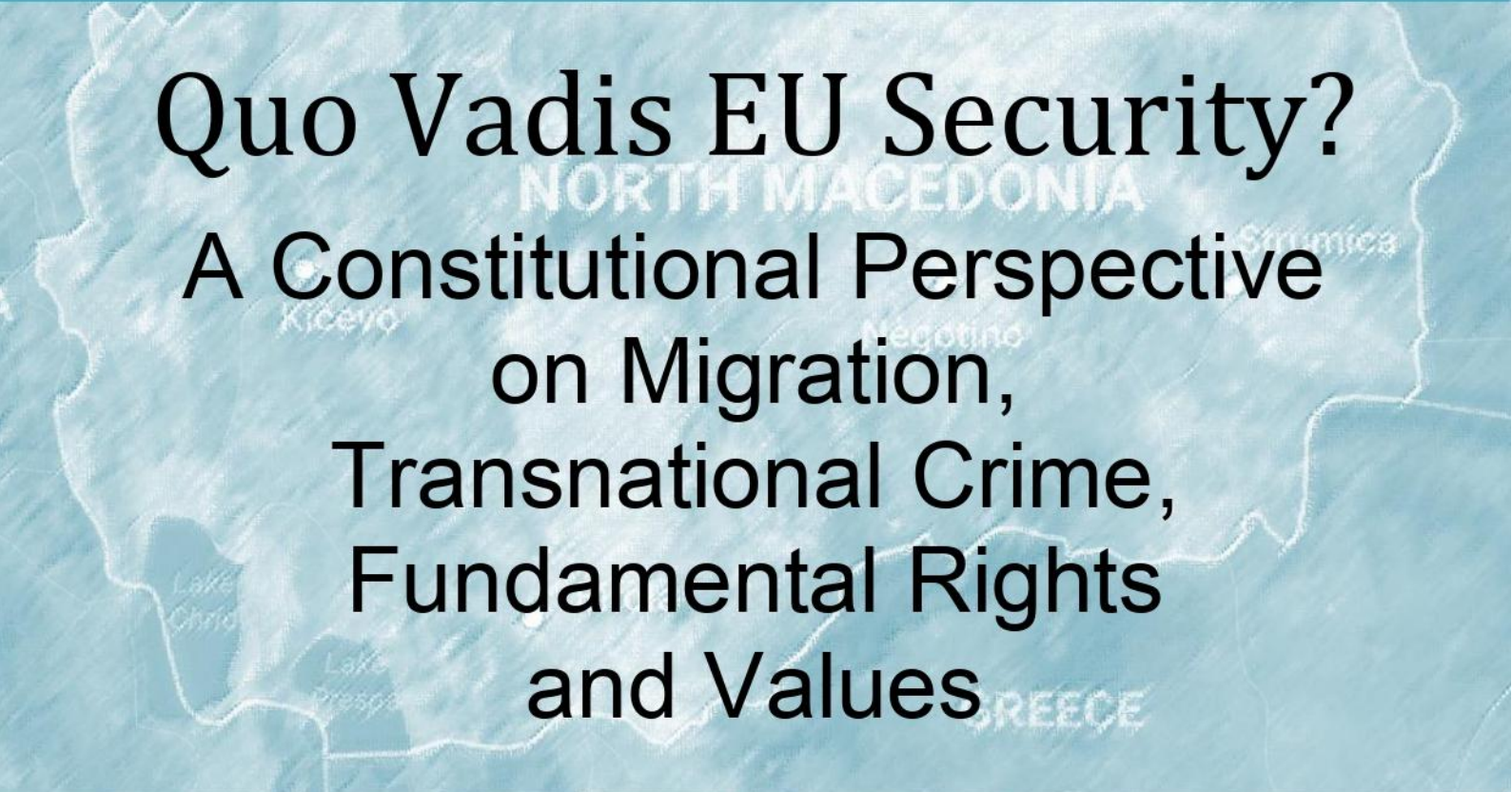


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**Ana Nikodinovska Krstevska**  
**Olga Koshevaliska**  
**Niuton Mulleti**



**Quo Vadis EU Security?**  
**A Constitutional Perspective**  
**on Migration,**  
**Transnational Crime,**  
**Fundamental Rights**  
**and Values**

NORTH MACEDONIA  
Kicevo  
Negotino  
Strumica  
Lake Ohrid  
Lake Prespa  
GREECE

**Goce Delcev University**  
**Stip, 2025**





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# Quo Vadis EU Security?

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on Migration,  
Transnational Crime,  
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and Values**

**Goce Delcev University,**

**Stip 2025**

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## Preface

The conference “*Quo Vadis EU Security. A Constitutional Perspective on Migration, Transnational Crime, and Fundamental Rights and Values*”, held at Goce Delcev University in Stip (North Macedonia) on May 27<sup>th</sup> was the first final conference of the Jean Monnet Chair “*Promoting Public Awareness on Enlargement Policy, EU Values and the Western Balkans’ Accession*” (EUVALWEB).

The aim of the conference was to assess the adaptation of the accession States’ legal systems to the membership criteria, addressing the Union’s security in the sphere of cooperation in Justice and Home Affairs (JHA).

Migration, asylum, the fight against transnational crime, and the promotion and protection of fundamental rights and values of the Union were chosen as the research focus, as parts of the EUVALWEB Legal Observatory.

We considered the implications for the efficacy of the Union legal system of the security-focused approach to regulating these sectors, which includes a somewhat strict implementation for accession States in comparison to Member States.

The collected works highlight the main critical issues encountered in these sectors, primarily in North Macedonia, but also in Albania and Serbia.

A conclusion emerged: the process of EU enlargement, often inconsistent with the provisions of arts. 2, 49 and 21 TEU, cannot be a strategic tool unless it slowly erodes the principle of integration that underpins the entire European construction.

Securing the identity, values, and “originality” of one’s own legal system (“*a new legal order*”) entails, first and foremost, beginning with the current Member States. However, it also means that the law of the Treaties must be applied without discriminatory institutional and procedural practices, rather than making endless promises of membership.

My heartfelt thanks go to my colleagues of the conference, and specifically to my loving friends Olga Koshevalisha, Elena Maksimova and Ana Nikodinovska Krstevska, as well as Niuton Mulleti, to the colleagues and professionals of the Chair’s teaching staff, to the national, international, Balkan, and other EU experts for their invaluable contribution, to the students of my courses at the Departments of Legal Sciences and of Management & Innovation Systems of the University of Salerno, and to the Albanian, Montenegrin, North Macedonian, and Serbian students who attended my lectures in these years.

Grazie – Благодарам.

Fisciano- Stip, September 21, 2025

Teresa Russo



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# JUDICIAL IMPLEMENTATION AND MONITORING CHALLENGES OF FUNDAMENTAL RIGHTS IN NORTH MACEDONIA'S PATH TOWARDS EUROPEAN INTEGRATION

by Elena Trajkovska\*

SUMMARY: 1. Introduction. – 2. Methodological Framework. – 3. Interpretation of Fundamental Rights Within the European Integration. – 4. Normative Standards for the Protection of Fundamental Rights within the Macedonian Judicial System. – 5. Monitoring Mechanisms and Challenges. – 6. Case Study: *Mitrinovski v. the Former Yugoslav Republic of Macedonia*. – 7. Concluding Remarks.

## 1. Introduction

Ensuring effective and comprehensive protection of fundamental rights has always been a priority not only for individual States but also for the international community. Since gaining its independence in 1991, North Macedonia has clearly demonstrated its strategic commitment to the European Union, pursuing full membership over the past two decades. The fact that European integration remains one of the country's main strategic objectives has raised a series of questions related to the harmonization of national legislation and the institutional framework with the *acquis communautaire* of the European Union.

Among the key areas that directly affect North Macedonia's progress in the European integration process is the functioning of the judicial system, which must guarantee independence and efficiency in decision-making, with strict adherence to constitutional and legal provisions. These aspects are regulated and monitored through Chapter 23 of the EU *acquis*, which encompasses fundamental rights, judicial reforms, and the fight against corruption. The continuous evaluation of progress in these areas constitutes an essential part of the accession process to the Union.

This paper analyzes the development of North Macedonia's European integration process with a particular focus on aligning the judicial system with European standards, emphasizing the need for continuous efforts to overcome existing challenges. The analysis is based on reports from the European Commission, statistical data from Freedom House, the Balkan Barometer, and the annual reports of the Ombudsman of the Republic of North Macedonia, which together provide a comprehensive overview of the progress achieved and the areas where further reforms are needed.

To substantiate the findings presented, the case of *Mitrinovski v. North Macedonia* is included as a case study, representing a significant example of the role of the European Court of Human Rights in monitoring judicial independence and protecting fundamental rights. As will be demonstrated later in the paper, true alignment with European standards does not merely entail the formal adoption of laws, but also their consistent implementation in practice, which is a prerequisite for effectively strengthening the rule of law and creating the conditions necessary for full membership in the European Union.

## 2. Methodological Framework

Considering the existing challenges related to the effective implementation and

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monitoring of the realization of fundamental rights, with particular emphasis on the role of the judiciary – challenges faced not only by candidate countries but also by European Union Member States – this scholarly paper applies a methodological framework based on a qualitative approach to the available scientific and legal resources, a normative method with special focus on relevant constitutional and legal provisions concerning fundamental rights, as well as a case-based analysis of judicial decisions, aiming to identify legal and institutional gaps in the Republic of North Macedonia.

The methodology in this paper relies on three main approaches: normative, content analysis of secondary sources, and case-based analysis. The normative analysis, starting from the premise that this type of analysis addresses not only the question “What is the law?” but also “How is it properly applied?”, seeks to ensure the fair application of the rule of law. Through analytical examination of existing laws in North Macedonia, including the current legislative and legal framework of the European Union, and by analyzing the postulates upon which fundamental rights are founded and implemented, this study aims to provide a clearer picture of the existence and application of fundamental rights as one of the core principles of European law.

The importance of using secondary data derived from official reports and analyses produced by reputable institutions, such as reports from the European Commission, Freedom House, the Ombudsman, and the Balkan Barometer, lies in the fact that these sources provide systematic and comparable information essential for assessing the state of fundamental rights and judicial independence.

Additionally, to strengthen the argumentation of this research and gain deeper insight into the practical implementation of standards for the protection of fundamental rights, a case-based analysis of the existing judgment in *Mitrinovski v. North Macedonia* is employed. This analysis enables the identification of shortcomings within the Macedonian judicial system, leaving room for improving judicial practice and aligning it with European standards on the rule of law and the protection of fundamental rights.

### 3. Interpretation of Fundamental Rights Within the European Integration

The idea of a united Europe has appeared throughout history in various forms, envisioned by influential thinkers and visionaries. One of the world’s most significant philosophers, whose impact remains profound today, Immanuel Kant (1724-1804)<sup>1</sup>, author of numerous important works<sup>2</sup> and founder of so-called *critical idealism*<sup>3</sup>, believed in the institution of a “federation” to such an extent that he confidently asserted that the only true guarantee for lasting peace among nations lies in establishing a federation of free “republican” States<sup>4</sup>. From a historical perspective, European integration began as a mission to establish peace and economic cooperation across the European continent, ultimately leading to the creation of the enduring project of the European Union, which continues to

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<sup>1</sup> Immanuel Kant was a German philosopher, considered a central figure in modern philosophy. For more see <https://plato.stanford.edu/entries/kant/>.

<sup>2</sup> G. WHALEN, *Immanuel Kant and Critical Idealism. Pt XII: The Post-Enlightenment Period, Ideas and Institutions of Western Man*, Gettysburg, 1958, pp. 53-69.

<sup>3</sup> In every significant work by Kant, there was an element of critical thought, also known as critical philosophy. This type of philosophy is generally not associated solely with a negative component, but also contains a constructive or positive element. Nevertheless, Kant’s works are interpreted as radically critical, especially toward dogmatists, people who believe too strongly that their personal opinions or beliefs are correct.

<sup>4</sup> I. KANT, *Perpetual Peace: A Philosophical Essay*, 2003.

this day. The creation of the European Union<sup>5</sup>, especially attractive to candidate countries<sup>6</sup> and those aspiring to European unification, has symbolized economic and political stability since the founding of the original Communities, further motivating European States to align their integrative development with European standards. A major turning point in European unity occurred with the introduction of the Maastricht Treaty. This treaty was designed to bring the peoples of Europe closer together by establishing a three-pillar structure, which was subsequently abolished with the latest amending treaty, the Lisbon Treaty (2009). The three pillars – including the European Communities (EC pillar)<sup>7</sup>, the Common Foreign and Security Policy, and Police and Judicial Cooperation in Criminal Matters – aimed to define the scope and methods of joint action within and beyond the Union. Generally, the first pillar was treated as a supranational method, while the second and third pillars were based on intergovernmental cooperation, intended to coordinate and approximate the legal systems of the EU Member States for potential harmonization<sup>8</sup>.

Given the nature of this paper, the question arises: where does the Maastricht Treaty find its place in the integration process for the protection of fundamental rights? The answer can be found in art. 6, para. 2, which states: “*The Union shall respect fundamental rights, (...) and as they result from the constitutional traditions common to the Member States, as general principles of Community law*”. However, regardless of how much the importance of the Maastricht Treaty is emphasized – considered by some authors as a turning point for the protection of fundamental rights, particularly because it was the first to explicitly mention them in the treaties – it is undeniable that the European Court of Justice had already underscored these rights in the 1960s through its case law, striving to affirm their significance as general principles of Community law. This is especially evident in two landmark judgments, *Stauder* (29/69)<sup>9</sup> and *Internationale Handelsgesellschaft* (11/70)<sup>10</sup>, which were crucial for the development of fundamental rights protection within the legal order of the Communities. These two rulings established a legal foundation for guaranteeing fundamental rights as general principles, obliging the institutions of the European Communities to respect them, thereby creating space for solid guarantees for the protection of rights. This process culminated in the adoption of the Charter of Fundamental Rights of the European Union in 2000.

The Charter represents the first attempt to create a comprehensive catalogue of fundamental rights, encompassing a wide range of actors, including European institutions, national governments, and civil society, with the aim of crystallizing the rights considered essential in the EU's constitutional order. As a legal instrument, the Charter sets clear standards for their protection<sup>11</sup>. Adopted by the EU institutions, it seeks to strengthen and make the protection of fundamental rights more visible within the EU legal system,

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<sup>5</sup> The official name “European Union” was adopted in 1993 with the ratification of the Maastricht Treaty, also known as the Treaty on European Union.

<sup>6</sup> At present there are nine official candidate countries for membership of the European Union, including Bosnia and Herzegovina, Montenegro, Moldova, North Macedonia, Georgia, Albania, Serbia, Türkiye and Ukraine.

<sup>7</sup> The first pillar included the three European Communities, known collectively as the Communities, comprising the European Coal and Steel Community, the European Economic Community, and the European Atomic Energy Community, established in the 1950s.

<sup>8</sup> A. KACZOROWSKA-IRELAND, *European Union Law*, III ed., Abington-New York, 2013.

<sup>9</sup> Court of Justice of the European Communities, Judgement of 12 November 1969, Case 29/69, *Stauder v. City of Ulm – Sozialamt*.

<sup>10</sup> Court of Justice of the European Communities, Judgement of 17 December 1970, Case 11/70, *Internationale Handelsgesellschaft mbH v. Einfuhr- und Vorratsstelle für Getreide und Futtermittel*.

<sup>11</sup> S. PEERS, T. HERVEY, J. KENNER, A. WARD, *The EU Charter of Fundamental Rights: A Commentary*, 2nd ed., London, 2021.

highlighting the civil, social, economic, political, and cultural rights that must be respected not only by all Member States but also by the institutions of the Union<sup>12</sup>.

The significance of the Charter's role increased notably during the drafting of the Constitution for Europe<sup>13</sup> through the Constitutional Convention<sup>14</sup>. Following the unanimous recommendation of Working Group II<sup>15</sup>, which concluded that the Charter (together with the European Convention on Human Rights) should acquire binding legal, that is, constitutional status, the Convention (the forum) in June 2003 agreed on draft arts. 1-7 of the proposed EU Constitution. This provision anticipated that the Charter would become an integral part of the Constitution and enable the Union, as a party, to accede to the European Convention on Human Rights.<sup>16</sup> In this way, the rights enshrined in the EU Charter of Fundamental Rights would become legally binding on all EU institutions and Member States. Moreover, the EU was granted the possibility to accede to the European Convention on Human Rights (ECHR) as an official signatory party to this international convention, which would further strengthen the European legal system by aligning it with the Council of Europe's standards for human rights protection – an idea that developed with the adoption of the Nice Treaty, which incorporated the Charter of Fundamental Rights as a political declaration.

Recognizing the importance of the Charter, it is crucial to note that before the Lisbon Treaty entered into force in 2009, the Court of Justice of the European Union determined the scope of fundamental rights protection based on several key sources<sup>17</sup>:

- the common constitutional traditions of the EU Member States,
- the European Convention on Human Rights (ECHR), and
- other international conventions ratified by the Member States.

Furthermore, from the moment the Lisbon Treaty entered into force, the Charter of Fundamental Rights became a primary source of EU law, attaining the same legal value as the founding treaties and their amendments, and being interpreted as part of the EU's supranational law. Through art. 6, para. 1, of the Treaty on European Union (TEU), it was granted legally binding effect "*with the same legal value as the Treaties*". However, this does not mean that the Court of Justice<sup>18</sup> is limited exclusively to applying the Charter when acting in the area of rights protection. According to art. 6, para. 3, TEU, the Court may also refer to the European Convention on Human Rights (ECHR) and the common constitutional traditions of the Member States, in order to ensure consistency in the development and application of European human rights standards by all Member States within the Union.

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<sup>12</sup> A. KACZOROWSKA-IRELAND, *op. cit.*, pp. 221-228.

<sup>13</sup> The Constitution of the European Union failed as a proposal following referendums in France and the Netherlands in 2005. To stabilize the situation, the Treaty of Lisbon was drafted and adopted just two years later, entering into force in 2009. The Treaty of Lisbon is the most recent treaty adopted and ratified by the EU Member States and remains in force today.

<sup>14</sup> The Convention on the Future of Europe was a European forum for drafting the EU Constitution, which began in February 2002 and lasted until July 2003.

<sup>15</sup> Council of the European Union, *Report by the Working Group on the Legal and Technical Aspects of the Charter of Fundamental Rights*, of 22 October 2002, CONV 354/02, available at <https://data.consilium.europa.eu/doc/document/CV%20354%202002%20INIT/EN/pdf>.

<sup>16</sup> S. PEERS, T. HERVEY, J. KENNER, A. WARD, *op. cit.*, p.16.

<sup>17</sup> A. KACZOROWSKA-IRELAND, *op. cit.*

<sup>18</sup> P. CRAIG, G. DE BÚRCA, *EU Law: Text, Cases, and Materials*, VII ed., Oxford, 2020.

#### 4. Normative Standards for the Protection of Fundamental Rights Within the Macedonian Judicial System

The need for a legal analysis of judicial enforcement and monitoring regarding the protection of fundamental rights through the spectrum of Macedonian normative mechanisms is indispensable, especially considering that this is a key segment for assessing the alignment of Macedonian standards with European standards from multiple perspectives, including the issue of the rule of law, which is addressed in Chapter 23<sup>19</sup> of the EU *acquis*. For North Macedonia, as a candidate country for EU membership, the European Commission officially launched the screening process in 2022<sup>20</sup>. After a long period of 17 years since obtaining candidate status, this represented a step towards positive change, bringing hope that the European integration process would accelerate<sup>21</sup>. Given that since the country's independence as a democratic State<sup>22</sup>, North Macedonia's strategic objective from the very beginning has been membership in the European Union, there is a clear need for an in-depth examination of the constitutional and legal provisions that guarantee fundamental rights and their effective implementation. Such analysis enables the identification of institutional mechanisms for their enforcement, as well as the detection of existing challenges that could potentially be overcome in the future. Therefore, the aim of this chapter is to present the legal framework and judicial practice in North Macedonia, assessing the progress made in aligning with the European standards<sup>23</sup>, proclaimed by the Union over the past decades<sup>24</sup>.

The existence of a solid normative framework for the protection of fundamental rights represents an essential foundation for the functioning of any democratic and rule-of-law State. It reflects the degree of the State's commitment to the advancement of fundamental human rights, an inseparable component of the rule of law. However, the question arises as to how the Constitution and the laws of North Macedonia guarantee adequate protection of these rights? According to art. 8, the fundamental values of the constitutional order are established, ensuring the rule of law, the separation of legislative, executive, and judicial powers, as well as the fundamental freedoms and rights of individuals and citizens recognized by international law<sup>25</sup> and the Constitution of the Republic of North Macedonia, adopted on the basis of art. 443. In addition to the fundamental values guaranteed by the Macedonian constitutional legal act, the Constitution refers specifically to the basic freedoms and rights, particularly emphasizing that "*Every citizen can invoke the protection of the freedoms and rights established by the Constitution before the courts and before the Constitutional Court of the Republic of Macedonia in proceedings based on the principles of priority and urgency*"<sup>26</sup>. This normative framework is further strengthened through art. 54, para. 3 of the Constitution, which unequivocally states that

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<sup>19</sup> European Commission, *Chapters of the acquis*, available at [https://enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis\\_en](https://enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en).

<sup>20</sup> European Commission. *North Macedonia – Enlargement Policy*, available at [https://enlargement.ec.europa.eu/enlargement-policy/north-macedonia\\_en](https://enlargement.ec.europa.eu/enlargement-policy/north-macedonia_en).

<sup>21</sup> Kanal 5, *Влада: Заврши скрининг процесот, патот за успешна евроинтеграција на Македонија е трасиран*, 8 December 2023.

<sup>22</sup> For more, see <https://www.sobranie.mk/sobranieto-i-eu.nspk>.

<sup>23</sup> Venice Commission, *European Standards on the Independence of the Judiciary – A Systematic Overview*, of 3 October 2008, CDL-JD(2008)002-e), available at [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JD\(2008\)002-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-JD(2008)002-e).

<sup>24</sup> R. MANKO, *Council of Europe Standards on Judicial Independence – A Systematic Overview*, EPRS Briefing, PE 690.623, European Parliamentary Research Service, 2021.

<sup>25</sup> Art. 8, Constitution of the Republic of North Macedonia No. 08-4642/1, adopted by the Assembly of Macedonia on 17 November 1991.

<sup>26</sup> *Ibidem*, art. 50, para. 1.

the restriction of freedoms and rights cannot apply to “*the right to life (...) prohibition of torture, inhuman or degrading treatment or punishment, or the legal certainty of criminal offenses and penalties*”.

From this, it can be concluded that the Macedonian Constitution provides a strong formal protection of fundamental rights, which the European Union has treated as general principles since the early years of the European Communities, as proclaimed by the Court of Justice of the EU. Nevertheless, their effectiveness depends on the consistent application of laws, the independence of judicial bodies and public institutions more broadly, and the continuous monitoring and improvement of mechanisms for the protection of human rights, especially in the context of alignment with European standards and values. This is particularly relevant given that the European Commission issues annual progress reports on North Macedonia’s advancement in the EU integration process, analyzing the performance of institutions, the government, the implementation of laws, and the degree of fulfillment of the Copenhagen criteria.

In the Republic of North Macedonia, there are several key laws that are of crucial importance for the proper and unhindered functioning of the judiciary in carrying out their duties, as well as for the enforcement of law and justice. The protection of human freedoms and rights<sup>27</sup> is one of the primary obligations of the Macedonian courts, guaranteed by law, bearing in mind that the European Commission confirms that the legal framework regarding fundamental rights is generally aligned with European standards<sup>28</sup>. Additionally, the law aims to ensure the impartial application of justice regardless of status, guaranteeing equality, equity, and legal certainty based on the rule of law<sup>29</sup>. Despite the fact that political organizing<sup>30</sup>, activities, and influence in the work of the judiciary<sup>31</sup>, are prohibited by law, the Commission regularly notes the existence of political influence<sup>32</sup>, which constitutes an obstacle to achieving full independence of the judiciary in North Macedonia. Furthermore, it is emphasized that the political situation remains polarized, which affects the proper functioning of democratic institutions<sup>33</sup>. According to the latest Balkan Barometer report for 2024, survey results on trust in judicial authorities in North Macedonia showed that 83% of all respondents expressed a lack of trust in judicial institutions, making North Macedonia stand out with the lowest percentage of public trust compared to all other Western Balkan countries<sup>34</sup>.

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<sup>27</sup> Art. 2, para. 2, Law on Courts, in Official Gazette of the Republic of Macedonia No. 58/2006, of 11 May 2006 (amended in Official Gazette Nos. 62/2006, 35/2008, 61/2008, 118/2008, 16/2009, 150/2010, 39/2012, 83/2018, 198/2018, 96/2019).

<sup>28</sup> Commission Staff Working Document, *North Macedonia Report 2022*, of 12 December 2022, SWD(2022) 337 final, pp. 16–24.

<sup>29</sup> Art. 3, Law on Courts, cit., *supra* note 32.

<sup>30</sup> Art. 3, para. 1, Law on the Judicial Council of the Republic of North Macedonia, in Official Gazette of the Republic of North Macedonia No. 102/2019, of 22 May 2019 (amended in Official Gazette No. 51/2023).

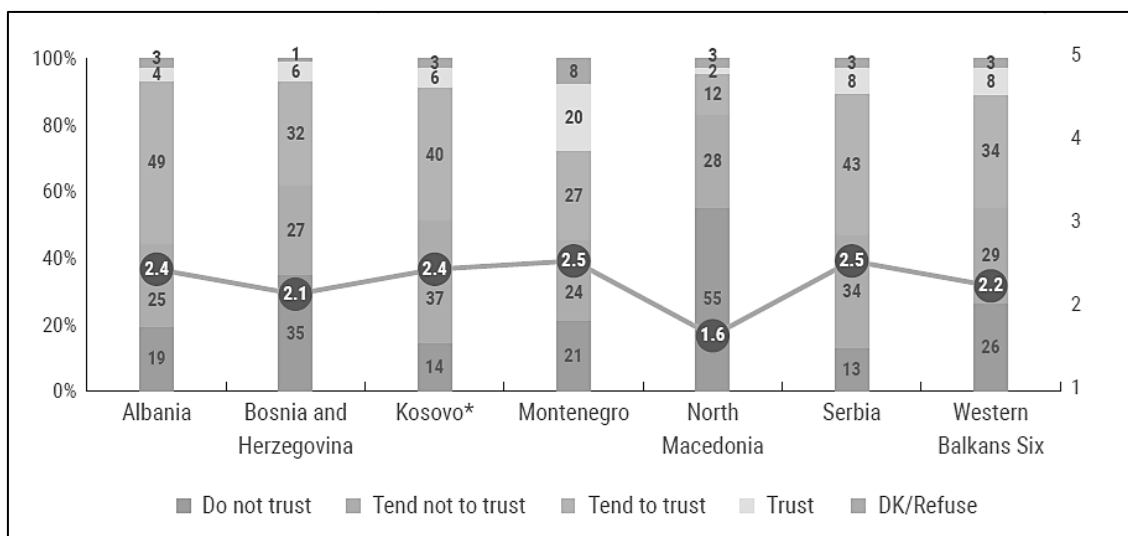
<sup>31</sup> *Ibidem*, art. 3, para. 3.

<sup>32</sup> Commission Staff Working Document, *North Macedonia 2024 Report*, of 30 October 2024, SWD(2024) 693 final.

<sup>33</sup> Commission Staff Working Document, *North Macedonia 2023 Report*, of 8 November 2023, SWD 2023 693 final, p. 3.

<sup>34</sup> Balkan Barometer Balkan Barometer is an annual survey of public opinion and business sentiments in six Western Balkans economies (including North Macedonia, Montenegro, Serbia, Albania, Bosnia and Herzegovina and Kosovo) commissioned by the Regional Cooperation Council (RCC).

JUDICIAL IMPLEMENTATION AND MONITORING CHALLENGES OF FUNDAMENTAL RIGHTS  
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Picture 1. Source: Regional Cooperation Council, *Balkan Barometer 2024: Public Opinion Analytical Report*, Sarajevo, 2024, p. 76

According to the latest *Nations in Transit 2024* report by Freedom House, North Macedonia scores 3.79 out of 7.00 in the area of judicial independence. Regarding corruption, the score decreased from 3.25 to 3.00, attributed to numerous corruption allegations against high-ranking officials, as well as amendments to the Criminal Code that reduced penalties for corruption and led to the dismissal of cases against former and current government officials. As a consequence of these factors, the overall democracy score for the country dropped from 3.86 to 3.79<sup>35</sup>. The score for the judicial framework and independence, expressed on the same 1.00 to 7.00 scale, reflects an analysis of constitutional and human rights protections, the degree of judicial independence, and the extent to which court decisions are respected and enforced. This positions the country within the category of a “Transitional or Hybrid Regime”<sup>36</sup>.

## 5. Monitoring Mechanisms and Challenges

The structure of the monitoring system for the protection of fundamental rights within North Macedonia's institutional framework can be observed through two types of mechanisms: horizontal and vertical mechanisms. Specifically, when referring to the horizontal mechanism, *i.e.*, cooperation, it implies coordination among independent bodies and agencies, such as the Commission for Prevention and Protection against Discrimination<sup>37</sup>, the Ombudsman<sup>38</sup>, as well as civil society organizations, which play an essential role in monitoring the human rights situation by observing court proceedings and providing direct assistance to victims of rights violations. Regarding the vertical dimension, it involves all levels of State authority, including both central and local levels, which are obliged to implement legal norms and ensure the practical protection of rights. However, in addition to domestic institutions, international organizations and international legal instruments ratified and implemented in Macedonian legislation, most

<sup>35</sup> O. VANGELOV, *North Macedonia – Nations in Transit 2024*, in *Freedom House*, 2024.

<sup>36</sup> *Ibidem*.

<sup>37</sup> For more, see <https://kszd.mk/>.

<sup>38</sup> For more, see <https://ombudsman.mk/>.

notably the European Convention on Human Rights, the primary instrument of the European Court of Human Rights<sup>39</sup> play an undeniably significant role and exert considerable influence in monitoring and safeguarding rights. As a Member State of the Council of Europe<sup>40</sup>, North Macedonia is obliged to implement the decisions rendered by the Strasbourg Court, thereby demonstrating to the international community its readiness to adhere to international standards for the protection of fundamental rights. This obligation stems not only from membership<sup>41</sup> in the Council of Europe but also from North Macedonia's aspiration for integration into the European Union, where the rule of law and effective protection of human rights are key criteria in the negotiation process.

In the latest report of the Ombudsman of the Republic of North Macedonia, in the section dedicated to the judiciary, it is emphasized that there remains a need to improve the conditions regarding the duration of court proceedings, particularly before the administrative courts. It has been observed that in a significant number of cases, decisions are not made on the merits, and, as in the previous reporting year, the Administrative Court does not adhere to the legally prescribed deadlines for issuing decisions<sup>42</sup>. Nevertheless, the report indicates a decrease in the number of complaints submitted in 2024 compared to 2023, when a total of 478 complaints were filed in relation to proceedings before Macedonian courts. For a more detailed overview of these complaints, a table is provided below showing the categories and number of complaints submitted by citizens.

These findings clearly point to the need for systemic reforms and the continuous improvement of the efficiency and transparency of judicial proceedings, which are key prerequisites for strengthening the rule of law, as well as consolidating the European integration process and achieving full membership in the European Union, one of North Macedonia's highest priorities.

<b>Area/Category</b>	<b>Number of Complaints</b>	<b>Remarks</b>
<i>Proceedings before enforcement agents</i>	196	Highest number of complaints
<i>First-instance civil proceedings</i>	39	
<i>Second-instance proceedings</i>	31	
<i>Administrative Court of North Macedonia</i>	22	Lengthy proceedings, failure to meet deadlines
<i>First-instance criminal proceedings</i>	21	
<i>Higher Administrative Court of North Macedonia</i>	11	
<i>Judicial Council of North Macedonia</i>	4	
<i>Third-instance proceedings</i>	2	
<i>Proceedings before other authorities</i>	16	
<i>Other</i>	18	

<sup>39</sup> For more, see <https://www.echr.coe.int/>.

<sup>40</sup> For more, see <https://www.coe.int/en/web/portal>.

<sup>41</sup> North Macedonia became a full Member State of the Council of Europe in November 1995. For more, see <https://www.coe.int/en/web/about-us/our-member-states>.

<sup>42</sup> Ombudsman of the Republic of North Macedonia, *Annual Report 2024, 2025*, available at <https://ombudsman.mk/CMS/Upload/NarodenPravobranitel/upload/Godisni%20izvestai/GI-2024/GI-2024.pdf>.

<i>Total complaints in judiciary</i>	360	Decrease of 128 compared to the previous year
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Table 1

It is important to emphasize in this paper that the comprehensive strengthening of monitoring structures and the effective implementation of international standards remain key prerequisites for the genuine protection of fundamental rights in North Macedonia, as one of the essential guarantees for maintaining a European perspective. Only through a commitment to reforms, improved coordination, and accountability of institutions can the rule of law be ensured and citizens' trust in the judicial system increased.

### 6. Case Study: *Mitrinovski v. The Former Yugoslav Republic of Macedonia*

On 7 October 2015, the European Court of Human Rights delivered its judgment in the case of *Mitrinovski v. the Former Yugoslav Republic of Macedonia*. The case was initiated by application no. 6899/12, submitted to the European Court of Human Rights in Strasbourg under art. 34 of the Convention on 27 January 2012, by the Macedonian national Mr. Jordan Mitrinovski<sup>43</sup>.

In 2010, the applicant, as President of the Judicial Council, in a second-instance procedure, upheld an appeal by a detainee by accepting the proposed guarantee, thereby replacing the detention measure with house arrest in criminal case no. 537/2010. Three days after the court's decision was issued, the public prosecutor requested its annulment before the Supreme Court of North Macedonia and for the case to be remanded for reconsideration. The Supreme Court accepted the prosecutor's request, arguing that the Court of Appeal had no legal basis to decide on the merits of the appeal and was instead legally obliged to determine the appeal as inadmissible. One day after the prosecutor's request, the Supreme Court, sitting in a panel of six judges, concluded that the applicant, in handling case no. 537/2010, had acted unprofessionally. At the request of one of the Supreme Court judges, a Commission was established to examine the applicant's alleged professional misconduct, initiating proceedings for his removal from judicial office.

Despite the applicant's oral arguments presented before the Commission, no questions were posed by the judge who had initiated the proceedings, even though he was present as a member of the Commission. The applicant exercised his right to legal remedy by submitting an appeal to the ad hoc Appeals Commission within the Supreme Court, composed of nine members. Before this ad hoc Commission, the applicant argued that there was a conflict of interest because the judge who requested his dismissal later also voted for it as an ex officio member of the Judicial Council. Additionally, the applicant claimed that the position of the judge who initiated the dismissal procedure allowed him to influence the other judges of the court.

On 13 September 2011, the Appeals Commission rejected the appeal and upheld the decision of the Judicial Council, thereby dismissing the applicant from his judicial position. The request for the recusal of the judges involved was denied.

After exhausting all domestic remedies, the applicant initiated proceedings before the European Court of Human Rights, invoking the European Convention on Human Rights, specifically art. 6, para. 1, on the grounds that the Judicial Council, which had dismissed him from office, did not constitute an "*independent and impartial tribunal*". This was due

<sup>43</sup> European Court of Human Rights, Judgement of 7 October 2015, Application No. 6899/12, *Mitrinovski v. the Former Yugoslav Republic of Macedonia*.

to the fact that the President of the Judicial Council, who had been a member of the Commission handling his case, and the President of the Supreme Court, at whose request the contested proceedings were initiated, both subsequently participated in the Judicial Council's decision dismissing the applicant from his judicial post. This resulted in a situation where the same member of the Judicial Council "*both initiated the proceedings and decided on the judge's dismissal*" creating a dual role incompatible with the principle of a fair trial.

Under these circumstances, the Court found that the applicant had legitimate grounds to fear that Judge J.V., the individual who initiated the proceedings against Mitrinovski before the Commission, already held a personal conviction that the applicant should be dismissed for professional misconduct. The European Court of Human Rights found a violation of art. 6, emphasizing that the judge who initiated the dismissal proceedings against the applicant did not meet the objective and subjective standards of independence and impartiality required under the Court's established case law.

With this judgment, the European Court of Human Rights sent a clear message that disciplinary mechanisms for judges must be transparent, objective, and independent of the executive and legislative branches, and that national authorities have a duty to ensure that the judicial function is protected from political or institutional influence. Furthermore, the case of *Mitrinovski v. the Former Yugoslav Republic of Macedonia* (no. 6899/12) serves as a clear illustration of the importance of monitoring judicial independence and ensuring the right to a fair trial as a fundamental right guaranteed by both domestic and international legal norms.

## 7. Concluding Remarks

North Macedonia's progress on the path toward full membership in the European Union is inextricably linked to the substantial reform of its judicial system and the provision of effective protection of fundamental rights. Although the European Commission's annual reports indicate that legal standards for the protection of fundamental rights have been established, insufficient implementation in practice remains an ongoing issue that has hindered the country's European integration process for years. Additionally, these reports over the past three years highlight systemic weaknesses, including lengthy court proceedings, political influence over judicial institutions, and a significantly low level of public trust in the judiciary among Macedonian citizens. These problems present serious obstacles to the realization of the rule of law, which is a key element of the Copenhagen criteria.

Analyses by Freedom House and the Balkan Barometer further confirm the need for greater commitment by institutions to strengthen the rule of law and increase public confidence in the judiciary. Moreover, the latest annual report of the Ombudsman of the Republic of North Macedonia points to specific cases of violations of citizens' rights, especially due to excessively prolonged proceedings before administrative and civil courts.

To strengthen the arguments presented in this paper, a detailed analysis of the case *Mitrinovski v. North Macedonia* before the European Court of Human Rights clearly demonstrates that the mere formal alignment of legal norms with European standards is not sufficient. It shows that true strengthening of judicial independence requires transparent and impartial disciplinary mechanisms, free from any political or institutional influence.

Therefore, it can be concluded that through institutional cooperation among the Commission for Prevention and Protection against Discrimination, the Ombudsman, and judicial institutions, a strong coordinated system of protection can be established. Furthermore, by enhancing the capacities of civil society to monitor judicial processes and introducing clear and transparent procedures for the disciplinary accountability of judges, independent of the executive and legislative branches, North Macedonia will be able to meet the European Union's standards and advance toward full membership, ensuring the effective protection of the fundamental rights of its citizens.

#### **ABSTRACT**

*North Macedonia, as a candidate country for accession to the European Union, is progressively aligning its legal framework with EU law through the ongoing accession process, which began in 2005. The fundamental rights are an integral part of the general principles of EU law, as guaranteed by art. 6, para. 3 of the Treaty on European Union. This is especially relevant given that judicial independence and the right to a fair trial are core pillars of fundamental rights, the non-negotiable values in the EU accession process and key components of the "Copenhagen Criteria" concerning the rule of law and human rights.*

*The European Commission's annual reports from the past three years (2022–2024) highlight the significant challenges North Macedonia faces in effectively implementing and monitoring fundamental rights, underlining that judicial independence is not merely a legal principle, but a practical and structural issue.*

*This paper provides a detailed analysis of the gap between formal standards and actual practice, emphasizing that good legislation alone is insufficient without effective monitoring tools. To gain a more complete picture in the context of fundamental rights, the paper examines how European law is applied by national courts by focusing on the case *Mitrinovski v. North Macedonia*. This case illustrates that the lack of effective judicial safeguards and independent oversight mechanisms continues to undermine the enforcement of fundamental rights, despite formal legal alignment with EU standards. The outcome reflects the ongoing challenges and underscores the need for strengthened institutional capacity and the development of transparent, rights-based monitoring systems as essential foundations for credible alignment with the EU Charter of Fundamental Rights and core EU values.*

#### **KEYWORDS**

*Case Study, EU Standards, Euro Integration, Fundamental Rights, North Macedonia.*