

Policy brief



THE NEGOTIATIONS STRUCTURE WITH THE EUROPEAN UNION

How to ensure better functionality,
transparency and control?

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INTRODUCTION

We are at the very end of 2020. The General Affairs Council of the European Union was held in November, where the German Presidency failed to persuade one Member State to give its consent and thus secure the necessary consensus for the adoption of the Framework for Accession Negotiations with Republic of North Macedonia. The first Intergovernmental Conference will have to wait for better days when Member States will not abuse the Enlargement Policy to blackmail candidate countries, and bilateral disputes will not be part of the negotiations. Until then, until the First Intergovernmental Conference is held, North Macedonia has an excellent opportunity to complete the process of institutional and societal preparations for the negotiations.

This Policy Brief contributes to that process and has three objectives. **The first**, to take part in the debate on the reform of the Structure for Negotiations, which was opened to the public by the Deputy Prime Minister in charge of European Affairs. **The second**, to assess how the new enlargement methodology affects the structure and identify the bodies within the structure that are particularly affected. **The third**, to propose solutions that will contribute to the simplification and improvement of its functionality, as well as to guarantee transparency and control over the negotiation process.

This document is based on a process of research and analysis of previous reviews on this issue, as well as an analysis of relevant documents on the negotiation process and enlargement policy. Additionally, this analysis reviews relevant policy documents and regulations that regulate or have regulated the process in several of the countries in the region, such as Croatia, Serbia and Montenegro, as well as relevant domestic regulation, as well as recommendations and opinions of experts and participants in the process of accession from the country and from the countries in the region. Finally, in the last group, relevant domestic regulation was analysed, with this document taking into account the decisions of the Government of the Republic of North Macedonia to establish a Structure for Accession Negotiations, the Law on Organization and Operation of the State Administrative Bodies, the Law on the Government of the Republic of North Macedonia, the Law on Foreign Affairs and the Law on Conclusion, Ratification and Execution of International Treaties.

A NEVER-ENDING PROCESS

The creation of the Structure for Accession Negotiations began on July 17, 2018. During the visit of the then Commissioner for Enlargement and Accession Negotiations, Johannes Hahn, and after the 79th Thematic Session of the Government, the then Deputy Prime Minister in charge of European Affairs, Bujar Osmani, PhD. was appointed Chief Political Negotiator, while the then Special Adviser for Euro-Atlantic Affairs in the Prime Minister's Office, Bojan Marichikj, M.A. was appointed Chief Technical Negotiator. One year later, on July 10, 2019, both Negotiators presented the acts for the Accession Negotiations Structure¹ that were published in the Official Gazette of the Republic of North Macedonia on August 1, 2019².

In the meantime, Civil Society Organizations through the Council for Cooperation and Development of Civil Society have started developing a draft model for their own involvement in the negotiations³. Preparations began with the establishment of a Working Group composed from representatives of several CSOs, who are also members of the Council. This took place immediately after the appointment of the Chief Political Negotiator and Chief Technical Negotiator and were further developed during 2019. On November 25, 2019⁴, after a consultative meeting with the Negotiators, the Council presented the Model for participation of Civil Society Organizations in the Accession Negotiations, which was accepted in principle by both Negotiators.

Following the elections and the appointment of a new government, a rotation of functions took place between the previously appointed Head of the State Delegation and Chief Political Negotiator and his deputy, where the Chief Technical Negotiator was elected Minister of Justice. With the statement *"the negotiating structure must be clearly defined with a clear mandate, without the potential for political hesitation and overlapping competencies"*⁵, the newly elected Deputy Prime Minister for European Affairs, and ex officio Head of the State Delegation and Chief Political Negotiator, announced reforms to the Structure for Accession Negotiations that gives the impression that this is a never-ending process.

1 <https://vlada.mk/node/18516>

2 <http://www.sivesnik.com.mk/Issues/298cdc15d12e4c5486658a6eae6ded7.pdf>

3 https://www.nvosorobotka.gov.mk/sites/default/files/Zapisnik_7_sednica_na_Sovetot.pdf

4 https://www.nvosorobotka.gov.mk/sites/default/files/Zapisnik_17_sednica_na_Sovetot%20%283%29.pdf

5 <https://rb.gy/pwbpbc>

FUNCTIONALITY OF THE STRUCTURE

According to the Decisions of the Government of the Republic of North Macedonia⁶, the established Structure for Accession Negotiations is a merger between the previously established structure for the implementation of the Stabilization and Association Agreement with the tasks of Accession Negotiations and includes the establishment or reform of seven bodies and the appointment of three officials. The structure thus constructed is not extraordinarily complex, but the lack of provisions regulating the relationships between the various bodies, as well as the clear connection between them, makes it a bit confusing. Additionally, the structure preserves old links between the bodies in it (**the Working Committee for European Integration** and **the Working Groups**), and adds new ones (**the Negotiating Group** and **Working Groups**), thus contributing to the confusion and the possibilities for conflict of competencies, etc. Furthermore, the structure regulates the Chief Technical Negotiator, forgetting the Negotiating Group as well as the substance of its relationship with the Working Groups. Speaking of the Working Groups, the decisions of the Government try to strengthen the position of the Competent Institutions, but they do not go further than that, and with that same attempt they strengthen the role of the Secretariat for European Affairs instead. Finally, the Secretariat for European Affairs also has some ambiguities that will require additional coordination and will further complicate the process, especially the role of the Secretariat in the Negotiations, as well as the position of Secretary of the Negotiating Group.

Even if we remain unaware of these shortcomings, the newly adopted enlargement methodology envisages several changes that have an impact on the structure of the negotiations. Namely, the methodology envisages several innovations, and four points are crucial from the aspect of the Structure for Accession Negotiations: 1) new dynamics of the process; 2) more political will; 3) focus on the basics; and 4) extension of SAA structures. Hence, it is more than clear why a reform is needed, but the result must be simpler and far more functional structure of negotiations.

The main impact of the new enlargement methodology could be located in the organization of the Working Groups, as well as the organization and competencies of the Negotiating Group. It has potential impact on the role of the Coordinating body and particularly the position of the Prime Minister and his Cabinet in the whole structure, as well as the workload and thus the role of the Ministry of Justice.

In order to analyse the impact, as well as to be able to talk about solutions, in the following text of this document we will consider four different theses related to the structure of negotiations and its organization.

⁶ Ibid 2

CLEARLY EXPRESSED POLITICAL WILL

The Structure for Accession Negotiations should maintain the positions of the Chief Political Negotiator and Chief Technical Negotiator, and should continue to strike a balance between the Office of the Prime Minister of the Republic of North Macedonia, the Secretariat for European Affairs and the Ministry of Foreign Affairs, as well as maintain the focus on the Prime Minister.

The first thesis refers to the connection between the functions of the Chief Political Negotiator and the Chief Technical Negotiator, as well as the distortion of the balance we currently have between the Office of the Prime Minister of the Republic of North Macedonia, the Secretariat for European Affairs and the Ministry of Foreign Affairs. Namely, with several statements⁷, the Deputy Prime Minister for European Affairs left the impression that during the reform of the Negotiation Structure, the Chief Technical Negotiator will disappear from it. Given the position held by the previous Chief Technical Negotiator, it appears that the reformed Negotiating Structure will distort the previously established balance and coordination between the three institutions and will be focused on the Deputy Prime Minister in charge of European Affairs and the Secretariat for European Affairs.

One thing is clear, thus reformed structure will not require additional coordination between the Negotiators and will return the desired dominant role to the Secretariat for European Affairs. The key advantage of such organization, for some⁸ will be the harmonization with the new political logic of the enlargement methodology.

Good coordination means success in the process. In fact, that is why the Structure for Accession Negotiations is being created, to coordinate the involved institutions and to provide a voice to the EU institutions. In addition, in reforming the Negotiating Structure, avoiding conflict of competencies should be imperative. However, the arguments for maintaining the current configuration of the Negotiation Structure show that the competencies regarding the accession of North Macedonia to the European Union are legally divided between the Ministry of Foreign Affairs and the Secretariat for European Affairs. Specifically, the **Ministry of Foreign Affairs⁹** *is responsible for conducting foreign affairs, protection of interests, rights and property of the state, organization and operation of diplomatic and consular missions of the country and communication and cooperation with foreign diplomatic missions and missions of international organizations, as well as concluding, ratifying and safeguarding international*

⁷ Ibid 3, како и <https://makpress.mk/Home/PostDetails?PostId=366197>

⁸ Ibid 3

⁹ <https://rb.gy/tixf5>

agreements, while the **Secretariat for European Affairs**¹⁰ carries out the activities related to the coordination of the state administration bodies and other bodies and institutions, in preparation for the membership in the European Union, including for the negotiations. Thus, it appears that the two institutions will have to continue to cooperate in the process of accession, unless the chosen solution for the structure reform does not provide for an amendment of any of the laws or adopting a completely new law.

This division of responsibilities should not discourage us. On the contrary, through a comparative analysis of the experiences of several countries in the region, which are already negotiating (Serbia¹¹ and Montenegro¹²), it can be determined that none of them has ruled out the duality of these institutions. If we look only at the position of the Chief Negotiator and the Head of the State Delegation, then the aforementioned countries, and in this case Croatia¹³ as well, which is a Member State, follow the example of previous countries in maintaining the dichotomy of the Chief Negotiator and Head of the State Delegation. To be honest, the mandate and tasks of the Chief Negotiator, or in our conditions the Chief Technical Negotiator and the Head of the State Delegation, i.e., the Chief Political Negotiator are different and equally extensive, and both will have more than enough tasks in the process which indicates that there is no need for any of them to be excluded.

Finally, the new enlargement methodology speaks of “*stronger political steer*”, adding that “*The political nature of the accession process requires a stronger political steer and engagement at the highest levels*”¹⁴. Using these terms in the methodology, the Commission seeks and expects the involvement of the Political Leaders of the Western Balkan countries. In our case, the Political Leader is the Prime Minister, since through him the political will and determination to join the EU is expressed, and is also one of the three state officials who under international law can undertake obligations on behalf of the state.

¹⁰ <https://rb.gy/ehsjte>

¹¹ <https://www.mei.gov.rs/eng/documents/national-documents/documents-necessary-for-negotiations-on-serbia-s-accession-to-the-eu/>

¹² <https://www.eu.me/en/accession-negotiations/negotiating-structures/state-delegation>

¹³ <http://www.mvep.hr/en/croatia-and-the-european-union/negotiation-process/negotiation-structure/>

¹⁴ https://ec.europa.eu/commission/presscorner/detail/en/IP_20_181

IT'S TIME TO START THE ACCESSION

The Working Committee on European Integration should be abolished and its responsibilities should be taken over by the Negotiating Group, the Secretariat of the Negotiating Structure, the Chief Negotiator and the Deputy Prime Minister in charge of European Affairs.

The second thesis concerns the future of the Working Committee for European Integration. Namely, the Working Committee is part of the old structure of government bodies established for the implementation of the Stabilization and Association Agreement and the coordination of activities related to European integration. The Working Committee's connection to the Stabilization and Association Agreement is unequivocal, and the fact that its implementation is unlikely to end before North Macedonia joins the European Union is undeniable. However, we are already deeply involved in the process of Accession to the European Union, and the negotiations are the new quality of integration that requires the overall rapprochement with the Union to be subject to the coordination established for this process.

Namely, in the negotiations, North Macedonia will take over, or harmonize with the same legislation that it talks about and to which the Stabilization and Association Agreement obliges us. Therefore, these appear to be responsibilities of the bodies of the Negotiation Structure. In the negotiations, there must not be anything that would mean additional coordination, duplication of competencies and giving directions for harmonization of legislation outside those arising from the Negotiating Group and the process of determining the negotiating positions.

An argument for the retention of the Working Committee can be sought only in the new methodology for enlargement. In this document, the European Commission points out to the retention of the structures from the Stabilization and Association Agreement and their connection with the negotiations. For the Commission, these structures mean a contribution to the dynamics of the process, and will be a channel for communicating political will, but the Working Committee is a domestic element of the structure of the SAA, and as such is more than interchangeable. The only thing the Government will have to do, in the event of the abolition of the Working Committee, is to ensure that the persons who are part of the local structures of the SAA continue in similar positions within the Negotiating Structure.

Considering the previously presented arguments, the provisions of the laws (*Law on Organization and Operation of the State Administrative Bodies*¹⁵ and *Law on the Government of the Republic of North Macedonia*¹⁶), as well as the

¹⁵ Ibid 7

¹⁶ Ibid 8

provisions of the *Decisions*¹⁷ establishing the Negotiating Structure, for the purpose of simplifying the Structure for Accession Negotiations, the Working Committee may be abolished. In doing so, as the tasks of the Working Committee correspond to the tasks of existing bodies, institutions, and officials, they can be distributed as follows:

- **Negotiation Group:** To coordinate and synchronize the work of the working groups for preparation of the National Program for the Adoption of the Acquis - NPAA and preparation of the negotiating positions for negotiations for membership in the European Union; To identify the needs and to coordinate the priorities in the process of translation of the European legislation, synchronized with the dynamics of the accession negotiation process,
- **The Chief Negotiator:** To monitor and provide guidance on the work of the network of European integration units within the ministries in order to support the process of accession of North Macedonia to the EU and the network for implementation of the Instrument for Pre-Accession Assistance and other EU funds;
- **Secretariat for European Affairs:** To monitor the implementation of the Stabilization and Association Agreement; To monitor and coordinate the work of all subcommittees and the special working group for public administration reform, established within the Stabilization and Association Committee;
- **Deputy Prime Minister in charge of European Affairs:** To monitor and provide guidance on the work of the network of European integration units within the ministries in order to support the process of accession of North Macedonia to the EU and the network for implementation of the Instrument for Pre-Accession Assistance and other EU funds; To monitor the implementation of the overall financial cooperation of the Republic of North Macedonia with the European Union and the bilateral assistance from the EU member states; To follow all other issues related to the process of accession of the Republic of North Macedonia to the European Union and its member states.

¹⁷ Ibid 2

CENTRAL COORDINATION POINT

The Negotiating Group should be a small and rational set of the best with the sole criterion of knowledge, experience and credibility, and will be sustainable and resistant to changes in government.

The third thesis is related to the Negotiation Group and the need for it to be fully and precisely regulated in the future, in order to be able to perform the competencies for which it is established. The third thesis is also related to the statement of Deputy Prime Minister Dimitrov that the Negotiation Group “should be a small and rational sum of the best, with the only criterion of knowledge, experience and credibility.” Finally, the third thesis is related to the need for the Negotiating Group to be sustainable and especially resistant to changes in government.

If we follow the experience of Serbia and Montenegro, as well as that of Croatia, then the negotiating team is a medium-sized group of civil servants, experts and other appointees. Also, since the negotiations are an extremely extensive process, and the list of chapters includes all ministries in the government, without exception, then any ministry designated as the holder of a particular chapter can aspire to conduct the negotiations directly in the chapter.

On the other hand, the list of arguments that speak in favour of such a thesis are numerous. But let's go in order. First, we will talk about the aspect of “small and rational sum”, for which additional arguments can be found in the new methodology as well. According to this document, the organization of the Negotiation Group can be directly related to the dynamics of the process and the grouping of the chapters in the clusters and can recognize it and adapt accordingly to the principle of “Fundamentals First”. Therefore, to respond to the first, when intervening in the Decision to establish the Negotiating Group, the Government should specify the role of the negotiators, especially as coordinators of the cluster and the chapters that belong to it. In response to the latter, during the intervention in the Decision, the Government should recognize and guarantee the role of the Ministry of Justice in the Negotiation Group, at the expense of all other ministries.

Next is the aspect of “the sum of the best, with the sole criterion of knowledge, experience and credibility”. In this case, we can look for the arguments in the experience of others, as well as in the provisions of several laws. According to the decision for its establishment, the Negotiating Group consists of the Chief Technical Negotiator, up to four deputies and negotiators. Moreover, for many, the first assumption is that it should be made up of civil servants, but the inclusion of experts who do not come from the administration strengthens the team and the expertise of the group and improves the societal consensus in the negotiations. The experience of the countries in the region shows that there are no rules regarding the appointment of the composition of the Negotiating Team. It can only be composed of civil servants (Montenegro and Serbia), and may include other external experts (Croatia).

As the experience of the countries in the region is not uniform, in order to be able to decide on the manner of selection and appointment of the members of the Negotiating Group, it would be best to consider the relevant regulations in the area as an auxiliary criterion. Following the letter of the laws (*Law on Organization and Operation of the State Administrative Bodies and Law on the Government of the Republic of North Macedonia*), the conflict of competencies that we established at the very beginning, in the first thesis, exists here as well. Specifically, when it comes to negotiations and the Negotiation Group, the **Ministry of Foreign Affairs** oversees concluding, ratifying, and safeguarding international agreements, while the **Secretariat for European Affairs** performs tasks related to the coordination of state administration bodies and other bodies and institutions, to prepare for European Union membership, including negotiations. Additionally, according to the *Law on Foreign Affairs*¹⁸, the President of the Republic of North Macedonia, in addition to the Prime Minister and the Minister of Foreign Affairs, is authorized to perform foreign affairs, which includes the occurrence of international agreements. While, according to the *Law on Conclusion, Ratification and Enforcement of International Treaties*, in addition to the Government, the President also has competencies in concluding, ratifying, and executing international agreements.

Given the above, as well as the fact that this is a process in which the existence of an overall social consensus is desired, it follows that the appointment of members of the Negotiating Group must be the product of a consultative process that will involve all institutions involved and lead to the desired consensus.

The last aspect is the management of the Negotiation Group and its tasks. In this regard, regarding the management of the Negotiation Group, the experience of the countries in the region says that all countries recognize the Chief Negotiator (technical level of negotiations) as the head. Thereby, the workload mainly belongs to, or belonged to, the technical level in the negotiations. While the political level, represented through the State Delegation and the Head of the State Delegation, is in charge of sending political messages and representing the state at the Intergovernmental Conference. If the provisions of the aforementioned laws are followed, especially the Law on Foreign Affairs, then this division of competencies is already part of the positive regulations.

Regarding the tasks of the Negotiating Group, apart from the provisions of the decision for its establishment, the Law on Conclusion, Ratification and Enforcement of International Treaties stipulates that the body in charge of the issues regulated by the agreement prepares the basis for negotiations. Knowing that the Accession Treaty regulates broader issues than only one specific area, it is clear that there is no body of state administration with the authority to prepare the basis for negotiations, but this should be the responsibility of the Negotiation Group created and appointed in the process of broad consultations.

Finally, we need to consider the position of the Negotiating Group in the whole

¹⁸ <https://dw3yoh98rrrmk.cloudfront.net/fa58129333dd4d5183f8f8685d7451d1.pdf>

structure. The comparative experience should be crucial for this aspect. For all the countries in the region that were analysed in this analysis, the Negotiation Team, or in our case it is the Negotiation Group is the central point of coordination between the various bodies of the negotiation structure. The Negotiating Group should be the point at which the information from the Working Groups flows, as well as the point from which the draft Negotiating Positions for adoption are presented or those adopted are communicated towards the European institutions, i.e., the body that coordinates their work and does not try to replace them. In doing so, the Negotiating Team connects the Working Groups and the Competent Institutions and does so with the help of its structure and organization (Montenegro) or with the help of the Secretariat of Negotiations (Croatia).

PREPARATION FOR THE FUTURE OF A MEMBER STATE

Working Groups for the preparation of the National Program for the Adoption of the Acquis and the preparation of Negotiating Positions should be given the opportunity to be a functional representative of the Competent Ministries, not an instrument for strengthening a body, structure or an official.

The last, the fourth, thesis refers to the Working Groups for preparation of the National Program for the adoption of the European Union law and preparation of the Negotiating Positions, i.e., their role in the process of creating institutions and strengthening the capacities of the existing ones. Namely, the Accession Process must strengthen all institutions, and not create bulky coordination structures that take over the real competencies of the existing institutions.

Arguments for this position of the Working Groups are numerous, primarily due to the fact that Working Groups are the best way for institutions to learn how North Macedonia will function as a member state by setting priorities, identifying resources, and planning their use, thus effectively creating public policies in its portfolio. In this way it is guaranteed that the policy process will continue after the end of the negotiations, especially with the creation of an institutional memory of how something is done. On the other side of this thesis is the possibility of lack of coordination and leadership that can seriously slow down the process, as well as the fact that certain ministers in the Government still subordinate their responsibility to party affiliation. Finally, facing the European Commission's assessments of the administrative capacity we have over the years, it is quite clear that the problem in securing this position for the Working Groups, at least initially, will be the capacity of the institutions to cope with the responsibility that implies the management of the Working Group and the process in its own chapter.

Should we look for arguments in the experience of others, then through a comparative analysis of the structures of Serbia, Montenegro and Croatia it can be determined that the Working Groups everywhere were or are bodies of the Competent Institution. In order to improve the coordination and communication between the Working Groups, each of the indicated countries connected them through the Negotiating Group and the Secretariat of Negotiations, thus guaranteeing their coordination.

TRANSPERANCY AND CONTROL OF THE STRUCTURE

According to the decisions of the Government of the Republic of North Macedonia ¹⁹, the established Structure for Accession Negotiations is a system of working and auxiliary bodies of the Government that will lead the process of harmonization of legislation, preparation of Negotiating Positions and Negotiations with the European Union. Thereby, reading the provisions of the seven decisions, it can be determined that the structure is open for participation of persons who are not civil servants. This mainly applies to civil society representatives. While, analysing the relations between the bodies, it can be concluded that the entirety of the regulated process ends within the Government, the Ministries, and the other constituent bodies, without including in any way the President of the Republic or the Parliament.

In the course of the analysis so far, it has been mentioned many times that negotiations are a process in which the existence of an overall societal consensus is desirable. However, it can only be achieved if the structure guarantees transparency in its operations, as well as political control. For the purpose of further analysis, as well as to be able to talk about solutions, in this part of the document we will consider two issues related to two theses.

¹⁹ Ibid 2

GUARANTEE OF THE SENSE OF OWNERSHIP

FIRST QUESTION

The first question is how to best ensure the participation of Civil Society and the Council for Cooperation and Development of Civil Society in the Negotiations and the whole of the Accession Process? While the first thesis says that the Accession Negotiations are the most comprehensive process of reform and harmonization of the legislation that the country will go through, and the participation of civil society is a basic guarantee for creating the broadest societal consensus and acceptance of the reforms.

The participation of Civil Society is not mandatory. However, success in tackling the challenges of negotiations is linked to the involvement of civil society, and this involvement guarantees a sense of ownership over the reforms.

Since the establishment of the Negotiation Structure, the Government of the Republic of North Macedonia and the representatives of Civil Society have intensively exchanged views on the participation of CSOs²⁰. The civil society organizations through the Council for Cooperation with and Development of Civil Society reviewed and proposed a model²¹ for participation based on five principles: 1) openness and involvement; 2) quality and professionalism; 3) mutual learning; 4) transparency and accountability and 5) equality and equitable representation. According to the proposed model, it is envisaged that the organizations will be represented in all Working Groups, according to their own capacities and expressed interest, on the same basis, i.e., with the same rights and obligations as members nominated by state bodies and through nomination mechanisms that will guarantee interest, expertise, and experience.

Looking at the countries in the region, it can be seen that civil society is nowhere precisely stated as part of the negotiating structure. However, each of the analysed countries has experience and a certain result from the involvement of CSOs. Montenegro is the only country in which CSOs are formally listed as part of the Negotiation Structure in each of the established Working Groups. In Serbia, Civil Society is not directly involved in the Working Groups, but its involvement is ensured through a public call for expression of interest in membership and work of the National Convention for the European Union, which is a way to provide

²⁰ Only legal entities registered in accordance with the Law on Associations and Foundations according to the Official Gazette No. 52/2010, 135/2011 and 55/2016.

²¹ Proposed model for inclusion of civil society organizations in the accession negotiations for membership in the European Union, developed and adopted by the Council of the Government for cooperation with and development of civil society

structured, thematic dialogue and advocacy for the modification and improvement of the Negotiating Positions. Finally, although Croatia had an extremely open Structure for Accession Negotiations, the involvement of Civil Society was made relatively late and at a minimum.

North Macedonia has nothing to lose. In conditions when the European Commission constantly reminds us of the weak administrative capacity, the involvement of the Civil Society can only contribute to its strengthening. CSOs have outstanding expertise in many of the common policies that can benefit the Negotiating Structure and the State. Finally, CSOs have long criticized the weaknesses of some policies. Their participation in the negotiations will be the right moment to contribute for those policies and support the country.

This position is obviously shared by both the Government and the Prime Minister²². What is missing is for it to get a legal form, in order for the civil society to be a basic guarantor for the creation of the widest societal consensus, as well as for the communication and acceptance of the reforms by the citizens.

THE SECOND QUESTION

The second question is how much control is needed over the negotiations and how do we know what the Government is committing to on our behalf? While the second thesis says that there is little room for negotiation in the negotiations, and it is in the interest of all citizens to know what the Government is committing to on their behalf and to be able to control it effectively.

The Republic of North Macedonia is a parliamentary democracy. It puts the Parliament at the top of the pyramid, or at the centre of events. As the bearer of the legislative power, the Parliament will have a huge task to ensure full harmonization of our legislation with that of the European Union. The adoption of laws must not be just a procedure but must imply an essential debate on the common policy, as well as information on the negotiating positions and commitments. In addition, knowing the role that National Parliaments play in the European Union, it would be good for our Parliament to start preparing for its role in a timely manner, first by exercising control over the Negotiation Process.

In establishing the structure for negotiations, the Government of the Republic of North Macedonia did not include the Parliament, although in the decision on

²² By letter addressed to the Council of the Government for Cooperation with and Development of Civil Society, on the occasion of the adopted draft model for participation, the Office of the Prime Minister of the Republic of North Macedonia undertook to ensure civil society participation in the negotiations through the working groups. By the same letter, the Office of the Prime Minister of the Republic of North Macedonia committed itself to a higher degree of civil society participation through the membership of one representative of civil society and the Council within the Negotiating Group.

the Working Groups a Working Group is established for the political criterion. In this Working Group, the Parliament is the competent institution for one part, within Democracy and Rule of Law. Considering how much work there will be, or the lack of it, for this group, the Parliament does not seem to be involved at all. On the other hand, the Parliament has been particularly active when it comes to Accession to the European Union but has not taken a major initiative. The main form of decision-making and involvement of the Parliament in the Accession Process is through the adoption of numerous declarations²³, as well as through the adoption of laws bearing the mark of the European flag. The Rules of Procedure²⁴ of the Parliament have a precisely described procedure for the adoption of regulations that harmonize with the regulations of the European Union, but that procedure may be too long, and at the same time does not guarantee proper involvement in negotiations or control over them.

The experience of Croatia²⁵, Serbia²⁶ and Montenegro²⁷ in the Negotiation Process and the involvement of their parliaments in exercising control over the negotiations shows that the parliaments themselves took the initiative and regulated the issue.

In the Croatian Parliament, it was the task of the National Council for the Monitoring of the EU Accession Negotiations, to monitor, review and evaluate the political negotiations, while adopting the negotiating positions by consensus. The Parliamentary Committee on European Integration of the Parliament of Montenegro is the parliamentary address for the negotiations in this country. Its role is to follow and be informed about the process, as well as to get acquainted with the preparation of the Negotiating Positions. Finally, in Serbia, the Committee on European Integration monitors the negotiations, is informed about the negotiating positions, and organizes the consultation process with the civil society.

In our Parliament the addressed are the Committee on European Affairs and the National Council for European Integration. Thereby, the Committee on European Affairs has the right to be informed and to follow the process of harmonization of the legislation, in fact, every regulation with a European flag is considered, in addition to the main committee, by this one as well. On the other hand, the National Council has far better regulated competencies regarding negotiations. However, the establishment of procedural rules and clarification of the role of the Parliament is needed immediately. Namely, the Parliament works in the interest of the citizens and they must know how the negotiations are going. The MPs must know what is expected of them when it comes to the harmonization of legislation and what obligations the Government has undertaken on their behalf. Therefore, thinking about the model for participation of Parliament must happen now.

23 <https://www.sobranie.mk/sobranieto-i-eu.nspix>

24 <https://www.sobranie.mk/content/Delovnik%20na%20RM/DelovniknaSRMPrecitentekstAvgust13.pdf>

25 <https://www.sabor.hr/en/european-affairs/sabor-eu-accession-process>

26 <http://www.parlament.rs/activities/european-integration/role.4020.html>

27 <http://www.skupstina.me/index.php/en/eu-accession/parliament-in-the-accession-process>

This debate in the Parliament will start from the already established competencies of the Parliamentary Committee on European Affairs and the National Council for European Integration. In addition, because other people's experience is enough, and the models that can be followed are well known, we will have to look at the domestic political situation. The model for the participation of the Parliament depends on the domestic political situation. Namely, knowing the level of political culture and especially of political maturity, it is quite expected that some MPs and political parties will not be able to outgrow party interests. Therefore, it is too much to ask the Parliament to adopt the negotiating positions. However, the Parliament must be fully informed of the negotiations, even retaining the authority to review such reports regularly. This practice can be extended to the level where the Parliament and the Committee on European Affairs will call on the Chief Negotiator to present and defend the reports, even the negotiating positions before the Members of Parliament. On the other hand, knowing the role of the National Council for European Integration in building social consensus, the Parliament should open this body to the participation of other stakeholders and make it a forum for information and discussion, as well as presenting additional arguments for improving the Negotiating Positions, the national program for the adoption of the legislation of the European Union and other documents that will emerge from this process.

CONCLUSIONS AND RECOMMENDATIONS

Many say that there are no real negotiations in the negotiations for membership in the European Union. It is a process in which you commit to adopting standards and complying with the legislation under which the Union of more than 500 million inhabitants operates. Hence, the main part of the negotiations is at home, not in Brussels. You negotiate at home because you coordinate and harmonize policies of a huge number of institutions, needs and problems of the whole industry, as well as the expectations of all citizens. Coordination is key in these negotiations, and the Ministry of Foreign Affairs and the Secretariat for European Affairs must function flawlessly and in complete harmony.

In these negotiations, the Government, the Ministries and other constituent bodies speak with one voice. The President of the Republic, the President of Parliament, the Prime Minister, the Ministers, the Members of the Parliament, all speak in one voice and on behalf of Republic of North Macedonia. They all have clearly defined competencies and deliver one «striking» message in a coordinated manner. Only the Chief Negotiator and the Head of the State Delegation speak on behalf of the state and are in almost constant communication with the European institutions in Brussels.

In these negotiations, the host institutions grow and prepare for the day when the country will be a Member State of the European Union, and the Working Groups are their extended arm. In the Working Groups, in addition to the expertise of civil servants and the institutional experience, knowledge and experience are gathered with which the state can be proud in order to contribute to creating of a societal consensus for the Negotiating Positions, but also a clear position that will be considered a success.

In these negotiations, the Secretariat for European Affairs, as the Secretariat for Negotiations, does not replace, but monitors and supports the Working Groups, collects materials from them, and the Negotiation Group is the one that processes and proposes, i.e., further communicates the Negotiating Positions. Therefore, the Negotiation Group is the centre of the Negotiation Structure, while the Chief Negotiator knows the policies, needs, and resources, supports the coordination and despite his presence at home, he is regularly present in Brussels as well.

In these Negotiations, the Deputy Prime Minister for European Affairs, and the Minister of Foreign Affairs, as Head and Deputy Head of the State Delegation, have a clear strategy and are focused on the Member States. Their task is to lobby, to represent the Macedonian positions because they have a clear strategy for each Member State.

The Parliament is also growing in these negotiations. It recognizes opportunity, strengthens its role, and uses every forgotten knowledge in society to support the process. Every working body, as well as any other working form in the Parliament in these negotiations is a forum for consultations, building consensus, but also a forum for control over the Negotiating Group and getting to know the citizens.

North Macedonia has a long history of integration into the European Union, and the established Negotiation Structure builds upon the previously established system. This can be interpreted as the use of institutional memory and capacity, but also as a disadvantage. We recognize such a lack in the lack of awareness to recognize the new moment and the quality of relations in the process of negotiations for membership in the Union, i.e., lack of will to give up some roles of the past.

In order to avoid the confusion created by the existence of numerous working bodies, in order to overcome the conflict of competencies, the reform of the Negotiation Structure requires:

1. The Government of the Republic of North Macedonia to consider the options for **regulating the Structure for Accession Negotiations and its handling by law or by amending the existing legislation**, in order to overcome the existing conflict of competencies and personal conflict between several state bodies and some elected or appointed officials, as well as for the needs of comprehensive regulation of the matter.
2. The Government of the Republic of North Macedonia to **maintain both positions** and at the same time to clarify them, naming them as **1) Head of the State Delegation** and **2) Chief Negotiator**, following the experience of the countries in the region, but also of all other countries in the past, as well as taking into account the scope of work and the burden of competencies.
3. The Government of the Republic of North Macedonia to **conduct consultations in order to appoint a Chief Negotiator** who will maintain the position throughout the entire Negotiation Process, i.e., until the very moment of effective accession, in order to guarantee stability and institutional memory for the process, as well as compliance with the laws.
4. The Government of the Republic of North Macedonia to **maintain the established balance** between the Office of the Prime Minister, the Ministry of Foreign Affairs and the Secretariat for European Affairs provided by the structure and will continue to **focus it in the Office of the Prime Minister**, in order to adjust it to the new methodology for enlargement, i.e., to enable it to guarantee the appropriate dynamics of the process, expression of clear political will and unequivocal leadership.

5. The Government of the Republic of North Macedonia to **conduct consultations and appoint a small and professional team of senior civil servants, as well as external experts** who will be members of the Negotiation Group, guaranteeing the participation of the Cabinet of the President of the Republic of North Macedonia, Ministry of Finance and the Ministry of Justice in addition to that of the Ministry of Foreign Affairs, in order to guarantee functionality, stability and institutional memory for the process.
6. The Government of the Republic of North Macedonia to **abolish the Working Committee for European Integration** and transfer its competencies to the Negotiating Group, the Secretariat for European Affairs, the Chief Negotiator and the Deputy Prime Minister in charge of European Affairs, in order to simplify the same and improve coordination. Also, the Government of the Republic of North Macedonia to ensure that the representatives of the civil servants who are members of the working bodies from the Stabilization and Association Agreement are appointed as heads, deputy heads and members of the working groups in the respective chapters.
7. The Government of the Republic of North Macedonia to determine that the heads, **deputy heads and secretaries of the Working Groups are appointed from among the civil servants of the institution holding the chapter for the entire negotiation process and until the moment of effective closing of the chapter**, in order to improve its functionality and strengthen the capacities of the institutions. Also, the Government of the Republic of North Macedonia, when appointing members **who are not from the ranks of civil servants, i.e. are from civil society**, will adopt the model of the Council for Cooperation with and Development of Civil Society, and in the **process of consultation will end the appointment of members who are not from the ranks of civil servants** in accordance with the model proposed by the Council for Cooperation with and Development of Civil Society, in order to guarantee the social consensus in the negotiations.
8. The Government of the Republic of North Macedonia to appoint the **State Secretary of the Secretariat for European Affairs as Secretary of the Negotiations**, and the **Deputy Secretaries of the Working Groups as the Secretariat for Accession Negotiations**. The Deputy Secretaries of the Working Groups will be civil servants employed by the Secretariat for European Affairs, in order to ensure proper and constant coordination, as well as the creation of an institutional memory.
9. The President of the Republic of North Macedonia to initiate a consultative process for **the appointment of the Chief Negotiator and will appoint his**

representative to the Negotiating Group, in order to ensure national consensus, process coordination, group stability and institutional memory.

10. The Parliament of the Republic of North Macedonia to take the initiative and **regulate the actions of the National Council for European Integration, the Committee on European Affairs and other working bodies**, as well as the use of **public debate and oversight hearing** during the negotiations, in order to control the process, building and strengthening consensus and informing citizens.

