

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE OF THE ELIMINATION OF RACIAL DISCRIMINATION 70<sup>TH</sup> SESSION REPUBLIC OF MACEDONIA, 4<sup>TH</sup> – 7<sup>TH</sup> REPORTS

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### Information submitted to the Committee

On 26 February 2007, the Former Yugoslav Republic of Macedonia submitted its Fourth, Fifth, Sixth and Seventh Periodic Reports on the *International Convention on the Elimination of All Forms of Racial Discrimination* (the Convention).<sup>1</sup> The report contains information on legal, administrative and other measures that Macedonia has taken to implement the Convention. On the day of the examination, the delegation provided written replies to the Committee on the Elimination of All Forms of Racial Discrimination's (the Committee) list of issues.<sup>2</sup> The Former Yugoslav Republic of Macedonia does not have any reservations to the Convention.

The report was thorough and comprehensive, covering all of the legal and administrative provisions in Macedonia relating to each article of the Convention. It also included comprehensive data relating to the representation of various ethnic communities in the civil service, municipal administration, justice body systems and the education field. However, the report did not include any statistics from the economic field.

There were no shadow reports submitted by NGOs.

<sup>1</sup> CERD/C/MKD/7, 23 October 2006, available at <http://www.ohchr.org/english/bodies/cerd/cerds70.htm>

<sup>2</sup> CERD/C/MKD/7, available at <http://www.ohchr.org/english/bodies/cerd/cerds70.htm>

## Themes and issues

The delegation was headed by Mrs. Svetlana Geleva, a State Counselor of the Ministry of Foreign Affairs, and comprised of twelve members in total.<sup>3</sup> These included other state officials from relevant ministries, including the Head of the Department of the Ministry of Labor and Social Policy and the Head of the Human Rights Unit of the Ministry of Justice. The Committee was pleased with the size and composition of the delegation, and noted that this demonstrates that the Republic of Macedonia is interested in dialogue and the implementation of the Convention. The dialogue itself was very open and conducted in a cooperative atmosphere. The Committee was also very pleased with the comprehensive written replies submitted to the list of issues, and with the delegation's ability to answer virtually all of the Committee members' questions and concerns during the interactive dialogue. The majority of the questions had to do with policies relating to Macedonia's Roma population, ethnic Albanians, immigrants and asylum seekers.

### Status of the Convention in domestic law

According to Article 118 of the Constitution, the Republic of Macedonia can directly apply the provisions of any international convention to which the State is a party. The Committee requested that concrete examples be provided. The delegation responded by citing two cases where the Constitutional Court directly referred to the Convention. These protections apply equally to foreign nationals in the Republic of Macedonia, as guaranteed by Article 28(a) of the Constitution.

Article 9 of the Constitution of the Constitution defines non-discrimination in general terms, but the Committee inquired whether a definition of racial discrimination exists in domestic law that is compatible with the definition provided by Article 1 of the Convention. The delegation responded that although there is no definition of discrimination as stated in Article 1, the Convention is part of the legal system of the Republic of Macedonia, and can thus be directly applied in domestic law. In its concluding observations, the Committee was concerned that article 9 only specifies that 'citizens' are equal before the law and entitled to exercise their freedoms and rights without any discrimination of any kind. The Committee recommended that the State review the Committee's General Recommendation No. 30 (2004) on non-citizens, and recommended that the State party review its legislation in order to guarantee equality between citizens and non-citizens.

### Implementation

The delegation spoke at length about the seventeen constitutional amendments that were made following the Ohrid Framework Agreement signed in 2001, which included comprehensive reforms in the protection and promotion of the rights of the Republic of Macedonia's 'communities'.<sup>4</sup> These amendments dealt with the right to the use of minority languages, the equitable representation of communities in organs of the State and other public institutions, the equality of religious communities, freedom of expression and the development of the identity of communities, and many others. These amendments led to the adoption of 67 new laws in total. The Committee noted this fact with satisfaction.

### Roma population

Committee members were predominantly concerned with the multi-ethnic make-up of the Republic of Macedonia, and the types of laws and initiatives have been put in place to protect minorities. The group of most concern to the Committee was the Roma population. The delegation acknowledged this, and stated that it was also a chief concern of the Government.

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<sup>3</sup> Full list available at [http://ohchr.org/english/bodies/cerd/docs/70list\\_macedonia.pdf](http://ohchr.org/english/bodies/cerd/docs/70list_macedonia.pdf)

<sup>4</sup> The Committee welcomed the fact that Macedonia chose this term to refer to groups usually considered to be minorities.

The main initiative discussed was the Roma Decade, which was an international initiative to improve the situation of the Roma in Eastern Europe from 2005-2015. One of the Committee members asked if the Roma actively participate in this initiative. The delegation responded by stating that Roma NGOs and representatives from Roma political parties helped to prepare national action plans. The delegation also stated that they are the only country that has operationalized the national action plan.

One Committee member asked whether the Roma can obtain documentation, because this has been a challenge in other countries in the region. The delegation responded that the Roma are not in a privileged or discriminatory status. They receive identical treatment with regards to procedure. The head of the delegation did state that activities had been undertaken to ensure that people are better informed about their right to nationality. In the Committee's concluding observations, it stated that it was deeply concerned about the difficulty some Roma face in obtaining documentation. It recommended that the State take immediate steps to remove all administrative obstacles that currently prevent Roma from obtaining personal documents that are necessary for the enjoyment of economic, social and cultural rights.

### **Housing**

The Republic of Macedonia's representative explained that housing for the Roma population presented a huge problem and placed a large financial burden on the Government, which presently does not have the resources to meet this demand. The delegation explained that the Government planned to legalize the Roma settlements, improve their infrastructure, and give Roma the opportunity to be owners of their previously illegal housing if it was constructed prior to 1968. The Government has also adopted a program for social apartments, which will include the Roma.

In terms of infrastructure, there are projects which started in 2006 for rehabilitation and construction of the water supply network and sewage in Roma settlements that is funded by both the budget and by donors.

However, in its concluding observations, the Committee remained concerned about the housing situation of the Roma, especially with regard to the lack of basic infrastructure and to their right to security of tenure. The Committee recommended that the State intensify its efforts in implementing the National Action Plan and the Operational Plan on Housing. The Committee urged the Republic of Macedonia to allocate sufficient funds to the realization of these projects, and that Roma NGOs continue to be involved in the design and implementation of strategies directly affecting them.

The Country Rapporteur asked if there were still a large number of Roma street children in Macedonia, particularly in the capital. The delegation acknowledged that this was still a problem, and the Ministry of Labour and Social Affairs has established a Department for Socially Excluded and Marginalized Persons. The representative from the Ministry of Labour and Social Affairs made it clear that addressing this issue was a priority. The representative explained further that an important impetus for this was the amendment of the Law on Social Protection. The department has created a new form of non-institutional protection for street children through the development of daily care centres.

### **Education**

The delegation stated that the present situation of the Roma in the area of education is not satisfactory. It cited World Bank and UNICEF reports which explained that illiteracy prolongs the cycle of poverty. The delegation explained that 30 percent of Roma women and 20 percent of Roma men have not completed their primary education. It elaborated on its national strategy for Roma education, where the delegation explained that the Government is focused on consistent implementation of existing legislation, including mandatory

education and adult education. Furthermore, the Government has started an initiative to establish secondary education in Roma areas, which included facilitating access to scholarships for Roma pupils.

There is also a compulsory curricula that is meant to increase respect and understanding among students from different communities. Teachers are also trained for intercultural education in order to decrease stereotypes.

The Committee was concerned about the high dropout rate among Roma pupils. The delegation explained that this has become part of the Roma decade 2005-2015 strategy. Indicators have been established in order to determine the factors that cause dropout among the Roma. One of the factors the delegation pointed to was the low inclusion of Roma pupils in the preschool system and insufficient knowledge of the Macedonian language. Other factors included the socio-economic situation of the Roma, as well as illiteracy among parents and juvenile marriages.

The delegation explained that they need a coordinated strategy, starting with cooperation from the civic Roma sector. There were a number of programs under way, such as the Project for Educational Networks for Roma of Macedonia, where NGOs are actively involved in its development. Furthermore, Macedonia has been one of the highest beneficiaries of the Roma Educational Fund, where they have received 1.5 million Euros.

Some Committee members were concerned that plans to integrate Roma might lead to assimilation, and a weakening of their identity. The delegation responded by arguing that education builds the capacity of the community to preserve its identity. In its concluding observations, the Committee stated that the high drop-out rate among Roma pupils had to be addressed. Means to address this included taking steps to eliminate negative prejudices and stereotypes regarding Roma; providing financial assistance to poorer families; ensuring as much as possible adequate opportunities for Roma to be taught in their native tongue; ensuring that the Roma have access to Macedonian language classes; organizing special training for teachers to increase their knowledge about the culture and tradition of the Roma; and facilitating the recruitment of Roma teachers.

In terms of the language of instruction, the delegation explained that the right to education in the mother tongue is guaranteed, and that pupils receive regular education in Macedonian, Serbian, and Albanian. Other smaller communities such as the Vlachs, Roma and Bosnians can choose to study their mother tongue as an optional subject.

The Committee also remained concerned about the high drop-out rates among ethnic Albanian and ethnic Turkish pupils in secondary schools. It recommended that the State party intensify its efforts to reduce the high drop-out rate among these pupils, and recommended that the State improve the quality of teaching in Albanian and Turkish schools by ensuring the availability of textbooks in minority languages and adequate training of teachers instructing in these languages.

### **Hate speech**

The delegation of Macedonia spoke about new anti-discrimination legislation aimed at tackling hate crime disseminated through computer systems. There is also a Code of Ethics for Journalists, which provides that journalists shall not report or process information that threaten human rights and freedoms or encourage discrimination on any grounds. In its concluding observations the Committee stated that, according to reports received, this legislation has not been applied in such a manner as to sanction journalists violating its principles. The Committee recommended that the State take effective steps to ensure the implementation of the Code of Ethics for Journalists, and those criminal sanctions provided by article 319 of the Criminal Code, against journalists who promote discrimination, racism and inter-ethnic tensions.

The Committee was also concerned that criminal provisions punishing acts of racial discrimination<sup>5</sup> are seldom invoked in national courts, allegedly due to a general lack of knowledge about these provisions and lack of confidence in the justice system. The Committee recommended that the State party ensure that these provisions are implemented effectively, and provide specific training for those working within the criminal justice system (police officers, lawyers, prosecutors and judges) in order to increase their awareness of the relevant provisions in the Criminal Code.

### **Representation**

The delegation explained that the Ohrid Framework Agreement constitutes one of the main pillars in achieving equitable civil and political representation. The adoption of a new strategy for equitable representation on 9 January 2007 was cited as an important landmark in the process. The delegation explained that the goal is to achieve equitable representation of communities in government, the civil service, and all public administration. This strategy has increased the budget for this purpose has been increased by 3.5 times. The delegation stated that in the first quarter of 2007, 250 new civil servants belonging to non-majority communities are expected to be employed. The Government has also instituted 3 and 12 month courses aimed at designing a multi-ethnic police force.

### **Criminal Proceedings**

The Committee requested that the delegation provide more information about what languages can be used during criminal proceedings. The delegation explained that although the official language is Macedonian, Amendment V to the Constitution allows for criminal proceedings to be carried out in a language that is spoken by at least 20 percent of the population. If the accused, damaged, private plaintiff, witnesses and other participants in the proceedings speak a language other than Macedonian, then they will be provided with an interpreter.

In response to a query put forward by Committee member Mr. De Gouttes, the delegation explained that only Albanian meets this 20 % threshold at the moment. However, in local self-government units, language groups that are over 20 percent can also have their language recognized as an official language at the local level. The Committee welcomed this provision in its concluding observations, but was concerned that this legislation is not systematically applied by courts and other institutions. The Committee recommended that the State party ensure the effective implementation of this legislation through the recruitment of additional professional translators and interpreters in all 'non-majority' languages used locally.

### **Other Issues**

The issue of the inclusion of Muslims as an ethnic group in the delegation's report was of concern to the Committee. The delegation responded to this inquiry by stating that this was a bi-product of the former Yugoslavia. The Republic of Macedonia does not consider Muslims as an ethnic group, but the delegation stated that this group describes themselves in this way. Similar questions were raised about a community in Macedonia who refer to themselves as 'Egyptians'. The delegation explained that this group who claimed to be people from Egyptian descent who arrived in Macedonia with Alexander the Great. Mrs. Geleva stated that although this is little more than a theory, the Government does not have a problem recognizing the community.

The Committee was also concerned about discrepancies between the census and other studies on the ethnic composition of the population. Committee member Mr. Pillai stated that although the 2002 census estimated that the Roma population was approximately 53,000, some estimates have contested that it is between 80,000 and 120,000. The delegation responded that every citizen has the right to declare their nationality, and that the

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<sup>5</sup> Articles 137, 138, 319, and 417 of the Criminal Code.

State does not pressure citizens to declare a particular ethnicity. However, it acknowledged that this right might not always be exercised, and that citizens might declare an ethnicity other than their own for political reasons.

### **Conclusions and next steps**

The Committee's examination with the Republic of Macedonia was carried out in a spirit of dialogue and cooperation. However, the examination might have suffered due to the fact that there were no NGO submissions or briefings with the Committee. The Committee members focused mostly on issues that relate to the Roma population, but tended to overlook issues regarding other groups, such as specific issues relating to ethnic Albanians living in Macedonia.

The Committee recommended that the State party submit its eight, ninth and tenth periodic reports in a single document, due on 17 September 2010, and the report address all the points included in the present concluding observations.

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