

# SHADOW REPORT

FROM MONITORING WORK  
AND EFFECTS OF  
THE SECTOR WORKING  
GROUP ON JUSTICE

*January – December 2021*







THROUGH  
DIALOGUE **TO**  
**EU**

# SHADOW REPORT

FROM MONITORING  
WORK AND EFFECTS OF  
THE SECTOR WORKING  
GROUP ON JUSTICE

*January – December 2021*



REAC-OR  
research in action



## SHADOW REPORT FROM MONITORING WORK AND EFFECTS OF THE SECTOR WORKING GROUP ON JUSTICE IN THE PERIOD JANUARY – DECEMBER 2021

### ORIGINAL TITLE:

ИЗВЕШТАЈ ВО СЕНКА ОД СЛЕДЕЊЕТО НА РАБОТАТА И ЕФЕКТИТЕ НА СЕКТОРСКАТА РАБОТНА ГРУПА ЗА ПРАВДА ЈАНУАРИ – ДЕКЕМВРИ 2021

### Publisher:

Foundation Open Society – Macedonia

### For the publisher:

Fani Karanfilova Panovska, executive director

### Authors:

Goran Lazarov

Aleksandar Kolekeski, Instrument for Pre-accession Assistance IPA III (2021-2027)

Irina Jolevska, Gender Mainstreaming in Sector Working Groups

### Editors:

Danche Danilovska – Bajdevska

Nada Naumovska

Sandra Anastasovska Kuzmanovski

### Graphic design:

КОМА

### Translation from Macedonian language:

Katerina Dimishkovska

Skopje, 2022

---

CIP - Каталогизација во публикација

Национална и универзитетска библиотека „Св. Климент Охридски“, Скопје

35.075.2:341.171(497.7)"2021"(047)

LAZAROV, Goran

Shadow report from monitoring work and effects of the sector working group on justice [Електронски извор] : January – December 2021 / [authors Goran Lazarov Aleksandar Kolekeski, Irina Jolevska ; translation from Macedonian language Katerina Dimishkovska]. - Skopje : Foundation open society – Macedonia, 2022

Начин на пристапување (URL):

<https://eur01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdijalogkoneu.mk%2Fen%2Fwp-content%2Fuploads%2Fsites%2F3%2F2022%2F06%2FPRAVDA-2021.pdf&mp;data=05%7C01%7C%7Cc95745e01c1e444d55b608da4e0841fa%7C6dd6692964ee4888a65ab847baf12c47%7C0%7C0%7C637908095245913044%7CUnknown%7CTWFpbGZsb3d8eyJWIjoimC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTil6lk1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C&mp;sddata=7tHNxqj%2Fr2ssU0yhCpXa1Zu7nAMmlFb2ZSsqQa1kPh4%3D&reserved=0>

- Превод на делото: Извештај во сенка од следењето на работата и ефектите на секторската работна група за правда : јануари-декември 2021.

- Текст во ПДФ формат, 48 стр., илустр. - Наслов преземен од екранот. - Опис на изворот на ден20.05.2022. - Фусноти кон текстот. -

Библиографија: стр. 48

ISBN 978-608-218-396-1

1. Kolekeski, Goran [автор] 2. Jolevska, Irina [автор]

а) Процес на пристапување во ЕУ -- Секторски работни групи -- Македонија -- 2021 -- Извештаи

COBISS.MK-ID 57422853

---

This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of Foundation Open Society – Macedonia, Eurothink: Center for European Strategies, Reactor – Research in action and Center for Civil Communication and do not necessarily reflect the views of the European Union.

# TABLE OF CONTENT



FOREWORD	5
GENERAL INFORMATION	9
METHODOLOGY APPROACH	11
<b>PART 1: SECTOR POLICIES</b>	<b>15</b>
<b>PART 2: SWG FUNCTIONALITY</b>	<b>21</b>
2.1 Rules of Procedure	21
2.2 Annual plan and annual work report	22
<b>PART 3: CIVIL SOCIETY PARTICIPATION</b>	<b>25</b>
<b>PART 4: CSO CAPACITY</b>	<b>29</b>
<b>PART 5: EFFECTS FROM SWG WORK</b>	<b>33</b>
5.1 Rule of Law and Fundamental Rights Monitoring Committee and IPA II Joint Monitoring Committee	34
5.2 Council for Monitoring Implementation of the Strategy on Justice System Reform 2017 – 202	34
<b>PART 6: INSTRUMENT FOR PRE-ACCESSION ASSISTANCE IPA III (2021-2027)</b>	<b>37</b>
6.1 IPA III programming (2021-2027) in the justice sector	38
<b>PART 7: GENDER MAINSTREAMING IN SECTOR WORKING GROUPS</b>	<b>43</b>
7.1 Gender mainstreaming in SWG Justice	45
FINAL CONCLUSIONS AND RECOMMENDATIONS	47
BIBLIOGRAPHY	48



# FOREWORD

## SUMMARY ON PERFORMANCE OF SECTOR WORKING GROUPS IN 2021

Shadow Reports from Monitoring Work and Effects of Sector Working Groups in 2019, 2020 and 2021 were developed under the hypothesis that SWGs are important bodies responsible for sector policy creation and monitoring in the Republic of North Macedonia and serve as forum for coordination of donor support for policy implementation.

The sector-wide approach was indicated as comprehensive approach for IPA II, used to assess and determine the state's qualification level in terms of utilization of IPA assistance for full sector support, and was followed by formation of sector working groups over the period 2015-2020. With the start of IPA III programming for the period 2021-2027, institutions continued the sector-wide approach and operation of sector working groups.

While, in formal terms, sector working groups have potential to be policy makers in relevant sectors, SWG monitoring findings in 2021 indicate to regression in terms of their functionality, civil society participation and effects from their work. Modest improvement is noted in respect to transparency in operation, having in mind that institutions responded to more than 85% of information requests made under the instrument for free access to public information, accounting for an improvement by more than 4% compared to 2020. Openness is also noted in terms of increased communication, especially because in 2021 representatives from all 12 SWGs accepted invitations for interview with the project team that monitors their work and performance.

Based on the analysis of meetings held by SWGs, total of 251 responses made by institutions under the instrument for free access to public information, 12 interviews with

IPA coordinators and discussions with 26 civil society organizations that participate in sector groups, flagship monitoring findings on performance of SWGs in 2021 concern the following:



- In 2021, SWGs held a total of 11 plenary sessions and 8 operational meetings, representing a decrease compared to 2020 findings, when they held a total of 19 plenary sessions and 21 operational meetings.
- None from 12 SWGs has complied with the minimum number of plenary sessions on annual level stipulated in their respective rules of procedure or draft rules of procedure, while 4 sector groups<sup>1</sup> did not hold any plenary session during 2021.
- In the case of 5 from 12 sector groups, civil society organizations have not participated in SWG work during 2021. In the case of 4 SWGs, civil society participation was absent due to the fact that the relevant sector group has not held any meeting, while one sector group has not invited civil society organizations to participate in its work.<sup>2</sup>
- SWGs that have held plenary session and invited civil society organizations to attend these meeting did not fully update data on civil society representatives resulting in invitations being sent to erroneous or non-existing e-mail addresses, which additionally narrows the space for civil society participation.
- Although IPA III Regulation anticipates that civil society organizations should be given space for meaningful participation in IPA programming and sector policy development, in the practice there is no actual space for substantial engagement of civil society organizations during plenary sessions and involvement of civil society representatives in operational meetings organized by SWGs.
- While donor coordination is anticipated as part of activities performed by sector working groups, the monitoring tools did not observe agenda items for SWG meetings held in 2021 that focus on donor coordination matters.

<sup>1</sup> SWG Justice, SWG Public Administration Reform, SWF Roma Integration and SWG Home Affairs

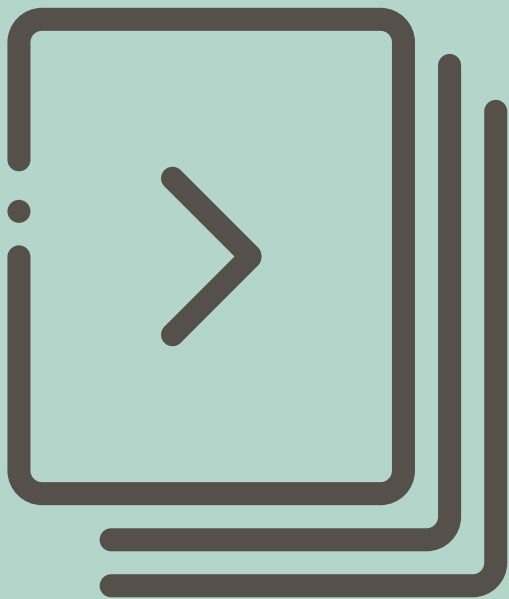
<sup>2</sup> SWG Competitiveness and Innovation



Based on the established state-of-play, encouraging steps have been made in 2021 towards enhanced structural dialogue. In particular, the Secretariat for European Affairs (SEA) initiated the process for amending the rules of procedures for SWGs in order to improve their overall performance and regulate civil society and donor participation. During interviews with representatives from competent institutions it was underlined that they are open to changing the rules of procedure with a view to regulate participation and role of civil society organizations in greater details. Expectations are that predictability of SWG dynamics and functionality will be improved in 2022, by creating the indicative calendar for meetings of all SWGs and by publishing information on phases for future IPA programming, as well as relevant documents for sector policies. Based on responses obtained from civil society organizations, evident is the request for their participation at the level of technical meetings that would allow them to be involved in all stages of policy development and adoption.

## HOW TO MOVE FORWARD?

SEA must urgently open consultations around the new rules of procedures for SWGs, which should include provisions that improve meaningful participation of civil society organizations, primary by ensuring availability and access to materials and information of operational nature, as well as by organizing inception training for new representatives to ensure thorough understanding of sector policy processes and IPA programming. These trainings should also target civil society representatives from Sector Monitoring Committees. The new rules of procedure should regulate in details the procedure for selection and work of civil society representatives, including the method for consultations with the broader civil society. Adherent actions are needed to implement plans aimed at improving participation, work predictability and transparency of SWGs.



# GENERAL INFORMATION

## SECTOR WORKING GROUP ON JUSTICE

**FORMED:** 2015

**NUMBER OF SWG MEMBERS:** 58, Ministry of Justice x 7 members, judicial institutions x 26 members, civil society organizations x 8 members, and donor community x 17 members

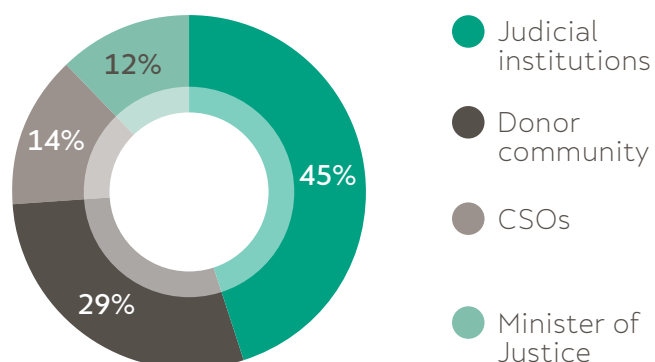
**NUMBER OF MEETINGS HELD IN 2021:** no plenary sessions or operational meetings were held in 2021

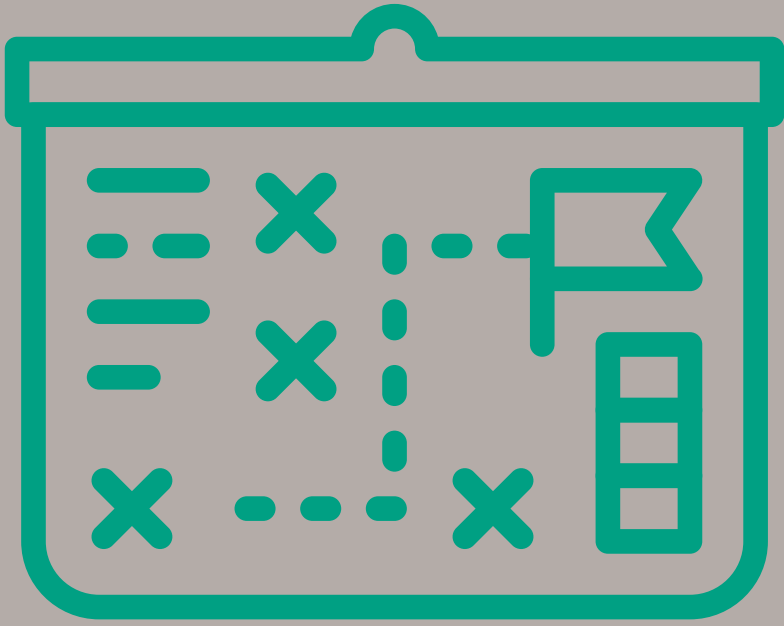
**SWG CHAIR:** Minister of Justice

**SWG CO-CHAIR:** EU Delegation in the Republic of North Macedonia

### **CHART 1.**

*Distribution of various representatives in SWG Justice*





# METHODOLOGY APPROACH

For the purpose of this report, the project team combined several research methods for data collection, processing and analysis. Research work was comprised of desk analysis and field/online research.

The desk research component included in-depth analysis of documents, laws and strategies that are of significance for this sector working group (*for more information see [BIBLIOGRAPHY](#)*). Moreover, the project team submitted **22 freedom of information requests** to the Ministry of Justice (MoJ) as the institution competent for operation of this sector group. Responses to all 22 information requests were disclosed in timely and complete manner.

As regards field/online component, the project team **interviewed**<sup>3</sup> the coordinator of civil servants at the Ministry of Justice, and organized a **focus group**<sup>4</sup> with civil society representatives that participate in this sector working group. The focus group was attended by four from total of eight civil society representatives. Having in mind that SWG Justice did not hold any meetings/sessions in 2021, the project team was unable to monitor the process from within.

According to the monitoring methodology, performance of sector working group is assessed in respect to five segments:

- SWG functionality;
- civil society participation in SWG;
- CSO capacity for contribution and participation in SWG work;
- effects from SWG work; and
- IPA.

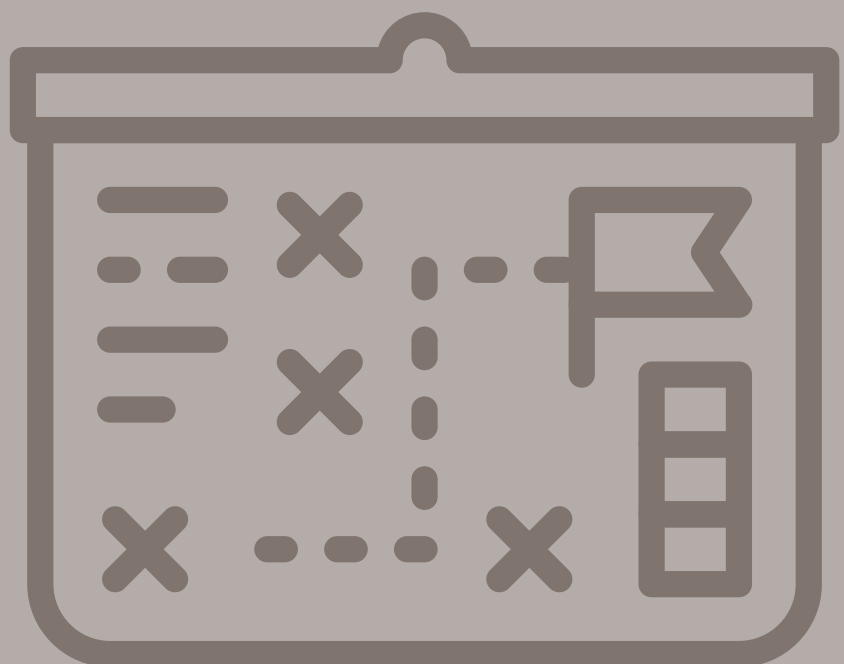
3 Interview with the coordinator from the Ministry of Justice was conducted on 14.01.2022.

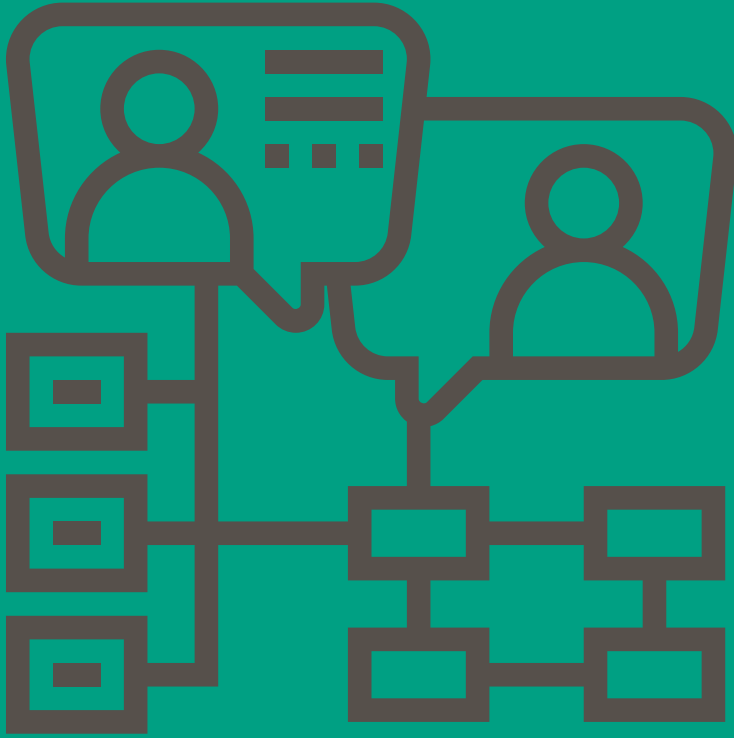
4 Focus group with civil society representatives that participate in SWG Justice was held on 20.01.2022.



Based on the methodology for monitoring work and effects of sector working groups, performance of SWGs in all these five segments is measured against 31 standards and 21 indicators. Scores calculated for these standards (1 is the lowest and 3 is the highest) are used to assess progress in work of all 12 sector working groups at annual level.

Nevertheless, having in mind that five of twelve SWGs did not hold plenary sessions in 2021 and given that most standards and indicators are directly related to SWG meetings, unlike last year, this monitoring report does not include scores for individual segments of SWG performance. This method is applied to all SWGs, including those that have held plenary sessions in 2021, in order to maintain same approach to assessment for all 12 sector working groups.







# PART 1

## SECTOR POLICIES

In 2021, the Republic of North Macedonia was ranked 64<sup>th</sup> among 139 countries under the **Rule of Law Index**,<sup>5</sup> with an overall score of 0.53. For comparison, under the 2020 Index<sup>6</sup> the country was ranked 58<sup>th</sup> among 128 state, with the same overall score of 0.53.

The 2021 Rule of Law Index provides data on the rule of law in 139 countries worldwide, by ranking or assessing eight relevant factors: constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice and criminal justice. Data for index development are taken from surveys conducted with 138,000 households and 4,200 experts worldwide. In the case of RNM, the country is best ranked under the factor “order and security”, with a score of 0.79, and is worst ranked under the factors “absence of corruption” and “criminal justice”, with a score of 0.45. Comparison against other EU candidate countries shows that RNM is the best ranked country in this group: Serbia (81<sup>st</sup> rank), Albania (83<sup>rd</sup> rank) and Turkey (117<sup>th</sup> rank).<sup>7</sup> As regards EU member-states, only Hungary has a worse score than RNM and holds the 69<sup>th</sup> rank.

5 World Justice Project Rule of Law Index® 2021,, available at: <https://bit.ly/3uDrth9>

6 World Justice Project Rule of Law Index® 2020, available at: <https://bit.ly/3gkZIBr>

7 Montenegro is not included in the list of states ranked under the Rule of Law Index.



## **EUROPEAN COMMISSION'S 2021 PROGRESS REPORT FOR NORTH MACEDONIA**

In its 2021 country report<sup>8</sup> the European Commission assessed that the judicial system in North Macedonia **has some level of preparation/is moderately prepared** to implement the EU acquis and standards in this area.

At the same time, it is noted that **some progress** was achieved in implementation of the Strategy on Justice System Reform, including further implementation of recommendations from the Venice Commission and the Senior Experts' Group on Systemic Rule of Law Issues. For comparison, EC's 2020 and 2019 progress reports indicated "good progress" under these processes, which shows that the Commission is now "more reserved" when it comes to reforms implemented in the course of 2021.

Furthermore, the report indicates that, in 2022, the Republic of North Macedonia should, in particular:

- intensify consistent implementation of the Strategy on Justice System Reform and the updated Action Plan, with a specific focus on adopting new law on civil procedure, in line with the European standards;
- implement human resources strategies for the judicial and prosecution networks and use them as indicator for projections on next recruitments;
- improve the automated court case management information system (ACCMIS) to ensure its full functionality and reliability.

### **Strategy on Justice System Reform and Action Plan 2017-2022**

Strategy on Justice System Reform and Action Plan 2017-2022 is the key reform document in the justice sector. Last year (2021) was the fourth, penultimate implementation year for this strategy document and, as reported by the Ministry of Justice, development of the new strategy will start in 2022, including discussions on this key document within SWG Justice.

In respect to the Strategy on Justice System Reform, **EC's progress report** notes a positive development in the fact that the Council for Monitoring Implementation of the Strategy on Justice System Reform has approved

<sup>8</sup> European Commission's 2021 Progress Report for North Macedonia, available at: <https://bit.ly/3Lh4Api>

the biannual implementation report for the years 2019 and 2020. However, as was the case with previous progress reports, it is underlined that additional efforts are needed to ensure systemic implementation of the updated Action Plan and human resources strategies for the judiciary and the public prosecution.

In its semi-annual report on implementation of the Strategy on Justice System Reform 2017 - 2022,<sup>9</sup> the **Blueprint Group on Judiciary Reforms** enlists that, in the case of large portion of planned laws, processes for drafting and adoption of these laws are not completed, for example: the Criminal Code, the Law on Criminal Proceedings, the Law on Child Justice, etc. Nevertheless, the report underlines the impact of the COVID-19 pandemic that has affected the overall reform process, but also the nature of planned laws that requires careful and gradual process in order to avoid adoption of legislation that is marked by poor quality and would require future amendments.

At its 87<sup>th</sup> session held on 13.07.2021,<sup>10</sup> Government of the Republic of North Macedonia adopted the **National Strategy for Development of the Penitentiary System in the Republic of North Macedonia 2021-2025**,<sup>11</sup> which will focus on 12 strategic goals aimed at improving material conditions at penitentiary facilities and strengthening capacity of management and prison staff, including supervision.

Development of this five-year strategy included consultations with civil society organizations and the expert public. The new strategy is still not available on the Ministry of Justice's official website.

### **STRATEGY ON DEVELOPMENT OF THE PROBATION SERVICE IN THE REPUBLIC OF NORTH MACEDONIA (2021-2025)**

At its 77<sup>th</sup> session held on 08.06.2021,<sup>12</sup> Government of the Republic of North Macedonia adopted the Strategy on Development of the Probation Service in the Republic of North Macedonia (2021-2025) and Action Plan. Development of this five-year strategy included consultations with civil society organizations and the expert public. Both, strategy and its action plan, are not available on the Ministry of Justice's official website.

9 Monitoring Implementation of the Strategy on Justice System Reform 2017-2022 (January – June 2021), available at: <https://bit.ly/3IZxh8r>

10 Minutes from 87th sessions held by the Government of the Republic of North Macedonia, 13.07.2021, available at: <https://vlada.mk/2021-087>

11 National Strategy on Development of the Penitentiary System in the Republic of North Macedonia 2021-2025, available at: <https://bit.ly/3L3woxo>

12 Minutes from 77th session held by the Government of the Republic of North Macedonia, 08.06.2021, available at: <https://vlada.mk/node/25558>



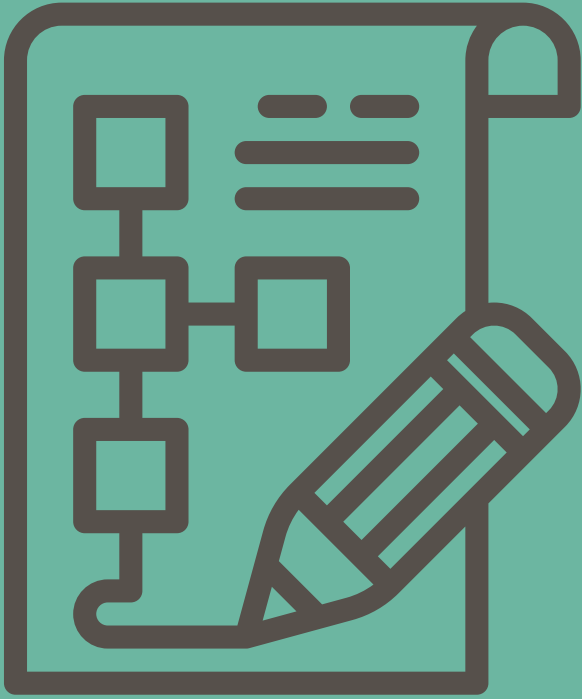
In addition to above-named strategies, in 2021, the justice sector worked on several laws that are currently in parliamentary procedure or are still under development:

**Laws that have entered parliamentary procedure include:** Law on Writing Off Interest and Reprogramming Debts and Expenditure of Public Enterprises; Law on General Records; Law on Personal Data Protection; Law on Litigation Procedure; Law on Attorney Profession; Law on the Academy for Judges and Public Prosecutors; Law on Compensation for Victims of Criminal Offences; Law on Civic Liability for Libel and Defamation; Amendments to the Criminal Code; Law on Protection of Natural Persons in Respect to Personal Data Processing for the Purpose of Prevention, Investigation, Detection or Prosecution of Criminal Offences and Execution of Criminal Sanctions.

In parallel, 2021 marked the **start of efforts related to development** of several draft laws, as follows: Law on Pardons; Criminal Code; Law on Criminal Proceedings; Law on Origin of Property; Law on Emergencies; Law on Salaries for Judges and Public Prosecutors; Law on the Judicial Budget; Law on Child Justice; Law on Forensics; Law on Property Appraisal; Law on Legal Status of Churches, Faith Communities and Religious Groups; Law on Associations and Foundations; Law on Donations and Sponsorship; Law on Sports; Law on Prevention of Corruption and Conflict of Interest; Law on the Office for Property Origin; and Law on Amending the Law on the Official Gazette of the RNM.

The Strategy on Justice System Reform and the Government's Work Program anticipated development of several other laws in 2021, but their drafting process was postponed for 2022: Law on Obligations; Law on Non-Litigation Procedure; Law on Ownership and Other Real Rights; Law on Notary Profession; Law on Inheritance and Law on Enforcement.





# PART 2

## SWG FUNCTIONALITY

### 2.1 RULES OF PROCEDURE

No changes can be reported in 2021 related to regulation of operation by SWG Justice, i.e. this sector group continued to use the old rules of procedure<sup>13</sup> adopted in 2015 and featuring general provisions that are applicable to all SWGs.

As regards the number of SWG members, there are no changes compared to the situation observed last year, whereby the total number of members stands at 58 (Ministry of Justice is represented by 7 members, judicial institutions have 26 members, civil society organizations account for 8 members and the donor community is represented by 7 members). Names of members representing the institutions, as well as representatives from the donor community and civil society organizations that participate in this sector group, are given in the annexes to the rules of procedure.

In 2021, SWG Justice did not hold plenary sessions in spite of the fact that its rules of procedure refer to organization of at least one meeting per month. Hence, the project team is unable to assess and review

---

<sup>13</sup> Rules of Procedure for SWG Justice, available at: <https://bit.ly/3w6dM82>



other segments from the rules of procedure pertaining to organization of plenary sessions/meetings.

The need for the current rules of procedure to be amended was underlined by all SWG members. In particular, representatives from the Ministry of Justice indicated that the rules of procedure include certain illogical provisions, for example, high number of plenary sessions per year, overlapping competences with other bodies, etc.

Similar views were shared by civil society representatives that participate in SWG Justice, which further confirm observations made last year that the rules of procedure do not fully reflect specific competences of this working group. At the same time, they agree with the need to change the model for selection of civil society representatives and further definition of their rights and obligations because that would lead to greater involvement and activity on the part of the civil society as a whole. However, civil society representatives also confirmed that the current rules of procedure are conducive to greater involvement on the part of civil society actors in operation of this sector group, but that had not been translated in the practice. Hence, it was stressed that changes to the rules of procedure must guarantee their participation in all processes for creating and monitoring sector policies, which necessitates civil society members to participate in operational meetings held by SWG Justice.

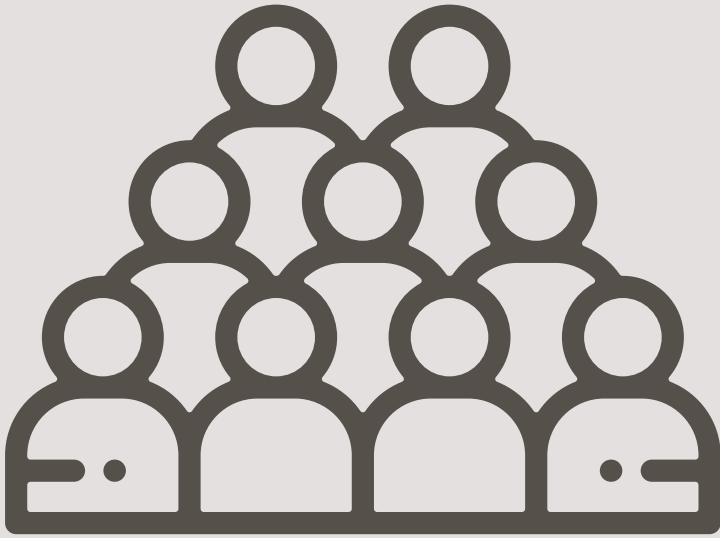
In December 2021, the Secretariat for European Affairs (SEA) initiated a meeting with representatives from all institutions that chair sector working groups to present and discuss the new draft rules of procedure for all 12 SWGs. For more information on planned amendments to the rules of procedure and the process for their adoption see [FOREWORD](#).

## 2.2 ANNUAL PLAN AND ANNUAL WORK REPORT

SWG Justice does not develop annual work plans that would be in line with the Indicative Calendar for IPA Programming and would be drafted with participation of all SWG members. Moreover, this sector group does not develop and adopt annual work reports that would provide overview of its achievements.







# PART 3

## CIVIL SOCIETY PARTICIPATION

Active participation of civil society organizations in all stages of creation, implementation, monitoring and evaluation of policies, including as members of working groups, is defined as priority area under the Strategy for Cooperation with the Civil Society.<sup>14</sup>

The list of civil society members in SWG Justice was not changed in 2021, and the **eight civil society organizations with the status of sector group members are:**

- Foundation Open Society – Macedonia;
- European Policy Institute (EPI);
- Coalition “All for Fair Trials”;
- Macedonian Young Lawyers Association;
- Institute for Human Rights;
- Association for Development Initiatives ZENITH;

<sup>14</sup> Government of the Republic of North Macedonia, Strategy for Cooperation with and Development of the Civil Society 2018-2020.

- Eurothink – Center for European Strategies;
- Association for Democratic Initiatives.<sup>15</sup>



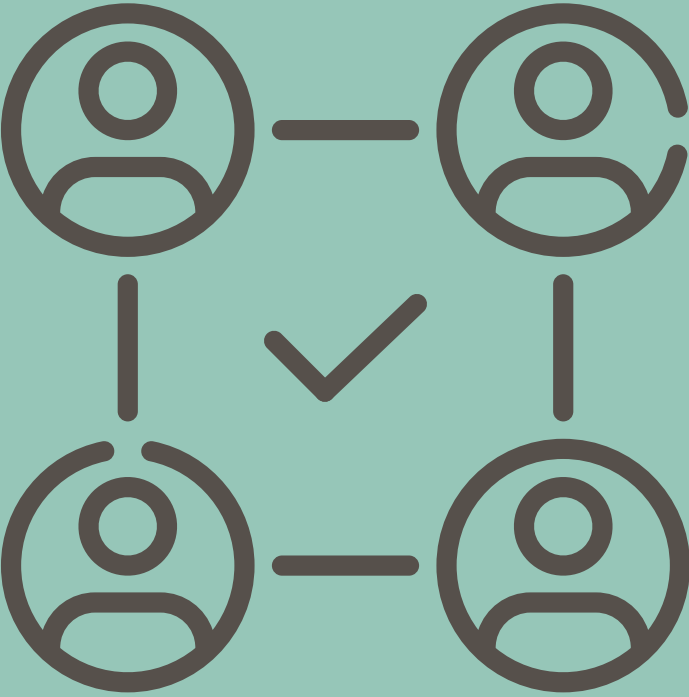
In 2021, civil society organizations with the status of sector group members were communicated in relation to SWG activities, having in mind that SWG Justice had not organized any plenary sessions or operational meetings. Hence, this part of the shadow report will refer to communication of civil society organization with institutions in respect to sector policies outside the realm of this sector group.

### **Communication with civil society organizations outside the sector working group**

Outside the realm of SWG Justice, civil society organizations and the expert public were involved in many working groups tasked with development of laws anticipated under the Strategy on Justice System Reform 2017-2022 (Criminal Code, Law on Criminal Proceedings, Law on Child Justice, etc.). Nevertheless, such approach – which lacks structured model for civil society participation in working groups on justice system matters – is insufficient and does not necessarily allow timely and comprehensive contributions by civil society organizations.

<sup>15</sup> Websites of CSOs that participate in SWG Justice: Foundation Open Society – Macedonia, Eurothink – Center for European Strategies, Macedonian Young Lawyers Association, Institute for Human Rights, Association for Development Initiatives ZENITH, European Policy Institute - EPI, Association for Democratic Initiatives, Coalition “All for Fair Trials”





# PART 4

## CSO CAPACITY

In 2021, although there were no SWG meetings, civil society organizations represented in SWG Justice were actively involved in monitoring sector policies and the justice system reform beyond the realms of this sector group.

Five from eight civil society organizations represented in SWG Justice are also members of the [Blueprint Group for Judicial Reforms](#),<sup>16</sup> which was actively involved in monitoring justice system reform and producing analyses, public reactions, etc.

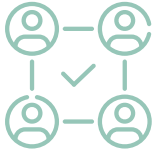
In particular, the Blueprint Group actively monitored implementation of the Strategy on Justice System Reform 2017-2022 and published its 2020 annual report<sup>17</sup> and semi-annual report for the period January - June 2021.<sup>18</sup> At the same time, the Blueprint Group was

<sup>16</sup> Foundation Open Society – Macedonia, Macedonian Young Lawyers Association, Institute for Human Rights, Association for Development Initiatives ZENITH, European Policy Institute – EPI, Coalition “All for Fair Trials”

<sup>17</sup> Analysis on 2020 Implementation Track Record under the Strategy on Justice System Reform (2017-2022), available at: <https://bit.ly/3IZE0PI>

<sup>18</sup> Monitoring Implementation of the Strategy on Justice System Reform 2017-2022 (January – June 2021), available at: <https://bit.ly/3IZxh8r>

active in closely following developments within the judiciary and issued several reactions in that regard.<sup>19</sup>



The focus of this group was put on judicial reforms and **EU accession process**, for which it has developed and published several policy briefs,<sup>20</sup> submitted comments on the negotiating framework of the Republic of North Macedonia with proposed methodology for monitoring the accession negotiations with focus on the judiciary,<sup>21</sup> and published its view on the section on judiciary from the European Commission's 2021 Progress Report for North Macedonia.<sup>22</sup>

More information on work by all eight civil society organizations that participate in SWG Justice is available on their respective websites.<sup>23</sup>

<sup>19</sup> All reactions issued in 2021 are available at: <https://blueprint.org.mk/>

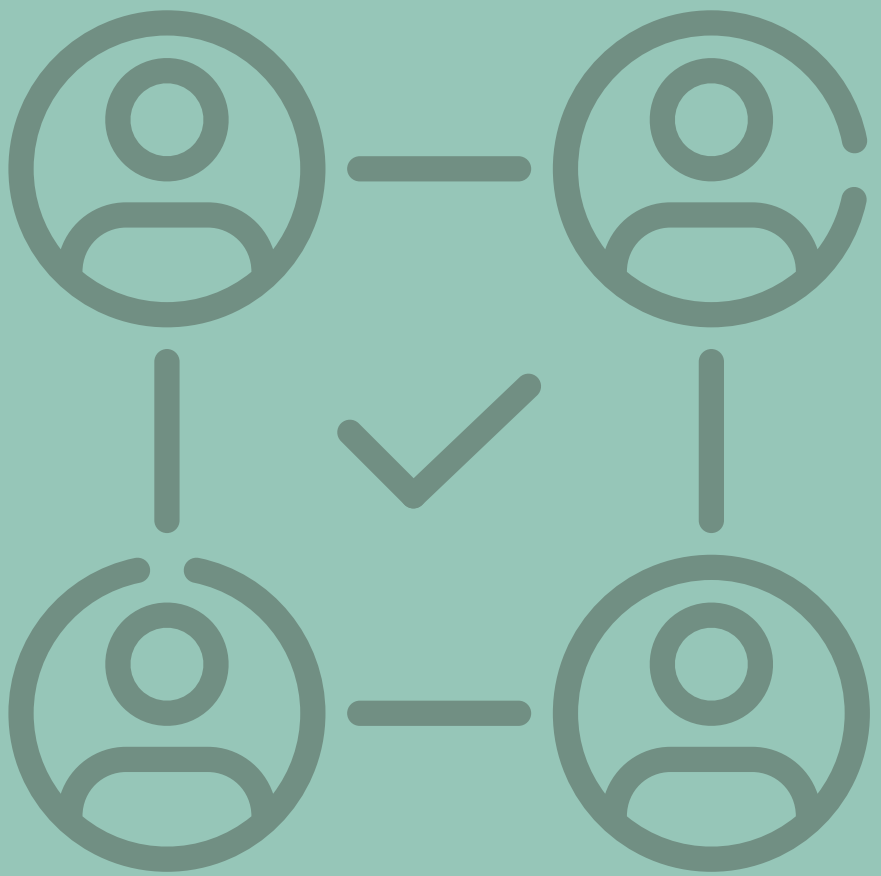
<sup>20</sup> Monitoring the screening process for Chapter 23, available at: <https://bit.ly/3L5R2x1>

<sup>21</sup> Full comment available at: <https://bit.ly/3Gs4M1A>

<sup>22</sup> Full view on the section on judiciary in the EC's 2021 Progress Report for North Macedonia is available at: <https://bit.ly/32WDnXV>

<sup>23</sup> Ibid, ref. 7







# PART 5

## EFFECTS FROM SWG WORK

In 2021, SWG Justice was not active and did not organize any plenary sessions or operational meetings. However, some of its competences were performed by other bodies, such as the Rule of Law and Fundamental Rights Monitoring Committee and the Council for Monitoring Implementation of the Strategy on Justice System Reforms. On that account, this part of the shadow report will reflect on activities taken by these two bodies.

In the capacity of SWG Chair, the Ministry of Justice indicated absence of new activities for IPA III programming in the justice sector as the main reason why this sector group has not held any meetings, i.e. it referred to the fact that 2021 marked the start of activities programmed in the course of 2020.

Having in mind that operational meetings held by sector working groups serve as preparation for plenary sessions, no such meetings took place in 2021.



## 5.1 RULE OF LAW AND FUNDAMENTAL RIGHTS MONITORING COMMITTEE AND IPA II JOINT MONITORING COMMITTEE

According to its competences, the Rule of Law and Fundamental Rights Monitoring Committee is closely related to some activities performed by SWG Justice. In 2021, this monitoring committee held one meeting (29.12.2021). Topics discussed at this meeting include:

- outstanding issues related to implementation of justice system reforms;
- outstanding issued related to implementation of reforms in the sector on home affairs;

On the other hand, IPA II Joint Monitoring Committee held one meeting on 22.10.2021 to discuss issues such as:

- status of implementation under IPA I;
- status of implementation under IPA II in the sectors: democracy and good governance; justice and home affairs; environment and climate change; transport; competitiveness and innovation; agriculture and rural development; education, employment and social policy; and cross-border cooperation.

Representatives from competent institutions, EU Delegation, donor community and the civil society were invited and attended this meeting.

## 5.2 COUNCIL FOR MONITORING IMPLEMENTATION OF THE STRATEGY ON JUSTICE SYSTEM REFORM 2017 – 2022

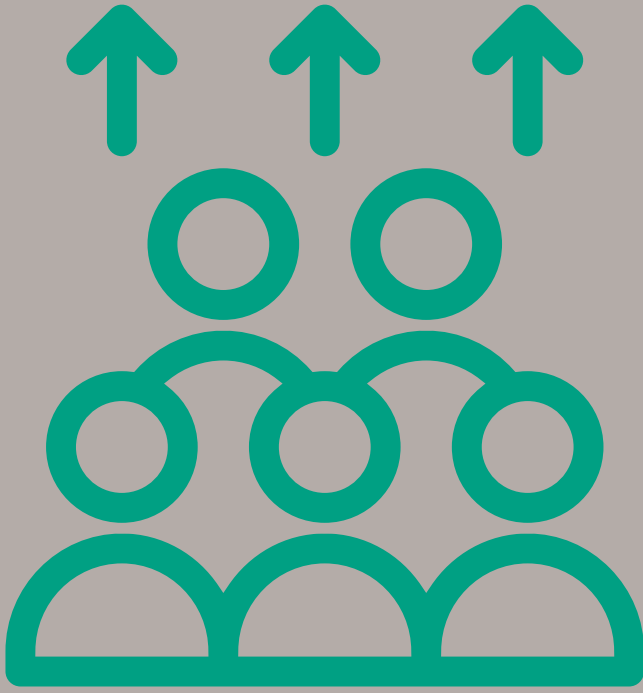
In 2018, Government of the Republic of North Macedonia established the Council for Monitoring Implementation of the Strategy on Justice System Reform (2017-2022), whose members include top government officials, judicial institutions, the ombudsman, and civil society representatives from the Blueprint Group on Judicial Reforms.

In 2021, this council organized two meetings. The first meeting, held on 12.7.2022, included presentation and discussion of following documents:

- Draft Action Plan on Open Judiciary 2021-2023;
- Plan for Digitalization of the Judiciary;
- IPA 2020 National Programme: EU Support for Rule of Law Project;
- ongoing activities under the legislative agenda.

**The second meeting** was held on 27.12.2021 and concerned discussion on topics such as:

- status of the legislative agenda according to the Strategy on Justice System Reform 2017-2022;
- funds secured for capacity building at courts and public prosecution offices for 2022;
- implementation status of the human resource strategies for the judiciary and the public prosecution networks;
- timeline for development of the new Strategy on Justice System Development for the period 2023-2027;
- presentation of the functional analysis of 27 basic courts on the territory of the Republic of North Macedonia;
- presentation of the methodology for complexity of court cases.



# PART 6

## INSTRUMENT FOR PRE-ACCESSION ASSISTANCE IPA III (2021-2027)

The Instrument for Pre-accession Assistance (IPA III) concerns the programming period 2021 - 2027. The European Commission introduced this instrument together with the new EU multiannual financial framework. IPA III was introduced with adoption of the Regulation on Establishing the Instrument for Pre-accession Assistance and the Regulation on Implementing Rules and Principles for IPA III<sup>24</sup> by the European Union, and is coherent with other funds, programmes and instruments of the Union, primarily the Neighbourhood Development and International Cooperation Instrument.

According to its structure, IPA III is organized around five thematic priorities, i.e. windows:

1. Rule of Law, Fundamental Rights and Democracy;
2. Good Governance, Acquis Alignment, Good Neighbourly Relations and Strategic Communication;
3. Green Agenda and Sustainable Connectivity;

<sup>24</sup> Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III) COM/2018/465 final

4. Competitiveness and Inclusive Growth;
5. Territorial and Cross-Border Cooperation



For more information on IPA III programming (2021-2027) see the report [IPA: Cross-Cutting Issue](#).

## 6.1 IPA III PROGRAMMING (2021-2027) IN THE JUSTICE SECTOR

IPA III funds anticipated for the justice sector are part of WINDOW 1: Rule of Law, Fundamental Rights and Democracy, Thematic priority 1: Judiciary, and Thematic priority 2: Fight against Corruption. In 2021, the action document “EU for Efficient Judiciary and Enhanced Prevention of Corruption”, which was previously discussed by SWG Justice in 2020, reached the maturity stage before the European Commission and entered the implementation stage. In particular, this action document anticipates assistance in the amount of 9,600,000 EUR, of which 8,500,000 EUR will be IPA funds. Action fiches are still not developed for the action “fight against corruption, enhancing democracy and fundamental rights”, which is planned for implementation in 2023 and 2024, meaning that at the moment this action is addressed with strategy indicators in the earliest stage and they can be changed in the future.



**TABLE 1:***IPA III programming (2021-2027) in the justice sector***WINDOW 1:****RULE OF LAW, FUNDAMENTAL RIGHTS AND DEMOCRACY**

Thematic priority 1: Judiciary

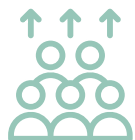
Thematic priority 2: Fight against Corruption

**Implementation period: 2021 година**

Action	Estimated total budget (million EUR)	Requested contribution from IPA (million EUR)	Implementation plan/arrangement
<u><a href="#">EU for Efficient Judiciary and Enhanced Prevention of Corruption</a></u>	9.6	8.5	The action will be implemented under direct management through grants and procurements. <b>The action document</b> was submitted in March 2021, the European Commission adopted the implementing decision in December 2021.

**Implementation period: 2023 and 2024**

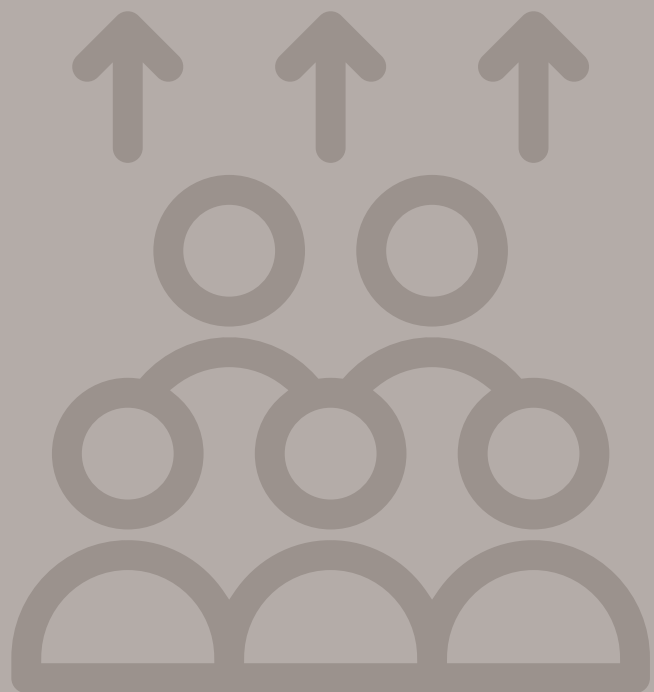
<u><a href="#">Fight against Corruption, Enhancing Democracy and Fundamental Rights</a></u>	9	8	This action will be implemented by direct management and possible indirect management with international organization.
---	---	---	--

**TABLE 2**

*2021 Action Document “EU for Efficient Judiciary and Enhanced Prevention of Corruption”*

**2021 ACTION DOCUMENT “EU FOR EFFICIENT JUDICIARY AND ENHANCED PREVENTION OF CORRUPTION”**

<b>Expected outcomes</b>	<b>EU contribution (EUR)</b>	<b>Indicative third party contribution</b>
1) Enhanced digitalization of judiciary institutions	6,000,000	1,000,000
2) Enhanced capacity of the Constitutional Court for review of constitutionality and lawfulness of adopted legislative acts	1,000,000	
3) Developed technical documents for new premises of the Academy for Judges and Public Prosecutors	500,000	
3) Enhanced public intolerance to corruption	1,000,000	100,000
<b>Total</b>	<b>8,500,000</b>	<b>1,100,000</b>





# PART 7

## GENDER MAINSTREAMING IN SECTOR WORKING GROUPS

Gender mainstreaming is a process for systematic consideration of implications on women and men from a planned action, including legislation, policy or program, in any area and at all levels.<sup>25</sup> In that, the ultimate goal is to achieved gender equality. Within the national legislation of the Republic of North Macedonia, gender mainstreaming is defined under the Law on Equal Opportunities for Women and Men<sup>26</sup> and represents an obligation for all state bodies and institutions. Failure to incorporate the gender perspective implies adoption of gender-neutral or gender-blind policies that are unable to address existing inequalities and could contribute to deepened gender gaps.

Gender equality is among core values of the European Union.<sup>27</sup> At the same time, EU membership is conditioned with respect and promotion of fundamental European values.<sup>28</sup>

<sup>25</sup> European Institute for Gender Equality (EIGE), Glossary and Thesaurus, A-Z Index, available at: <https://eige.europa.eu/thesaurus/terms/1185?lang=mk>

<sup>26</sup> Article 4, paragraph (1), item 10) of the Law on Equal Opportunities for Women and Men, “Official Gazette of the Republic of Macedonia” no. 6/12, 30/13, 166/14, 150/15 and “Official Gazette of the Republic of North Macedonia” no. 53/21.

<sup>27</sup> Article 2 of the consolidated version of the Treaty on the European Union, available at: <https://bit.ly/3s4gijR>

<sup>28</sup> Ibid. Article 49, paragraph (1)



The Instrument for Pre-accession Assistance in the period 2021-2027 (IPA III) stipulates that implementation of IPA III should be led by the principles of gender equality and enhanced rights of women and girls,<sup>29</sup> in line with and aimed at attaining the minimum standards established under the EU's new Gender Action Plan 2021-2025 (GAP III) titled "An Ambitious Agenda for Gender Equality and Women's Empowerment in EU External Action".<sup>30</sup> GAP III is organized into five pillars and the third pillar anticipates activities in six key areas of engagement.<sup>31</sup> Moreover, GAP III reflects goals and objectives defined under the EU Gender Equality Strategy 2020-2025.<sup>32</sup> On the other hand, IPA III defines gender equality as specific objective, but also thematic priority eligible for support.<sup>33</sup> In that, it is stressed that gender equality is a cross-cutting issue that should be adequately reflected and integrated in the overall implementation process.<sup>34</sup> Goals of IPA III assistance under the thematic priority on gender equality fully correspond to six areas of engagement from GAP III, which provides an additional indicator for the need for these two documents to be linked. On that account, work within sector groups - that represent forums for interdepartmental cooperation and are competent for creating and implementing national policies and programming, monitoring and evaluating foreign aid - should be guided by and aligned with GAP III. Finally, due consideration should be made of the EU's commitment that, by 2025, at least 85% of all new external actions should include gender equality as important or general goal.<sup>35</sup>

An important element of the sector approach to gender mainstreaming is building and enhancing technical competences of all stakeholders

29 Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III), available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1529&qid=1643627286827&from=en>

30 EU Gender Action Plan (GAP) III – An Ambitious Agenda for Gender Equality and Women's Empowerment in EU External Action, available at: [https://ec.europa.eu/international-partnerships/system/files/join\\_2020\\_17\\_en\\_final.pdf](https://ec.europa.eu/international-partnerships/system/files/join_2020_17_en_final.pdf)

31 Ibid. GAP III anticipates activities grouped into six thematic areas: ensuring freedom from all forms of gender-based violence; promoting sexual and reproductive health and rights; strengthening economic and social rights and empowerment of girls and women; advancing equal participation and leadership; implementing the women, peace and security agenda; addressing challenges and harnessing opportunities offered by the green transition and the digital transformation.

32 A Union of Equality: Gender Equality Strategy 2020-2025, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>

33 Regulation (EU) 2021/1529 of the European Parliament and of the Council of 15 September 2021 establishing the Instrument for Pre-Accession assistance (IPA III), available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R1529&qid=1643627286827&from=en>

34 Ibid.

35 EU Gender Action Plan (GAP) III – An Ambitious Agenda for Gender Equality and Women's Empowerment in EU External Action, available at: [https://ec.europa.eu/international-partnerships/system/files/join\\_2020\\_17\\_en\\_final.pdf](https://ec.europa.eu/international-partnerships/system/files/join_2020_17_en_final.pdf)

involved in implementation of sector policies.<sup>36</sup> Hence, equal importance is assigned to capacity building on gender mainstreaming among policy makers, but also among people involved in policy implementation.

For more information, see [Shadow Report on Gender Mainstreaming in Sector Working Groups](#).

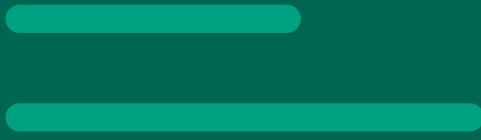
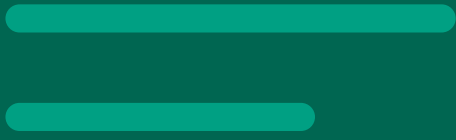
## 7.1 GENDER MAINSTREAMING IN SWG JUSTICE

SWG Justice did not hold any meetings in 2021 and, according to information from the Ministry of Justice (MoJ), IPA III action document in this sector was not planned for the programme year 2022, whereby it was not possible for this sector group to assess gender mainstreaming in programme documents. In the course of 2021, MoJ has not developed or used any gender analyses in its activities for policy creation. Moreover, the ministry has not organized gender equality trainings for its staff members, indicating that the e-training on gender equality provided by the Ministry of Information Society and Administration (MISA) is not available for longer period of time, i.e. the electronic learning management system is not functional. However, majority of staff at MoJ have already attended this training.<sup>37</sup> As regards promotion of gender equality in the justice sector, special importance is assigned to amendments to the Criminal Code which, at this moment, are still in parliamentary procedure and are not adopted, but are aimed at aligning the Criminal Code with the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).<sup>38</sup>

<sup>36</sup> EIGE, Glossary and Thesaurus, A-Z Index, available at: <https://eige.europa.eu/thesaurus/terms/1359?lang=mk>

<sup>37</sup> Interview with IPA Coordinator, 2022.

<sup>38</sup> Council of Europe's Convention for Preventing and Combating Violence against Women and Domestic Violence, available at: <https://rm.coe.int/168046253a>





## FINAL CONCLUSIONS AND RECOMMENDATIONS

Having in mind that, in 2021, SWG Justice was completely inactive and there were no changes to acts that regulate its organization and operation, most recommendations from the last year's report are still valid.

**1.** In 2021, SWG Justice did not organize any plenary sessions or operational meetings, unlike the situation observed in 2020 when it has organized two plenary sessions and two operational meetings. On this account, this sector group needs to intensify its activities in order to comply with its obligations from the rules of procedures, i.e. operate as forum for discussion of the most important sector policies and foreign aid programming. Development of annual plan that will be communicated in advance to all SWG members, including schedule of activities, could significantly improve the sector group's efficiency and contribute to better quality of debates, but also better quality of documents developed within this working group.

**2.** CSOs that participate in SWG Justice have not been informed of any SWG activity throughout the entire 2021. Beyond this sector group, civil society organizations and the expert public were involved in different working groups tasked with drafting laws that arise from the Strategy on Justice System Reform 2017-2022. However, such approach to work, which lacks structured model for civil society participation in working groups that operate within the justice sector, is insufficient and does not necessarily allow timely and comprehensive contributions from civil society organizations. Hence, the important aspect of civil society participation in SWG by means of structured model for involvement in policy creation and monitoring is not used at this moment.

**3.** SWG rules of procedure need to be amended in order to define the model for selection of civil society representatives and their role and mandate within this sector group. The current approach does not utilize the full capacity of civil society organizations.

## BIBLIOGRAPHY



- ◆ World Justice Project Rule of Law Index® 2021
- ◆ Strategy on Justice System Reform 2017-2022
- ◆ Analysis on Implementation Track Record under the Strategy on Justice System Reform (2017-2022)
- ◆ COMMISSION IMPLEMENTING REGULATION (EU) No 447/2014
- ◆ European Commission's 2021 Progress Report for North Macedonia
- ◆ National Programme for Adoption of EU Acquis (NPPA) 2021-2025
- ◆ Act on Job Systematization at the Ministry of Justice
- ◆ Responses to information requests submitted under the instrument on free access to public information
- ◆ Transcript from the interview with representatives from state institutions that participate in SWG Justice
- ◆ Transcript from the focus group organized with civil society representatives that participate in SWG Justice
- ◆ Insight in electronic communications with SWG members
- ◆ Rules of Procedure for SWG Justice
- ◆ Draft Performance Assessment Indicators for SWG Justice
- ◆ Strategic response to WINDOW 1: RULE OF LAW, FUNDAMENTAL RIGHTS AND DEMOCRACY
- ◆ Action fiche: Judiciary and Anticorruption, 2021
- ◆ Action fiche: Good Governance, 2021
- ◆ Action document: Rule of Law and Anticorruption



