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Stabilisation and Association Council (Brussels, 20 July 2015)
- Draft Common Position of the European Union

In preparation for the 12th meeting of the Stabilisation and Association Council between the EU and the former Yugoslav Republic of Macedonia on 20 July, the Council is invited to adopt the draft Common Position of the European Union, as agreed at the level of the Permanent Representatives' Committee on 9 July 2015, as set out in Annex.

12TH MEETING OF THE EU-FORMER YUGOSLAV REPUBLIC OF MACEDONIA

STABILISATION AND ASSOCIATION COUNCIL

Brussels, 20 July 2015

Draft Common Position of the European Union

1. Opening

The European Union welcomes the holding of the twelfth meeting of the Stabilisation and Association Council between the EU and the former Yugoslav Republic of Macedonia.

In its conclusions of 16 December 2014 on enlargement and the Stabilisation and Association process, the Council assessed progress made by the former Yugoslav Republic of Macedonia in fulfilling the political criteria and commitments under the Stabilisation and Association Agreement. It broadly shared the Commission's assessment that the political criteria continue to be sufficiently met on the basis of cumulative progress achieved and stated that:

With a view to a possible decision of the European Council to open accession negotiations with the former Yugoslav Republic of Macedonia, the Council will revert to the issue anytime in 2015, on the basis of an update by the Commission on implementation of reforms, including in the context of the High Level Accession Dialogue, and on tangible steps taken to promote good neighbourly relations and to reach a negotiated and mutually accepted solution to the name issue.

In light of developments in the country from the beginning of 2015, the Council adopted conclusions on 21 April and on 23 June expressing its grave concern regarding the situation in the country and reaffirming its continued EU engagement.

The EU recalls that the Stabilisation and Association Agreement remains at the core of the relationship between the EU and the former Yugoslav Republic of Macedonia until the country's accession to the EU. The Agreement provides the contractual framework within which the EU and the country co-operate and take stock of developments in their relationship.

On 17 June 2015, the twelfth meeting of the EU-the former Yugoslav Republic of Macedonia Stabilisation and Association Committee reviewed the implementation of the Stabilisation and Association Agreement (SAA) by the authorities of the former Yugoslav Republic of Macedonia. The two Parties exchanged views on the latest political developments and the state of institutional, political and economic reforms. The Stabilisation and Association Committee also took note of the discussion of the meetings of the subcommittees and the special working group on public administration held since the previous meeting of the Committee.

The EU notes that the Commission is preparing its next Progress Report on the former Yugoslav Republic of Macedonia, which will be presented in autumn and will assess progress in meeting the accession criteria. In this context, the EU underlines the need for decisive action in addressing all EU-related reforms, starting from the “urgent reform priorities” in the framework of the established conditionality.

2. Adoption of the Agenda

3. Adoption of the minutes of the 11th meeting of the Stabilisation and Association Council

The Stabilisation and Association Council will take note of the minutes of the eleventh SA Council of 23 July 2014, as adopted by exchange of letters of 15 April 2015.

4. Relations under the Stabilisation and Association Process

4.1. Pre-accession strategy, in particular in light of the Accession Partnership

Political criteria

The EU has followed the political developments in the former Yugoslav Republic of Macedonia in recent months closely and with growing concern. The developments included the continued boycott of Parliament by the main opposition party, serious allegations about the abuse of power by senior government and party officials and charges against the opposition leader for violence against state officials, as well as the armed incident causing several casualties in Kumanovo in May. The EU recalls the Council conclusions of 21 April and 23 June 2015, and welcomes talks, in recent weeks, between the leaders of the four main political parties, as a step towards *political dialogue within the country*. It calls, however, in particular on the main government and opposition parties to engage in constructive dialogue to resolve the ongoing political crisis, putting the country's interests ahead of party interests without further loss of time. The EU recalls that *stable and functioning democratic institutions* are core aspects of the political criteria and, therefore, essential for the accession process. The EU stresses that the government has the primary responsibility to ensure that democratic institutions function properly but that the opposition should also play its role within democratic structures. The EU notes that the country's political system is urgently in need of a culture of compromise that will benefit the country's position both internally and internationally. The EU calls on the national authorities to do their utmost to restore trust in national institutions and recalls the important role of media and civil society in informing the public and creating a healthy political climate. The EU recalls the need to ensure a full and thorough investigation, by the relevant authorities, of all allegations of potential wrongdoing, including those emerging from the wiretapping materials, with full regard for due process, the principle of the independence of the prosecution and judiciary and the presumption of innocence.

As regards *reforms in general*, the EU notes the commitment by all parties, stemming from the 2 June 2015 Agreement, to implement all recommendations of the European Commission in relation to systemic rule of law issues confirmed by or arising out of the current crisis, including in relation to breaches of fundamental rights, prosecutorial and judicial independence, corruption, media freedom, elections, politicisation and state party blurring, and failures of oversight. The Council Conclusions on 23 June called on the parties to honour these commitments. The EU underlines the need to urgently address the "urgent reform priorities", asks for an update on progress as regards these and recalls that implementation of these recommendations, to which the leaders of the main political parties have jointly committed, will be closely monitored, including through an inclusive High Level Accession Dialogue meeting to be held before finalisation of the Commission's 2015 Progress Report on the country.

As regards *freedom of expression in the media*, the EU expresses serious concern about the overall climate and media culture. The EU stresses the government's responsibility to lead by example and to contribute to a positive atmosphere in relation to media freedom. The EU highlights that the shortcomings identified in the Commissions' 2014 Progress Report, such as government advertising, still persist and urgent action is needed. The role of the recently established media self-regulatory body, the Media Ethics Council is to be commended and it is crucial that the Government shows its support to this body and lets it perform its functions.

The EU notes the ongoing talks between the political parties to reach agreement on government composition during the transitional period leading to future elections. As the EU set out in Council Conclusions on 23 June, implementation of electoral reform in line with recommendations by the OSCE/ODIHR is urgently required.

As regards *rule of law*, the EU again calls for additional efforts to strengthen the functional independence of judges at all levels, safeguarding the merit principle in the appointment of judges at all levels and strongly supporting the central role of the Judicial Academy in training. It recalls that the framework for evaluation, discipline and dismissal must be revised and implemented in a way which does not pose any threats to judicial independence. Concerning the *fight against corruption and organised crime*, the EU underlines the continuing need to demonstrate credible and non-selective enforcement in the fight against corruption and organised crime. It recalls that the revelations of the recent wire-tapping only serve to confirm previously expressed concerns that political corruption is not being investigated in a sufficient, robust and independent manner.

The EU recalls the protections guaranteed to all communities under the Constitution. The EU reiterates that the *Ohrid Framework Agreement* (OFA) continues to be an essential element for democracy and rule of law in the country. The EU encourages the government to reach out to all communities and ethnicities to further promote inter-ethnic harmony and trust through confidence building measures. The EU stresses the need to complete the review of the implementation of the OFA as soon as possible.

Regarding *relations between the communities*, the EU assesses the overall situation as generally calm, although a lack of trust between the communities remains and tensions can be easily sparked by events or incidents. The EU welcomes the national unity shown following recent events in Gošince and Kumanovo and repeats its expectation that the authorities and political parties make every effort to avoid any increase in inter-ethnic tension. It also recalls the Council's call for a full and transparent investigation of those events.

On *public administration reform*, the EU reiterates serious concern about politicisation at both central and local level of public administration. The EU insists that full and sustainable implementation of the adopted legislation is key to ensuring respect to principles of equitable representation, transparency, accountability and merit throughout the public sector. Institutions ensuring the accountability of the public bodies, notably the Ombudsman, play a crucial role in making sure the principles of the rule of law are fully implemented. The EU stresses that a new approach is needed to increase awareness and ensure full understanding of these principles, starting from the top. The trust of citizens in institutions, which has been progressively eroded, needs to be restored.

In this regard, the EU expresses its strong concern regarding the recently introduced Law on Transformation of Temporary Positions that allows for a mass conversion of temporary staff to permanent status. The EU voices its concern that the law runs counter the implementation of the principle of merit in public administration. It also expresses disappointment at the lack of consultation on this law, despite longstanding discussions on public administration reform, on which the country had been advanced.

The EU notes the importance of the *decentralisation* process as enshrined in the OFA and underlines the need to resolve outstanding issues, such as the overdue second phase of fiscal decentralisation. Regarding regional development, the EU emphasises the need to ensure financial sustainability for municipalities in terms of their transferred and decentralised competences.

As regards the protection of *human rights*, the EU recalls that the Law on anti-discrimination is not in line with the *acquis* as discrimination on the grounds of sexual orientation is omitted. It stresses the importance of safeguarding the freedom of expression and peaceful assembly for all citizens. It calls for the proper investigation and prosecution of all attacks on the LGBTI community.

Regarding the *Roma* community, the EU assesses that discrimination towards Roma persists especially in the areas of employment and education, despite some progress achieved. The EU calls again on the authorities to dedicate sufficient resources to the most challenging areas, in particular the labour market and awareness-raising. The EU stresses that more robust steps are needed to ensure focus on implementation of the Roma national strategy and the action plans, with allocation of sufficient financial and human resources.

The EU notes that the 2003 bilateral non-surrender agreement with the United States of America granting exemptions for US citizens from the jurisdiction of the International Criminal Court is not in line with the relevant EU guiding principles concerning arrangements between a State Party to the Rome Statute of the International Criminal Court and the USA.

The EU welcomes the full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), with which there are no remaining cases or appeals pending.

The EU recalls that regional co-operation and good neighbourly relations form an essential part of the process of moving towards the EU. The EU welcomes the continued active participation and the constructive approach of the former Yugoslav Republic of Macedonia in regional cooperation including in initiatives in South Eastern Europe, such as the Regional Cooperation Council, the South East European Cooperation Process, as well as the country's current chairmanship of the Central European Initiative (CEI).

The EU recalls that, as reiterated in the General Affairs Council in December 2014 and April 2015, maintaining good neighbourly relations, including a negotiated and mutually accepted solution to the name issue, under the auspices of the UN, remains essential. There is a need to bring the longstanding discussions on the name issue to a definitive conclusion without delay. Actions and statements which negatively impact on good neighbourly relations should be avoided. The EU reiterates its full support to the UN process, which remains the key framework for a solution as it is recognised by both parties. The EU expresses hope that the negotiations led by the UN Secretary General's Personal Envoy can lead to a breakthrough. The EU welcomes the recent bilateral agreement on confidence-building measures.

In light of the overall importance of maintaining good neighbourly relations, the EU notes the continued high level contacts between the former Yugoslav Republic of Macedonia and Bulgaria and looks forward to their translation into concrete actions and results. It notes that the negotiations on a bilateral agreement on good neighbourly relations have continued, following the exchange of letters between the Presidents of the two countries, and expresses hope that the outstanding points will be resolved soon in a constructive spirit. The EU notes positively the commitment by the main political party leaders under the 2 June agreement to work for strengthening of good neighbourly relations.

Economic criteria

Regarding economic developments, the EU acknowledges that the economy has displayed buoyant growth last year, that overall macro-financial stability was maintained, and that the inflation environment stayed benign. Measures are being put in place to support growth and competitiveness, in the framework of the Economic Reform Programme. However, sustainable growth needs to be more triggered by the private sector both domestic and foreign direct investment, rather than public spending.

The EU recalls the joint conclusions of the EU and candidate countries on the Economic Reform Programmes, reached at the May 2015 Ecofin Council, and encourages the government to focus on their implementation and follow-up. It calls for more efforts to implement the medium-term fiscal strategy as planned.

The EU stresses the importance of efficient, forward looking budget planning and of transparent, effective execution. It also stresses the need for additional efforts to elaborate a comprehensive medium-term investment strategy. It further stresses the need to improve transparency of public financial management, particularly calling on the authorities to resume the submission of fiscal notifications in line with the EU accounting standards.

The EU expresses concern at the persistently high unemployment rate and, while recognising some measures undertaken to decrease unemployment, notes that these have so far brought only limited improvements. It stresses that structural measures need to be undertaken in order to address the underlying reasons for high unemployment.

It also notes that measures are being put in place to improve the business environment and foreign investment climate, and invites the authorities to continue developing and implementing them, including in particular access to finance and linkages between foreign investors and domestic companies. With respect to the country's accession perspective, important challenges remain: improving the functioning of the labour market further strengthening legal certainty for foreign investors as well as domestic companies, avoiding discriminatory practices, strengthening administrative capacities and regulatory and supervisory agencies and improving the quality of regulation, the rule of law and the contract enforcement. The capacity to withstand competitive pressure also needs to be enhanced.

Financial cooperation

As regards the implementation of the decentralised management of EU funds (DIS) in the country and the overall management of EU funds, the EU welcomes the efforts made to increase the absorption of EU funds, but stresses that the persistently low contracting rate, resulting in the high risk of de-commitments, is unsatisfactory and that credible mitigation measures must be put in place to address key operational and management issues. It notes that this includes allocating the necessary resources to ensure the full implementation of EU financial assistance, as well as enhancing the management capacities and control functions.

The EU emphasises the need for maturity of planned EU-funded interventions both in terms of the administrative capacity and sector approach. It finally stresses that the future focus will be on effective delivery of financial assistance through diversifying implementation modalities, including sector budget support provided the country fulfils eligibility criteria, including on Public Expenditure and Financial Accountability, and through setting up an indicator-based evaluation and monitoring mechanism.

4.2. Relations under the Stabilisation and Association Agreement

Implementation of the SAA - state of play

The EU reflects on the twelfth meeting of the Stabilisation and Association Committee held on 17 June 2015, concluding a cycle of subcommittees and other special bodies. The EU confirms a greater focus on substance rather than process in the SAA meetings, making them more dynamic and streamlined, with an agenda based only on critical points and qualitative rather than quantitative assessments, as well as readiness, and an emphasis on implementation.

With regard to *justice, freedom and security*, the EU recalls that there is already a high level of alignment in all areas but that greater emphasis now needs to be placed on implementation as well as administrative and judicial capacity and independence. The Commission's focus on "fundamentals first" means that legislative alignment with the *acquis* will no longer be the most important focus. In the area of organised crime and corruption, for example, the spotlight will be firmly on the concrete results achieved, in terms of track records. In the areas of migration and asylum, strategic planning and procedures, including on registration, needs to be strengthened in order to take account of very real new challenges and external pressures in these areas, including strengthening the fight against human trafficking and smuggling of people, and respecting international commitments on protection and human rights. The EU notes that the country is on a major transit route for mixed migration, towards the EU, from places of crisis in Africa and the Middle East, and notes that the authorities have taken short-term steps but are struggling to cope. In line with the conclusions of the European Council of 25-26 June 2015 the EU notes that a sustainable solution to the issue can be found in the context of a geographically comprehensive approach to migration, based on solidarity and responsibility.

Concerning *social policy and employment*, the EU calls for strengthening of social dialogue and the capacity of social partners, and for better implementation of social inclusion strategies. It reiterates the need to improve enforcement of the labour law, and co-operation between the relevant institutions. It also reiterates the need for more efforts to achieve an inclusive and efficient labour market, in particular by tackling long-term unemployment, high youth unemployment and very low participation of Roma and women in the labour market.

Regarding *trade issues*, the EU notes the high level of trade integration and the reducing trade deficit of the country towards the EU. The EU notes that two issues related to implementation of the SAA in the area of trade were successfully solved.

The EU welcomes legal developments in the area of *customs*, as well as improvements in capacity and IT infrastructure, which resulted in the accession of the former Yugoslav Republic of Macedonia to the Common Transit Convention and the Convention on the Simplification of Formalities in Trade in Goods, and will invite the authorities to continue in this direction.

With regard to *agriculture and rural development, food safety, veterinary and phytosanitary policy*, the EU notes the country's progress in legal implementation. It stresses, however, that administrative capacity remains a concern throughout the sector and express serious concern at the inefficient use of the EU-funded pre-accession rural development programme.

The EU welcomes legislative alignment in the area of the *internal market* and call for the emphasis to be put on ensuring the necessary administrative capacity and efficient implementation of the adopted legislation. It also recalls the need for better stakeholder consultation, given that several laws have been cancelled or suspended, after adoption, due to protests.

Regarding *education and culture*, the EU welcomes the improved access to pre-school education, vocational and adult education. It calls for a sustained commitment to ensure implementation of the adopted policies. The EU will enquire about the state of play of the proposed education reforms that sparked mass protests of students and academia from late 2014 onwards.

As regards the *information society and media*, the EU welcomes the progress as regards legislation achieved in the area of electronic communications and information society issues, notably the adoption of amendments to the electronic communications law aiming at full alignment with the 2009 Telecom Package. As regards audio-visual media services, the EU recalls, the need to take steps to guarantee the independence of the public broadcaster and the media regulator. As regards *energy*, the EU notes some progress has been made in the energy sector in regards of the security of supplies, however, no progress can be reported as concern the further opening of the electricity market. The EU notes with concern that obligations undertaken under Energy Community Treaty are not fully implemented.

As regards *transport*, transposition of EU *acquis* has continued and overall preparations in the area remain at moderately advanced stage. The EU stresses that further strengthening of the administrative capacity of the Rail Safety Authority and the Accident Investigation Committee is needed. The EU notes that further progress has been made in the area of *Trans-European networks* and welcomes the country's active participation in the South-East Europe Transport Observatory and increased investments along South East Europe transport regional network. The EU takes note of the ongoing discussion with neighbouring countries and other stakeholders on the Connectivity agenda.

As regards *environment* protection, the EU recalls the importance of the environment *acquis* and the challenges it contains. The EU urges the country to strengthen its existing administrative capacity in particular in area of project preparation and implementation and in the areas of water management, waste management, industrial pollution control and nature protection and climate action. It recalls that investments need to be significantly increased, especially in the waste and water sectors. As regards *climate change*, the EU recalls that the country still lacks a long term strategy and a comprehensive climate policy in line with the EU 2030 climate and energy policy framework, and that further efforts are needed to establish a more strategic approach on climate change and to raise awareness at all levels.

Finally, the EU recalls the Commission's proposal of October 2009 on the transition to the *second stage* of the Stabilisation and Association Agreement. It confirms that the decision on the recommendation remains with the Council. Thereafter the Stabilisation and Association Council may take a decision to move to the second stage of the Agreement.

5. Exchange of views on developments in the Western Balkans and other international issues of common interest

Alignment with EU positions in the framework of CFSP

As part of the Thessaloniki agenda, the former Yugoslav Republic of Macedonia is invited, as appropriate, to align with Common positions, declarations etc. on a regular basis in order to coordinate its foreign and security policy with the EU. The EU notes the various positions taken by the former Yugoslav Republic of Macedonia to that end.

Developments in the Western Balkans

An exchange of views will take place regarding developments in the Western Balkans.
