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RULES OF PROCEDURE OF THE WORKING GROUP 23 – JUDICIARY AND FUNDAMENTAL RIGHTS



**Strengthening the institutional and
operational capacities of the Working Group**

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IMPRESSUM

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RULES OF PROCEDURE OF THE WORKING GROUP 23 – JUDICIARY AND FUNDAMENTAL RIGHTS

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Note:

The contents of this publication do not necessarily represent the official views of the Konrad Adenauer Foundation. The responsibility for the information contained in this publication is of the persons and institutions that have prepared the Rules of Procedure.

FOREWORD

European Union (EU) accession encompasses activities and reforms whose implementation inevitably involves many public institutions and other stakeholders. The success and efficiency of the process depends on their mutual communication, coordination and cooperation. Recognizing this fact, in 2009 the Government of the Republic of Macedonia established inter-institutional working groups responsible for planning the activities and determining priorities for harmonization of the EU acquis. 36 working groups in total were formed, i.e. one group for each negotiating chapter, as well as for the political and economic criteria, and the administrative capacities for EU membership.

Some of these structures include representatives of more than 25 institutions, which illustrates their complexity and the need for having formalized rules of procedure. The Decision for establishing the working groups mandated the adoption of rules of procedure for each of them, and introduced the possibility for engagement of representatives from the business and civil sector in their work, as well as of experts outside the public administration. The latter is of great importance not only for the representation and protection of the interests of various groups in society, but also for utilizing all social potentials in Macedonia's EU accession process.

Therefore, the identified challenge was to establish core rules and procedures for successful operation of the Working Group for the chapter Judiciary and Fundamental Rights (chapter 23), as well as to forge cooperation with various stakeholders in the accession and negotiation process. With these goals in mind, the Ministry of Justice, as a leading institution of the Working Group, in cooperation with the other institutions in the group and the Association for Development Initiatives "Zenith", prepared these Rules of Procedure. In all its stages, the process was supported by the Konrad Adenauer Foundation and the Swiss Agency for Development and Cooperation.

The development of the Rules of Procedure involved numerous consultations with the institutions in the Working Group, exchange of opinions with civil society representatives, as well as application of international best practices from the EU accession processes of Croatia and Montenegro. This is a pioneering example, as it is the first time for the functioning of these working groups to be operationalized in such a way. Thus, the document can also serve as a template for regulating the work of the other policy-making teams.

The first part of this publication presents the principles of the Rules of Procedure, based on the "Institutional Platform and Principles for Conducting Negotiations for Accession of the Republic of Macedonia in the European Union" that was prepared by the Secretariat for European Affairs of the Government of the Republic of Macedonia. The second part of the publication contains the Rules of Procedure of the Judiciary and Fundamental Rights Working Group. The Rules regulate the operation of the working group, duties and responsibilities of the president and members of the group, lines of communication and coordination, stakeholders' engagement in the work, as well as other issues important for its functioning.

One of the fundamental principles of modern democratic societies is the existence of open dialogue, cooperation and partnership among stakeholders and public institutions. With the introduction of these Rules of Procedure containing specific provisions for cooperation with the stakeholders, the public institutions participating in the Working Group Judiciary and Fundamental Rights have established a mechanism for consultation with the public in the EU accession process and in drafting regulations and acts with the aim to fulfil the EU membership criteria. We hope that citizens and civil society organizations will use the opportunity offered by this new institutional mechanism in ensuring an active role in policy making and in the EU accession process.

Anja Czymmek

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Association for Development Initiatives
"Zenith"

III PRINCIPLES OF THE RULES OF PROCEDURE¹

Transparency

The EU accession process leads towards political, social and economic decisions which are of particular importance for citizens' lives. Many of these decisions bring lasting benefits. Therefore, it is of utmost importance to maintain a transparent accession process, to keep the public fully informed about the decisions taken, the underlying reasons, and finally the associated costs and benefits.

Stakeholder participation, as one of the basic principles of European good governance, is oriented towards greater transparency of the process and increased public participation. Only a transparent process will encourage citizens and other stakeholders to take active participation in the decision-making process for issues of direct concern.

Responsibility and sustainability

Macedonia's accession in the EU is a process which should unite all stakeholders. Therefore, sector specific stakeholder responsibility in addition to strengthening the (public) awareness of their rights and responsibilities that derive from the accession process would make the process sustainable and irrevocable.

The sustainability of the accession process is ensured by participation of all relevant stakeholders. With their contributions to the accession process, stakeholders should openly stress their interests, i.e. the interests of the constituency they represent. Meanwhile, they have to show responsibility for their own actions, so as not to violate the basic principles of international negotiations.

Trust

An open and democratic society is based on a continuous dialogue among all stakeholders. Achieving the common goal of improving the quality of citizens' lives and attaining the European standards and values that we strive for as a country, is possible only if mutual trust and respect between state institutions and stakeholders is established and maintained.

¹ The principles are founded on the Institutional platform and the principles for the negotiations for the Republic of Macedonia's accession into the European Union, prepared by the European Affairs Secretariat.

Coordination

It is necessary to harmonize the communications which are conveyed on behalf of the state. In order to achieve a high level of harmonization, it is needed to ensure coordination within the institutions, i.e. the processes which lead towards fulfilling the criteria for EU membership. Consistency and harmonization of communications of all political actors, as well as the support from the civil society, would present an additional argument for Macedonia's preparedness for full membership.

Quality

The success of the accession process is related to ensuring high quality in all stages of the accession process, more specifically, in the preparation and negotiation phase, with special focus on the quality of negotiating positions. Greater quality can be achieved only by inclusion and dialogue with the stakeholders.

Effectiveness

Ensuring the principles of effectiveness and efficiency can be achieved only if all stakeholders are included in the early stages of the policy making process. It is necessary to maintain an acceptable balance between the need for efficient negotiation and fulfilment of EU membership criteria on one hand, and the need for proper contribution on behalf of various stakeholder groups on the other hand.

On the basis of article 10 of the Decision on establishing working groups for the preparation of the National Programme for Adoption of the Acquis Communautaire, and preparation of negotiating positions for EU accession negotiations (Official Gazette of the Republic of Macedonia, No. 137/09), the Working Group for the chapter Judiciary and Fundamental Rights, on 17.07.2013, adopted the following:

RULES OF PROCEDURE

FOR FUNCTIONING OF THE WORKING GROUP 23 – JUDICIARY AND FUNDAMENTAL RIGHTS

I. GENERAL PROVISION

Article 1

SUBJECT MATTER

These Rules of Procedure shall regulate the manner of operation of the Working Group 23 – Judiciary and Fundamental Rights (hereinafter the Working Group), the composition, scope of operation and competences of the Working Group, rights and responsibilities of the president and working group members, stakeholder participation as well as other issues relevant for the functioning of the Working Group.

II. COMPOSITION OF THE WORKING GROUP

Article 2

COORDINATION OF THE WORKING GROUP

The Ministry of Justice is the lead institution and coordinator of the Working Group 23 – Judiciary and Fundamental Rights.

Article 3

COMPOSITION

- (1) The composition of the Working Group is stipulated in Article 5 of the Decision on establishing working groups for the preparation of the National Programme for Adoption of the Acquis Communautaire, and preparation of negotiating positions for EU accession negotiations (Official Gazette of the Republic of Macedonia, No. 137/09).
- (2) The Working Group is composed of a president and his/her deputy, secretary and his/her deputy, and members.
- (3) The Working Group president is the Head of Sector for European Union in the Ministry of Justice.

(4) The Working Group members are appointed on proposal of respective ministries, other public institutions and bodies, as well as other organizations which perform public authority, in cooperation with the Working Group president.

(5) When necessary, the Working Group president shall include stakeholder representatives in the work of the Working Group in accordance with these Rules of Procedure.

Article 4

CHANGE OF COMPOSITION

(1) If the Working Group president deems necessary to amend its composition with the purpose to perform its duties in more efficient and effective manner, in consultation with other members of the Working Group, s/he may recommend to the Deputy Prime Minister for European Affairs of the Government of the Republic of Macedonia to alter the composition of the Working Group.

(2) The Working Group president shall also inform the Chief negotiator about the proposal from paragraph 1 of this article.

III. AREAS OF OPERATION AND COMPETENCES OF THE WORKING GROUP

Article 5

SCOPE OF OPERATION

The scope of operation of the Working Group covers the areas of judiciary, anti-corruption, fundamental rights, and EU citizens' rights.

Article 6

COMPETENCES

The Working Group has the following competences:

- » plans the activities and sets the priorities for harmonisation with the EU acquis;
- » determines which ministry, other public institution, judicial institution or body has the competence for each individual legal act of the EU;
- » prepares the part of the NPAA² related to chapter 23 – Judiciary and Fundamental Rights and harmonises it with the other segments of the NPAA;
- » conducts cost assessment and determines the necessary resources for building capacities for successful implementation of legislation;
- » files reports on realization of activities related to chapter 23 – Judiciary and Fundamental Rights from the NPAA to the Government of the Republic of Macedonia;
- » gives recommendations, to the authorized law proposers and the Working Committee for EU Integration, on draft laws and bylaws intended for harmonization with chapter 23 of the EU acquis;

² National Programme for Adoption of the Acquis Communautaire.

- » prepares and participates in the screening process;
- » prepares the negotiating positions of the Republic of Macedonia in the EU accession negotiation process;
- » performs other activities related to the preparation of the NPAA and negotiating positions for EU accession negotiations.

IV. RIGHTS AND RESPONSIBILITIES OF THE PRESIDENT AND THE MEMBERS OF THE WORKING GROUP

Article 7

THE PRESIDENT OF THE WORKING GROUP

(1) The Working Group president (hereinafter president) is responsible for the work of the Working Group. The president:

- » represents and manages the work of the Working Group;
- » calls and chairs the meetings of the Working Group;
- » steers the operations of the Working Group and its members in accordance with the instructions provided by the Ministry of Justice of the Republic of Macedonia, and in accordance with the NPAA;
- » has the competence to individually communicate with the institutions participating in the Working Group;
- » ensures coordination between institutions participating in the Working Group;
- » cooperates and guides the consultation process with stakeholders on various topics related to chapter 23;
- » is accountable to the Deputy Prime Minister for European Affairs of the Government of Republic of Macedonia.

(2) In cases where the president is prevented from executing his/her function, the deputy president of the Working Group assumes the president's responsibilities as stated in article 9 of these Rules of Procedure.

Article 8

MEMBERS OF THE WORKING GROUP

(1) The members of the Working Group:

- » participate in the work and decision-making process on issues which are on the agenda of the Working Group's meeting;
- » present initiatives, provide suggestions, opinions and proposals on issues within the scope of operations of the Working Group;
- » familiarize the Working Group with the position of the institutions they represent;
- » ensure implementation of the conclusions;
- » conduct the duties within the competence of the Working Group in a responsible, legal and scrupulous manner, and

» implement the Rules of Procedure of the Working Group.

(2) Members are obliged to attend the Working Group meetings.

(3) Members may be absent from a meeting due to valid reasons, in which case they are obliged to notify the president or the secretary of the Working Group.

(4) Members who are prevented from attending the meetings of the Working Groups for a longer period of time due to valid reasons are obliged to notify his/her superior, and request to nominate a replacement in the period of absence.

V. MANNER OF OPERATION

Article 9

WORKING GROUP MEETINGS

(1) The Working Group operates on meetings to which all members of the group and/or only certain members responsible for a specific area are invited to take part.

(2) The Working Group meets at least once per month.

(3) The Working Group meetings are called by the president, who also chairs them.

(4) The Working Group meetings can also be called on proposal of a member of the Working Group. The proposal is sent to the president who decides upon the necessity to call a meeting.

(5) The invitation to take part in a meeting of the Working Group should include an agenda, indicated location and time for the meeting, accompanying materials if any, and these items are disseminated in an electronic format.

Article 10

COURSE OF THE WORKING GROUP MEETINGS

(1) Working Group meetings are opened by the president, followed by agenda setting and adoption of the minutes from the previous meeting.

(2) The Working Group adopts conclusions after completion of the debate on each point of the agenda.

Article 11

MINUTES

(1) The Working Group secretary prepares the minutes of the Working Group meetings.

(2) The minutes of the meetings shall contain: time and location of the meeting, members present on the meeting, agenda, discussions, conclusions and other relevant information related to the meeting.

(3) The prepared minutes are distributed by the secretary to all members of the Working Group, who have the right to provide their remarks.

(4) The minutes are adopted on the following meeting. The adopted minutes are signed by the president and the secretary.

(5) The adopted minutes are distributed to all Working Group members.

Article 12

DISSEMINATION AND EXCHANGE OF MATERIALS, INFORMATION AND DATA

(1) The dissemination and exchange of materials, information and data among the Working Group members is conducted via electronic and/or regular mail.

(2) The electronic manner of communication is considered official.

(3) The Working Group members are obliged to provide the materials requested by the Working Group president within the deadline set by him/her.

(4) A Working Group member who is prevented to meet the deadline from paragraph 3 of this article, shall immediately inform the president of the reasons.

Article 13

MODES OF COMMUNICATION OF THE PRESIDENT

(1) The president communicates directly with the Working Group members, and through them with their respective institutions participating in the Working Group.

(2) If necessary, the president also communicates with other public officials and executives from the respective institutions.

(3) In cases where there is more than one member in the Working Group appointed from the same institution, one of them shall be nominated as contact person by the respective institution.

Article 14

INTER-INSTITUTIONAL EXCHANGE OF INFORMATION AND SUPPORT

(1) The Working Group conducts all activities with the support and in coordination with the Secretariat for European Affairs of the Government of the Republic of Macedonia.

(2) The Ministry of Justice of the Republic of Macedonia and the members of the Working Group support the Working Group president in implementation of the responsibilities arising from the accession and negotiation process.

(3) The president informs the Minister of Justice, the Deputy Prime Minister for European Affairs and the chief negotiator for the operation of the Working Group on a regular basis.

(4) When faced with issues of more complex nature, the president shall ask for the support of the Minister of Justice, the Deputy Prime Minister for European Affairs and the chief negotiator.

(5) In relation to paragraph 2 of this article, the Minister of Justice cooperates with other ministers, updates them about the challenges facing the Working Group and conducts other activities in support of the Working Group.

(6) When necessary, the activities from the previous paragraph can be directed towards the key officials from the judicial and other institutions and bodies with the purpose of ensuring the necessary support in the accession and negotiation process.

VI. STAKEHOLDER ENGAGEMENT

Article 15

COOPERATION WITH STAKEHOLDERS

(1) The Working Group decides on cooperation with stakeholders.

(2) Stakeholders, in accordance with these Rules of Procedure, are associations and foundations, experts and professional organizations which perform public authority, as well as other legal and physical entities which may be affected by the EU accession process.

(3) Stakeholder cooperation is accomplished through information-sharing, consultation, participation and partnership.

(4) The provisions for stakeholder cooperation in these Rules of Procedure do no limit the application of existing standards and methods for stakeholder engagement.

Article 16

INFORMATION-SHARING AND STAKEHOLDER CONSULTATIONS

(1) The Working Group shall inform stakeholders on the status of the EU accession process and shall ensure that relevant documents related to the EU accession process are available to the public.

(2) With the aim of conducting stakeholder consultations, the Working Group shall make an announcement in a timely manner while stating the subject, time and location for the consultation.

(3) The announcements for stakeholder consultations from paragraph 2 of this article shall be clear and concise and contain all relevant information in order to facilitate and guide the consultation process.

Article 17

PARTICIPATION OF STAKEHOLDER REPRESENTATIVES

(1) The president of the Working Group can include stakeholder representatives, as external members of the Working Group.

(2) When necessary, the president of the Working Group, can invite stakeholder representatives from paragraph 1 of this article to attend the Working Group meetings.

(3) Stakeholder representatives from paragraph 1 of this article shall ensure greater representation of the different stakeholder groups' interests, in addition to those of citizens.

(4) The stakeholders' representatives from paragraph 1 of this article cannot publish or use the working documents derived from the Working Group – and which are still not made public by the Working Group – for purposes and aims other than ones associated with the Working Group.

(5) When necessary, the president of the Working Group shall issue a public call for participation of stakeholder representatives with pre-determined criteria for participation, published on the website of the Ministry of Justice in cooperation with the Secretariat for European Affairs.

(6) The president of the Working Group in cooperation with the Secretariat for European Affairs shall select stakeholder representatives from those that applied to the public call from paragraph 5 of this article.

Article 18

EXCHANGE OF INFORMATION ON STAKEHOLDER ENGAGEMENT

(1) The president shall notify the Minister of Justice, the Deputy Prime Minister for European Affairs and the chief negotiator on a regular basis of conducted measures and activities for stakeholder engagement, as well as the results from their engagement.

(2) The secretary of the Working Group shall keep records of the conducted measures and activities for stakeholder engagement, as well as of the results from their engagement, and puts the records at president's disposal.

VII. FINAL PROVISION

Article 19

ENTERING INTO FORCE

These Rules of Procedure shall enter into force on the day of its adoption.

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