on 20 July and 31 August 2016, leaders of the four main political parties reached a deal on the implementation of the Pržino Agreement <sup>(34)</sup>, including by setting 11 December 2016 as the date for early parliamentary elections and declaring their support

<sup>(25)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011, art. 8

<sup>(26)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011, art. 91.

<sup>(27)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011, art. 89.

<sup>(28)</sup> Balkan Insight, Macedonia PM Rallies Supporters After Wiretap Scandal, 15 March 2015; New York Times (The), Europe, Tiny Macedonia Confronts a Supersize Scandal, 14 May 2015; New York Times (The), Europe, Macedonia Government Is Blamed for Wiretapping Scandal, 21 June 2015.

<sup>(29)</sup> EC, Statement following today's mission of Commissioner Hahn to former Yugoslav Republic of Macedonia, 2 June 2015.

<sup>(30)</sup> EC, 2 June Agreement, 19 June 2015; EC, Johannes Hahn, Statement, Agreement in Skopje to overcome political crisis, 15 July 2015.

<sup>(31)</sup> Priebe, R. et al, FYRoM: Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015, 8 June 2015.

<sup>(32)</sup> Independent Balkan News Agency, Gruevski resigns. Dimitriev appointed as new prime minister, 15 January 2016

<sup>(33)</sup> Balkan Insight, Macedonia President Revokes All Controversial Pardons, 6 June 2016.

<sup>(34)</sup> EC, Agreement in Skopje to overcome political crisis, 15 July 2015; the Pržino Agreement [15 July 2015] 'builds on the 2 June accord and includes the return to Parliament by the SDSM, the organisation of the new government, preparing the elections [...] and the appointment of a special prosecutor to investigate the issues surrounding or arising from the interception of communications'.

to the work of the Special Prosecutor. They reiterated also their commitment to implement the 'Urgent Reform Priorities' <sup>(35)</sup> <sup>(36)</sup>.

## 1.4 Legislative branch: Assembly (Sobranie)

According to the constitution, the Assembly of the former Yugoslav Republic of Macedonia represents the country's citizens and holds legislative power <sup>(37)</sup>.

The Assembly is unicameral and is composed of 120 to 140 representatives, elected in general, direct, secret elections, for a four-year term <sup>(38)</sup>.

The Assembly is responsible, *inter alia*, for:

- Changing and adopting constitutional amendments, laws, declarations, resolutions, recommendations and conclusions;
- Ratifying international agreements and deciding on war and peace;
- Deciding on any changes regarding the borders;
- Electing and carrying out political monitoring and supervision of the government;
- Electing judges to the Constitutional Court;
- Carrying out elections and discharging judges,
- Selecting, appointing and dismissing holders of public and other offices <sup>(39)</sup>.

GRECO's Fourth Evaluation Round report indicates that the parliamentary process is 'fairly transparent' concerning plenary sessions and committee meetings but is less positive regarding public participation in the law-making process, where public consultation is 'optional and seldom organised' <sup>(40)</sup>.

Early parliamentary elections were held on 27 April 2014 as a result of the Assembly's dissolution at the initiative of the Democratic Union for Integration (DUI) <sup>(41)</sup>.

VMRO-DPMNE gained 61 seats, the opposition SDSM won 34, the Albanian DUI gained 19, and the Democratic Party of Albanians (DPA) received 7.

Immediately after polls closed, SDSM's leader Zoran Zaev announced that he would not recognise the results and asked for new elections. The SDSM's representatives of the Assembly did not accept their mandates (7 May 2014) <sup>(42)</sup>.

In late August 2015, as part of the 2 June Agreement, the opposition returned to the Assembly <sup>(43)</sup>.

## 1.5 Administration

According to the constitution, state administration bodies execute their tasks autonomously and are accountable to the Government (Article 96 of the Constitution) <sup>(44)</sup>.

<sup>(35)</sup> EC, Urgent Reform Priorities for the former Yugoslav Republic of Macedonia, June 2015.

<sup>(36)</sup> EC, 2016 Communication on the EU Enlargement Policy, 9 November 2015, p. 22.

<sup>(37)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011, art. 61.

<sup>(38)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011, art. 62-63.

<sup>(39)</sup> OSCE, FYRoM, Presidential and Early Parliamentary Elections, 13 and 27 April 2014, Final Report, 15 July 2014.

<sup>(40)</sup> CoE, GRECO, Evaluation Report The Former Yugoslav Republic of Macedonia, Fourth Evaluation Round, Corruption prevention in respect of members of parliament, judges and prosecutors, 17 March 2014.

<sup>(41)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(42)</sup> OSCE, FYRoM Presidential and Early Parliamentary Elections, 13 and 27 April 2014, Final Report, 15 July 2014.

<sup>(43)</sup> Balkan Insight, Macedonia Opposition MPs Return to Parliament, 1 September 2015.

The Government and its ministers are accountable to the Assembly, which carries out political oversight of the Government and of holders of public office <sup>(45)</sup>.

As a part of the pre-accession process, the EU has provided financial assistance to the former Yugoslav Republic of Macedonia to support the country's Strategy and Action Plan for the Reform of the Public Administration <sup>(46)</sup>, via the Instrument for Pre-Accession Assistance (IPA, IPA II) <sup>(47)</sup>.

According to the European Court of Auditors audit on IPA I projects, 'relatively limited progress was made in strengthening the country's administrative capacity [...]. The projects we audited generally delivered the planned outputs but these were often not fully exploited. In some cases projects had limited impact and were not sustainable' <sup>(48)</sup>.

The 2015 Bertelsmann report indicates that administrative structures exist in the former Yugoslav Republic of Macedonia and 'provide most basic services throughout the country' <sup>(49)</sup>. The same source adds there is a high level of political interference in public administration, a weak management of public finances, noting that employment in public administration is often based on political allegiance. Although the Ministry of Information Society and Public Administration has responsibility to implement administrative reforms, the Prime Minister makes the most important decisions <sup>(50)</sup>.

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<sup>(44)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011, art. 96.

<sup>(45)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016

<sup>(46)</sup> Ministry of Information Society and Administration, Public Administration Reform Strategy 2010-2015, 21 December 2010.

<sup>(47)</sup> EC, FYRoM - financial assistance under IPA II, n.d.

<sup>(48)</sup> European Court of Auditors, Strengthening administrative capacity in the FYRoM: limited progress in a difficult context, June 2016.

<sup>(49)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(50)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.



## 2. Socio-political landscape

### 2.1 Political parties

The political parties represented in the Assembly of the former Yugoslav Republic of Macedonia (2014-2018 legislature) are:

- Internal Macedonian Revolutionary Organisation – Democratic Party of Macedonian National Unity (VMRO-DPMNE)
- GROM
- Democratic Renewal of Macedonia
- Democratic Party of Albanians (DPA)
- Democratic Party of Serbs in Macedonia
- Democratic Party of the Turks in Macedonia
- Democratic Union for Integration
- Democratic Union
- Liberal - Democratic Party
- Independent Members
- New Social-Democratic Party
- Party for Movement of the Turks
- Social-Democratic Union of Macedonia
- Socialist Party of Macedonia
- Union of Roma of Macedonia
- Party for Democratic Action of Macedonia <sup>(51)</sup>.

According to the former Yugoslav Republic of Macedonia's State Election Commission (SEC), the Internal Macedonian Revolutionary Organisation – Democratic Party of Macedonian National Unity (VMRO-DPMNE) and the Social Democratic Union of Macedonia (SDSM) coalitions collected the majority of votes in the 2014 early parliamentary elections, (61 and 34 seats in parliament, respectively) <sup>(52)</sup>. The Bertelsmann Stiftung indicates that the two parties have alternated in power since their creation in the early 1990s. The source adds that ethnic nationalism and clientelism are very influential factors in parliamentary elections in the country <sup>(53)</sup>.

#### 2.1.1. Internal Macedonian Revolutionary Organisation – Democratic Party of Macedonian National Unity (VMRO-DPMNE)

According to the International Crisis Group (ICG), the VMRO-DPMNE is a centre-right, ethnic Macedonian nationalist party <sup>(54)</sup>. It was founded on 17 June 1990 and describes itself as Christian-democratic. The VMRO-DPMNE boycotted the 1994 parliamentary elections; in November 1998 the

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<sup>(51)</sup> Assembly of the Republic of Macedonia, Members of Parliament, Current structure 2014-2018, n.d.

<sup>(52)</sup> State Election Commission, Early Parliamentary and Presidential Elections 2014, 9 May 2014.

<sup>(53)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(54)</sup> ICG, Macedonia: Defusing the Bombs, 9 July 2015.

party came to power and formed a coalition government with the Democratic Alternative (DA) and the Democratic Party of Albanians (DPA) <sup>(55)</sup>.

After the 2002 parliamentary elections – and the subsequent defeat at the presidential elections in 2004 – the party split. Two competing factions emerged: the first was formed by supporters of the present VMRO-DPMNE leader, Nikolai Gruevski, and the second was dominated by the radical nationalist supporters of the previous VMRO-DPMNE leader, Lubjo Georgievski. In June 2004, the latter faction left the party and became the VMRO-People’s Party. After the 2006 elections, the VMRO-DPMNE became the largest party in the former Yugoslav Republic of Macedonia <sup>(56)</sup>.

### 2.1.2 Social Democratic Union of Macedonia – SDSM

According to the Norwegian Centre for Research Data, the SDSM emerged from the defunct League of Communists – Party for Democratic Reform. The ICG notes that it is a reformed, former communist entity from Yugoslav times <sup>(57)</sup>.

From September 1992 to 1998 the SDSM was the largest party in the assembly, showing a moderate, reconciliatory attitude towards ethnic minorities in the former Yugoslav Republic of Macedonia <sup>(58)</sup>.

In September 2002 elections an SDSM-led pre-election coalition won half of the seats in parliament and Branko Crvenkovski was elected Prime Minister in coalition with the ethnic Albanian Democratic Union for Integration party (DUI) and the Liberal-Democratic Party (LDP) <sup>(59)</sup>.

The 2006 elections were not favourable to the SDSM. The ‘Together for Macedonia Coalition’ only gained 32 seats and lost its governing position to the VMRO-DPMNE. SDSM’s leader, Vlado Buchovski, stepped down after the election defeat. In 2013, Branko Crvenkovski resigned from the leader’s position. Zoran Zaev was elected as the party’s president <sup>(60)</sup>.

Since the legislative elections in July 2006, the party is in opposition. Its support base is historically Macedonian and particularly strong in rural areas <sup>(61)</sup>.

The SDSM coalition won 34 seats in the 27 April 2014 parliamentary elections <sup>(62)</sup> (see [2.2.2 Parliamentary elections](#))

### 2.1.3 Democratic Union for Integration – DUI

The Democratic Union for Integration was formed 3 months before the June 2002 elections. It is the successor to the Albanian National Liberation Army (NLA), which fought the former Yugoslav Republic of Macedonia security forces in 2001 <sup>(63)</sup>.

The DUI’s leader, Ali Ahmeti, was one of the original ethnic Albanian guerrillas and overall commander of NLA in 2001 <sup>(64)</sup>.

In 2004, the DUI indicated its commitment to Albanian integration in a multi-ethnic country <sup>(65)</sup>.

In the 2014 early parliamentary elections, the DUI was part of the SDSM coalition and took 19 seats in the national Assembly <sup>(66)</sup>.

<sup>(55)</sup> European Forum for Democracy and Solidarity, FYR Macedonia, last update 17 March 2016.

<sup>(56)</sup> European Forum for Democracy and Solidarity, FYR Macedonia, last update 17 March 2016.

<sup>(57)</sup> ICG, Macedonia: Defusing the Bombs, 9 July 2015.

<sup>(58)</sup> European Forum for Democracy and Solidarity, FYR Macedonia, last update 17 March 2016.

<sup>(59)</sup> Global Security, Macedonia – Politics, n.d.

<sup>(60)</sup> European Forum for Democracy and Solidarity, FYR Macedonia, last update 17 March 2016.

<sup>(61)</sup> European Forum for Democracy and Solidarity, FYR Macedonia, last update 17 March 2016.

<sup>(62)</sup> Assembly of the Republic of Macedonia, Members of Parliament, last update 27 January 2016.

<sup>(63)</sup> European Forum for Democracy and Solidarity, FYR Macedonia, last update 17 March 2016

<sup>(64)</sup> ICG, Macedonia: Defusing the Bombs, 9 July 2015.

<sup>(65)</sup> European Forum for Democracy and Solidarity, FYR Macedonia, last update 17 March 2016.

## 2.2 Elections

Elections in the former Yugoslav Republic of Macedonia are regulated by the constitution <sup>(67)</sup> and the Electoral Code <sup>(68)</sup>, and supplemented by regulations promulgated by the State Election Commission (SEC) <sup>(69)</sup>.

The electoral system includes the SEC, 80 Municipal Election Commissions and about 3,500 Electoral Boards <sup>(70)</sup>.

According to the Association of European Election Officials (ACEEEO), the former Yugoslav Republic of Macedonia's electoral system establishes that members of parliament are elected by proportional representation, under closed lists. The source adds that members of parliament are eligible for election under the following conditions:

'Any eligible voter can be a candidate, except those who have been sentenced by a final court decision to more than six months imprisonment and did not complete their sentence. The law also identifies a range of government and government-related positions that are incompatible with candidacy. It is satisfactory that the citizens holding these positions resign after the successful elections.

Candidates can be nominated by political parties, coalitions of political parties, or by groups of voters. Candidate lists submitted by groups of voters are required to provide at least 1,000 supporting signatures of voters residing in the respective district' <sup>(71)</sup>.

According to the former Yugoslav Republic of Macedonia's constitution, all citizens over 18 have the right to vote, except those deprived of the right to practice their profession by a court verdict <sup>(72)</sup>.

### 2.2.1 State Election Commission (SEC)

The State Election Commission is, according to the former Yugoslav Republic of Macedonia's Electoral Code, the legal entity responsible for 'safeguarding the legality of the preparation and the administration of the elections' and is equally responsible for the supervision of the work of the election management bodies <sup>(73)</sup>.

The SEC is mandated to initiate disciplinary or misdemeanour proceedings and submit criminal complaints when the Electoral Code has been violated <sup>(74)</sup>.

The Commission is composed of one president, one vice-president and five members, elected by parliament for a four-year term which is renewable. The SEC also includes a secretary general and a deputy <sup>(75)</sup>.

Other than the SEC, the bodies responsible for administering elections are:

- Municipal Election Commissions and Election Commission of the City of Skopje;

<sup>(66)</sup> Assembly of the Republic of Macedonia, Members of Parliament, last update 27 January 2016.

<sup>(67)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011.

<sup>(68)</sup> CoE, Venice Commission, Electoral Code of the FYRoM, consolidated version as of November 2015, 020, 24 February 2016.

<sup>(69)</sup> ACEEEO, Elections in Europe, Development of Electoral Systems in Central and Eastern Europe since 1991, 2016, pp. 190-202.

<sup>(70)</sup> ACEEEO, Elections in Europe, Development of Electoral Systems in Central and Eastern Europe since 1991, 2016, pp. 190-202.

<sup>(71)</sup> ACEEEO, Elections in Europe, Development of Electoral Systems in Central and Eastern Europe since 1991, 2016, pp. 190-202.

<sup>(72)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011, art. 22.

<sup>(73)</sup> CoE, Venice Commission, Electoral Code of the FYRoM, consolidated version as of November 2015, art. 31.

<sup>(74)</sup> CoE, Venice Commission, Electoral Code of the FYRoM, consolidated version as of November 2015, art. 31.

<sup>(75)</sup> CoE, Venice Commission, Electoral Code of the FYRoM, consolidated version as of November 2015, art. 26.

- Election Boards;
- Election Boards for voting in the diplomatic/consular offices <sup>(76)</sup>.

According to the 'Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2011, the SEC showed inaction by not initiating any proceedings to determine if there were violations to the Electoral Code. The experts noted that the SEC 'is regarded by many interlocutors as politicized and incapable of acting independently due to undue political influence from all parties' <sup>(77)</sup>.

### 2.2.2 Parliamentary elections

Early parliamentary elections held in the former Yugoslav Republic of Macedonia on 27 April 2014 were won by VMRO-DPMNE and guaranteed 61 out of 123 seats in the Assembly. Its coalition partner, DUI, secured another 19 seats. International monitors identified serious problems with the voting process. The opposition party SDSM boycotted parliament after the elections along with the Democratic Party of Albanians, the smaller Albanian party (DPA) <sup>(78)</sup>.

According to the Intern-Parliamentary Union (IPU), the 2014 early parliamentary elections were triggered by a disagreement within the governing coalition over the presidential candidate <sup>(79)</sup>. The source adds:

'During the election campaign, VMRO-DPMNE, in power since 2006, promised to grant aid totalling one million euros to businesses to stimulate job creation. The SDSM accused the VMRO-DPMNE of having increased the gap between the rich and the poor and promised the "restoration" of the middle class. The DUI urged ethnic Albanians (who make up a quarter of the population) to boycott the presidential elections while encouraging them to participate in the parliamentary polls. The SDSM stated that it would not recognize the entire electoral process, both parliamentary and presidential. The observers from the OSCE Office for Democratic Institutions and Human Rights stated that both elections were "efficiently administered" but "the majority of monitored media was largely biased in favour of the ruling party"' <sup>(80)</sup>.

As mentioned already (see [1.3.2 Government](#)), in January 2016, Prime Minister Nicola Gruevski resigned under the terms of the EU 2 June Agreement and the Secretary-General of VMRO-DPMNE, Emil Dimitriev, was nominated as interim prime minister <sup>(81)</sup>.

The next early parliamentary elections in the former Yugoslav Republic of Macedonia are due to take place on 11 December 2016 <sup>(82)</sup>.

## 2.3 Civil society organisations (CSOs)

The establishment of CSOs in the former Yugoslav Republic of Macedonia is governed by the Law on Associations and Foundations <sup>(83)</sup> while the government Strategy for Cooperation of the Government

<sup>(76)</sup> CoE, Venice Commission, Electoral Code of the FYRoM, consolidated version as of November 2015, art. 17.

<sup>(77)</sup> Priebe, R. et al, FYRoM: Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015, 8 June 2015.

<sup>(78)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(79)</sup> IPU, the FYRoM, Sobranie (Assembly of the Republic), n.d.

<sup>(80)</sup> IPU, the FYRoM, Sobranie (Assembly of the Republic), n.d.

<sup>(81)</sup> Independent Balkan News Agency, Gruevski resigns. Dimitriev appointed as new prime minister, 15 January 2016

<sup>(82)</sup> DW, Macedonia parties agree on election date in December, 31 August 2016.

<sup>(83)</sup> ICNL, Law on Associations and Foundations, 2010.

with the Civil Society (2012-2017), adopted in the scope of the EU accession discussions, defines the methods of cooperation and partnership between the Government and civil society <sup>(84)</sup>.

The Government says the abovementioned strategy aims to develop the role of CSOs, strengthen 'mutual trust', support the participation of CSOs in the decision-making processes, as well as implement the strategy itself <sup>(85)</sup>.

The EC's IPA II strategy report on the former Yugoslav Republic of Macedonia indicates that CSOs are abundant in the country and have contributed to 'holding governments accountable and improving the human rights situation in general' <sup>(86)</sup>.

However, the EC stresses that the 'sustainability of their commitment is questionable without the continuation of foreign funding' <sup>(87)</sup>.

According to the EC Communication 2016:

'Civil society played a constructive role in supporting democratic processes and ensuring greater checks and balances. At the same time, civil society organisations continue to express their concerns about the deterioration of the climate in which they operate and the limited government commitment to dialogue, as well as about public attacks by politicians and pro-government media' <sup>(88)</sup>.

The constitution guarantees the freedoms of assembly and association <sup>(89)</sup>. According to Freedom House and *Civil Rights Defenders* (CRD), a Swedish international human rights organisation, those rights are 'generally respected'. Despite that, Freedom House adds that CSOs are 'often polarised along political lines' <sup>(90)</sup>.

For more information, see [5.2.3 Freedom of association](#).

## 2.4 Media

According to the International Telecommunication Union (ITU), the competent state authorities responsible for media in the former Yugoslav Republic of Macedonia include <sup>(91)</sup>:

- Ministry of Information Society and Administration <sup>(92)</sup>;
- Agency for Audio and Audiovisual Media Services <sup>(93)</sup>;
- Agency for Electronic Communications (regulatory agency) <sup>(94)</sup>.

The International Research and Exchanges Board (IREX), Macedonia Media Sustainability Index 2016 reports that although 'two media trade associations' exist in the former Yugoslav Republic of Macedonia [the Association of Private Media of Macedonia (APEMM) and the Association of Macedonian Internet Portals (AMIP)], both are inactive <sup>(95)</sup>.

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<sup>(84)</sup> Government of Republic of Macedonia, Strategy for Cooperation of the Government with the Civil Society: 2012-2017, 2012.

<sup>(85)</sup> Government of Republic of Macedonia, Strategy for Cooperation of the Government with the Civil Society: 2012-2017, 2012.

<sup>(86)</sup> EC, IPA II 2014-2020, FYRoM, Civil Society Facility and Media Programme 2014-2015, 2015.

<sup>(87)</sup> EC, IPA II 2014-2020, FYRoM, Civil Society Facility and Media Programme 2014-2015, 2015.

<sup>(88)</sup> EC, Communication on the EU Enlargement Policy 2016, 9 November 2016, p. 22.

<sup>(89)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, articles 20-21, 1991 amended 2011.

<sup>(90)</sup> FH, Freedom in the World, Macedonia, 2016; CRD, Human Rights in Macedonia, updated in October 2015.

<sup>(91)</sup> ITU, TFYR Macedonia Profile, latest data 2015.

<sup>(92)</sup> Ministry of Information Society and Administration, n.d.

<sup>(93)</sup> Agency for Audio and Audiovisual Media Services, n.d.

<sup>(94)</sup> Agency for Electronic Communications, n.d.

<sup>(95)</sup> IREX, Macedonia, Europe & Eurasia Media Sustainability Index 2016, p. 93, 2016.

The legal framework of the media and telecommunications can be found on the Agency for Audio and Audiovisual Media Services official website <sup>(96)</sup>.

According to IREX 2016 Media Sustainability Index, the former Yugoslav Republic of Macedonia has 10 daily and three weekly newspapers, 20 other periodicals, several national, regional and local radio stations, five state television stations, five digital national broadcasters and various other national, regional and local TV stations <sup>(97)</sup>.

According to the CIA World Factbook 2016, the country has 1,475 million Internet users, representing about 70.4 % of the population <sup>(98)</sup>.

More detailed lists of the main press, TV, radio and news agencies in the former Yugoslav Republic of Macedonia can be found in the BBC News profile on the country <sup>(99)</sup>.

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<sup>(96)</sup> Agency for Audio and Audiovisual Media Services, n.d.

<sup>(97)</sup> IREX, Macedonia, Europe & Eurasia Media Sustainability Index 2016, p. 80, 2016.

<sup>(98)</sup> CIA, World Factbook, Macedonia, last updated 27 October 2016.

<sup>(99)</sup> BBC News, Macedonia profile – Media, 19 May 2015.

## 3. Rule of Law and State Protection

### 3.1 Law enforcement

#### 3.1.1 Police/Intelligence services

The Ministry of Interior is responsible for policing <sup>(100)</sup>.

There are two units responsible for law enforcement within the Ministry <sup>(101)</sup>: the Bureau of Public Safety and the Directorate for Security and Counterintelligence. Their duties are regulated by the Law on Internal Affairs and the Law on Police <sup>(102)</sup> and include:

- Protecting life, personal safety, and property of the citizens;
- Protecting freedoms and human rights;
- Preventing crimes and misdemeanours, detecting and apprehending perpetrators;
- Maintaining public order;
- Regulating and controlling traffic;
- Control movement and residence of foreigners;
- State border security and state border crossing control <sup>(103)</sup>.

There are specialised units within the Ministry that deal with economic organised crime, money laundering and financial investigation, corruption or drug trafficking <sup>(104)</sup>.

Pointpulse, a civil-society organisation dedicated to oversee police integrity, refers to the fact that there is no specific legislation for the counterintelligence service's activities <sup>(105)</sup>. According to the Bertelsmann Stiftung, although the former Yugoslav Republic of Macedonia's authorities have control over law enforcement, there are doubts over who controls the civilian intelligence services <sup>(106)</sup>.

Pointpulse indicates that the internal oversight of the police activities is done by the Department of Internal Control, Criminal Investigations and Professional Standards (DICCIPS) <sup>(107)</sup>.

Analytica, a think tank and public policy research organisation from the former Yugoslav Republic of Macedonia, indicates that external oversight on the performance of the Ministry of Interior, including the police, is carried out by the country's Parliamentary Committees – the Committee on Security and Defence and the Standing Inquiry Committee for Protection of Civil Freedoms and Rights – as well as by the Ombudsman <sup>(108)</sup>.

The Bertelsmann Stiftung indicates that police oversight mechanisms are still problematic. According to the 2016 BTI report:

‘The parliamentary committee in charge of the civilian intelligence service did not manage to establish proper oversight in 2013. The service continued to be headed by a close relative of

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<sup>(100)</sup> INTERPOL, Members, FYRoM, n.d.

<sup>(101)</sup> Government of the Republic of Macedonia, Ministries of the Government of the Republic of Macedonia, n.d.

<sup>(102)</sup> Government of Macedonia, MoI, 'Law on Police, Official Gazette 114/2006, 6/2009, 2009'.

<sup>(103)</sup> Pointpulse, Macedonian Police, 2 June 2016.

<sup>(104)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(105)</sup> Pointpulse, Macedonian Police, 2 June 2016.

<sup>(106)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016

<sup>(107)</sup> Pointpulse, Macedonian Police, 2 June 2016.

<sup>(108)</sup> Analytica, Assessing the Oversight Mechanisms of the Police Forces in Macedonia, December 2015; Ombudsman of the Republic of Macedonia, n.d.

the prime minister, and the opposition's boycott in 2014 prevented the parliamentary supervisory committee from convening. In return, civilian intelligence has consistently increased its budget and capacities since VMRO-DPMNE came to power in 2006 and has increased its competence in legal changes announced in the beginning of 2014. Media and civil society actors cannot provide oversight because there is a systematic problem with access to information' <sup>(109)</sup>.

The same source notes a 'trend of security privatization'. Private security companies are legally empowered to execute law-enforcement tasks, including detention, searching people, use of force, and are permitted to carry firearms <sup>(110)</sup>. Bertelsmann Stiftung adds that the Security Group Services dominates the private security market and gets most of the public contracts, and the media reportedly linked the company to the director of the civilian intelligence, who is related to the Prime Minister <sup>(111)</sup>.

### 3.1.2 Army

The legal framework for the former Yugoslav Republic of Macedonia's Armed Forces includes the constitution and the Defense Law <sup>(112)</sup>.

The chain of command and control of the Armed Forces is as follows:

- President – Commander-in-Chief of the Armed Forces, approves the defence and strategy plan, and is the Chairman of the country's Security Council, where recommendations on defence and security themes are sent to the parliament and to the Government;
- Parliament – supervises the Government with regards to defence, passes decisions in case of a direct war threat, declares warfare situation and peace, and passes the defence budget.
- Government – proposes the defence plan and the defence budget;
- Ministry of Defence – responsible for the defence strategy and threat/risk assessment, the defence system, training and readiness of the Armed Forces <sup>(113)</sup>.

The Armed Forces are tasked with protecting the lives and personal safety of civilians and guaranteeing the independence and the territorial integrity of the state <sup>(114)</sup>.

The country's Armed Forces are divided into two service branches, the Ground Force and the Air Force, and incorporate the following units:

- General Staff;
- Joint Operational Command;
- Training and Doctrine Command;
- Special Operations Regiment;
- Centre for Electronic Reconnaissance;
- Ceremonial Guard Battalion <sup>(115)</sup>.

The Armed Forces' professional military personnel is composed of generals, officers, non-commissioned officers (NCOs) and soldiers <sup>(116)</sup>.

<sup>(109)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(110)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(111)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(112)</sup> Army of the Republic of Macedonia, Defense Structure, n.d.

<sup>(113)</sup> Army of the Republic of Macedonia, Defense Structure, n.d.

<sup>(114)</sup> Army of the Republic of Macedonia, Defense Structure, n.d.

<sup>(115)</sup> Army of the Republic of Macedonia, Defense Structure, n.d.



According to 2014 data, the former Yugoslav Republic of Macedonia Armed Forces has 8,000 active members <sup>(117)</sup>. Military service is voluntary for individuals of 18 years of age and conscription was abolished in 2013 <sup>(118)</sup>.

In recent years, the country's Armed Forces has supported NATO-led missions in Afghanistan and Kosovo. According to NATO, 'the former Yugoslav Republic of Macedonia aspires to join' the organisation; however, 'the country has to find a mutually acceptable solution with Greece to the issue over its name before it can be invited to join' <sup>(119)</sup>.

### 3.1.3 Corruption / fight against organised crime

According to the fourth evaluation report of the Council of Europe (CoE) Group of States against Corruption (GRECO), the fight against corruption has been a priority for the Government. There has been some improvement in the public perception of corruption but it is still perceived as one of the main problems affecting the country, after unemployment and poverty <sup>(120)</sup>.

The State Commission for the Prevention of Corruption (SCPC) and the State Audit Office supervise the implementation of the anti-corruption and conflict of interest legislation and policies in the former Yugoslav Republic of Macedonia <sup>(121)</sup>.

According to the EC Communication 2016, the country has 'some level of preparation' in the fight against corruption. However, the Communication adds, 'corruption remains prevalent in many areas and continues to be a serious problem'. Although 'the legislative and institutional framework has been developed', the 'structural shortcomings of the State Commission for Prevention of Corruption and political interference in its work have minimised the impact of past efforts' <sup>(122)</sup>.

GRECO and the Bertelsmann Stiftung report that despite a legal framework on prevention of corruption – the Law on the Prevention of Corruption (LPC) <sup>(123)</sup> and the Law on Prevention of Conflicts of Interest (LPCI) – its implementation and enforcement needs to be developed and made a priority <sup>(124)</sup>.

The Bertelsmann Stiftung emphasises the role of the SCPC (and the State Audit Office <sup>(125)</sup>) but notes that both lack capacity to act, are not publicly visible and their intervention in practice is limited (often self-limited). The source adds that, in practice, actions against acting high-level officials are seldom; in recent years, Vlado Buchkovski, former prime minister and defence minister, has been the only former high-level official jailed for abuse of power (two years in prison in 2014) <sup>(126)</sup>.

The SCPC's State Programme for the Prevention and Repression of Corruption and Reduction of Conflict of Interest Action Plan 2016 – 2019 (December 2015), indicates that the state's strategy will focus on the 'implementation and impact' of the 'action plans for prevention and fight against corruption and conflict of interest' <sup>(127)</sup>.

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<sup>(116)</sup> Army of the Republic of Macedonia, Defense Structure, n.d.

<sup>(117)</sup> Bogdanovski, A., Peacekeeping Contributor Profile: The Republic of Macedonia, August 2014.

<sup>(118)</sup> CIA, The World Factbook, Macedonia, Military and Security, last updated 3 August 2016.

<sup>(119)</sup> NATO, Relations with former Yugoslav Republic of Macedonia, last updated 7 April 2016.

<sup>(120)</sup> CoE, GRECO, Evaluation Report the FYRoM, Fourth Evaluation Round, 17 March 2014.

<sup>(121)</sup> SCPC, n.d.; State Audit Office, n.d.

<sup>(122)</sup> EC, Communication on the EU Enlargement Policy 2016, 9 November 2016, p. 23.

<sup>(123)</sup> SCPC, Law on Prevention of Corruption with Amendments, 2002.

<sup>(124)</sup> CoE, GRECO, Evaluation Report the FYRoM, Fourth Evaluation Round, 17 March 2014; Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(125)</sup> State Audit Office, Republic of Macedonia, n.d.

<sup>(126)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(127)</sup> SCPC, State Programme for the Prevention and Repression of Corruption and Reduction of Conflict of Interest Action Plan 2016 – 2019, December 2015.

According to the SCPC, the programme mirrors the input of ‘relevant institutions, civil society organizations, private sector, international community and experts’ and its main guidelines were drafted in accordance with priorities, recommendations and standards issued by the United Nations Convention against Corruption, the EU Progress Reports and the list of Urgent Reform Priorities for the country issued by the EC, GRECO evaluations, Europe 2020 Strategy, among others <sup>(128)</sup>.

In March 2016, the Ministry of Interior published its first *Serious and Organized Crime Threat Assessment* (SOCTA), supported by the OSCE, Switzerland, the Geneva Centre for Democratic Control of Armed Forces (DCAF) and experts from EUROPOL <sup>(129)</sup>. According to the assessment, organised crime groups (OCGs) in the former Yugoslav Republic of Macedonia ‘act on both national and international level, mostly in drug trafficking, smuggling of migrants, and violent and serious crime’ <sup>(130)</sup>.

The report also indicates that OCGs differ in number and origin of their members and do not present a strict hierarchy. Some groups act occasionally, others show continuity in their activities, based on family ties or on criminal interests and one-third are ‘poly-criminal’ <sup>(131)</sup>.

According to the EC’s Instrument of Pre-Accession Assistance II (IPA II) Indicative Strategy Paper for the former Yugoslav Republic of Macedonia (2014-2020), the country needs to be more pro-active when investigating organised crime – by strengthening the powers of the police and the judiciary <sup>(132)</sup>.

The EC Communication 2016 indicates that the country has ‘some level of preparation’ in the fight against organised crime. Additionally, the Communication states, ‘the legislative framework is broadly in line with European standards and strategies have been elaborated. However, the law enforcement capacity to investigate financial crimes and confiscate assets needs to be developed further’ <sup>(133)</sup>.

### 3.2 Judiciary

According to the constitution, judicial power lies with the courts, and these are autonomous and independent state bodies <sup>(134)</sup>.

The former Yugoslav Republic of Macedonia’s Law on Courts establishes that the country’s judicial power is responsible for:

- Impartially applying the law;
- Protecting, respecting and promoting human rights and fundamental freedoms,
- Providing equity, equality, and no discrimination on any grounds;
- Providing legal certainty based on the rule of law <sup>(135)</sup>.

The judicial system comprises basic courts (first instance), courts of appeal, the administrative court, the higher administrative court and the supreme court <sup>(136)</sup>.

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<sup>(128)</sup> SCPC, State Programme for the Prevention and Repression of Corruption and Reduction of Conflict of Interest Action Plan 2016 – 2019, December 2015.

<sup>(129)</sup> Government of the Republic of Macedonia, Mol, FYRoM SOCTA 2015, 8 March 2016.

<sup>(130)</sup> Government of the Republic of Macedonia, Mol, FYRoM SOCTA 2015, 8 March 2016.

<sup>(131)</sup> Government of the Republic of Macedonia, Mol, FYRoM SOCTA 2015, 8 March 2016.

<sup>(132)</sup> EC, Instrument of Pre-Accession Assistance II (IPA II) Indicative Strategy Paper for the FYRoM (2014-2020), 2014.

<sup>(133)</sup> EC, Communication on the EU Enlargement Policy 2016, 9 November 2016, p. 23.

<sup>(134)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011.

<sup>(135)</sup> Republic of Macedonia, Law on Courts (amended 2012), art. 3, 2012.

The system also includes the constitutional court, responsible for protecting constitutionality, legality, and the citizens' constitutional freedoms and rights. It also acts in conflicts between the three branches of government. Under special conditions, the constitutional court may also remove the president from office <sup>(137)</sup>.

In its Fourth Evaluation Round, the GRECO reports expresses concerns regarding allegations of lack of transparency and impartiality in all categories of the former Yugoslav Republic of Macedonia's judiciary, which jeopardises efficiency and credibility of the whole system. Greater transparency and the appropriate human and budget resources would raise citizens' confidence in the courts <sup>(138)</sup>.

According to the EC Communication 2016,

'The country's judicial system has some level of preparation. However, the situation has been backsliding since 2014 and achievements of the previous decade's reform process have been undermined by recurrent political interference in the work of the judiciary. The authorities failed to demonstrate necessary political will to address effectively the underlying issues as identified in the 'Urgent Reform Priorities'. The obstructions faced by the newly established Special Prosecutor have shown the need to address effectively the lack of independence of the judiciary and to prevent selective justice' <sup>(139)</sup>.

According to the EC's Instrument of Pre-Accession Assistance II (IPA II) Support to the Justice Sector action programme (2014-2020), although progress has been made since the former Yugoslav Republic of Macedonia's Strategy for Judicial Reforms 2004-2007 was instigated – via policy, legislation and institutional changes – the country needs to apply further measures 'in order to achieve full alignment with the Acquis and implementation of EU standards in such an important area' <sup>(140)</sup>.

A group of senior experts led by retired EC's director Reinhard Priebe drafted a paper on the recent 'wiretapping scandal' (see further information in [1.3.2 Government](#), [2.2 Elections](#) and [2.4 Media](#)) indicated a number of serious deficiencies in the oversight mechanism of the judiciary and prosecution services, facilitating violations of fundamental rights, lack of transparency in the nomination and appointment of judges, and weaknesses in the system of performance management for judges and court staff <sup>(141)</sup>.

After several months of EU-brokered negotiations, the political parties agreed on the adoption of a new Law on Special Prosecution and the appointment of a new special prosecutor responsible for investigating the allegations raised by the illegal surveillance recordings <sup>(142)</sup>.

The oversight of judges' careers in the former Yugoslav Republic of Macedonia is performed by the Judicial Council. This is an 'autonomous and independent judicial body', competent for the election, appointment and dismissal of judges, lay judges and presidents of courts, the monitoring and evaluation of the work of judges, disciplinary measures and procedures, as well as revoking immunity of a judge <sup>(143)</sup>.

In February 2015, parliament adopted a new Law on the Council Determining the Facts and Initiating Procedure for Liability of Judges. This establishes a new judicial council responsible for the initiation

<sup>(136)</sup> Republic of Macedonia, Law on Courts (amended 2012), art. 22, 2012.

<sup>(137)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, art. 108-113, 1991 amended 2011.

<sup>(138)</sup> CoE, GRECO, Fourth Evaluation Round, Evaluation Report the FYRoM, 17 March 2014.

<sup>(139)</sup> EC, Communication on the EU Enlargement Policy 2016, 9 November 2016, p. 23.

<sup>(140)</sup> EC, IPA II 2014-2020, FYRoM, Support to the Justice Sector, 2014.

<sup>(141)</sup> FH, Nations in Transit 2016 - Macedonia, 12 April 2016.

<sup>(142)</sup> FH, Nations in Transit 2016 - Macedonia, 12 April 2016.

<sup>(143)</sup> CoE, Venice Commission, Legislation related to the Disciplinary Liability of Judges, n.d.

of disciplinary proceedings before the Judicial Council and for the preliminary investigation of disciplinary cases <sup>(144)</sup>.

The CoE's Venice Commission expressed concern regarding the need to set up a new council – with its inherent costs – when clearly separating the functions should be sufficient to overcome any 'mix of powers' within the Judicial Council. In the same opinion report, the Venice Commission also emphasised some apprehension about how the new council was elected, given that about 200 out of 600 ballots cast by the former Yugoslav Republic of Macedonia's judges were declared invalid <sup>(145)</sup>.

### 3.2.1 Courts system

The former Yugoslav Republic of Macedonia's judicial system is divided into 27 basic courts (first instance), four courts of appeal, the administrative court, the higher administrative court, the supreme court and the constitutional court <sup>(146)</sup>.

According to the GRECO's Fourth Evaluation Round, there are no extraordinary or military courts in the country <sup>(147)</sup>.

The 27 basic courts are established for one or more municipalities and adjudicate in first instance <sup>(148)</sup>.

Two of the basic courts are specialised courts: the Skopje I Basic Court is a specialised criminal court for corruption and organised crime cases and acts nationwide. Skopje II Basic Court is a specialised civil court. There are four courts of appeal in Bitola, Gortivar, Skopje, and Shtip <sup>(149)</sup>.

The Administrative Court in Skopje has a first-instance competence over the entire country. Its decisions can be appealed to the Higher Administrative Court <sup>(150)</sup>.

The Supreme Court is competed in third and final instance in criminal, civil, and administrative cases <sup>(151)</sup>.

The former Yugoslav Republic of Macedonia's constitutional court is composed of nine judges, elected by the country's Assembly. The Constitutional Court elects a president from its own ranks for a term of three years without the right to re-election; the term of office of the Constitutional Court judges is nine years with no re-election <sup>(152)</sup>.

According to the Helsinki Committee for Human Rights of the Republic of Macedonia:

'In 2015 and 2016, the Constitutional Court was frequently criticized by the professional and general public, and its work was also increasingly subject to media coverage. In circumstances when it is disputable whether all of the members of the Constitutional Court are from the lines of "distinguished lawyers", their political appointment, disregard for their own previous practice, closing the sessions to the public and disregard for the opinions of the Venice Commission – raised reasonable doubts that the Court, instead of being a body protecting constitutionality and lawfulness, had turned into an institution subordinate to the

<sup>(144)</sup> CoE, Venice Commission, Opinion on the Laws on the Disciplinary Liability and Evaluation of Judges of "the FYRoM", 21 December 2015.

<sup>(145)</sup> CoE, Venice Commission, Opinion on the Laws on the Disciplinary Liability and Evaluation of Judges of "the FYRoM", 21 December 2015.

<sup>(146)</sup> CoE, GRECO, Evaluation Report the FYRoM, Fourth Evaluation Round, 17 March 2014, p. 22.

<sup>(147)</sup> CoE, GRECO, Evaluation Report the FYRoM, Fourth Evaluation Round, 17 March 2014, p. 22.

<sup>(148)</sup> CoE, GRECO, Evaluation Report the FYRoM, Fourth Evaluation Round, 17 March 2014, p. 22.

<sup>(149)</sup> CoE, GRECO, Evaluation Report the FYRoM, Fourth Evaluation Round, 17 March 2014, p. 22.

<sup>(150)</sup> CoE, GRECO, Evaluation Report the FYRoM, Fourth Evaluation Round, 17 March 2014, p. 22.

<sup>(151)</sup> CoE, GRECO, Evaluation Report the FYRoM, Fourth Evaluation Round, 17 March 2014, p. 22.

<sup>(152)</sup> CoE, GRECO Evaluation Report the FYRoM, Fourth Evaluation Round, 17 March 2014, p. 23.

legislative and executive authorities and political parties. This has seriously impaired the independence, impartiality, competence and legitimacy of the Constitutional Court' (153).

The constitution establishes the principle of priority and urgency in access to justice (154); the law on criminal procedure establishes that anyone charged with a crime has the right to a fair and public trial before an independent and impartial court (155). According to CoE's GRECO, practice shows that there is excessive length of judicial and progress proceedings, although new measures for reducing judicial backlogs in all courts have shown some progress (156).

According to 2014 former Yugoslav Republic of Macedonia's statistical data quoted by the coalition of civil associations *All for Fair Trial*, there were 656 active judges in the country, assigned as follows: '484 at the basic courts, 30 at the Administrative Court, 109 at the appeals courts, 10 at the Higher Administrative Court and 23 at the Supreme Court'. By the end of the same year, the number of judges decreased to 608 (157).

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(153) Helsinki Committee for Human Rights of the Republic of Macedonia, *The Constitutional Court in the Grip between Political Interests and Human Rights*, 2016.

(154) Assembly of the Republic of Macedonia, *Constitution of the Republic of Macedonia*, 1991 amended 2011, art. 50.

(155) Government of the Republic of Macedonia, *Criminal Procedure Law*, 18 November 2010, art. 5.

(156) CoE, *GRECO Evaluation Report the FYRoM, Fourth Evaluation Round*, 17 March 2014, pp. 2 and 31.

(157) *All for Fair Trials, NGOs and the judiciary - watch dog activities, interactions, collaboration, communication*, Country Report, Republic of Macedonia, 2015.

## 4. Security situation

According to Global Intake, an intelligence and information monitoring provider, the former Yugoslav Republic of Macedonia is one of the most stable former Yugoslav republics, managing to successfully reduce the 2001 ethnic tensions and insurgency in 2001<sup>(158)</sup> within the terms of the Framework Agreement Concluded at Ohrid (the Ohrid Agreement)<sup>(159)</sup>.

However, the same source adds that the country faced political unrest in 2014 and 2015 after the ‘wiretapping scandal’, with the opposition ‘accusing the VMRO-DPMNE of spying on citizens and government officials and demanding new elections’. Global Intake states that 2015 saw significant clashes between government forces and ethnic Albanian militants; the opposition stated these incidents were ‘a provocation intended to rebuild support for the government’<sup>(160)</sup>.

The Bertelsmann Stiftung reports that ‘there are no visible active organizations, private militias or vigilante groups advocating racist or xenophobic agendas or threatening the political and social stability of the country’s transition to democracy’<sup>(161)</sup>.

The same source indicates that there are several challenges and potential threats – organised crime groups operating in northern and western former Yugoslav Republic of Macedonia, or the radical fundamentalists who joined the Islamic State (IS)<sup>(162)</sup>.

The US Overseas Security Advisory Council (OSAC) indicates that the 9-10 May 2015 incidents in Kumanovo were regarded by the former Yugoslav Republic of Macedonia’s government as an act of terrorism. The source says the country’s police carried out an operation in the city of Kumanovo to recover stolen equipment, as in April an ‘armed group of approximately 40 people seized weapons, ammunition, and radio communication supplies from a border police station in Goshince near the border with Kosovo.’ Eight police officers and 10 members of the armed groups were killed in the operation, the source reported<sup>(163)</sup>.

The Global IntAKE (AKE) also emphasised that there was ‘still a long-term risk that ethnic divisions could once again resurface and express themselves through armed conflict’<sup>(164)</sup>. The AKE said a hardcore element of Albanian insurgent groups remained committed to separation and insurgency. However, such groups are not deemed a big threat to stability and their attacks are likely to be isolated and on a small scale<sup>(165)</sup>.

The threat of terrorism to the former Yugoslav Republic of Macedonia is low and the country has not been subject to an explicit threat from Islamist fundamentalist groups, said AKE in its analysis<sup>(166)</sup>.

Regarding civil unrest, AKE noted that ‘poverty, unemployment, political dissatisfaction and ethnic tensions are the main reasons for protest and unrest in the country<sup>(167)</sup>, and generally, in areas with a large ethnic Albanian population, the political and economic problems become more acute with ethnic divisions<sup>(168)</sup>.

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<sup>(158)</sup> Global Intake, Macedonia – Overview, Summary, n.d.

<sup>(159)</sup> Republic of Macedonia, Framework Agreement Concluded at Ohrid, Macedonia, Signed at Skopje, Macedonia, 13 August 2001.

<sup>(160)</sup> Global Intake, Macedonia – Overview, Summary, n.d.

<sup>(161)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016

<sup>(162)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016

<sup>(163)</sup> OSAC, Macedonia 2016 Crime & Safety Report, 2016.

<sup>(164)</sup> AKE, Macedonia – Security Risk Profile, last updated 21 June 2016.

<sup>(165)</sup> AKE, Macedonia – Security Risk Profile, last updated 21 June 2016.

<sup>(166)</sup> AKE, Macedonia – Security Risk Profile, last updated 21 June 2016.

<sup>(167)</sup> AKE, Macedonia – Political Risk Profile, last updated 26 July 2016.

<sup>(168)</sup> AKE, Macedonia – Security Risk Profile, last updated 21 June 2016.

Both AKE and OSAC stated that demonstrations, protests or rallies were generally peaceful but pose a significant risk of turning violent.

The OSAC indicates that in 2015 there were 81 reported demonstrations, the majority of which were anti-government rallies. Occasionally the protests turned violent, causing damage and injuries to police and demonstrators in Skopje <sup>(169)</sup>. The use of rubber bullets against protesters is permitted under law but the authorities tend to favour arrests and dispersal rather than the use of bullets or tear gas <sup>(170)</sup>.

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<sup>(169)</sup> OSAC, Macedonia 2016 Crime & Safety Report, 2016.

<sup>(170)</sup> AKE, Macedonia – Security Risk Profile, last updated 21 June 2016.

## 5. Human rights situation

### 5.1 Legal context

The constitution guarantees fundamental human rights, including freedom of thought and expression, religion, movement, association, peaceful assembly, and respect for civil rights <sup>(171)</sup>.

The country has ratified the core international human rights instruments: the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention Against Torture, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women <sup>(172)</sup>.

In August 2015, the UN Human Rights Committee acknowledged the positive steps achieved in the former Yugoslav Republic of Macedonia, namely the adoption of national legislation and the ratification of international human rights instruments. However, the committee indicated a series of concerns and recommendations regarding the role of the Ombudsman, issues of sexual orientation and gender identity, Roma, women and children, police brutality, conditions of detention, or freedom of movement, expression, association and assembly <sup>(173)</sup>.

The 2016 European Commission against Racism and Intolerance (ECRI) report emphasised that the provisions of the former Yugoslav Republic of Macedonia's Criminal Code generally reflected most of ECRI's recommendations concerning national legislation to combat racism and racial discrimination. However, the source adds, various gaps remain, such as article 319 of the Criminal Code which criminalises incitement to national, racial or religious hatred, discord and intolerance, but does not include sexual orientation and gender identity <sup>(174)</sup>.

In 2015, the European Court of Human Rights (ECtHR) received 340 complaints regarding the former Yugoslav Republic of Macedonia of which 328 were considered inadmissible or were excluded. The Court judged 12 cases and on 11 of those at least one violation of the European Convention on Human Rights (ECHR) was found <sup>(175)</sup>.

The *Civil Rights Defenders* indicates that, in general, the country 'falls short when it comes to implementing reforms and human rights standards' <sup>(176)</sup>.

According to the EC Communication 2016, although the country's legal framework is generally in line with European standards, further efforts 'are needed in practice to ensure the respect of human rights of vulnerable groups' <sup>(177)</sup>.

### 5.2 General human rights situation

#### 5.2.1 Freedom of expression

According to the EC's Communication 2016, the former Yugoslav Republic of Macedonia shows 'some level of preparation' regarding freedom of expression, although the current political climate (see [1.3.2 Government](#)) has put the media under serious pressure <sup>(178)</sup>.

<sup>(171)</sup> Assembly of the Republic of Macedonia, Constitution of the Republic of Macedonia, 1991 amended 2011, art. 9-29.

<sup>(172)</sup> UN Human Rights, OHC, Status of Verification, the Former Yugoslav Republic of Macedonia, updated at least every six months.

<sup>(173)</sup> UN, Human Rights Committee, Concluding observations on the third periodic report of the FYRoM, 17 August 2015.

<sup>(174)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

<sup>(175)</sup> ECtHR, Press country Profile, "The FYRoM", last updated October 2016.

<sup>(176)</sup> Civil Rights Defenders, Human Rights in Macedonia, updated in October 2015.

<sup>(177)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p. 23.

<sup>(178)</sup> EC, Communication on EU Enlargement Policy 2016, 9 November 2016, p. 23.



The EC IPA II chapter on civil society and media programme 2014-2015 indicates that there was ‘political interference in the media through government advertising policies and various forms of violation of freedom of expression’ in the country, that include:

‘Self-censorship, imprisonment of journalists, rise of the internet media and survival of print and electronic media, media politicisation and clientelism, poor labour standards of journalists, implementation of media legislation, the work of the regulator and of the Public Service Broadcaster, the judiciary's role in freedom of expression, increase number of defamation cases, the work of media CSOs, training of journalists, the works of journalists' associations and self-regulation, media literacy, investigative production, minority media and media dialogue’<sup>(179)</sup>.

The Bertelsman Stiftung reports that although the legal framework protecting freedom of speech is safeguarded under the constitution, ‘mainstream media tended to report only favourably on the government’s activities’<sup>(180)</sup>.

Reports without Borders, in the 2016 World Press Freedom Index, indicated that media freedoms have dramatically worsened in former Yugoslav Republic of Macedonia in recent years<sup>(181)</sup>.

According to Freedom House, the media is subject to political pressure and harassment. The source adds that media outlets are divided along ethnic lines<sup>(182)</sup>.

The *Civil Rights Defenders* reports a steady decrease in freedom of expression in recent years, whereby there is a growing trend of control and pressure by the government that results in self-censorship and biased reporting<sup>(183)</sup>.

### 5.2.2 Freedom of religion

The 2015 US DoS report on human rights practices in the former Yugoslav Republic of Macedonia indicate that the country’s constitution prohibits religious discrimination and guarantees freedom of religion and religious expression, and equality before the law for all individuals regardless of religious belief<sup>(184)</sup>.

According to the *Civil Rights Defenders*, freedom of thought, conscience and religion is generally respected in the country, ‘but separation between church and state remains a problem’, which was especially visible in 2015 when the Government provided millions of euros in funding to build an Orthodox Church in Skopje<sup>(185)</sup>.

### 5.2.3 Freedom of association and assembly

According to the US DoS report, the law guarantees freedom of association and the Government generally respects this right<sup>(186)</sup>. The same source indicates that the law guarantees freedom of assembly, and the right is generally respected, although there were reports of some government interference, revealed during the ‘wiretapping scandal’ (talks between the MoI and the prime minister’s chief of staff in which the minister promised to ‘direct traffic police to prevent five buses

<sup>(179)</sup> EC, IPA II 2014-2020, The Former Yugoslav Republic of Macedonia, Civil Society Facility and Media Programme 2014-2015, 2015.

<sup>(180)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016

<sup>(181)</sup> RSF, World Press Freedom Index 2016, 2016.

<sup>(182)</sup> FH, Nations in Transit 2016 - Macedonia, 12 April 2016

<sup>(183)</sup> Civil Rights Defenders, Human Rights in Macedonia, updated in October 2015

<sup>(184)</sup> US DoS, 2015 Report on International Religious Freedom - Macedonia, 10 August 2016.

<sup>(185)</sup> CRD, Human Rights in Macedonia, updated in October 2015.

<sup>(186)</sup> US DoS, 2015 Human Rights Report, BiH, 13 April 2016.

full of protesters traveling from the city of Prilep from reaching Skopje to participate in an anti-government protest') (187).

*Civil Rights Defenders* indicates that 'the law provides for the right to freedom of association, and the government generally respected the right' (188). The same source indicates that the former Yugoslav Republic of Macedonia 'faces a difficult situation, where many NGOs are struggling to survive at a time when scrutiny of government transparency and accountability is as important as ever'. The source adds that political pressure has increased in recent years, 'making the media and the NGOs less inclined to criticise the government' (189).

The Bertelsmann Stiftung states that civil society in the country has been under severe pressure to follow the Government's policies since VMRO-DPMNE was elected in 2006 (190).

According to CIVICUS, a global alliance of civil-society organisations, in 2015 the Government addressed a 'systematic campaign to suppress and persecute critical voices' and conducted a 'mass surveillance operation that targeted opposition politicians and civil society activists'. Those 'led to protests which were met heavy-handedly by the police, including excessive violence and illegal detentions' (191).

#### **5.2.4 Torture and other cruel, inhumane and degrading treatment and punishment**

According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the legal framework governing the deprivation of liberty by the police is outlined in the 2006 Law on Police and the 2010 Criminal Procedure Code (192).

The source adds that, although the majority of the interviewees reported no complaints regarding police treatment while in custody, credible allegations of ill-treatment by police officers were also registered, such as trying to extract confessions or information relevant to ongoing investigations, or verbal abuse towards Roma (193).

See also [5.2.5 Detention](#).

#### **5.2.5 Detention**

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reports that most of the visited police stations had 'substandard' material conditions and the detention facilities had serious shortcomings. Despite the frequent warnings from the former Yugoslav Republic of Macedonia's Ombudsman regarding those shortcomings, the CPT indicates that no improvements have been made (194).

Reporting after the visit to several prison facilities, the CPT indicates that although some progress was achieved by the country in the strategy to reform the prison system, 'no fundamental improvements were observed' in 2014 compared to 2010 and 2011. According to the source, the situation had deteriorated further (195).

According to the *Civil Rights Defenders*, the former Yugoslav Republic of Macedonia has done little to improve the situation in prisons and pre-detention facilities. It noted that more than 200 complaints

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(187) US DoS, 2015 Human Rights Report, BiH, 13 April 2016.

(188) CRD, Human Rights in Macedonia, updated in October 2015.

(189) CRD, Human Rights in Macedonia, updated October 2015.

(190) Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

(191) CIVICUS, Civil Society Watch Report, June 2016.

(192) CoE, CPT, Report to the Government of "the FYRoM" on the visit to "the FYRoM" 7-17 October 2014, 17 March 2016.

(193) CoE, CPT, Report to the Government of "the FYRoM" on the visit to "the FYRoM" 7-17 October 2014, 17 March 2016.

(194) CoE, CPT, Report to the Government of "the FYRoM" on the visit to "the FYRoM" 7-17 October 2014, 17 March 2016.

(195) CoE, CPT, Report to the Government of "the FYRoM" on the visit to "the FYRoM" 7-17 October 2014, 17 March 2016.

were sent to the Office of Ombudsman regarding excessive use of force by the police in the prison system. However only one police officer has been convicted <sup>(196)</sup>.

In its 2015 human rights report, the Ombudsman indicated that:

‘Overcrowding, insufficient healthcare protection and weak supply of the institutions with medicaments and poor hygiene and accommodation conditions as well as the low quality diet of the convicts and the detained persons have been determined in most of the penitentiary and correctional facilities thereby violating the rights of the persons deprived of liberty as well as their human dignity’ <sup>(197)</sup>.

The same source adds that, although some measures have been undertaken by the competent authorities, the situation of the prison system did not change <sup>(198)</sup>.

## 5.3 Specific groups

### 5.3.1 Ethnic minorities / Inter-ethnic relations

The EC Communication 2016 indicates that ‘the inter-ethnic situation remained fragile’ in the country. Additionally, the Communication states that ‘the review of the Ohrid Framework Agreement, which ended the 2001 conflict and provides the framework for the inter-ethnic relations, still needs to be completed in a transparent and inclusive manner’ <sup>(199)</sup>.

The European Commission against Racism states that although the former Yugoslav Republic of Macedonia adopted most of the Commission’s recommendations to combat racism and racial discrimination under the Criminal Code <sup>(200)</sup>, namely in article 319, which criminalises incitement to national, racial or religious hatred, discord and intolerance, serious gaps remain <sup>(201)</sup>. The same source points out that the country’s legislation does not criminalise ‘the creation or leadership of a group which promotes racism; support for such a group; and participation in its activities’ <sup>(202)</sup>. The Commission against Racism indicates that hate speech is legally prohibited (foreseen in the Law on Political Parties and the Law on Associations and Foundations), but its application in practice is ‘extremely weak’ <sup>(203)</sup>.

In its 2015 report, the *Civil Rights Defenders* indicated that inter-ethnic tension between ethnic Albanian and Macedonian groups has been constant since the armed conflict in 2001, with numerous reported cases of ethnically motivated violence. As an example, the source reports the case of an Albanian student who, in May 2014, was arrested on suspicion of murdering a Macedonian student, which caused two days of unrest and ethnic riots in Skopje. The CRD adds that impunity for war crimes and crimes against humanity remain a serious hamper in the reconciliation process between two ethnic groups <sup>(204)</sup>.

The ECRI report on the former Yugoslav Republic of Macedonia indicates that ‘there are numerous examples of negative stereotyping in the media against both of the two main ethnic groups in the country and, to a somewhat lesser extent, against smaller groups’ <sup>(205)</sup>.

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<sup>(196)</sup> CRD, Human Rights in Macedonia, updated in October 2015.

<sup>(197)</sup> Ombudsman (The), Annual Report on the Degree of Provision, Respect, Advancement and Protection of Human Rights and Freedoms 2015, March 2016.

<sup>(198)</sup> Ombudsman (The), Annual Report on the Degree of Provision, Respect, Advancement and Protection of Human Rights and Freedoms 2015, March 2016.

<sup>(199)</sup> EC, Communication on the EU Enlargement Policy 2016, 9 November 2016, p. 22.

<sup>(200)</sup> Government of the Republic of Macedonia, Criminal Code, 1 November 1996, amended 2009.

<sup>(201)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

<sup>(202)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

<sup>(203)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

<sup>(204)</sup> Civil Rights Defenders, Human Rights in Macedonia, updated in October 2015

<sup>(205)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

The same source adds that despite the existence of several other minority groups in the country, such as Turks (3.9 %), Roma (2.7 %), Serbs (1.8 %), Bosnians (0.8 %) and Vlachs (0.5 %), the Government has no general strategy for these groups but an uncoordinated plan for promoting their integration. Despite the adoption of a legislative framework for civil service and public employment in 2014, aimed at streamlining ‘the recruitment process for all ethnic communities and establish a data collection system that monitors ethnic distribution of public sector employment’, implementation is lacking, and the minority communities are still underrepresented at central and local level <sup>(206)</sup>.

The CoE’s Ad Hoc Committee of Experts on Roma and Traveller Issues (CAHROM) indicates that the lack of personal documents (identity cards, birth certificates, medical insurance cards and employment cards) is one of the main challenges faced by the Roma in the former Yugoslav Republic of Macedonia. Consequently, it restricts the community’s rights in many areas. According to the Committee:

‘It can lead to individuals’ imprisonment in a vicious circle and exclusion, since persons without birth certificates or of proof of nationality cannot obtain identity cards or other documents required for access to basic services and, through a knock-on effect, the children of persons without such documentation often find themselves in the same situation’ <sup>(207)</sup>.

In its 2016 report, ECRI refers to the difficult situation of the Roma community in the former Yugoslav Republic of Macedonia <sup>(208)</sup>. As mentioned, the new legislative framework for public employment adopted in 2014 should ensure the rights of minorities in accessing public employment but it is still far from being fully implemented <sup>(209)</sup>.

The authorities adopted the ‘Strategy for the Roma in Republic of Macedonia 2014-2020’ <sup>(210)</sup>, focusing on social inclusion through employment, housing, education, health and culture <sup>(211)</sup>.

According to the Bertelsmann Stiftung, the Roma community is the most vulnerable group in the former Yugoslav Republic of Macedonia. Living in deep poverty and suffering from poor conditions, it faces widespread prejudice and discrimination and is usually socially excluded <sup>(212)</sup>.

The European Roma Rights Center (ERRC) expressed ongoing concern at the level of police brutality against Roma in the country and the level of impunity regarding these cases. It is also concerned about housing – most Romani live in segregated settlements – and the rate of poverty among the community, which is approximately 2.5 times higher than the national level <sup>(213)</sup>.

### 5.3.2 Journalists and media

The former Yugoslav Republic of Macedonia ranks 118<sup>th</sup> among 180 countries in the 2016 RSF World Press Freedom index, the lowest-ranked country in the Western Balkans <sup>(214)</sup>.

Freedom House ranked the country 136<sup>th</sup> on the list of 199 countries assessed on freedom of the press in 2016, a relevant decline compared to 125<sup>th</sup> place in 2015 (rank 1 being the best, 199 the

<sup>(206)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

<sup>(207)</sup> CAHROM, Thematic Report Of The Group Of Experts On Roma Health Mediators, 22 June 2016.

<sup>(208)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

<sup>(209)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

<sup>(210)</sup> Government of the Republic of Macedonia, Ministry of Labour and Social Policy, Strategy for the Roma in Republic of Macedonia, 2014-2020, June 2014.

<sup>(211)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

<sup>(212)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(213)</sup> ERRC, Written comments by the ERRC for Consideration by the EC concerning Roma Inclusion in the WB Progress Reports 2016, July 2016.

<sup>(214)</sup> RSF, World Press Freedom Index 2016, 2016.

worst). The source classified the press freedom status of the former Yugoslav Republic of Macedonia as ‘not free’, a relevant downturn when compared to the ‘partially free’ status achieved in 2015 <sup>(215)</sup>.

The source adds that such big drop is due to revelations indicating ‘large-scale and illegal government wiretapping of journalists, corrupt ties between officials and media owners, and an increase in threats and attacks on media workers’ <sup>(216)</sup>. For more information on the wiretapping case, see [1.3.2 Government](#).

According to the Association of Journalists of Macedonia (AJM), quoted by the IREX media sustainability index 2016, a ‘dozen attacks on journalists and media professionals’ occurred in the first half of 2016 alone and translated into:

‘Verbal and physical assault, preventing journalists from reporting on events, destruction of their professional equipment and personal property. The most serious incidents included unknown persons leaving a funereal wreath at the front door of prominent journalist critical of the government, setting the car of another journalist on fire and an attempt by a government minister to start a physical altercation with a pesky online journalist/blogger’ <sup>(217)</sup>.

The source adds that the media believes such threats or attacks originate from ‘members of the ruling political party, whether acting alone or on orders by high-ranking party officials’, and such events ‘are never fully investigated or prosecuted’ <sup>(218)</sup>.

According to the EC’s Communication 2015, ‘the revelations in the context of the wiretapping case have corroborated earlier serious concerns [...] over political interference in the judiciary and the media, increasing politicisation of state institutions and the conduct of elections’, and the country ‘continued to backslide in this area’ <sup>(219)</sup>.

The EC’s Communication 2016 indicates that, despite ‘some level of preparation’, the country’s ‘freedom of expression and the situation of the media remain a serious challenge in the current political climate’ <sup>(220)</sup>.

### 5.3.3 Human rights and peace defenders

According to CRD, the human rights defenders’ situation in the former Yugoslav Republic of Macedonia is ‘unfavourable due to public defamation campaigns against organisations funded or supported from abroad who are often branded as “traitors”, “mercenaries” and “spies” in the media and by pro-Government activists’. The source adds that such campaigns are generally ‘carried out through Government-controlled media’ <sup>(221)</sup>.

CIVICUS reported that, in 2015, the former Yugoslav Republic of Macedonia’s Government suppressed and persecuted ‘critical voices’ and conducted surveillance operations targeting ‘opposition politicians and civil society activists’ <sup>(222)</sup>.

### 5.3.4 Women

According to the US DoS human rights report, the constitution and the law prohibit discrimination based on age, gender, race, disability, language, and ethnic, social, or political affiliation and the Government generally enforces this <sup>(223)</sup>.

<sup>(215)</sup> FH, Freedom of the Press 2016, April 2016; FH, Freedom of the Press 2015, April 2015.

<sup>(216)</sup> FH, Freedom of the Press 2016, April 2016.

<sup>(217)</sup> IREX, Macedonia, Europe & Eurasia Media Sustainability Index 2016, p. 82, 2016.

<sup>(218)</sup> IREX, Macedonia, Europe & Eurasia Media Sustainability Index 2016, p. 82, 2016.

<sup>(219)</sup> EC, Communication on the EU Enlargement Strategy 2015, 10 November 2015, p. 14.

<sup>(220)</sup> EC, Communication on the EU Enlargement Policy 2016, 9 November 2016, p. 23.

<sup>(221)</sup> CRD, Human Rights in Macedonia, updated October 2015.

<sup>(222)</sup> CIVICUS, Civil Society Watch Report, June 2016.

The 2015 former Yugoslav Republic of Macedonia Ombudsman's report indicates that although the existing framework foresees the protection of the rights of women and children, there are still problems regarding the right to a financial income, healthcare protection, education, and rights of children with disabilities <sup>(224)</sup>.

According to the US DoS human rights report on the participation of women in public life 'there were 42 women in the 123-seat parliament; however, only one woman served on the 26-member Council of Ministers. The law requires gender diversity in each political party's candidate list, and no more than two-thirds of a party's candidates may be the same gender. Some 60 percent of judges were women, but only four of the country's 81 mayors were women. Leadership within political parties continued to be dominated by men' <sup>(225)</sup>.

Domestic violence is still prevalent in the former Yugoslav Republic of Macedonia. Although legislation protecting women's rights is in place, it lacks implementation <sup>(226)</sup>.

According to Kvinna till Kvinna, a Swedish organisation supportive of women's rights in the Western Balkans, the country's 'transition process to a more equal society has also been extremely slow' <sup>(227)</sup>.

According to the same source, although gender discrimination is prohibited under the constitution, 'strong patriarchal values still dominate, making it impossible for women to participate in society on the same terms as men. Discrimination in the labour market, gender-based violence and a lack of time due to extensive family commitments, as well as expectations to perform unpaid work, are just some of the obstacles that women face' <sup>(228)</sup>.

### 5.3.5 Children

According to UNICEF, disabled children face specific challenges in the former Yugoslav Republic of Macedonia and the Government recently developed and implemented a deinstitutionalisation process <sup>(229)</sup>.

ROMA S.O.S., an NGO focused on the protection of Roma rights, in a report on cohabitation between minors and with a minor in the Roma community, recommends:

- Harmonisation of the 'existing legislation in order to explicitly ensure that the minimum legal age is 18 for a person to live in marital community, and ensuring legal mechanisms/procedures of the competent institutions in order to act as it is a crime';
- Developing of a 'special program for protection and prevention of marriage of persons under the age of 18, 'conducting campaigns to sensitize the negative effects of marriage, and in particular for the rights and development of the girls';
- Creating an 'institutional system for registering and monitoring of marriages between and with persons under 18 years in order to estimate the number and to undertake coordinated activities to eliminate this practice' <sup>(230)</sup>.

According to the EC 2015 Communication, although the legal framework for the protection of human rights is broadly in line with European standards, [...] implementation is lacking, in particular in the areas of Roma integration, rights of the child and persons with disabilities <sup>(231)</sup>.

<sup>(223)</sup> US DoS, 2015 Human Rights Report, BiH, 13 April 2016.

<sup>(224)</sup> Ombudsman (The), Annual Report 2015, March 2016.

<sup>(225)</sup> US DoS, 2015 Human Rights Report, BiH, 13 April 2016.

<sup>(226)</sup> US DoS, 2015 Human Rights Report, BiH, 13 April 2016.

<sup>(227)</sup> Kvinna till Kvinna Foundation, Macedonia, Women's situation, last updated 7 September 2016.

<sup>(228)</sup> Kvinna till Kvinna Foundation, Macedonia, Women's situation, last updated 7 September 2016.

<sup>(229)</sup> UNICEF, Assessment of alternative forms of care and family support services for children with disabilities, December 2015.

<sup>(230)</sup> Roma S.O.S., The Gray Area between Tradition and Children's Rights!, February 2016.

### 5.3.6 LGBTI

According to ECRI, in recent years hate speech against LGBT persons in the media, on the Internet and on social media has become more frequent and has intensified. The use of homophobic language by politicians has also increased <sup>(232)</sup>.

The Bertelsmann Stiftung reports that members of LGBT groups and activities are ‘often targets of physical violence, harassment and use of derogatory language, including from journalists and government representatives’ <sup>(233)</sup>.

According to ILGA’s 2016 Annual Review, 2015 ‘began on a negative note, with the government’s attempt to constitutionally define marriage as a union between men and women only. An additional constitutional amendment to make the passage of any future civil union legislation for same-sex couples more difficult was another source of disappointment, especially as it was introduced at the last minute, without informed debate’ <sup>(234)</sup>.

ILGA adds that ‘hate crimes against LGBTI people remain a concern; the apparent lack of a systematic response to violent attacks was pointed out by the European Commission and led LGBTI activists to protest on the streets during the summer’ <sup>(235)</sup>.

In January 2015, the perpetrator of a violent attack against two LGBTI activists in 2012 was sentenced to 7 months imprisonment’, although the decision was later annulled and an appeal is pending, the same source reports <sup>(236)</sup>.

ILGA, quoting the ‘Sexual and Health Rights of Marginalized Communities’, reports ‘two cases of assault based on sexual orientation and one case of violence based on gender identity in 2015; two of these cases were pending at the end of the year’ <sup>(237)</sup>.

According to the EC Communication 2015, ‘the lesbian, gay, bisexual, transgender and intersex (LGBTI) community continues to suffer from discrimination and homophobic media content’; the EC’s 2016 Communication indicates that in the former Yugoslav Republic of Macedonia ‘the most marginalised categories of the population are still not being accorded full protection’ <sup>(238)</sup>.

### 5.3.7 Trafficked persons

The US DoS 2016 Trafficking in Persons report on the former Yugoslav Republic of Macedonia reads that:

‘Women and girls in Macedonia are subjected to sex trafficking and forced labor within the country in restaurants, bars, and nightclubs. Children, primarily Roma, are subjected to forced begging and sex trafficking through forced marriages. Foreign victims subjected to sex trafficking in Macedonia typically originate from Eastern Europe, particularly Albania, Bosnia and Herzegovina, Kosovo, Romania, Serbia, and Ukraine. Citizens of Macedonia and foreign victims transiting Macedonia are subjected to sex trafficking and forced labor in construction and agricultural sectors in Southern, Central, and Western Europe. Migrants and refugees traveling through Macedonia are vulnerable to trafficking, particularly women and

<sup>(231)</sup> EC, Communication on the EU Enlargement Strategy 2015, 10 November 2015, p. 22.

<sup>(232)</sup> CoE, ECRI, Report on the FYRoM, 7 June 2016.

<sup>(233)</sup> Bertelsmann Stiftung, BTI 2016, Macedonia Country Report, 2016.

<sup>(234)</sup> ILGA, Annual Review of the Human Rights Situation of LGBTI People in Europe 2016, May 2016.

<sup>(235)</sup> ILGA, Annual Review of the Human Rights Situation of LGBTI People in Europe 2016, May 2016.

<sup>(236)</sup> ILGA, Annual Review of the Human Rights Situation of LGBTI People in Europe 2016, May 2016.

<sup>(237)</sup> ILGA, Annual Review of the Human Rights Situation of LGBTI People in Europe 2016, May 2016.

<sup>(238)</sup> EC, Communication on the EU Enlargement Strategy 2015, 10 November 2015, p. 22; EC, Communication on the EU Enlargement Policy 2016, 9 November 2016, p. 23.

unaccompanied minors. Traffickers frequently bribe police and labor inspectors. Police have been investigated and convicted for complicity in human trafficking’ (239).

The US DoS further adds that the country’s government has made ‘significant efforts’ to ‘meet the minimum standards for the elimination of trafficking’, although the objective has not been achieved yet (240).

In December 2012, the former Yugoslav Republic of Macedonia adopted the National Strategy (and Action Plan) for Combating Trafficking in Human and Illegal Migration in the Republic of Macedonia 2013-2016 (241), aimed at establishing ‘preventive measures addressing the causes for human trafficking and work with vulnerable groups in a bid to eliminate’ the phenomenon (242).

Following a visit to the former Yugoslav Republic of Macedonia by Madina Jarbussynova, OSCE’s Special Representative and Co-ordinator for Combating Trafficking in Human Beings, several needs were identified and recommendations made in regards to the country’s national strategy and action plan 2013-2016 for combatting trafficking in human beings, namely:

- Ratify, amend or improve the existing legal framework;
- Enhance prevention of child trafficking through child protection measures;
- Enhance identification and prevention of trafficking;
- Enhance assistance and protection of victims of human trafficking;
- Enhance the criminal justice response to all forms of human trafficking (243).

### 5.3.8 Returnees

According to Suzana Bornarova, assistant professor in the Institute for Social Work and Social Policy of the Ss. Cyril and Methodius University in Skopje, several events caused large flows of migration over the years, forcing Macedonians to leave their country in the transition period of the 1990s, due to ‘unfavourable socio-economic conditions, deteriorating living standards, rising poverty and unemployment’ (244).

Marjan Petreski, associate professor in the School of Business Economics and Management and Vice-Rector of Research at the University American College Skopje and Economics and Management, writes that the former Yugoslav Republic of Macedonia had more than 626,000 emigrants abroad at the end of 2013, an emigration rate above 30 % of the country’s population (245). The author indicates that the number of returnees to the country increased through voluntary and forced returns (246).

Bornarova states that the main challenges the returnees face after return include housing and finding a job. The reintegration process is most difficult for those returnees who have stayed abroad for a long period and lost almost all links to the former Yugoslav Republic of Macedonia. The author

(239) US DoS, 2016 Trafficking in Persons Report, Macedonia, June 2016, pp. 250-251.

(240) US DoS, 2016 Trafficking in Persons Report, Macedonia, June 2016, pp. 250-251.

(241) Government of Macedonia, National Strategy for Combating Trafficking in Human and Illegal Migration in the Republic of Macedonia 2013-2016, 2012.

(242) Government of Macedonia, National strategy to combat human trafficking and illegal migration promoted, 2 December 2012.

(243) OSCE, Report by OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 7 July 2016, pp. 10-12.

(244) Bornarova, S., Returning migrants in the Republic of Macedonia: The issue of reintegration, January 2011.

(245) Petreski, M., Does return Migration Affect Health Outcomes in Macedonia?, May 2016.

(246) Petreski, M., Does return Migration Affect Health Outcomes in Macedonia?, May 2016.



indicates that without adequate adjustment to the old-new environment, most of the returnees risk marginalisation and poverty <sup>(247)</sup>.

Although the Resolution and Action Plan on Migration and the Agreement on the Status and Activities of the Migration, Asylum and Refugees Regional Initiative was adopted in 2009, its implementation is weak due to the lack of funding, leading Bornarova to conclude that there has been no official policy designed to regulate migratory movements and assist returning migrants <sup>(248)</sup>.

According to OIM's 2015 report on Assisted Voluntary Return Programmes, between 2011 and 2014, the organisation assisted 8,746 voluntary returnees to go back to the former Yugoslav Republic of Macedonia. In the framework of OIM's Assisted Voluntary Return Programmes, the returnees receive support for housing, health care, education, vocational training and establishment of small businesses <sup>(249)</sup>.

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<sup>(247)</sup> Bornarova, S., Returning migrants in the Republic of Macedonia: The issue of reintegration, January 2011.

<sup>(248)</sup> Bornarova, S., Returning migrants in the Republic of Macedonia: The issue of reintegration, January 2011.

<sup>(249)</sup> IOM, Assisted Voluntary Return Programmes, 2015; Bornarova, S., Returning migrants in the Republic of Macedonia: The issue of reintegration, January 2011.

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# Terms of Reference

**Acknowledgments**

**Disclaimer**

**Abbreviations and acronyms**

**Introduction/Context**

**Map**

## 1. State structure

- 1.1 Constitution
- 1.2 Executive branch
  - President
  - Government
- 1.3 Legislative branch
  - Parliament (assembly, senate?)
- 1.4 Administration

## 2. Socio-political landscape

- 2.1 Political parties
- 2.2 Elections
- 2.3 Opposition/ Armed groups
- 2.4 Civil society (ngo's, freedom of speech, freedom of assembly and association, labour rights and conditions)
- 2.5 Media (TV, radio, newspapers, internet)

## 3. Rule of Law and State Protection

3.1. Law enforcement (include information about: Capacity to protect civilians; Corruption; Abuse of power; accountability mechanisms to deal with these issues - where relevant)

- 3.1.1 Police
- 3.1.2 Army
- 3.1.3 Intelligence/Security forces
- 3.1.4 Corruption / fight against organised crime

3.2 Judiciary (include information about: Capacity to protect civilians; Corruption; Abuse of power; Internal mechanisms to deal with these issues - where relevant)

- 3.2.1 Courts system (state courts, religious courts, military courts, etc.)  
Capacity and Judicial integrity

## 4. Security situation (general, regional)

- 4.1 Short description of the (regional) situation
- 4.2 Amount/ Level of violence (chronology of main incidents)
- 4.3 Actors in the conflict (security forces, armed opposition groups)

4.4 Areas of control/influence

4.5 Impact of the violence to the population

## **5. Human rights situation**

5.1 Legal context (relevant legislation: constitution, treaties, citizenship, etc.)

5.2 General situation (arbitrary arrests, detention, torture, disappearances, situation in detention facilities, deportation/refoulement)

5.3 Specific groups (e.g., ethnic/religious minorities, journalists, human rights defenders, children, women, LGBT, victims of trafficking, returnees, etc.)

## **6. Reintegration of returnees**

### **Bibliography**

### **Terms of Reference**



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