

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS 37TH SESSION (6 – 24 NOVEMBER 2006) THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA, INITIAL REPORT

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Information submitted to the Committee

On 2 March 2006 the Committee on Economic, Social and Cultural Rights (the Committee) produced a list of issues¹ in advance to the submission of the initial report² by the Former Yugoslav Republic of Macedonia (Macedonia). The initial report, submitted on 29 March 2006, details how Macedonia implemented each article of the Covenant on Economic, Social and Cultural Rights (the Covenant). Macedonia then submitted a core report³ on 14 August 2006 providing comprehensive explanations and statistic information on the demographic, economic and political situation in the country, as well as a chapter on the constitutional

¹ E/C.12/MKD/Q/1, 2 March 2006, available at <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

² E/C.12/MKD/1, 29 March 2006, available at <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

³ HRI/CORE/MKD/2006, 14 August 2006, available at <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>. In their concluding observations the Committee invites the State party to update its core document so that it is in accordance with the requirements of the Common Core Document in the Harmonized Guidelines on Reporting. There were no details of what amendments should be made.

framework for the exercise of human rights and freedoms. On 23 August 2006, Macedonia responded to the list of issues with written replies.⁴

In preparation for the Committee's meeting of the 37th session, the European Rights Centre and the National Roma Centrum submitted a comprehensive and well-structured alternative report.⁵ This report provides a large amount of statistical data and follows the style of the State's initial report by referring article by article to the Covenant. It criticises the Macedonian government for the lack of implementation of measures to improve the situation of Roma people. These include discrimination, participation in decision-making, employment levels, working conditions and access to employment (with particular concerns for Roma women), access to social security, healthcare, education and integration of the Roman language into State institutions and processes.

The Macedonian delegation was led by Mr Ljupco Meshkov, Minister of Labour and Social Policy of the Former Yugoslav Republic of Macedonia. The delegation included two women (one of Roma origin) and a wide range of experts from a number of different government departments. In the opening statement, Mr Meshkov highlighted the harmonisation of labour legislation with EU standards⁶ and the commitment of the State party to the economic and social development of the Roma population. The fact that the Minister of Labour and Social Policy led the delegation meant that a large part of the dialogue was on matters relating to his work. The question of anti-discrimination against minorities, in particular with regard to the Roma, were also recurring themes in the dialogue and documentation.

Within one week of the meeting, on 21 November 2006, the Committee produced a summary report⁷ of the 43rd meeting. Unique to the Committee on Economic, Social and Cultural Rights, the summary report gives an account of the dialogue that took place and provides a useful immediate source on the session.

On 24 November, the Committee published its concluding observations⁸. Positive aspects recognised by the Committee included the progress in changing legislation on gender equality.⁹ In addition, the Committee welcomed the positive involvement of the State party in the elaboration of an Optional Protocol to the Covenant, as well as the recent ratifications by Macedonia to various human rights treaties.¹⁰

Themes and Issues

Implementation of the Covenant

⁴ E/C.12/MKD/Q/1/Add.1, 23 August 2006, available at <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

⁵ Written Comments of the European Rights Centre and the National Roma Centrum Concerning the Former Yugoslav Republic Of Macedonia, 19 September 2006, available at <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

⁶ The Minister detailed the adoption of the *Law on Employment* that arose from the labour legislation reform in July 2005. He r highlighted the Council Directive on the principle of equal salaries for men and women, the Directive on Equal Access to Work, Education and Equal Working Conditions and the Directive on Burden of Proof in Case of Discrimination. He made additional special mention to the National Strategy for Employment 2006-2010, which incorporates the policies for employment from the revised Lisbon Strategy and the Integrated Guidelines of the EU. The opening statement is available at <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

⁷ E/C.12/2006/SR.43, 21 November 2006. Available at: <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

⁸ E/C.12/MKD/CO/1 24 November 2006 Available at <http://www.ohchr.org/english/bodies/cescr/cescrs37.htm>.

⁹ This consisted of the Electoral Law that introduces a quota system requiring one-third representation of women in Parliament, the Law on Equal Opportunities of Men and Women, the establishment of Gender Equality Commissions in several cities, and the provisions for the appointment of gender coordinators in all local self-government units.

¹⁰ Treaties listed are the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, and the European Social Charter and Protocol No. 12 to the European Convention on Human Rights.

Concerning the domestic implementation of the Covenant, the Committee raised concerns that the courts did not recognise economic, social and cultural rights as part of their jurisdiction and inquired into the application of the Covenant in court decisions. The delegation stated that there were no cases of direct application of the Covenant, but emphasised that this did not mean that the Constitution did not guarantee the enjoyment of economic, social and cultural rights

The Committee expressed some confusion over the role and function of the Human Rights Ombudsman's Office. In its concluding observations the Committee recognised the competency of the Ombudsman's Office to investigate complaints on violations of economic, social and cultural rights, but called for information on outcomes and follow-up to complaints to be provided in the next periodic report.¹¹

The Committee also asked about the role of the Inter-Ministerial Human Rights Body in Macedonia. The delegation replied that the body was established in March 2006, and while there was no evidence of its work to show, in the future the body would be responsible for the co-ordination and preparation of periodic reports on the situation of human rights in the country.

Employment

Key issues on work and employment raised by the Committee included the National Strategy for Employment 2006-2010, the state of the informal economy, ratification of ILO conventions, minimum wage, gender equality, sexual harassment, and the issue of unemployment among minority groups.

Regarding the National Strategy for Employment 2006-2010, the delegation highlighted that there had been a drop in unemployment rates in the last two years¹² and stated that the strategy would focus on employment of youth, long-term unemployment, as well as unemployment of older persons. The delegation also informed the Committee that there were plans to introduce a strategy to address the problem of the informal economy in the country that would fit into the National Action Plan on Employment 2006-2008. It informed the Committee that monitoring and inspection of the informal economy would increase and that penalties would be imposed in cases of non-compliance. In addition, the delegation emphasised that in recent years measures to tighten labour regulations had been successful in making employers move from informal to formal employment contracts.¹³ In its concluding observations, the Committee called for increased efforts to set up and implement such measures to combat unemployment and regularise those working in the informal sector.

The Committee highlighted concerns over unemployment in the Roma population. The delegation described that the state was presently implementing measures to stimulate employment among the Roma through training programmes, counselling and short skills-enhancement courses. In addition, it informed that there was vocational guidance and some tax exemption. Cumulatively these measures had resulted in 237 Roma people finding jobs, with one third of them were Roma women. Concerning the unemployment rates for other minorities, the delegation responded with statistics of those unemployed who came from minority groups and went on to state that the high unemployment rates among Albanians and Roma was contributed by their low level of education.¹⁴

The Committee asked if there were any plans to put in place a national minimum wage, to which the delegation stated that the establishment of a minimum wage was the responsibility of trade unions and

¹¹ The Committee made specific requests that information be provided on the complaints of the failure of State Ministries and mayors to sign contracts for the take-over of public employees, the allocation of housing for persons with low income, and the denial of access to health insurance and health care facilities.

¹² The rate was 37.2 % in 2004 and 38.7 % in the first quarter of 2005. By the first quarter of 2006, the unemployment rate had fallen to 36.2 %, while the employment rate had risen during the last quarter of 2005 and had continued to rise in 2006.

¹³ In 2005 34 inspectors had carried out over 21,000 inspections, resulting in the creation of a list of persons illegally employed. This was circulated each week to employment and welfare centres so that any benefits received by those listed were stopped.

¹⁴ The delegation informed that, as of September 2006, the total number of unemployed consist of 4.5% Roma, 3.7% Turks, 20.2% Albanians and 66.2 % Macedonians.

employers and that the Government had no influence over this. In its concluding observations, the Committee re-emphasised that the State should enforce a national minimum wage.

Responding to questions on equal pay for men and women, the delegation admitted that in reality women earned less than equally qualified men (a difference of 12% in 2005). The Committee highlighted concerns for the exceptionally high unemployment rate among women, in particular among Roma women. The delegation stated that they had created centres to provide information to Roma women on setting up small businesses in order to remove them from the informal sector, and that special funding and unsecured loans were available for this. In its concluding observations the Committee recommended that the State party should adopt temporary special measures to ensure that women have equal access to the labour market and equal remuneration is implemented in practice.

On the question of sexual harassment in the work place, the delegation admitted there was no specific law on sexual harassment¹⁵ and that no case had been officially registered with the Ombudsman's Office. However, NGOs operating harassment hotlines had reported that victims require greater legal and social assistance. In its concluding observations, the Committee highlighted the absence of a law on sexual harassment. It called for the next periodic report to provide more data on reported cases.

In other areas, the Committee questioned why Macedonia had not ratified ILO Convention No. 174 of 1993 on the Prevention of Major Industrial Accidents. The delegation said that it would reply in writing. The Committee also asked about the implementation of the Law on Employment of Disabled Persons and in response, the delegation highlighted a significant increase in the employment of disabled persons in all sectors.¹⁶

Trade Unions

Key issues on trade unions included the status of ratification with international federations and limitations on the right to strike.

The Committee asked about the status with the International Trade Union Confederation (ITUC). The delegation informed the Committee that the Federation of Trade Unions of the Former Yugoslav Republic of Macedonia had applied for membership for the ITUC. It had observer status with the European Trade Union Confederation (ETUC) and branch trade unions had also applied for membership of the ETUC.

Regarding the excessive limitations on the right to strike, the Committee questioned the provision in the *Law on Labour Relations* that allows 2% of company workers to be excluded during a strike. In response, the delegation stated that trade unions had submitted no comments on this provision and that exclusion only applied to workers who incited violence or prevented negotiations between unions and employers. In its concluding observations the Committee reiterated their concern over this limitation on the right to strike and called for the State party to consider repealing it, as well as taking into consideration allowing temporary release of potentially violent or disruptive workers during a strike.

Social Security

Key issues on social security included minimum pension levels, social welfare assistance and unemployment benefits.

¹⁵ The delegation did point out that the new Law on Labour Relations contained provisions defining harassment and sexual harassment in the workplace and added that the Criminal Code and the Law on Equal Opportunities of Women and Men had also included new relevant provisions.

¹⁶ The delegation detailed that today 650 companies employed disabled persons and the total number of disabled persons in employment was 7,900.

The Committee raised concerns over the overall insufficiency in the level of welfare and benefits provided in Macedonia. The delegation explained that average pay levels in many sectors were rather low and that benefits had declined after the first year of receipt in order to encourage the beneficiaries to seek work.

The insufficiency of minimum pensions was a central issue for discussion. The delegation explained that there were three levels of minimum pension in Macedonia and pensions were allocated according to the number of years served, with a very small difference between levels.¹⁷ The delegation added that issue of a minimum pension had been raised before the Constitutional Court and as a result a limit had been set.

The Committee focussed on the excessive pre-requisites in receiving unemployment benefits. Committee member Mr Sergei Martynov asked whether it was true that the household must not own a car in order to receive benefits. The delegation responded that this was true; explaining that a car generated additional unnecessary expenses. However, it highlighted that exceptions were made for disabled people or those with disabled persons in their family. In its concluding observations, the Committee restated its view that the existing exclusions from unemployment benefits were excessive.

Housing

Core issues raised in relation to housing included the situation of homeless persons, the National Action Plan for Housing, the illegal Roma settlements.

In response to questions on the National Action Plan for Housing, the delegation stated that Government programmes were being set up to provide rented accommodation for low-income families in 2007-2008 and that there were plans to build water and sewage systems and improve the existing infrastructure.

Regarding the illegal Roma settlements, the delegation stated that provisions were recently made to allow long-standing residents of the Roma settlements to acquire legal status for their homes.¹⁸ In its concluding observations the Committee suggested that greater efforts should be made to provide all Roma with adequate housing, including access to all essential services through improving and legalising the existence of Roma settlements.

The delegation described various efforts made to help the homeless in Macedonia.¹⁹ The Committee still requested that statistical data and other social and demographic information concerning homeless people be provided in the next State report. The Committee also urged that the State party provide adequate alternative housing to persons forcefully evicted from their homes.

Health

The key issues raised by the Committee on health included healthcare privatisation, provisions for those without health insurance, access to healthcare for those living in remote areas, sexual and reproductive healthcare, infant mortality and congenital diseases.

¹⁷ The delegation detailed that the Law on Pension and Disability Insurance had established three levels of minimum pension. The levels break down into persons with more than 35 years of service, or 30 years for women, persons with more than 25 years of service, or 20 for women, and those with less than 25 years service, or 20 for women. The delegation added that there were special categories of insured persons who had the right to special types of pensions. For example, workers in defence and internal affairs worked under special conditions. Therefore their pension rights were more favourable.

¹⁸ The details of this provision are that the Ministry of Transport and Communications had drafted a strategy on housing for the period 2006-2011 and had adopted a law on construction, which established that any building constructed before 1968 was considered legal.

¹⁹ The delegation described that in 2005 a newly opened shelter for the homeless received up to 70 people per day in summer and 160 people per day in winter.

With respect to privatisation, the delegation informed the Committee that privatisation of the primary healthcare system had begun, yet they assured the delegation that certain aspects of primary health care, such as the protection of women and children, would remain public services.

In response to the question of how people without health insurance have access to healthcare, the delegation stated that uninsured people were covered under a programme providing basic health care and this covered hospital costs. They remained vague regarding the details of this programme. Regarding access, and more particularly the question of access for people living in mountainous regions, the delegation described that special medical vehicles were available to transport patients to hospital.²⁰

The Committee asked if there were measures to prevent the use of abortion as a means of contraception. The delegation did not respond to this question directly but described services that seek to promote sexual and reproductive health among adolescents. In its concluding observations the Committee recommended increased education in sexual and reproductive health to children and enhanced accessibility to sexual and reproductive health services (including gynaecological and counselling services). They further specified that this should be implemented in rural areas and marginalized communities in particular. The Committee also asked about views on lowering the age of consent, although the delegation did not respond.

Committee member Mr Eibe Riedel raised concerns over the rise in infant mortality between 2002 and 2003., and proceeded to ask what measures had been taken to address the issue and whether the rates had dropped since 2003. The delegation only responded by suggesting there had been a misreading of the information in the report by the Committee member. With regard to congenital diseases, the delegation explained that the rise in cases of congenital defects was a positive indicator as it reflected an improvement in diagnosis. The Committee recommended in its concluding observations that increased funds should be allocated to the implementation of national preventive programmes on healthcare for mothers and children.

Education

Key areas raised by the Committee on education included the introduction of compulsory secondary education, dropout rates, and education of Roma children and other minority groups.

The delegation stated that changes in policy concerning compulsory secondary education moved forward, including the establishment of a State committee responsible for the enrolment of students in secondary education. In its concluding observations the committee acknowledged the changes in the constitution that provided for compulsory secondary education and the introduction of one-year of compulsory pre-schooling. However, the Committee further recommended that the State could gradually reduce the costs of secondary education, including through subsidising textbooks, school kits and aids and increasing the number of scholarships.

The delegation gave no concrete indication of measures in place to reduce dropout rates of pupils moving between primary and secondary school. In its concluding observations the Committee recommended intensifying awareness raising campaigns for parents on the importance of education, catch-up classes and literacy campaigns for adults.

In response to questions on education of children from minority groups the delegation informed that the Ministry of Education, together with the Roma Educational Fund, had contributed to funding Roma children to receive two years of pre-school education. In addition, the delegation highlighted that half of all scholarships for secondary schooling and university had been granted to Roma girls. In its concluding observations the Committee recommended that more emphasis should be placed on the education of minority

²⁰ The delegation regretted that the number of vehicles was insufficient but informed that the Ministry of Health had recently distributed 20 additional medical vehicles.

children through giving instruction in their native languages, providing appropriate textbooks and increasing the number of teachers instructing in minority languages.

Protection of the family

Central issues on the protection of the family raised by the Committee included domestic violence, trafficking and child marriages in the Roma community.

The Committee first raised questions about domestic violence in Macedonia, and in particular the rate of domestic violence in Roma communities. The delegation informed the Committee that domestic violence was not regulated under a separate law²¹, but efforts were nonetheless underway to address the situation for victims.²² The delegation highlighted that the Government had participated actively in the Council of Europe's Campaign to Combat Violence against Women.²³

In its concluding observations the Committee expressed deep concern over the approach to prosecution and investigation of cases of domestic violence and spousal rape in Macedonia. It urged the State party to criminalize domestic violence and stated that there should be increased training and sensitisation of police, judges, medical staff and social workers. The Committee repeated that updated data on domestic violence should be included in the next State report. Furthermore the Committee recommended amending the Criminal Code so as to remove the requirement of proof of penetration and active resistance by victims for convictions of rape

In answer to questions relating to legislation on trafficking, the delegation pointed to Macedonia ratification of the Convention against Transnational Organized Crime and the Protocols in 2005. Following this ratification, trafficking was added as an offence to the country's Criminal Code.²⁴ The delegation informed that according to data from NGOs, prostitution of minors and trafficking in children are increasing. However, it went on to describe that, through co-operation with the International Organization for Migration (IOM), a transit centre for victims of trafficking had been set up. It added that child victims were given comprehensive social support within the centres until a permanent solution to their situation could be found. In its concluding observations the Committee urged that more funds should be allocated to helping victims and there should be increased efforts in providing witness protection programmes as well as training of trafficking for police, prosecutors and judges.

Committee member Ms. Bras Gomes asked about measures to combat child marriages within the Roma community, to which the delegation did not respond.

Culture

The delegation opened on the question of culture and the rights of minorities by pointing to the 'Albanian Theater', Skopje, as a special national institution designed to foster and promote the culture of persons belonging to the Albanian community. This was established by the government and is funded from the national budget. In distributing the funds for any other cultural activities, special attention is paid to the need to promote and foster the culture of the various communities.

The delegation also highlighted that the Constitution of Macedonia guarantees freedom of scientific, artistic and other types of production. At the same time, according to the Constitution, the state stimulates, supports,

²¹ The delegation highlighted however that amendments were made to the Law on Family in 2004 to include measures to combat domestic violence.

²² The delegation described that there were seven shelters and a hotline for victims. In addition, there had been seminars on violence within the family to inform and sensitise professionals from various sectors.

²³ The delegation informed the Committee that Macedonia will hold the regional conference of the Council of Europe's Campaign to Combat Violence against Women.

²⁴ This comes under article 418 (a) of the Criminal Code.

and protects the development of science, arts and culture. This is also elaborated in the *Law on Culture*²⁵ which addresses the presentation and protection of artistic works.

It was also noted that the concept of the National Program for Culture²⁶ is based on the possibility for a wider understanding of culture, in which people, using their own tradition, creatively improve present conditions through promoting human rights and freedoms.

Other Issues

The delegation highlighted certain schemes that had been implemented to monitor street children,²⁷ including the Skopje day-care centre, but expressed regret that its facilities were presently inadequate. In its concluding observations the Committee urged that this issue was addressed by opening additional day centres for street children in co-operation with NGOs.

Concerning poverty levels in Macedonia²⁸, the delegation described that there had been a National Strategy for Poverty Reduction since 1999. It regretted that so far it had not yielded substantial results and added that the government would revise the strategy as part of the conditions for entry into the EU. In its concluding observations the Committee stated that economic, social, and cultural rights should be integrated into the poverty reduction strategy.

Conclusion and Next Steps

The Minister of Labour concluded the session by describing that the process of collecting information and writing the report had been a constructive experience for the Government of Macedonia. Committee Chairperson [Ms Virginia Bonoan-Dandan](#) remarked that the dialogue in the session had been 'open and frank'. She welcomed that the responses of the delegation had been honest and methodical and this had allowed coverage of all articles of the Covenant during the session.

In its concluding observations the Committee requested that the next State report should combine the second to fourth periodic reports, to be submitted by 30 June 2008.

²⁵ Official Gazette of the Republic of Macedonia No. 66/03 and No. 82/05.

²⁶ The 2004-2008 National Program for Culture, Official Gazette of the Republic of Macedonia No. 31/04.

²⁷ The delegation described that in 2005 a mobile team was sent out to register street children.

²⁸ 30% of the Macedonian population live below the poverty line.

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