

**REPORT ON  
"THE FORMER YUGOSLAV  
REPUBLIC OF MACEDONIA"**

**(fourth monitoring cycle)**

Adopted on 28 April 2010

Published on 15 June 2010



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# TABLE OF CONTENTS

<b>FOREWORD</b> .....	<b>5</b>
<b>SUMMARY</b> .....	<b>7</b>
<b>FINDINGS AND RECOMMENDATIONS</b> .....	<b>11</b>
<b>I. EXISTENCE AND IMPLEMENTATION OF LEGAL PROVISIONS</b> .....	<b>11</b>
INTERNATIONAL LEGAL INSTRUMENTS .....	11
CONSTITUTIONAL PROVISIONS AND OTHER BASIC PROVISIONS .....	11
CITIZENSHIP LAW .....	12
CRIMINAL LAW PROVISIONS TO COMBAT RACISM AND RACIAL DISCRIMINATION .....	13
CIVIL AND ADMINISTRATIVE LAW PROVISIONS TO COMBAT RACISM AND RACIAL DISCRIMINATION .....	15
TRAINING OF JUDGES AND PROSECUTORS .....	16
ANTI-DISCRIMINATION BODIES .....	16
<b>II. DISCRIMINATION IN VARIOUS FIELDS</b> .....	<b>18</b>
EDUCATION .....	18
EMPLOYMENT .....	22
HOUSING .....	23
HEALTH CARE .....	23
ACCESS TO JUSTICE .....	24
<b>III. RACIST VIOLENCE</b> .....	<b>25</b>
<b>IV. RACISM IN PUBLIC DISCOURSE</b> .....	<b>25</b>
THE INTERNET .....	27
<b>V. INTERETHNIC RELATIONS</b> .....	<b>27</b>
<b>VI. VULNERABLE/TARGET GROUPS</b> .....	<b>30</b>
ROMA .....	30
TURKS .....	32
RELIGIOUS MINORITIES .....	32
REFUGEES, ASYLUM SEEKERS AND INTERNALLY DISPLACED PERSONS .....	33
<b>VII. CONDUCT OF LAW ENFORCEMENT OFFICIALS</b> .....	<b>33</b>
<b>VIII. MONITORING RACISM AND RACIAL DISCRIMINATION, AWARENESS- RAISING AND EDUCATION IN FUNDAMENTAL RIGHTS AND TOLERANCE AND CO-OPERATION WITH THE NON-GOVERNMENTAL SECTOR</b> .....	<b>36</b>
MONITORING RACISM AND RACIAL DISCRIMINATION .....	36
AWARENESS-RAISING AND EDUCATION IN FUNDAMENTAL RIGHTS AND TOLERANCE AND CO-OPERATION WITH THE NON-GOVERNMENTAL SECTOR .....	37
<b>INTERIM FOLLOW-UP RECOMMENDATIONS</b> .....	<b>39</b>
<b>BIBLIOGRAPHY</b> .....	<b>41</b>
<b>APPENDIX: GOVERNMENT'S VIEWPOINT</b> .....	<b>45</b>



## FOREWORD

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and drew up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

**The following report was drawn up by ECRI under its own and full responsibility. Except where expressly indicated otherwise, it covers the situation up to 18 December 2009 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.**



## SUMMARY

**Since the publication of ECRI's third report on "the former Yugoslav Republic of Macedonia", on 15 February 2005, progress has been made in a number of fields covered by that report.**

"The former Yugoslav Republic of Macedonia" has ratified the European Social Charter and the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems. The Criminal Code now also provides that, when determining sentences to be handed down, the criminal courts shall, where applicable, take particular account of a racist motivation, a bill on combating discrimination is in the pipeline and the training dispensed by the training college for judges and prosecutors, established in 2006, includes modules on fundamental rights and the fight against discrimination. Police training in these fields has also been reinforced.

The Ombudsman, whose mandate includes ensuring that public bodies comply with the principles of non-discrimination, has consolidated his position within the country's institutional system, and the administrative authorities' co-operation with him has improved.

Special legislation passed by parliament in 2004 has permitted the acquisition of citizenship by a large number of citizens of the other republics of the former Socialist Federal Republic of Yugoslavia and nationals of the former SFRY who were resident in the country on 8 September 1991. Progress has also been made in addressing the problem of access to personal documents encountered by members of the Roma community in particular.

The country's participation in the "Decade of Roma Inclusion 2005-2015" and the adoption, in this connection, of a national strategy and action plans show the authorities' will to act in order to improve the Roma minority's social and economic situation. Moreover, the possibility for pregnant Roma women without health insurance cover to benefit from free hospital deliveries and from free pre- and post-natal medical care undoubtedly helps to improve the situation of this population group in the health care field, and the recent introduction of a universal health insurance scheme is also to be welcomed in this respect.

The authorities have apparently strictly applied the principle of non refoulement and kept their undertaking not to carry out forced returns to Kosovo as long as a return in security and dignity cannot be guaranteed. The situation of 95% of the persons internally displaced by the events of 2001 has also been settled.

Lastly, representation of minorities within the public employment sector has improved overall, in particular in law enforcement.

**ECRI welcomes these positive developments in "the former Yugoslav Republic of Macedonia". However, despite the progress achieved, some issues continue to give rise to concern.**

"The former Yugoslav Republic of Macedonia" has still not signed or ratified certain of the international instruments to which ECRI attaches particular importance, such as the European Charter for Regional or Minority Languages. With regard to domestic law, there are still significant shortcomings in the legislation on equality and on combating racism and discrimination, which is only rarely applied by the courts, and, as worded at the time of drafting this report, the bill on combating discrimination raised fierce criticisms. There is also no specialised body to combat racism and discrimination fulfilling the criteria set out in ECRI's General Policy Recommendations Nos. 2 and 7. The issue of access to appropriate legal translation and interpretation services for

justice system users who do not belong to the majority population has still not been fully resolved.

There are strong divisions along ethnic lines in the school system, teaching materials and methods are inappropriate, and teaching in languages other than Macedonian can be seen to be insufficient or of poor quality; the high drop-out rate and absenteeism among Roma children is extremely worrying, as is their over-representation in educational facilities for pupils with a mental disability.

While the educational situation of the Roma is a cause for concern, so too is their situation in the fields of employment, housing and health care, and the resources needed to implement the measures laid down in connection with the country's participation in the "Decade of Roma Inclusion 2005-2015" are lacking. The situation of Roma women, who are at risk of double discrimination, and the issue of the children on the street, most of whom come from Roma families, are also particularly worrying.

According to non-governmental sources, expressions of interethnic intolerance have become more frequent, and the dissemination of stereotypes and incidents of ethnic hostility in the media remain an issue. Division of the media along ethno-linguistic lines and ethnically tinged reporting of events are still very widespread.

In general, the country is still strongly divided along ethnic lines, and the gulf does not seem to have diminished since the publication of the third report; relations between the majority population and the Albanian minority have not become less tense, although few clashes between individuals are reported. Significant progress also still needs to be made to take into consideration the situation of minority communities other than the Albanian minority and guarantee equal treatment for all in all fields of life.

Cases of ill-treatment by the police or of police action potentially based on ethnic prejudices - primarily concerning Roma - continue to be reported, and there is still no fully independent, impartial, effective investigation mechanism.

Lastly, there is still a need to establish a system for collecting comprehensive statistical data making it possible to assess the situation in the country with regard to racism and discrimination, and the public shows little awareness of these issues.

**In this report ECRI recommends that the authorities of "the former Yugoslav Republic of Macedonia" take further action in a number of areas; it makes a series of recommendations, including the following.**

ECRI recommends that the authorities ratify a number of international instruments, review the wording of Article 9 of the Constitution and continue consolidating the criminal law provisions on racism and intolerance.

ECRI encourages the authorities to continue the legislative process under way with a view to adopting comprehensive legislation on protection against discrimination, granting victims the highest possible level of protection, and strongly recommends that, in this connection, they take account of its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination and of its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.\*

ECRI strongly recommends that the authorities set up a specialised body to combat racism, xenophobia, antisemitism and intolerance fulfilling the criteria set out in its General Policy Recommendation Nos 2 and 7.

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\* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.



ECRI urges the authorities to tackle the issue of ethnic segregation in the school system. In this connection, it reiterates its recommendations concerning the strengthening of plurilingual teaching at all levels of the education system and the determination and implementation of a deliberate policy of developing common school and extracurricular activities promoting contacts, mixing and interaction between children of all linguistic and ethnic backgrounds. It also recommends that they foster pedagogic methods promoting critical thinking by pupils and providing them with the tools they need to identify and react to stereotypes, prejudices and intolerance.

ECRI urges the authorities to end any practice of improperly sending Roma children to educational facilities for pupils with a mental disability, to identify the children concerned and reintegrate them in mainstream schools and to implement a streaming system which guarantees that only children effectively suffering from a mental disability are guided towards the specialist education sector.\* It also strongly recommends that the authorities resolutely tackle the issue of the children on the street. More generally, it reiterates its recommendations that the authorities take specific measures to improve the situation of Roma in the field of education, as in the fields of employment, housing and health care, and strongly recommends that they release the resources needed to implement the action plans laid down in the context of the country's participation in the "Decade of Roma Inclusion 2005-2015".

ECRI recommends that the authorities, through their most senior representatives, systematically and publically denounce in the strongest terms any expressions of intolerance by opinion leaders or persons in the media eye and that they initiate proceedings in cases where the remarks in question might qualify as hate speech and come within the scope of criminal law. It also recommends that they bring together media professionals and civil society representatives to take stock of the situation regarding the propagation of stereotypes in the media and the possible role this plays in fostering intolerance and to determine measures to be taken to raise awareness among media professionals of the issue of discrimination and strengthen application of the relevant provisions of the code of ethics.

ECRI strongly recommends that the authorities make improving interethnic relations a crosscutting objective to be systematically taken into account whenever policies are devised or implemented.

ECRI recommends that the authorities continue their efforts to put an end to incidents of misbehaviour and ill-treatment by the police and, in particular, that they set up a fully independent, impartial, effective investigation mechanism, paying particular attention to incidents potentially based on ethnic prejudices. It also urges the authorities to publicly and unequivocally condemn all forms of racist behaviour or of discrimination by members of the police and to publicly state at the highest level that such manifestations will not be tolerated and will be punished following a thorough investigation, conducted without delay.

ECRI reiterates its recommendation that the authorities establish a comprehensive, consistent system for collecting data making it possible to assess the situation of various minority groups in different fields of life and to determine the extent of manifestations of racism and direct and indirect discrimination; it also recommends that they improve the system for collecting statistical data on the implementation of the criminal law provisions to combat racism.

ECRI recommends that the authorities devise and implement, in close co-operation with civil society, a national strategy to combat racism and intolerance in the long term, including a long-lasting general information and awareness-raising campaign.\*

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\* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.



## FINDINGS AND RECOMMENDATIONS

### I. Existence and implementation of legal provisions

#### International legal instruments

1. As recommended by ECRI in its third report, "the former Yugoslav Republic of Macedonia" ratified the European Social Charter on 1 March 2005 and the Additional Protocol to the Convention on Cybercrime concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems on 14 November 2005; it also signed the revised European Social Charter on 27 May 2009 and withdrew the reservation it had entered to the European Convention on Nationality, whereby it retained the right to set the period of residency necessary before an individual may lodge an application for naturalisation at fifteen years, whereas the Convention provides for a maximum of ten years.<sup>1</sup> ECRI welcomes these developments. It also takes note of the authorities' statements to the effect that significant progress had been made towards ratifying the European Charter for Regional or Minority Languages. It nonetheless notes that "the former Yugoslav Republic of Macedonia" has still not signed the Convention on the Participation of Foreigners in Public Life at Local Level or the International Convention on the Protection of the Rights of all Migrant Workers.
2. ECRI reiterates its recommendation that "the former Yugoslav Republic of Macedonia" ratify the revised European Social Charter and the European Charter for Regional or Minority Languages and sign and ratify the Convention on the Participation of Foreigners in Public Life at Local Level and the International Convention on the Protection of the Rights of all Migrant Workers.

#### Constitutional provisions and other basic provisions

3. Article 9 of the Constitution sets out the principle of equality, providing "Citizens of the Republic of Macedonia are equal in their freedoms and rights regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status [and] all citizens are equal before the Constitution and law." Moreover, as is the case with all the international conventions ratified, Protocol No. 12 to the European Convention on Human Rights, enshrining a general ban on discrimination, is directly applicable and takes precedence over national law.
4. ECRI notes that Article 9 of the Constitution guarantees equality for "citizens", which would seem to exclude non-citizens from this principle's scope. Referring to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, it considers that the wording of this provision should be revised so that it unequivocally guarantees the principle of equality in law for non-citizens as well as citizens. ECRI further notes that, although the constitutional provisions are directly applicable, Article 9 has never been successfully pleaded in discrimination proceedings (as it already noted in its third report), nor apparently has Protocol No. 12 to the European Convention on Human Rights.
5. ECRI recommends that the authorities review the wording of Article 9 of the Constitution so that it unequivocally guarantees the principle of equality in law for non-citizens as well as citizens.

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<sup>1</sup> Entered in the instrument of ratification deposited on 3 June 2003, this reservation was withdrawn in December 2004.

6. ECRI recommends that the authorities identify the reasons why Article 9 of the Constitution and, possibly, Protocol No. 12 to the European Convention on Human Rights have so far not been successfully pleaded in discrimination cases and, where applicable, take appropriate measures to eliminate any difficulties regarding reliance on these provisions in judicial proceedings.

### **Citizenship law**

7. In both its second and third reports ECRI already voiced concerns about the fact that a certain number of persons belonging to the Albanian and Roma minorities who were long-term residents in the country did not have citizenship. It nonetheless noted that, in 2004, a law amending the Law on Citizenship had been passed, Article 14 of which laid down special conditions for the acquisition of citizenship by citizens of the other republics of the former Socialist Federal Republic of Yugoslavia and nationals of the former SFRY who were resident in the country on 8 September 1991, had been living there without interruption up to the date of the citizenship application, had a genuine and effective link with the country and knew the Macedonian language.<sup>2</sup> To benefit from these provisions, the persons concerned had to apply for citizenship within two years of the law's entry into force and to pay a fee of USD 100. ECRI nonetheless also noted fears that the requirement of uninterrupted residence in the country might prove an obstacle for many persons (in particular due to difficulties of proof), that the conditions relating to knowledge of the Macedonian language and the lack of criminal charges might lend themselves to arbitrary interpretation and disadvantage those for whom Macedonian was not their mother tongue and that the amount of the fee might prove prohibitive for the poorest people concerned. ECRI consequently recommended that the authorities apply Article 14 as liberally as possible to persons who were long-term residents, ensure that its application had no discriminatory impact on any of the non-majority communities and take appropriate steps to inform the population groups specifically concerned.
8. At the date of drafting this report, about 5,000 of the approximately 5,500 individuals having lodged an application under the above-mentioned Article 14 had been granted citizenship, including a number of persons with no effective nationality; some 160 applications were still pending and about 360 had been turned down on the ground that the applicants had not been resident without interruption (roughly 60% of cases), had not been resident on the date of 8 September 1991 (roughly 30%) or were not sufficiently proficient in the Macedonian language (roughly 10%). ECRI welcomes these advances, which it regards as the fruit of joint efforts made by the authorities and a number of organisations, which inter alia came to the assistance of a good many needy persons not legally exempt from the application fee. It would nonetheless seem that the issue is not fully settled and that there are still many persons with no effective nationality, including a significant proportion of Roma.
9. ECRI also noted in its third report that Article 8 of the Law on Citizenship (now Article 10) provided for facilitated naturalisation conditions in the case of "persons having emigrated from the Republic of Macedonia" and their descendants up to the first line of descent,<sup>3</sup> and that a second paragraph, added by the above-mentioned law of 2004, specified that an emigrant within the meaning of the law was "a citizen of the Republic of Macedonia - regardless of sex, race, colour of skin, national and social origin, political and religious

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<sup>2</sup> A further requirement was that the applicant should not have been charged in domestic criminal proceedings with criminal acts threatening the country's security and defence.

<sup>3</sup> Primarily by exempting them from the condition of lawful, uninterrupted residence within the country for at least eight years, laid down in the second sub-paragraph of the first paragraph of Article 7.

beliefs, property and social status – who has emigrated from the Republic of Macedonia to another country, excluding his or her country of origin." Noting the concerns of non-governmental organisations defending the interests of the country's Turkish minority that this reference to the "country of origin" might have a discriminatory impact upon persons from this minority currently living and working in Turkey, ECRI strongly recommended that the authorities review the requirements for emigrants to obtain citizenship and ensure that all emigrants are treated equally, regardless of their ethnicity. No cases of discrimination in applying the former Article 8 have been reported to ECRI. It nonetheless notes that, in 2007, a Turkish minority party tabled a bill - that was rejected - aimed at the elimination of this requirement, which seems to indicate that the concerns noted in the third report are still valid.

10. ECRI recommends that the authorities continue their efforts to identify residents who still have no effective nationality and to settle their status in this respect.
11. ECRI again urges the authorities to ensure that all emigrants are treated equally with regard to obtaining citizenship, regardless of their ethnicity.

### **Criminal law provisions to combat racism and racial discrimination**

12. The authorities have informed ECRI that Article 39 of the Criminal Code has been supplemented: a new fifth paragraph provides that, when determining sentences to be handed down, the criminal courts shall, where applicable, take particular account of the fact that an offence was directly or indirectly motivated by the national or social origin, political or religious beliefs, social or material situation, sex, race or skin colour of the person or group of persons targeted. ECRI regrets that the legislators have not expressly stipulated that a racist motivation constitutes an aggravating circumstance for all offences. It nonetheless regards this new provision as a step forward, constituting a partial response to the recommendation it issued in this respect in its earlier reports. It moreover notes with interest that two new offences have been created: publicly distributing xenophobic or racist written material or publicly propagating ideas or theories which facilitate, promote or encourage hatred, discrimination or violence against a person or group on grounds of race, colour, national or ethnic origin and religious conviction (new Article 394 d of the Criminal Code) and disseminating xenophobic or racist material by electronic means (new Article 394 g).
13. These new criminal law provisions<sup>4</sup> on racism<sup>5</sup> supplement those already in force, as noted by ECRI in its earlier reports, i.e. Articles 137, 138, 144 § 4, 173 § 3, 319 and 417 of the Criminal Code, which penalise the limitation or denial of individuals' rights on the basis of, inter alia, race, national origin, religious belief or language (Article 137), the violation of the right to use one's language or alphabet (Article 138), the use of a computer system in order to threaten to perpetrate a crime on the grounds of a person's religion or affiliation to a national, ethnic or racial group (Article 144 § 4), or to expose them to public ridicule (Article 173 § 3), inciting racial, national or religious hatred, discord or intolerance (Article 319), the violation, on grounds of race, colour, nationality or national or ethnic affiliation, of fundamental rights and freedoms recognised by the international community (Article 417 § 1), and spreading the notion of a

<sup>4</sup> Adopted on 14 September 2009, they will enter into force on 15 March 2010.

<sup>5</sup> Under paragraph 1 a) of ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, racism shall mean "the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons." For a definition of racial discrimination, see paragraph 1 b) and c), which stipulate that this covers discrimination on a ground such as race, colour, language, religion, nationality or national or ethnic origin.

given race's superiority, advocating racial hatred or seeking to instigate practices based on such ideas (Article 417 § 3). In addition, Articles 137 and 138 of the Criminal Code provide for the criminal liability of legal entities and for aggravation of the penalty where the offence is committed by a public official in the performance of his or her duties. At the same time, genocide and crimes against humanity are defined and penalised by Articles 403 and 403 a of the Criminal Code - while Article 416 punishes the creation of a group with the aim of committing such crimes, being a member of such a group and calling for such crimes to be committed; the legislation also penalises public denial, gross minimisation, approval or justification of such crimes by means of a computer system, and the penalty is aggravated where the offence is perpetrated with the intention of propagating hatred, discrimination or violence against a person or a group of persons on account of their national, ethnic or racial origin or their religion (Article 407 a).

14. ECRI consequently notes that there is now a well-developed range of criminal legislation to combat racism and discrimination. However, apart from its above reservation regarding the new paragraph 5 of Article 39 of the Criminal Code, it takes note that certain fields are not covered; for example, there is apparently no general legislation penalising insults or public defamation of a racist nature, the production and storage of racist material, the creation and leadership of racist movements or support for such groups or participation in their activities.
15. As in its earlier reports, ECRI also notes that the criminal law provisions to combat racism and racial discrimination are only very rarely implemented. This can be seen in particular from the most recent statistics published by the authorities, which show that, in 2004 and 2005, no one was charged or sentenced on the basis of Articles 137, 138, 319 and 417 of the Criminal Code and only two acts that might come under these provisions were reported to the authorities (in 2004). There is every reason to believe that this is largely due to the scant knowledge of the criminal law provisions to combat racism and discrimination not only among the general public but also among legal professionals. There is therefore still a need for a specific effort aimed at raising the latter's awareness of application of this aspect of criminal law, as highlighted by ECRI in its third report.
16. It also seems necessary to improve the system for collecting statistical data on the implementation of the criminal law provisions to combat racism and intolerance, which apparently solely covers complaints, charges and sentences on the basis of Articles 137, 138, 319 and 417 of the Criminal Code.
17. ECRI recommends that the authorities continue consolidating the criminal law provisions on racism and intolerance and invites them to take into account, to this end, its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.
18. ECRI reiterates its recommendation that the authorities meticulously monitor the application of the criminal law provisions to combat racism and discrimination. It recommends in particular that they improve the system for collecting related statistical data. It notably recommends that they extend it to all incidents perceived as racist by the victim or any other person, including those which might not qualify as a special offence, and provide for collection of information not only on decisions to open judicial investigations and convictions and acquittals handed down, but also on complaints lodged, whether or not resulting in a prosecution.
19. ECRI reiterates its recommendation that the authorities take a range of measures at all levels of the criminal justice system to improve the

implementation of the criminal law provisions on racism and discrimination, including specific awareness-raising measures targeting police officers, prosecutors and judges.

### **Civil and administrative law provisions to combat racism and racial discrimination**

20. ECRI notes that the legislation on citizens' associations and foundations and on political parties provides in particular that their programmes, statutes and internal regulations, as well as their general activities, shall not aim to incite national, racial or religious hatred or intolerance, failing which they can be banned by the courts. Moreover, special laws enshrine the principle of non-discrimination in fields such as employment and secondary education and promote greater equality between the ethnic communities, especially as regards their representation within the public service.
21. The fact nonetheless remains that there are no anti-discrimination provisions in key fields of life, such as housing and health care. In its third report ECRI strongly recommended that the authorities consider adopting a comprehensive legislative framework aimed at combating discrimination. It is therefore very interested to note that a bill on protection against discrimination has been drawn up and could be passed in 2010. As worded at the time of drafting this report, this bill prohibits indirect and direct discrimination on grounds not only of race, colour, ethnic origin, language, nationality and religion or faith, but also of gender, belonging to a marginalised group, social origin, education, political affiliation, personal, social, family or marital status, disability, age, sexual orientation, wealth and health, as well as all other criteria provided for by law or an international treaty. It also covers encouraging, instigating or abetting discrimination and, in particular, harassment, victimisation or segregation. It is proposed that its scope cover employment; labour relations and related fields; education; science and sport; social security; justice and administration; housing; information and the media; access to goods or services; membership of and action within trade unions, associations or political parties; culture; and other fields provided for by law. The bill also contains a number of procedural provisions, including an adjustment of the burden of proof and the possibility for specialist non-governmental organisations not only to intervene in proceedings as third parties but also - under certain conditions - to take action as plaintiffs or co-plaintiffs. It further provides for the establishment of discrimination prevention and protection bodies.<sup>6</sup>
22. ECRI nonetheless notes that many non-governmental organisations strongly criticise both the process that culminated in this bill and its content. Regarding the former, they censure the authorities in particular for having lacked transparency and for failing to arrange for appropriate civil society involvement. As regards the latter, they notably point out that the bill fails to take sufficient account of comments on a previous version formulated by the OSCE and the Council of Europe's European Commission for Democracy through Law;<sup>7</sup> they further draw attention to some very serious deficiencies in areas of essential importance, such as definition of the key concepts and establishment of a discrimination protection and prevention mechanism. ECRI considers that the bill indeed shows some clear weaknesses; an example is the section on specialised bodies.<sup>8</sup> Indeed, during its discussions with the authorities in the course of the contact visit, the ECRI delegation had the impression that the

<sup>6</sup> See "Anti-discrimination bodies" below.

<sup>7</sup> Venice Commission, Opinion on the draft law on protection against discrimination of "the former Yugoslav Republic of Macedonia", 19 December 2008, CDL-AD(2008)042

<sup>8</sup> See "Anti-discrimination bodies" below.

authorities were aware of this. ECRI again stresses the importance of adopting a comprehensive legislative framework covering all the fields mentioned in its General Policy Recommendation No. 7, not least the establishment of an independent specialised body to combat racism and intolerance, and urges the authorities to opt for an ambitious piece of legislation commensurate with the challenges the country faces in fighting discrimination.

23. ECRI encourages the authorities to continue the civil and administrative legislative process under way with a view to adopting comprehensive legislation on protection against discrimination, granting victims the highest level of protection. It strongly recommends that, in this connection, they take account of its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination and its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

### **Training of judges and prosecutors**

24. In its third report ECRI drew attention to the benefits of enhancing judges' and prosecutors' knowledge about the legislation on equality and on combating racism, intolerance and discrimination. It is therefore pleased to note the establishment of an Academy for training of judges and prosecutors,<sup>9</sup> and that - according to the information supplied by the authorities - the initial training dispensed there includes modules on fundamental rights and the fight against discrimination. It further notes that serving judges and prosecutors are able to attend seminars on these subjects as part of the in-service training organised by the Academy; it nonetheless regrets that this is not obligatory. It also draws the authorities' attention to the importance of training judges, prosecutors and lawyers in the new legislation to combat discrimination once it has been adopted.

25. ECRI recommends that the authorities co-operate with the Academy for training of judges and prosecutors, so as to implement a specific training scheme on the legislation to combat discrimination, following its adoption, intended not only for judges and prosecutors but also for lawyers, and make training in the legislation on equality and on combating racism, intolerance and discrimination a compulsory part of judges' and prosecutors' in-service training.

### **Anti-discrimination bodies**

26. Since 1997 the country has had an Ombudsman (Office of the Public Attorney), whose role, as laid down by the Constitution, is to protect the "legal and constitutional rights of citizens in the event of their violation by state bodies". He is required, inter alia, to ensure compliance with the principles of non-discrimination and equitable representation of the ethnic communities within public bodies. The Ombudsman is elected by parliament under a "double majority" voting process<sup>10</sup> and has a head office in Skopje, along with six regional offices headed by deputy Ombudsmen, elected by parliament. The Ombudsman can take action not just on the basis of individual complaints but also of his own initiative, issue opinions or recommendations to the authorities concerning measures to be taken to address problems he has noted and request the opening of disciplinary or criminal proceedings.

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<sup>9</sup> Article 2 of the law on the Academy for training of judges and prosecutors (adopted in February 2006) stipulates that this institution's primary aim is to guarantee, through the selection of judges and prosecutors and their initial and in-service training, that judicial and prosecutorial duties are performed with competence, professionalism, independence, impartiality and efficiency.

<sup>10</sup> A majority of the total number of Members of Parliament and a majority of the votes of the total number of MPs having declared that they belong to communities not part of the country's majority population.



27. ECRI notes that the Ombudsman has consolidated his position within the country's institutional system. Since 2005 he has received slightly more than 3,000 complaints per year; in 2008, he took action of his own initiative in 29 cases and dealt with 3,701 cases. The office has moreover continued the practice of recording the ethnic or national origin of complainants (on the basis of a voluntary declaration by the latter), which ECRI deemed to be of benefit in combating discrimination. ECRI also notes that – in line with the recommendation issued in its third report - the administrative authorities are doing more to co-operate with the Ombudsman, although there is still room for improvement in such matters.
28. At the same time, ECRI is struck by the very low number of cases of discrimination referred to the Ombudsman. For example, only 0.69% of complaints received in 2008 concerned breaches of the principles of non-discrimination and equitable representation; according to the Ombudsman, this is due to the lack of a comprehensive legislative framework to combat discrimination and to scant public awareness of the problem. ECRI further notes that the institution of the Ombudsman does not fulfil all the criteria set out in its above-mentioned General Policy Recommendation No. 7 and its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level. In particular, in the first place, the Ombudsman cannot intervene in relations between private individuals and, in the second, from a structural standpoint his independence of the executive is not fully guaranteed, in so far as he cannot launch a recruitment procedure without Ministry of Finance authorisation.
29. ECRI again underlines the importance of establishing at national level an independent specialised body to combat racism and discrimination, which fulfils the above-mentioned criteria and, in particular, has competence for assistance to victims, conducting investigations, initiating, and intervening in, court proceedings, monitoring legislation and advising the legislative and executive authorities, public awareness-raising of issues of racism and racial discrimination and promotion of policies and practices to ensure equal treatment. It notes that the version of the bill on protection against discrimination submitted to the European Commission for Democracy through Law proposed extending the Ombudsman's mandate along these lines and that the Commission voiced serious reservations in this respect. The Commission pointed out that, assuming it was constitutionally feasible, this would be acceptable only if the institution were strengthened and given the necessary human and financial resources, if its legal competences were adapted to the new objectives and if it were reorganised in a way which ensured that the necessary number of staff were assigned the sole or principal task of fighting discrimination.<sup>11</sup> ECRI concurs with this opinion. It further notes that, as worded at the time of drafting this report, the bill proposes that prevention of and protection against discrimination should be entrusted to other bodies<sup>12</sup> which, in any case, clearly fail to offer sufficient guarantees of independence.
30. ECRI reiterates its recommendations that the authorities ensure that all public bodies co-operate fully with the Ombudsman, responding in an appropriate way to his requests or recommendations, and that they take the necessary steps to guarantee his full structural independence.

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<sup>11</sup> Venice Commission, Opinion on the draft law on protection against discrimination of "the former Yugoslav Republic of Macedonia", 19 December 2008, CDL-AD(2008)042, §§ 85-96

<sup>12</sup> A "Council for prevention of discrimination" and an "Office for prevention of and protection against discrimination"

31. ECRI strongly recommends that the authorities set up a specialised body to combat racism, xenophobia, antisemitism and intolerance fulfilling the criteria set out in its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level and its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

## II. Discrimination in various fields

### Education

32. The law establishes the principle that the language of teaching shall be Macedonian but also recognises the right of persons belonging to minorities to teaching of and in their language at both the primary and secondary levels. The state is also required to offer opportunities for higher education in a minority language where the language in question is spoken by over 20% of the country's population (in practice this solely concerns Albanian), and the legislation provides for the possibility of higher education in other languages. In practice, at primary level, teaching can be dispensed in Macedonian, Albanian, Turkish and Serb and, at secondary level, in Macedonian, Albanian and - to some extent - Turkish and Serb. Roma, Bosnians and Vlachs have no access to education in their languages, but some primary schools teach these languages as optional subjects.
33. In its previous reports ECRI noted that in practice a collateral effect of applying this right had been the gradual separation of pupils along linguistic and ethnic lines within the school system. This entails a risk that, having been educated in different languages and separated from the earliest age, the members of the different communities might co-exist without knowing each other and communicating, thus perpetuating mutual mistrust and intolerance. The risk of ethnic segregation can be seen to be all the greater in the case of persons belonging to the majority, Macedonian-speaking population and those belonging to the Albanian minority in that it is enhanced by other factors, such as the development of monolingual media. ECRI therefore invited the authorities to provide children from different ethnic communities with opportunities for positive interaction and learning about each other, recommending in particular that possibilities for children of different ethnicities to study together be created at all levels of the education system. Furthermore, stressing the importance of a lingua franca in which members of different ethnic communities are able to communicate directly with each other, ECRI recommended developing possibilities for children to study two or three languages within the education system, in particular by proposing bilingual and trilingual education.
34. ECRI notes that the authorities have not taken the initiative of developing bilingual or trilingual education. The tendency is rather towards basically monolingual education. More generally, many documentary sources confirm the increased ethnic segregation in primary and secondary education. Even where pupils attend the same school, those belonging to the majority population and those belonging to the Albanian minority are often allocated to separate classes and sometimes do not have the same school timetables, in which case they are not even in contact with one another. As regards Roma children, where they do not attend exclusively Roma schools as a result of the de facto ghettoisation of a large proportion of the Roma population,<sup>13</sup> prejudice against them among other pupils' parents or teaching staff sometimes leads to their segregation from other pupils within a separate class or establishment. The situation is all the

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<sup>13</sup> See "Discrimination in various fields - Housing" below.

more worrying in that there is currently no deliberate policy of developing common school and extracurricular activities promoting contacts, mixing and interaction between children of all linguistic and ethnic backgrounds.

35. In its previous reports ECRI also called for a review of school textbooks and other teaching materials so as to eliminate all ethnic stereotypes and all forms of encouragement of intolerance and for the inclusion in the curricula of impartial information on each of the country's communities. In this connection, the authorities have indicated that school textbooks have been revised by a group of experts set up for this purpose and that determination of the history curriculum and drafting of textbooks is now entrusted to multi-ethnic committees of specialists, who endeavour to avoid all stereotypes and to promote objective education. They added that the national 2005-2015 action plan for children's rights, adopted in March 2006, includes a chapter on education, which is aimed at establishing schools answering children's' needs, including providing them with protection against all forms of discrimination and teaching them to accept differences. It nonetheless appears that school textbooks still contain ethnic stereotypes, particularly regarding Roma, and convey little positive information on groups not belonging to the majority population or the Albanian minority and, more generally, that, regardless of the language of education, teaching, in particular of history and literature, continues to be ethnically focused. Progress is also still needed with regard to teaching methods, which, according to non-governmental sources, are primarily authoritarian in nature and based on memorisation, rather than on critical analysis and opinion-building, which is likely to reinforce stereotypes and prejudices and foster intolerance.
36. Lastly, ECRI notes that incidents, occasionally violent, take place on a fairly regular basis in schools between pupils belonging to the different communities. It regards this as an alarm bell that action is urgently needed to avoid interethnic intolerance taking root in the school environment and, thereby, establishing a lasting hold on society.
37. ECRI urges the authorities to tackle the issue of ethnic segregation in the school system. In this connection, it reiterates its recommendations concerning the strengthening of plurilingual teaching at all levels of the education system and the determination and implementation of a deliberate policy of developing common school and extracurricular activities promoting contacts, mixing and interaction between children of all linguistic and ethnic backgrounds.
38. ECRI urges the authorities to continue the activities aimed at removing from school textbooks all content promoting stereotypes, prejudices and intolerance, and to revise the textbooks and curricula so as to include information on all minority groups' contributions to society and ensure that they better reflect society's diversity. It also recommends that they foster pedagogic methods promoting critical thinking by pupils and providing them with the tools they need to identify and react to stereotypes, prejudices and intolerance. In this connection, it draws their attention to its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education.
39. In its previous reports ECRI encouraged the authorities to seek to identify the reasons for the high school drop-out rate among children belonging to the Turkish and Albanian minorities and to develop targeted measures to address this issue. In its third report, noting that the quality of teaching in Turkish posed particular problems, notably due to a lack of school textbooks, a shortage of teachers and inadequate teacher training, ECRI called for measures to ensure that all children had access to education of a comparable quality. Further, noting that schooling in Turkish was offered only up to grade eight (or merely

grade four in certain regions) and considering that inadequate knowledge of Macedonian could prevent the pupils concerned from pursuing their studies, ECRI recommended that the authorities take measures to improve the quality of teaching of the official languages in minority language schools and to offer specific support to children experiencing linguistic difficulties in secondary education.

40. The authorities have indicated that the problem of children dropping out of school in the eastern and north-eastern parts of the country, which are home to a large proportion of the Turkish community, is linked to the region's rural nature and rugged terrain, with some pupils living at a considerable distance from the nearest school. To overcome this problem new classes have been opened in the region, and teaching in Turkish is now available in fifteen municipalities at primary level and nine municipalities at secondary level. New textbooks have been published in Turkish, teachers have been trained and a specific Chair has been created at the philology faculty with the aim of increasing the number of staff using Turkish as the language of teaching in the longer term. The fact that secondary education is now compulsory also had an immediate impact on school attendance levels, including among children not belonging to the majority population. In addition, pupils whose schooling takes place in another language are obligatorily taught Macedonian at primary level, for two hours per week in the fourth and fifth grades and three hours per week from grades six to nine.
41. While welcoming the efforts made by the authorities in the field of education, ECRI notes that, as regards teaching in languages other than Macedonian, many documentary sources stress the continuing insufficiency or poor quality of teaching provision, the inadequate number of teachers, the unsuitability of their training and the lack of teaching materials. The same applies with regard to the poor proficiency in Macedonian of pupils whose language of schooling is a minority language and the lack of specific linguistic support measures for those enrolled in a secondary school using Macedonian as the language of teaching after they have previously been taught in another language.
42. ECRI strongly recommends that the authorities intensify their efforts to ensure that all pupils have access to quality education, regardless of their ethnic background. In this connection it draws their attention to its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education, which highlights inter alia the need to ensure compulsory, free and quality secondary education for all.
43. In its third report ECRI noted with concern that there was still a particularly serious problem of low school attendance and high drop-out rates among Roma children as early as the primary stage and that only a very small proportion of those who completed primary school went on to secondary school. It regretted that few measures had been taken by the authorities to address this situation and that there was a tendency to hold Roma parents responsible for the problem. It recommended that the authorities conduct a thorough analysis of the situation of Roma in the education system and the reasons for low levels of achievement and undertake without delay a range of initiatives to increase Roma levels of education.
44. The authorities apparently continue to consider that the problem's causes lie primarily in the traditional lifestyle of the Roma. Other reasons are nonetheless advanced by non-governmental organisations, mainly the fact that many impecunious parents are unable to pay the cost of textbooks and other schooling expenses, the prejudice and exclusion suffered by Roma children within the school environment, teachers' lack of understanding regarding them

and the fact that the education system takes little account of their culture. Other causes mentioned are difficulties in travelling to school, the fact that a significant number of Roma children are not registered at birth, the fact that some school-age Roma children do not speak Macedonian and the inadequacy of preschool education possibilities, the low level of education of the parents themselves and poor teaching conditions in schools attended primarily by Roma children.

45. The adoption of a national action plan for Roma education as part of the country's participation in the "Decade of Roma Inclusion 2005-2015"<sup>14</sup> shows the authorities' real will to act. The plan is aimed at enhancing Roma inclusion in the education system, reducing school drop-out rates, reinforcing the school system's capacity to identify and manage conflict situations and increasing the number of qualified Roma teachers. On the ground specific measures have been taken inter alia to promote Roma children's access to secondary education - which is now compulsory - and to higher education. For example, the average mark required for enrolment in secondary school has been reduced by 10% in the case of Roma children, 650 Roma pupils attending secondary school received special study grants during the 2008/2009 school year and there are plans to build a secondary school dispensing general and technical education in the municipality of Suto Orizani, which has a mainly Roma population. A quota system facilitates access to university for persons belonging to minorities, with the objective of ensuring that the student population reflects the overall population's ethnic composition. Textbooks have also been distributed to primary and secondary school pupils from disadvantaged backgrounds and free school transport provision has been developed. A pilot project on preschool education of Roma children has also been implemented in sixteen municipalities.
46. However, although the measures devised in connection with the country's participation in the "Decade of Roma Inclusion 2005-2015" have met with a positive response from civil society representatives, the action on the ground taken by the government to date seems inadequate, particularly as regards Roma children's access to preschool and primary education, since the necessary funds have not been made available. In fact there is no reason to consider that the situation has improved significantly since the publication of ECRI's third report. On the contrary, many documentary sources state that Roma education levels continue to be the lowest in the country, that absenteeism and dropping out by Roma children remain very high and that the proportion of young Roma who complete a course of secondary education and go on to university is significantly lower than the average. The educational situation of Roma refugee children from Kosovo appears to be even more difficult.<sup>15</sup>
47. Apart from the tendency to segregate Roma children mentioned above, a number of organisations denounce the practice of transferring Roma children with schooling difficulties to special schools for children with mental disabilities, although their difficulties are essentially due to the fact that the language of schooling is not their mother tongue. They point out that the parents, who are ill-informed about the consequences of this choice of school, are encouraged to accept the decision since it entails the payment of a special allowance. The authorities have themselves noted that there is a particularly high proportion of

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<sup>14</sup> See "Vulnerable/target groups - Roma" below.

<sup>15</sup> A study states that a very large number of them do not attend school at all (almost 50% of the children whose cases were examined; European Centre for Minority Issues, Roms on Integration II: Analyses and Recommendations, school atmosphere ; Romani refugee children from Kosovo and their integration in the education system of the Republic of Macedonia, January 2007)

Roma children in these special schools and have set up a working group to identify the reasons for this and seek solutions.

48. ECRI urges the authorities to end any practice of improperly sending Roma children to educational facilities for pupils with a mental disability, to identify the children concerned and to reintegrate them in mainstream schools and to implement a streaming system which guarantees that only children effectively suffering from a mental disability are guided towards the specialist education sector.
49. ECRI reiterates its recommendation that the authorities take specific measures to improve the situation of Roma in the field of education and recommends that they focus more on improving their access to preschool and primary education. In this connection it urges them to release the funding needed to implement the national action plan for Roma education.

## **Employment**

50. In its third report ECRI noted that Roma communities suffered from a particularly high rate of unemployment and recommended that the authorities make further efforts to improve the situation. It considered that the widespread, endemic disadvantages suffered by Roma in the labour market made it necessary to adopt and apply special measures to place Roma in a situation where they enjoy equality of opportunity in employment matters
51. A national action plan for Roma employment has been adopted as part of the country's participation in the "Decade of Roma Inclusion 2005-2015".<sup>16</sup> Its objectives are to improve the information available to Roma concerning employment matters, to raise their levels of education and qualification and enhance their employment prospects; to implement legal provisions fostering equitable representation; to devise schemes and regulations aimed at increasing Roma employment rates; to provide Roma with support under local level action plans and agreements for promoting employment; and to take measures to help Roma emerge from the underground economy. The authorities have also pointed out a general Employment Plan, which includes, since 2009, a special programme for Roma. They have also stressed that in 2010 special attention will be given to unemployed Roma under the "Self-Employment Programme".
52. Although ECRI here too considers that this confirms the authorities' will to act, it notes that, for lack of resources, few tangible measures have been taken to date. In fact there is no reason to consider that the employment situation of Roma has improved since the publication of ECRI's third report. Their unemployment rate (over 70% according to certain sources) is still significantly higher than that of the country's other ethnic communities and their income level much lower. Many of those with work are employed in the underground economy for low wages without the protection of labour law or social insurance cover. They are in fact caught in a vicious circle, since their low level of education reduces not only their "employability" but also their capacity to participate in certain general employment schemes and projects. In addition, according to non-governmental sources, since a certificate of completion of primary school education is in practice required of persons wishing to register with the Employment Agency, many Roma are deprived of this possibility, just as they are disqualified from recruitment in the public sector. ECRI has also been informed that employers tend to recruit within their own communities, which makes access to the employment market even more difficult for Roma.

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<sup>16</sup> See "Vulnerable/target groups - Roma" below.

53. ECRI reiterates its recommendation that the authorities take specific measures to improve the situation of Roma in employment matters. In this connection it urges them to release the funding needed to implement the national action plan for Roma employment.

## Housing

54. In its third report ECRI noted that most Roma lived isolated from the rest of the population in ramshackle dwellings erected in unplanned communities without proper connections to utility networks (water, electricity, etc.) and, since they had no legal title to occupy these dwellings, were under constant threat of being evicted. It recommended in particular that the authorities take steps to regularise the legal status of Roma settlements.

55. In this field too, a national action plan has been adopted as part of the country's participation in the "Decade of Roma Inclusion 2005-2015".<sup>17</sup> Its objectives include improving the information available to Roma in housing matters and their participation in the related decision-making process, adopting urban planning schemes for areas with a mainly Roma population, legalising existing settlements and improving infrastructure and the quality of dwellings. The authorities have indicated that in districts with a mainly Roma population the implementation of projects for constructing and improving water supply and sewerage networks, development of urban planning schemes and road reconstruction is under way and that a bill to regularise the legal status of the settlements has been drawn up. Many sources nonetheless draw attention to the inadequacy of the resources made available and confirm that, in concrete terms, the situation has changed very little since the adoption of ECRI's third report.

56. ECRI reiterates its recommendation that the authorities take specific measures to improve the situation of Roma in housing matters. In particular it urges them to settle without delay the issue of the legalisation of the Roma settlements and, more generally, to release the funding needed to implement the national action plan for Roma housing.

## Health care

57. In its third report ECRI noted that Roma were sometimes unable to access health care since they were unable to meet the costs, as many of them had no health insurance or were unable to pay the required supplementary participation. It recommended that the authorities take measures to ensure that Roma enjoyed equal access to health care and provide social workers with special training to make them aware of possible prejudices and received ideas that might influence the way they deal with persons from the Roma community and thereby block access to social insurance cover for some of its members.

58. A number of documentary sources show that the issue is far from settled and that the state of health of the Roma population poses particular problems; according to some non-governmental organisations Roma continue to be the victims of prejudice and neglect by social workers and health care professionals. In addition, ECRI is concerned to note that one of the reasons identified by civil society representatives for the significant number of Roma without social insurance is that the insurance scheme is administered by the Employment Agency, with the tangible outcome that those who are not registered with the agency - as is the case of many Roma - are deprived of

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<sup>17</sup> See "Vulnerable/target groups - Roma" below.

access to health insurance. It also notes that the difficulties of obtaining personal documents encountered by some members of the Roma population apparently contribute a great deal to this problem.<sup>18</sup>

59. At the same time, ECRI notes that the authorities are showing a will to act in this field too. A national action plan for Roma health has been devised as part of the country's participation in the "Decade of Roma Inclusion 2005-2015".<sup>19</sup> It is aimed in particular at improving the Roma population's living conditions, access to health insurance and information about health-related matters, as well as their access to health care establishments. Programmes and activities to promote the Roma population's integration in the health care system and facilitate their access to health care services are being implemented, and there are plans to open health centres in the Roma neighbourhoods and to recruit a significant number of health care professionals of Roma origin. The authorities also informed ECRI that specific measures had been taken in favour of pregnant Roma women without health insurance cover: they benefit from free hospital deliveries and from free pre- and post-natal medical care. They added that universal health insurance cover was introduced in June 2009, which is available to Roma without any social insurance in the same way as other persons in this situation.
60. ECRI encourages the authorities in their efforts to ensure that Roma enjoy equal access to health care and reiterates its recommendation that they take specific measures to this end. In particular, it urges them to remove any undue obstacles preventing Roma from having access to health insurance, to raise awareness among social workers and health care professionals of possible prejudices that may influence the way they deal with members of the Roma community in performing their duties and to release the funding needed to implement the national action plan for Roma health.

### **Access to justice**

61. In its third report ECRI noted that the law provided for the possibility of translation and interpretation at all stages of civil and criminal proceedings, but that, in practice, there were still significant difficulties inter alia due to a lack of competent professional interpreters and translators in the local languages. It recommended that the authorities take steps to ensure that the right to interpretation and translation was effectively guaranteed and pointed out that it would be useful to make judges fully aware of the provisions in these matters and to train more professional translators and interpreters in the locally used languages.
62. In 2005 the authorities decided to offer university graduates not belonging to the majority population training in translation and interpretation. This course, which lasted nine months, made it possible to train 99 interpreters and translators, 38 of whom were assigned to work in the courts. ECRI has nonetheless learned from a number of sources that the quality of legal translation and interpretation in the local languages is poor and that there are still too few translators and interpreters. ECRI regards this as a serious problem, since it makes justice less accessible for persons who do not belong to the majority population and is likely to result in a difference in treatment of certain population groups on account of their language. It further notes that the most vulnerable persons encounter problems of access to justice due to the fact that legal aid is, in fact if not in law, unavailable in civil cases.

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<sup>18</sup> See "Vulnerable/target groups - Roma" below.

<sup>19</sup> See "Vulnerable/target groups - Roma" below.



63. ECRI recommends that the authorities step up their efforts to ensure that the right to translation and interpretation in judicial proceedings is effectively guaranteed, in particular by taking measures to increase the number of translators and interpreters and their level of qualification.

64. ECRI recommends that the authorities establish a full system of legal aid.

### III. Racist violence

65. The authorities have indicated that the country has no problem of racist violence. However, as mentioned above, collection of statistical data on offences against the criminal law provisions to combat racism is inadequate. Further, since criminal law until recently took no account of a racist motivation, except for special offences,<sup>20</sup> it seems reasonable to assume that the racist element of a number of violent acts has escaped the authorities. ECRI moreover notes that non-governmental organisations sometimes report attacks possibly perpetrated on ethnic grounds. It also regards the relatively low-level, but constant interethnic tensions within the population as a potential breeding ground for violence.

66. ECRI recommends that the authorities reinforce their vigilance with regard to racist violence.

### IV. Racism in public discourse

#### Opinion leaders and the media

67. In its previous reports ECRI voiced concerns about the fact that many political leaders, intellectuals and religious figures and the media adopted positions which furthered ethnic divisions rather than promoting increased acceptance and trust between communities. It also noted that the media, which are divided along ethnic lines, reported events in a very different manner depending on their ethnic tinge, a situation which tended to foster intolerance and mistrust between ethnic communities. It was also concerned about the way in which Roma were portrayed in the media, in particular by mentioning the Roma origin of suspected offenders, and called for effective application of the code of ethics and the criminal law provisions relating to hate speech.

68. According to non-governmental sources, expressions of interethnic intolerance have recently become more frequent. The attitude of certain political figures, who are tempted to fan ethnic tensions as a means of vote-catching, is apparently particularly problematic, especially during election campaigns. On this specific matter, ECRI draws attention to the benefits of having political parties sign the Charter of European Political Parties for a Non-Racist Society of 28 February 1998.<sup>21</sup>

69. Some sixty incidents of ethnic hostility in the media have been noted by the "Journalists' Council of Honour" over the last three or four years, and civil society representatives point out that the media help to propagate stereotypes concerning not only Roma but also women and homosexuals, in particular.

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<sup>20</sup> See "Criminal law provisions to combat racism and racial discrimination" above.

<sup>21</sup> The signatory parties undertake inter alia to "refuse to display, to publish or to have published, to distribute or to endorse in any way views and positions which stir up or invite, or may reasonably be expected to stir up or to invite, prejudices, hostility or division between people of different ethnic or national origins or religious beliefs, and to deal firmly with any racist sentiments and behaviour within [their] own ranks."

70. ECRI notes that the press code of ethics duly requires journalists to refrain from intentionally relaying or publishing information that jeopardises human rights or fundamental freedoms and from propagating hatred or encouraging violence and discrimination; it also requires them to respect ethnic, cultural and religious diversity. In addition, Article 69 of the broadcasting law expressly prohibits the transmission of information which aims to incite hatred or intolerance on grounds of ethnicity, race or religion. ECRI nonetheless notes that the "Journalists' Council of Honour", which is competent for ensuring compliance with the code of ethics, has no powers of coercion: its only means of action is public denouncement of breaches of the code. Moreover, Article 69 of the broadcasting law solely applies to the audiovisual media, and the Broadcasting Council<sup>22</sup> has almost never raised any matter related to ECRI's mandate that might come within the scope of this article. This contrasts sharply with the observations of the Journalists' Council of Honour and civil society representatives and would seem to imply that the Broadcasting Council perhaps does not pay sufficient heed to the issue of intolerance.
71. Division of the media along ethno-linguistic lines and ethnically tinted reporting of events are still very widespread. The dividing line is primarily between media and news published and broadcast in Macedonian and those in Albanian. According to non-governmental sources, the key problem is that there is significant political interference in the media and the country's politics are focalised on ethnic issues. For instance, most private television channels - which constitute the majority of the audiovisual media - are reportedly linked to political figures or parties. Further, the fact that the state is a major client of the media has apparently permitted successive governments to favour those media outlets deemed to be pro-government. ECRI accordingly draws attention to the need to support projects aimed at fostering interethnic cohesion through access to the same objective information for all. The "Monitor", a local weekly paper published in both Macedonian and Albanian in the region of Tetovo and Gostivar, was an example, but it unfortunately ceased circulation for lack of funds.
72. ECRI recommends that the authorities, through their most senior representatives, systematically and publically denounce in the strongest terms any expressions of intolerance by opinion leaders or persons in the media eye. It also recommends that they initiate proceedings in cases where the remarks in question might qualify as hate speech and come within the scope of criminal law.
73. ECRI recommends that the authorities bring together media professionals and civil society representatives to take stock of the situation regarding the propagation of stereotypes in the media and the possible role this plays in fostering intolerance and to determine measures to be taken to raise awareness among media professionals of the issue of discrimination and strengthen application of the relevant provisions of the code of ethics.
74. ECRI recommends that, while preserving media independence, the authorities encourage and actively support initiatives in the field of the media that aim at fostering interethnic cohesion.

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<sup>22</sup> The Broadcasting Council has nine members appointed by parliament for a six-year term and is responsible, inter alia, for ensuring compliance with Article 69 of the law on telecommunications. It can deal with cases of its own initiative and can impose penalties going as far as licence withdrawal.

## The Internet

75. The authorities indicated that they had noted no cases of use of the Internet for disseminating racist or hate-based content via sites hosted in the country. They pointed out that the Ministry of the Interior had a unit to combat cybercrime, which nonetheless did not specifically monitor the situation regarding racism or incitement of hatred on the Internet. To identify problem cases, they primarily rely on complaints by individuals, who can contact the Ministry of the Interior via the telephone number available for reporting all kinds of offences. According to the authorities, the staff of this unit has been increased so as to be able to deal with racist content more effectively.
76. ECRI recommends that the authorities step up their vigilance concerning use of the Internet for disseminating racist or hate-based content. It recommends in particular that they establish a surveillance system, in co-operation with access providers and without interfering in the latter's independence, and that they monitor the situation. It draws their attention to its General Policy Recommendation No. 6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet.

## V. Interethnic relations<sup>23</sup>

77. In its third report ECRI noted a deterioration of interethnic relations and a deepening of the gulf between communities, in particular the majority population and the Albanian minority. In this connection it noted that, although the Ohrid Framework Agreement had ended the conflict in 2001 and set out provisions of considerable importance for enhancing recognition of minority groups and their participation in society, the ways in which it had been implemented had helped to aggravate the situation. It considered that the problem lay in the fact that the measures taken to give effect to the agreement had not included initiatives to build communication and constructive contacts between communities and to identify discrimination in different fields of life so as to overcome it. It consequently recommended that the authorities take measures of this kind.
78. As already noted in the sections of this report concerning education and opinion leaders and the media, the country is still strongly divided along ethnic lines, and the gulf does not seem to have diminished since the publication of the third report. Relations between the majority population and the Albanian minority have not become less tense – although few clashes between individuals have been reported – a situation for which certain opinion leaders can be held at least partly responsible. The recent events surrounding the publication of the "Macedonian Encyclopaedia" offer an illustration of these divisions and tensions, of the difficulties the country's two major ethnic groups have in entering into a dialogue and of the over-politicisation of ethnic issues.<sup>24</sup> Significant efforts are clearly now needed to strengthen interethnic relations and preserve the concept of a multiethnic, multicultural society.

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<sup>23</sup> See also "Discrimination in various fields - Education" and "Racism in public discourse - Opinion leaders and the media" above.

<sup>24</sup> The drafting of the publicly funded "Macedonian Encyclopaedia" was entrusted to the Academy of Science in Skopje. Its publication, on 17 September 2009 following several years' work, sparked a fierce row, in particular - but not solely - because the book questioned the length of time for which the Albanian community had been present in the region and used allegedly pejorative terms to refer to this community. Following weeks of tension, the academy decided to suspend the book's distribution and announced that it would be revised by a team not including the Chief Editor who had initially worked on the book.

79. ECRI reiterates its recommendations that the authorities take measures aimed at improving interethnic relations, promoting communication and constructive contacts between persons from different ethnic communities and addressing discrimination in the different fields of life. It strongly recommends that they make improving interethnic relations a crosscutting objective to be systematically taken into account whenever policies are devised or implemented.

80. The Ohrid agreement provides in particular that, although Macedonian is the official language, any other language spoken by at least 20% of the population can be used for personal documents, civil and criminal proceedings, bodies of local self-government and communication between citizens and central government. It also provides for the equitable representation of the communities in all central and local public bodies and at all levels of employment. In its third report ECRI voiced its concern that the measures already taken to put these provisions into effect did not go hand in hand with initiatives to foster interaction among civil servants from the different communities. It also noted that the smaller minorities feared being overlooked in this process and, more generally, that they would be left out when the Ohrid agreement was implemented. ECRI therefore recommended in particular that the authorities ensure, when implementing measures to foster equitable representation in the public service, that they promote possibilities for direct communication and constructive interaction between persons belonging to different ethnic communities and arrange training for public service staff so they would be capable of speaking both Macedonian and any other official language of communication with the public institution concerned. It also recommended that the authorities guarantee the smaller minorities equal treatment in the application of the policies relating to language use and equitable representation and, at a more general level, in all fields of life.

81. A law on use of languages spoken by at least 20% of the population at national or local level, passed in August 2008, has delimited the utilisation of non-majority languages at these two levels.<sup>25</sup> For example, it provides for the first time that languages exceeding this threshold can be used in parliament. In practice, only Albanian is concerned at national level, since no other minority language reaches the 20% threshold nationwide. The law nonetheless also provides that any language other than Macedonian used by at least 20% of the population of a municipality shall be an official language at local level in the same way as Macedonian. It also empowers municipal councils to decide to utilise languages and alphabets used by less than 20% of the local population; some municipalities have already taken such decisions (for instance, the municipal council of Gostivar has decided to make Turkish, which is used by about 9% of the local population, an official language alongside Macedonian and Albanian). The legislation is nonetheless criticised for inadequately dealing with the issue of use of the languages of the smallest ethnic communities.

82. A strategy on equitable representation of minorities within public institutions and undertakings was adopted in 2007, and the authorities have decided to recruit a large number of public servants with this profile. The proportion of public service staff who do not belong to the majority population is slowly but steadily increasing; it now stands at about 20% overall (26% in central government), compared with less than 18% at the end of 2002<sup>26</sup>. The percentage however

<sup>25</sup> A national action plan for its implementation was being devised at the time of drafting this report.

<sup>26</sup> Of the 800 public-administration posts that were advertised in 2009, 360 were given to members of ethnic minorities.

varies from one sector to another, and there is no standardised data collection system for the entire public sector. Moreover, the advances primarily concern the Albanian minority; employment of other minorities - in particular the Turks and Roma - within the public service sector has scarcely increased (for instance, Roma reportedly do not hold more than 1% of public service jobs and are primarily employed in menial functions).

83. At a more general level, ECRI notes that the smaller minorities continue to feel that the issue of relations between the majority population and the Albanian minority occupies so much of the country's political and institutional life that it leaves little room for consideration of their cause.<sup>27</sup> They therefore still feel overlooked, in particular the Roma community. ECRI nonetheless perceives signs of a will to act on the part of the authorities. In particular, in 2008, a law was adopted with the aim of improving co-ordination of initiatives in favour of communities representing less than 20% of the population at national level, which provides inter alia for the establishment of a specialised administrative agency with the role of advising the government and co-ordinating the public authorities' action in this field. This agency and the national Committee for Intercommunity Relations,<sup>28</sup> as well as the municipal committees for intercommunity relations established in some twenty municipalities, could play an important role in such matters and in reinforcing interethnic relations.
84. ECRI recommends that the authorities continue their efforts to improve consideration of the situation of minorities other than the Albanian minority and to guarantee persons from such minority backgrounds equal treatment in all fields of life.
85. In its third report ECRI voiced its concern about the situation of persons of mixed ethnicity, who view themselves as having multiple identities or do not have the characteristics perceived as being the required criteria for belonging to a given ethnic community. It regrets that no follow-up action has been given to its recommendation that research be carried out into the particular forms of intolerance experienced by these persons and that initiatives be taken to promote their acceptance. It considers that an approach along these lines remains necessary and could be extended to other groups stigmatised in the country on account of their differences.
86. ECRI reiterates its recommendation that the authorities carry out research into the particular forms of intolerance experienced by persons who do not entirely fit into the dominant ethnic categories, suggests that they consider broadening this research to other groups stigmatised in the country on account of their differences, and recommends that they actively promote tolerance with regard to them.

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<sup>27</sup> See also "Discrimination in various fields" above.

<sup>28</sup> Established in 2003, the Committee for Intercommunity relations replaced the Council for Interethnic Relations. Tasked with considering issues of intercommunity relations in the country, issuing opinions on this subject and making proposals to parliament for addressing these issues, it is composed of seven members belonging to the majority population, seven members belonging to the Albanian minority, five members belonging to the Turkish, Roma and Vlach communities and two members belonging to other communities appointed by parliament from among its members. The Committee takes decisions by a simple majority, which are then submitted to parliament.

## VI. Vulnerable/target groups

### Roma

87. In its third report ECRI expressed deep concern at the deplorable living conditions of many Roma, noting that they suffered from an accumulation of economic and social disadvantages, aggravated by worsening of the general economic situation, discrimination and insufficient attention by the authorities. It recommended that the latter undertake a detailed study of the situation of Roma in different fields of life, so as to identify problems and urgently develop appropriate measures to address them, and encouraged them to devise a national strategy to this end.
88. As ECRI notes above,<sup>29</sup> the country is participating alongside other countries in the region<sup>30</sup> in an international initiative, the "Decade of Roma Inclusion 2005-2015", which is aimed at improving the social and economic situation of Roma through the implementation of clear, measurable national objectives, the development of national action plans and monitoring of their implementation. The priority fields of action are education, employment, health care and housing. Three crosscutting issues have also been identified: poverty, discrimination and gender equality. In co-operation with civil society, the authorities have determined a national strategy for Roma and national action plans, as mentioned above, in the fields of education, employment, health care and housing. The authorities have informed ECRI that local action plans are currently being drawn up in connection with the implementation of the national action plans. They added that many projects have already been implemented and, in particular, a dozen information centres have been opened to facilitate Roma access to education and social services, in particular health care.
89. ECRI welcomes this initiative. It nonetheless notes that many observers on the ground regret the fact that very few tangible results have been achieved so far because the necessary funding has not been made available. The social and economic situation of the Roma in fact remains a major cause for concern. A far higher proportion of them live in extreme poverty than is the case for the rest of the population and, as ECRI already noted, they are seriously disadvantaged in the fields of education, employment, housing and health care.<sup>31</sup> In addition they are, in practice, virtually absent from the political scene.
90. The situation of Roma women, who are at risk of double discrimination, is particularly worrying. Many documentary sources indicate that literacy and school attendance rates for female Roma are even lower than for males, and the unemployment rate higher, and that their state of health is even worse than the Roma population average. At the same time, forced marriages apparently still occur, marriages and pregnancies at a very young age are reportedly not a rare occurrence and very many Roma women apparently suffer from domestic violence. On this last point, according to non-governmental organisations, those who seek the authorities' assistance are also sometimes dealt with in a discriminatory manner by social workers. Lastly, Roma women's political role is even more minute than that of the Roma community as a whole. At the same time, ECRI regards as a very positive step the adoption, in 2008, of a specific national action plan to improve the situation of Roma women (in addition to an action plan for gender equality adopted in 2007), along with "operating plans" for 2008, 2009 and 2010, with the aim of promoting the integration of Roma

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<sup>29</sup> See "Discrimination in various fields" above.

<sup>30</sup> Bulgaria, Croatia, the Czech Republic, Hungary, Montenegro, Romania, Serbia and Slovakia

<sup>31</sup> See "Discrimination in various fields" above.

women in all spheres of society. It perceives this as a will to act on the part of the authorities, which can but be encouraged.

91. ECRI strongly encourages the authorities to implement the action plans laid down in the context of the country's participation in the "Decade of Roma Inclusion 2005-2015", including the specific action plan to improve the situation of Roma women, and just as strongly recommends that they release the necessary funding.
92. ECRI's attention has been drawn to the problem of the children on the street. These children more or less left to fend for themselves by day, most of whom come from Roma families, reportedly number about one thousand. The authorities have indicated that they have established three daytime reception centres for them in Skopje and have decided to set up three others in different municipalities. These facilities however take in children only up to the late afternoon and the supervision they provide is not equivalent to schooling. The authorities have stated that they wish to reinforce their action on the ground, in co-operation with the parents and non-governmental organisations, and to take measure aimed at reintegrating these children in school facilities and, more generally, delivering them from their marginal existence.
93. ECRI strongly recommends that the authorities resolutely tackle the issue of the children on the street. It suggests that they urgently conduct a study, in co-operation with the non-governmental sector, to determine the precise reasons for this problem and then determine and implement measures to address its root causes.
94. In its third report ECRI voiced its concern about reports that a number of Roma lack personal documents (identity cards, birth certificates, medical insurance cards and employment cards), which has the effect of restricting the exercise of their rights in many fields of life. It noted that this could be caused inter alia by indirect discrimination stemming from the criteria for obtaining these documents (such as payment of a fee or the requirement of having completed primary education). It therefore recommended that the authorities conduct research to identify the problems experienced by Roma in obtaining such documents and act without delay to remedy the situation.
95. ECRI wishes to stress the seriousness of this problem. It can indeed lead to individuals' imprisonment in a vicious circle and exclusion, since persons without birth certificates or proof of nationality cannot obtain identity cards or other documents required for access to basic services and, through a knock-on effect, the children of persons without such documentation often find themselves in the same situation. ECRI therefore welcomes the launch, in 2008, of a programme with the participation of an international organisation, non-governmental organisations and the authorities, aimed at identifying cases of de facto statelessness, lack of official proof of nationality and lack of documentation within the Roma population, which has already allowed over 2,000 people to obtain the documents they were lacking. In addition, as a collateral effect of the possibility now offered to Roma women without health insurance of giving birth in hospital free of charge,<sup>32</sup> there should be an increase in the number of births registered and this should help to settle at least in part the question of issuance of birth certificates. ECRI nonetheless notes that this issue is not fully resolved and that it also affects a number of persons belonging to the country's Albanian and Turkish communities.

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<sup>32</sup> See "Discrimination in various fields" above.

96. ECRI strongly recommends that the authorities pursue their efforts fully and finally to settle the problem of access to personal documents experienced by persons belonging not just to the Roma community but also the Albanian and Turkish communities.

97. A number of sources have reported that Roma – especially men - are at particular risk of racial profiling and also of ill-treatment by the police. In this connection ECRI refers to the section of this report on the conduct of law-enforcement officials (see below).

### **Turks**

98. It has been reported that persons who identify themselves as Turks encounter serious difficulties, in particular in terms of access to employment, education and, in some rural areas, housing, and are discriminated against in other ways.

99. ECRI recommends that the authorities carry out research into the situation of persons who identify themselves as Turks with the aim of determining whether they are the victims of discrimination and, where necessary, devise and implement measures to address this issue.

### **Religious minorities**

100. The authorities have indicated that there are no religious tensions in the country. ECRI does not question this assertion, but nonetheless notes that, with regard to public funding of places of worship, the authorities are sometimes criticised for favouring the majority Orthodox religious community. It also notes that a number of alleged cases of discrimination on religious grounds and isolated instances of damage to religious buildings or to property belonging to religious communities have been reported. In particular, members of the Ohrid independent Orthodox diocese complained of being placed under surveillance and harassed on account of their religion. The cases of damage reported to ECRI concern the vandalism of a Bektashi cemetery in Tetovo (in 2004, 2006 and 2007) and damage to chapels belonging to the Ohrid independent Orthodox diocese in 2005 and to a mosque in Obednik in 2007; there have also been cases of damage to Jewish religious property.<sup>33</sup> ECRI's attention has also been drawn to the fact that, at least on an intermittent basis, certain political figures stir up religious differences (which largely correspond to ethnic divisions) out of political motives. ECRI is moreover concerned about the difficulties encountered by certain minority religious groups in obtaining their registration, although this is a legal requirement for them to be recognised as separate legal entities and able to exercise their activities in full. The legislation was amended by the law of 5 September 2007 on the status of churches, religious communities and religious groups (which came into force on 1 May 2008) with the stated purpose of addressing these difficulties, but it seems that they are not entirely settled. It indeed seems that registration applications by about ten religious communities or groups, including the Ohrid independent Orthodox diocese and the Bektashi community in Tetovo, referred to above, have still not been granted.

101. ECRI strongly recommends that the authorities settle without delay the issue of registration of minority religious groups and communities. It also recommends that they exercise vigilance with regard to all forms of discrimination or intolerance on grounds of religion.

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<sup>33</sup> Damage was also caused to buildings belonging to the majority Orthodox church in 2006 and 2007.



## **Refugees, asylum seekers and internally displaced persons**

102. In its third report ECRI *inter alia* recommended that the authorities ensure that the law on asylum, adopted in July 2003 and amended in the meantime, is applied in such a manner that applicants benefit from the highest level of protection possible, that is to say that those who meet the conditions are granted refugee status rather than a lesser level of protection. This recommendation does not seem to have been applied, since the statistics supplied by the authorities show that very few of the approximately 1,100 persons afforded protection under this law have refugees status. However, the opposite seems to be the case concerning ECRI's recommendation that the principle of non refoulement be strictly applied. At the end of the summer of 2009 there were about 1,700 people in a situation of asylum, for the most part Roma originating from Kosovo: 25 persons had recognised refugee status, about 90 had applications pending, some 1,090 benefited from subsidiary or humanitarian protection and there were about 485 persons whose applications had been rejected. Regarding the latter in particular, the authorities have apparently kept their promise not to send anyone back to Kosovo as long as a return in security and dignity is not guaranteed. ECRI also notes that the authorities have supplemented the legislation on asylum and that, although there are currently few such cases, they are preparing to deal with applications by persons originating from regions other than the Balkans. ECRI particularly welcomes the establishment in the vicinity of Skopje of a new reception centre for asylum seekers and the definition of a strategy for the integration of refugees along with a national action plan.
103. At the time of adoption of the third report there remained 2,000 to 3,000 persons internally displaced following the events of 2001. These were mainly persons belonging to the majority population or the Serb minority who did not wish to return to their villages because of security concerns or for economic reasons. ECRI, who had recommended that the authorities continue their efforts to create conditions conducive to these persons' voluntary return to their homes in security, notes with great satisfaction that, at present, 95% of the persons concerned (about 73,200 persons in all) have been able to return home. Today there remain some 700 internally displaced persons, who are mostly in precarious circumstances and for whom a lasting solution still has to be found.
104. ECRI encourages the authorities to continue strictly applying the principle of non refoulement and recommends that they adhere to their commitment not to send rejected asylum seekers back to Kosovo as long as a return in security and dignity cannot be guaranteed.
105. ECRI recommends that the authorities seek a lasting solution for persons internally displaced in the country by the events of 2001 whose situation has not yet been regularised.

## **VII. Conduct of law enforcement officials**

106. In its third report ECRI strongly recommended that the authorities take further measures to put an end to incidents of police misbehaviour and ill-treatment of members of minority groups, drawing particular attention to the importance of setting up an independent investigatory mechanism and to the fact that the section for internal control and professional standards of the Ministry of the Interior did not qualify as such. It also noted that reports indicated that victims were hesitant to bring complaints, that many cases of misbehaviour went unpunished and that where sanctions were handed down they were minimal.

107. Cases of ill-treatment by the police or of police action potentially based on ethnic prejudices continue to be reported. They concern persons originating from the Roma community - for the most part<sup>34</sup> – and the Albanian minority.
108. ECRI welcomes the Ministry of the Interior's decision for the time being to dismantle almost entirely (except in Skopje) the special police unit "Alpha", which has regularly been accused by alleged victims of potentially discriminatory cases of ill-treatment. However, this does not settle all the problems. In particular, numerous non-governmental observers, whether local or international, continue to denounce the lack of an independent, impartial, effective investigatory mechanism.
109. Scrutiny of police action is primarily entrusted to the Ministry of the Interior's section for internal control and professional standards ("SICPS"), referred to above. It is competent to determine the lawfulness of police action in particular from the standpoint of respect for fundamental rights, to decide whether the use of force was justified in a given case and to propose disciplinary sanctions in respect of police officers. Cases can be referred to it by private individuals, non-governmental organisations, Ministry of the Interior staff and the minister. The authorities have stated that it has become more effective in recent years thanks to the increased resources made available to it and the adoption of a specific action plan. Non-governmental observers nonetheless unanimously concur that the SICPS does not allow adequate, objective, impartial supervision of police action, as can be seen from the fact that it rarely finds in favour of complainants.<sup>35</sup> From this standpoint, its inclusion within the Ministry of the Interior is highly criticised. It is also criticised for its slow handling of investigations, for failing fully to co-operate with other institutions, notably the Ombudsman, for not duly stating the reasons for its findings regarding the lawfulness of impugned police action, for tending to propose only minor sanctions, if any, for not informing complainants of the measures taken and for failing to refer serious cases of ill-treatment to the prosecuting authorities.
110. Where the events could constitute a criminal offence, victims of police misconduct can also complain to the police or the public prosecutor's office. However, the prosecution service is required to open an investigation *ex officio* only for the most serious offences; if it considers that there is no reason to bring a prosecution, it informs the complainant of this and of the possibility for the complainant to take the proceedings further by acting as a "subsidiary prosecutor". It is criticised for relying too heavily on the Ministry of the Interior to determine the facts of a case and, like the SICPS and the courts, is often accused of a lack of zeal in taking action against the police – a lack of zeal which some commentators attribute to an "esprit de corps" and sometimes even to political interference – even when it is confronted with victims bearing serious visible injuries (and hence with events that should give rise to an *ex officio* prosecution). The prosecution service has reportedly failed to investigate many crimes of torture and ill-treatment ascribed to the authorities and, on account of its inertia, victims reportedly find themselves in situations where the statute of limitations applies before they have had the possibility of exercising their right to continue the proceedings in a private capacity. In addition, firstly, according to certain non-governmental organisations, the Ministry of the Interior sometimes responds to complaints against the police by initiating proceedings against the

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<sup>34</sup> Non-governmental sources estimate that, in 2008, 18% of the alleged victims were of Roma origin.

<sup>35</sup> For example, in the cases it examined between November 2007 and November 2008 the SICPS held that 76% were unfounded and that 3% were unsubstantiated. Moreover, in his annual report for 2008, the Ombudsman pointed out that, in most of the cases examined at his request, the SICPS based its conclusions solely on the statements of the police officers concerned without conducting a full investigation including seeking material evidence and interviewing witnesses and victims.

complainants for bringing false accusations or improper actions against public officials in the performance of their duties and, secondly, as pointed out by the Ombudsman in particular, proceedings against police officers are slow.

111. Victims of police misconduct can also refer the matter to the Ombudsman, who, as mentioned above,<sup>36</sup> can determine whether their rights have been violated and, inter alia, request the authorities to impose a disciplinary sanction on a public servant who has misbehaved or ask the public prosecutor to initiate criminal proceedings. However, he is not empowered to take binding decisions and himself acknowledges that he encounters a lack of co-operation from the Ministry of the Interior in such matters. There is also a parliamentary committee of investigation for the protection of human rights and fundamental freedoms, with which private individuals can in theory lodge complaints of alleged police ill-treatment. This committee is competent to decide whether such rights or freedoms have been violated and to initiate a procedure to determine the liability of the official concerned. It is nonetheless deemed to be ineffective in investigating individual complaints for lack of a well-defined procedure and of the necessary human and material resources. Furthermore, its intrinsically political nature can be regarded as scarcely compatible with the impartiality required in this field.
112. In addition, mention must be made of reports by civil society representatives that the public distrusts the current investigation mechanism. As ECRI has already had occasion to point out, since the effectiveness of a system of this kind depends on the full trust of victims of police misbehaviour, such trust is of key importance where the police behaviour in question is of a racist or discriminatory nature.
113. ECRI recommends that the authorities pay particular attention to incidents of police misbehaviour and ill-treatment potentially based on ethnic prejudices; it encourages them to continue their efforts to put an end to such incidents and again recommends that they set up a fully independent, impartial, effective mechanism for investigating and examining complaints against the police.
114. ECRI urges the authorities to publicly and unequivocally condemn all forms of racist behaviour or of discrimination by members of the police and to ensure that such acts do not go unpunished.
115. In its third report ECRI noted that, following the Ohrid agreement, considerable efforts had been made to improve relations between the police and minority groups, in particular by recruiting a large number of officers from minority communities and providing human rights training for the police. It notes with satisfaction that, as it recommended, the authorities have pursued these measures.
116. ECRI indeed notes that the proportion of police officers who do not originate from the majority population is continuing to grow. According to the statistics supplied by the authorities, this proportion was about 23% in January 2009 (about 20% for all staff of the Ministry of the Interior), compared with about 20% in December 2003 (16% for all Ministry staff). This of course primarily concerns persons who identify themselves as belonging to the Albanian community,<sup>37</sup> and Roma, for instance, remain largely under-represented.<sup>38</sup> The authorities have

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<sup>36</sup>See "Existence and implementation of legal provisions - Anti-discrimination bodies" above.

<sup>37</sup> About 18.60% of members of the police in January 2009, and about 15.90% of all Ministry of the Interior staff.

<sup>38</sup> About 0.80% of members of the police in January 2009, and about 0.65% of all Ministry of the Interior staff

nonetheless indicated that they wish to continue increasing the percentage of staff originating from the communities most under-represented among law enforcement officials. In particular, they encourage young Roma to choose this career course. ECRI further notes that the police code of ethics, adopted by the Ministry of the Interior in 2004, provides in particular that police officers shall be required to perform their duties in compliance with the principles of impartiality and the equality of citizens (Article 42) and with due regard for their fundamental rights (Article 45) and must provide victims of offences with the support and assistance they need, regardless of their race, sex, religion or ethnicity (Article 58). A law on the police, intended to guarantee full compliance with European standards in such matters, also entered into force in 2007. Police training is the responsibility of the police training centre established in 2008 when the police college was divided up. As provided for in the code of ethics (Article 26), a significant share of initial training focuses on respect for human rights and fundamental freedoms and on fighting racism and xenophobia. The same applies to in-service training, which is organised according to the needs identified. In 2006, in co-operation inter alia with the OSCE, a total of 4,150 police officers, or 47.5% of the entire force, received human rights training entitled "Police and human rights". The authorities have also indicated that a one-week course on police respect for human rights was held in March 2009 for all members of the above-mentioned "Alpha" unit based in Skopje.

117. ECRI encourages the authorities to continue their efforts to improve relations between the police and minority groups.
118. Referring the authorities to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, ECRI recommends that they pursue the process of recruiting members of under-represented minority groups into the police. It also recommends that they include in the law and the code of ethics a ban on racial profiling and, more broadly, a requirement that the police promote equality and prevent discrimination in the performance of their duties with regard to both suspects and victims. Lastly, it recommends that they also focus initial and in-service training for the police on the issue of policing in a multi-ethnic society.

### **VIII. Monitoring racism and racial discrimination, awareness-raising and education in fundamental rights and tolerance and co-operation with the non-governmental sector**

#### **Monitoring racism and racial discrimination**

119. ECRI notes that, although data on the ethnicity of public servants are gathered, there is still no system for collecting full statistics making it possible to assess minorities' participation in public life and their economic and social circumstances, particularly regarding access to employment, health care, education and housing.
120. ECRI reiterates its recommendation that the authorities establish a comprehensive, consistent system for collecting data making it possible to assess the situation of various minority groups in different fields of life and to determine the extent of manifestations of racism and direct and indirect discrimination. In this connection, it recommends that they envisage collecting data broken down according to categories such as ethnic or national origin, religion, language or nationality so as to identify manifestations of discrimination, while ensuring that this collection is systematically carried out in accordance with the principles of confidentiality, informed consent and individuals' voluntary self-identification as members of a particular group. This

system should be developed in close co-operation with all the operators concerned, including civil society organisations. It should also take into consideration the potential existence of cases of double or multiple discrimination.

### **Awareness-raising and education in fundamental rights and tolerance and co-operation with the non-governmental sector**

121. As mentioned in the third report, content relating to human rights and democratic values is part of the primary and secondary school curricula, and, since the 2002/2003 school year, civics education at primary level covers the themes of diversity and the fight against discrimination (grade 7) and peace and tolerance (grade 8). At secondary level the sociology curriculum covers subjects such as rights and freedoms and civic values. In 2005 the country also adopted the United Nations plan of action for the implementation of the World Programme for Human Rights Education and a national action plan on human rights education has apparently been developed. There are apparently also plans for teacher training courses to include a module on the significance and importance of fighting discrimination.

122. ECRI strongly encourages the authorities to continue integrating civics education into all levels of the education system, developing the teaching of human rights, tolerance and respect for differences and enhancing the efforts to train teachers in these subjects.

123. During the contact visit, on a number of occasions ECRI's attention was drawn to the general public's low awareness of the issues of intolerance and discrimination. The authorities mentioned a public awareness-raising campaign entitled "Enhancing respect and tolerance within the population" which was run in the media in 2008, with the broadcasting of video clips on television between 3 and 23 November 2008 and 30 December 2008 and 9 January 2009. The civil society representatives whom the delegation met during the contact visit reported that this initiative had gone unnoticed and that awareness-raising measures were still needed. Moreover, in the light of ECRI's findings in this report, it would be useful to devise and implement a national strategy to combat racism and intolerance.

124. ECRI recommends that the authorities devise and implement, in close co-operation with civil society, a national strategy to combat racism and intolerance in the long term, including a long-lasting general information and awareness-raising campaign.

125. Lastly, ECRI notes that many non-governmental organisations engaged in fighting intolerance, safeguarding fundamental rights and/or protecting the interests of minority groups consider that they do not have a sufficient role in the decision-making process in these fields. It also notes, however, that the authorities would like to involve them more and draws the authorities' attention to the importance of providing them with lasting support so they have sufficient stable financial resources with which to perform their tasks.

126. ECRI encourages the authorities to further their co-operation with non-governmental organisations engaged in fighting intolerance, safeguarding fundamental rights and/or protecting the interests of minority groups and recommends that they provide them with lasting support so they have sufficient stable financial resources with which to perform their tasks.



## **INTERIM FOLLOW-UP RECOMMENDATIONS**

The three specific recommendations for which ECRI requests priority implementation from the authorities of "the former Yugoslav Republic of Macedonia" are the following:

- ECRI encourages the authorities to continue the civil and administrative legislative process under way with a view to adopting comprehensive legislation on protection against discrimination, granting victims the highest level of protection. It strongly recommends that, in this connection, they take account of its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination and its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.
- ECRI urges the authorities to end any practice of improperly sending Roma children to educational facilities for pupils with a mental disability, to identify the children concerned and to reintegrate them in mainstream schools and to implement a streaming system which guarantees that only children effectively suffering from a mental disability are guided towards the specialist education sector.
- ECRI recommends that the authorities devise and implement, in close co-operation with civil society, a national strategy to combat racism and intolerance in the long term, including a long-lasting general information and awareness-raising campaign.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.





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## **APPENDIX: GOVERNMENT'S VIEWPOINT**

**The following appendix does not form part of ECRI's analysis and proposals concerning the situation in "the former Yugoslav Republic of Macedonia"**

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of "the former Yugoslav Republic of Macedonia" on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice, could only take into account developments up until 18 December 2009, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.



## **Comments of the Government of the Republic of Macedonia on the ECRI's Fourth Report on the Republic of Macedonia**

The Government of the Republic of Macedonia highly values the activities of ECRI in combating racism and discrimination and attaches great importance to the overall cooperation with the European Commission against Racism and Intolerance. The Republic of Macedonia will take due account of the recommendations contained in the Fourth Report in its ongoing and future policy settings.

**The comments on the specific parts of the report are as follows:**

### **Comments to the Summary of the Fourth Report**

The Government of the Republic of Macedonia appreciates the acknowledgments noted in the Fourth report for the progress made in the Republic of Macedonia since the previous ECRI's Report in 2005.

The Government cannot accept the remarks and observations related to the state of affairs in the field of Inter-ethnic relations and more specifically about the "segregation" and "interethnic intolerance", as well as "...the dissemination of stereotypes and incidents of ethnic hostility in the media...". We consider the findings not validly verified, especially about the alleged "segregation in school system".

Regarding the recommendation consisted in the first paragraph on page 9 of the Report, ECRI should take into account that the Ministry of Education and Science is working closely with the Office of the High Commissioner on National Minorities on integrated education and considers this project as particularly relevant. The issue of integrated education should be tackled with greater attention especially in a limited number of schools. In this regard the Republic of Macedonia has been investing a lot of efforts to address this issue and has undertaken a number of concrete measures, in cooperation with the HCNM.

As ECRI has noted in its Report, that the Law on the Use of Languages in the Republic of Macedonia establishes the principle that the language of teaching shall be Macedonian but also recognises the right of persons belonging to minorities to teaching of and in their language at all levels of education.

In this context it is valuable noting that there is no doubt that the language is and should be one of the main instruments for fostering the integration and ensuring the wide inclusiveness in every society. Therefore, the knowledge and the use of the official, Macedonian language is essential for maintaining the cohesion and the inclusiveness of the Macedonian society. The use and the teaching of the community languages in Macedonia (in the primary, secondary and university education) are widely practised, as proscribed by the Constitution and the relevant Laws in Macedonia.

The concept of plurilingual education is certainly an advanced one and therefore one should bear in mind the context in which it can be implemented and whether there are sufficient human and financial resources for its application in practice. The application of the theoretical solutions that are at our disposal should be always checked against the existing practice and the situation on the ground. ECRI should have a realistic approach on the issue of implementing "plurilingual teaching at all levels of the education system" in the Republic of Macedonia. There are no necessary conditions for its implementation, taking into account the Macedonian actual circumstances and capacities (financial, social, professional, legal etc.).

It is worth noting that the term “common school” does not reflect the existing regulations, since all schools- primary, secondary are of a common character, meaning that there is a free access to and enrollment in all schools throughout the territory of the Republic of Macedonia and no limitations exist in the legislation in this regard.

## **I Existence and implementation of legal provisions**

### **International legal instruments**

The Ministry of Foreign Affairs of the Republic of Macedonia would like to inform about the ratification of the International Legal Instruments that are relevant or might have importance to the monitoring mandate of the ECRI.

The Government started the ratification of the UN Convention on the Rights of Persons with Disabilities and the UN Convention for Enforced Disappearances and the International Convention for the Protection of All Persons from Enforced Disappearance (not yet into force). The ratification of the Conventions is planned to end by the August 2010.

### **Criminal Law provisions to combat racism and racial discrimination**

1. With regard to the recommendations given in Paragraph 10 and 11 we would like to point out that the Law on Citizenship as a whole and in particular Paragraph 14 is in compliance with the European Convention on Nationality. The Law on Citizenship has been approved by the Council of Europe and the UN High Commissioner for Refugees. The experts from the Council of Europe and UNHCR were fully involved during the drafting process of the Law on Citizenship and their proposals have been incorporated in the Law. The principal of non-discrimination is fully guaranteed by the Law in the requirements for obtaining the citizenship, regardless of the ethnicity, social position, raise or colour.

2. In connection with the conclusion cited in Paragraph 12 in the Preliminary Report which reads: ‘ECRI regrets that the legislators have not expressly stipulated that a racist motivation constitutes an aggravating circumstances for all offences’, the Ministry of Justice of the Republic of Macedonia refer to the amendments of the Criminal Code adopted in September 2009; These amendments, inter alia, include the recommendation made by ECRI.

Namely, the amendments to Art. 39 of the Criminal Code, which stipulate the general principles to be used in meting out a penalty, enshrine a new paragraph (No. 5) and so expand the circumstances (aggravating) for meting out a penalty, among which is also the said racist motivation.

Likewise, the very fact, that the provision of Art. 39 is enshrined in the general part of the Criminal Code, refers, that this provision relates to meting out a penalty for criminal offences without exception, whereby the trial court is obliged to take in due consideration all motives in perpetration of a given crime, including also the racist motivation.

Based on the aforementioned, the Ministry of Justice is of the opinion that, contrary to the conclusion in Point 12 of the ECRI Preliminary Report, the racist motivation, pursuant to the cited amendments to the Criminal Code, represent aggravating circumstance in the process of meting out a penalty for all offences mentioned in the Criminal Code.

1. In connection to the very conclusion contained in Point 14 which reads: ‘there is apparently no general legislation penalizing insults or public defamation of a racist nature, the public dissemination or distribution of racist materials, and their



production and storage for such purposes, the creation and leadership of racist movements or support for such groups or participation in their activities,' we would like to point out, that the perpetration of offences of public defamation and insult as mentioned in Art. 172 and 173, in correlation with the above cited provisions in Art. 39, paragraph 5, refer - contrary to the lines mentioned in Point 14 of the Report - that insult and public defamation of racist motivation are, equally, incriminated in accordance with the Criminal Code.

2. The offences of public dissemination and distribution of racist material are incriminated by the newly added Art. 394-d.

3. Further to the mention that there is no incrimination of: 'the creation and leadership of racist movements or support for such groups or participation in their activities', we would like to refer to Art. 416-a of the Criminal Code. This Article incriminates the following activities: 'One who will organize a group with an intention to commit crimes stipulated in the Articles 403 through 416, one who will become a member of the group, one that calls on or urges for commitment of the crimes stipulated in the Articles 403 through 416,' on political, racial, national, ethnic, cultural, religious, or gender grounds. These offences are contained in the Chapter 34 'Crimes against Humanity and International Law'.

### **Civil and administrative law provisions to combat racism and racial discrimination**

In reference to the Paras 20 through 22, the Government would like to inform that the Bill on anti-discrimination is in the parliamentary procedure. First reading by the Parliamentary committees was made on 24-25 of February 2010. Most of the Venice Commission recommendations are enshrined in the draft text.

It should be notified that the NGO's were involved into the consultation within the Ministry of Labour and Social prior to the Parliamentary proceedings.

The draft text of the Bill is transparently launched on the Internet cite of the respective Ministry.

### **Training of the judges and prosecutors**

Regarding the Para 24 and 25, the Government of the Republic of Macedonia would like to inform that with the OSCE Mission partnership, 27 judges and prosecutors have passed an intensive education courses in the field of HR and anti-discrimination aspects related to the International Conventions that Republic of Macedonia is a state party.

Same instruction is underway with new 17 judges and prosecutors with assistance of experts coming from the OSCE Mission.

## **II Discrimination in various fields**

### **Employment**

With regard to the employment on Para 51, the Government of the Republic of Macedonia would like to mention the "Operative Plan for employment- active programs and measures". This Operative Plan includes for the second consecutive year, i.e., for 2009 and for 2010, a special program for employment of Roma. Likewise, in 2010, the target group of 'registered unemployment Roma' has been included in another Program for employment - the Program 'Self-employment'. Therefore, the Government of the Republic of Macedonia makes efforts to reduce the rate of unemployment of Roma also through other official documents, and not only through the 'Decade of Roma Inclusion'.

In general for the Para from 50 through 52, according the Secretariat for the implementation of the OFA, 800 new public administration jobs were advertised and 360 were offered to ethnic minorities during 2009 (that makes almost 50 % of the offered).

Data from September 2009 showed that ethnic minorities accounted for 23.9% of employees of state institutions.

### **Access to justice**

Concerning the section of the ECRI Preliminary Report relating to access to justice, Para 62 the Ministry of Justice of the Republic of Macedonia would like to inform that the Law on free-of-charge legal aid was adopted on 29 December 2009 ('Official Gazette of the Republic of Macedonia' No. 161/09).

The aim of this law is to provide equal access for citizens and other persons as determined by this law to the institutions of the system, in order to get informed, to have and to be enabled to receive effective legal aid, in accordance with the principle of equal access to justice.

The right to free-of-charge legal aid is enjoyed by those persons who, pursuant to Art. 12, paragraphs 1 and 2, of this law, and because of their own financial position, would not be able to realize their rights guaranteed by the Constitution and law, without endangering their own means of support and that of the members of their family living with them in joint household.

Likewise, the right to free-of-charge legal aid, in accordance with this law, is provided to nationals of the Republic of Macedonia with their permanent domicile in the Republic of Macedonia, such as: beneficiaries of social assistance, beneficiaries of the right to disability allowance who have no other income as salary or rent, then beneficiaries of the lowest pensions living in joint household together with two or more persons supported by such pensioner, and finally, families or single parents with one or several minors that are eligible to receive child allowance.

It is to be noted that such free-of-charge legal aid is provided in capacity as initial or preliminary legal aid and in capacity as legal aid in all court and administrative proceedings; and, pursuant to this law, this free-of-charge legal aid is realized by the Ministry of Justice, attorneys-at-law, and by authorized NGOs.

Finally, the funds intended for the free-of-charge legal aid are provided from the very budget of the Ministry of Justice, in capacity as special program endorsed by the Minister of Justice, endorsed by the Government of the Republic of Macedonia, as well as by means of donations and other revenues in accordance with law.

According aforementioned, it proves that recommendation in the Para 62 of ECRI's Fourth reports is already implemented.

### **Racism in public discourse**

#### **- Opinion leaders and media**

The Broadcasting Council (BC) has made due consideration of the report by the ECRI. The basic law providing for the formation of the BC - the Broadcasting Law - of November 2005 contains legal provisions that prohibit proliferation of intolerance, based on ethnic affiliation, race or religion. Furthermore, Art. 69 of this law provides for rigorous penalties which go as far as revoking the working license of the broadcaster in question, provided the program content of the broadcaster publicly calls for violent overthrow of the constitutional order, including also the

case when the program content also publicly induces or calls for military aggression or for stirring up of national, racial, gender or religious hatred and intolerance.

Thus far, the BC has reacted twice on grounds of Art. 69 of the Broadcasting Law, such as:

- on 11 June 2007 against the public service broadcaster, MTV 1, by means of the measure of public written reprimand, and
- on 11 March 2009, against the commercial broadcaster - local TV in Stip - TV Iris, by means of formal advice.

With the aim of improving the inter-ethnic cohesion, the BC also places special accent on the development of the media outlets that broadcast in the languages of the minority ethnic groups; hence, the BC granted in 2009 a broadcasting license to a non-profit radio station based in the city of Stip, i.e., to a broadcaster in Turkish language, intended for the Yörük local people of Turkish descent. Also, the BC has granted in early 2010 broadcasting license to a national and satellite TV channel in Albanian language, which in turn would significantly contribute to the development of media pluralism in the field of informing in Albanian language. Overall, in the country there are registered 26 broadcasters in Albanian language, 4 broadcasters in Turkish language, 4 broadcasters in Roma language, 2 broadcasters in Bosnian language, and 1 broadcaster in Serbian/Croatian language.

In its permanent contacts with the media outlets, the BC has continually underlined the need to promote the cultural and social diversity in the programs of the broadcasters and respect of the program standards that are established by Art. 68 of the Broadcasting Law.

The BC intends to seriously undertake actions in reducing the possibility of proliferation of intolerance and hate speech by the media.

An overall comment concerning this section, in particularly the observations made in paragraph 70, refers to the fact that the emphasis on the division of the media along ethno-linguistic lines does not reflect the real situation. Here, an attention should be drawn to the fact that, especially the printed media in Macedonian language publish articles from intellectuals, journalists, politicians from all communities. An effort is made to extend such an approach by other media which publish and broadcast in other languages than the Macedonian. There is one bilingual electronic media ("Alsat" TV).

#### **- Internet**

With regard to the computer crime, i.e., with combating racism and xenophobia on the Internet, the Unit for combating computer crime in the Ministry of the Interior has undertaken concrete measures to fulfil the recommendation by increasing the number of officers who will be signed to monitor the websites having improper content in this field.

At the same time, we would also to underline that the amendments to the Criminal Code provide for provisions that will penalize racism and xenophobia on the Internet.

#### **Conduct of law enforcement officials**

The Sector for internal control and professional standards represents organizational unit in the Ministry of the Interior of the Republic of Macedonia that has the task to detect and document unlawful and unprofessional conduct by the

Ministry and police officers, and to monitor the legality and efficient execution of the work and duties done by other organizational units in the Ministry.

As a controlling mechanism of the work in the Ministry, this Sector makes continuous efforts to further increase its efficiency and effectiveness in the work and realization of its activities.

The new Law on Internal Affairs contains provisions that relate to the issue of material liability, i.e., compensation for loss or damage caused and types of disciplinary measures; these disciplinary measures introduce for the first time the measure of conditional termination of the employment contract (if a police officer within a year as of the day of being fined again breaks the working order and discipline or does not fulfil the working duties, then the Interior Minister pronounces him the measure of conditional termination of the employment contract; at the same time the Minister also establishes that such measure will not take effect provided the guilty police officer does not make new breach of the working order and discipline or does not make new failures in his working duties in a period to be set by the Minister and which may not be less than six and longer than 12 months as such).

The new implications established by law and adoption of the bylaws have greatly contributed to reduction of abuse of official duties and powers by the Ministry officers.

The Sector continuously undertakes measures to monitor the situation by conducting regular checks in the Ministry, in order to detect irregularities and giving instructions to eliminate such irregularities, and to hold accountable those police officers who have abused their powers. While conducting such checks, special emphasis is placed on the respect of human rights and freedoms in context of policing.

New changes were made to the Rules on conducting activities for they are fully compatible with the Law on proceeding upon complaints and proposals ("Official Gazette of the Republic of Macedonia" No. 82/08). In this context, all cases reported to the Sector involving mistreatment of citizens by police officers including also infringement of the rights and freedoms of a person summoned, apprehended, or detained in police procedure. The Sector proceeds without any exception whatsoever and examines very professionally all allegations in the complaints filed, without selective approach in its work, with equal treatment for all citizens, without any ethnic, religious, gender or any other type of discrimination; upon making checks, replies are timely given back to the claimants.

With regard to the comments mentioned in the Summary of the ECRI's Forth report (pages 9 and 33) concerning incidents of misbehavior and ill-treatment by the police, Public Prosecutor's Office has pointed out that the problem will be resolved with the adoption of the new Law on criminal procedure. This new Law provides that the public prosecutor should be the official who will conduct the investigation procedure; the new law also provides for the establishment of the justice police to be led by the public prosecutor himself. Furthermore, this new law also stipulates the formation of investigation centers within the public prosecutor's offices which will then prosecute cases before courts with expanded jurisdiction; finally, it also provides for the establishment of the Basic Public Prosecutor's Office for Organized Crime and Corruption.

The new Law on Internal Affairs and its Art. 39 ('Official Gazette of the Republic of Macedonia' No. 92/09) stipulates the external control of the work of the Ministry of the Interior and hence of the Sector, which is conducted by the Assembly of the Republic of Macedonia and the Office of the Ombudsman.

One of the top priorities of the Sector is further continuation and promotion of its cooperation with the Office of the Ombudsman and the NGO sector. Direct meetings between the Sector and the Office of the Ombudsman and the NGOs are envisaged by the Law and the Code of Conduct on the complaints. All communication coming from the Office of the Ombudsman and the NGOs is given due consideration and processing; timely reply is given to all such communication within the time span necessary to finish the checks. The Law on Ombudsman (“Official Gazette of the Republic of Macedonia’ Nos. 60/03 and 114/09) provides for broad competences of the Ombudsman, among other things even his direct involvement in checking the authenticity of the complaints filed by citizens.

In December 2009, officers of the Sector and officials of the Ombudsman Office of the Republic of Macedonia together visited general police stations in order to evaluate the implementation of the recommendations from the Office of the Ombudsman contained in the Information on the situation in police stations (June, 2009).

The commitments of the Sector to have part of the trainings conducted together with representatives of local government, NGOs, the Office of the Ombudsman and police stations was realized by conducting training related to respect of human rights and freedoms mostly for those police officers who have often direct contact with citizens while policing. In early March 2009, the Training Center of the Ministry of the Interior conducted educational training in Skopje for members of the Special mobile police unit for combating crime ‘Alphas’ followed by presentations that were made by representatives from the Office of the Ombudsman, the Helsinki Committee for Human Rights and NGOs ‘Coalition All for Fair Trials’ and ‘Mesecina’.

Likewise, in April 2009 the Training Center in Skopje conducted training on the topic: ‘Respect for human rights of persons deprived of liberty’ organized by NGOs involved in the Project for promoting human rights, supported by the Foundation Open Society Institute-Macedonia and the Fund for torture victims of the UN, and in cooperation with the Sector for internal control and professional standards and the Directorate for execution of sanctions in the Ministry of Justice. The training was attended by officers from the Sector for internal control and professional standards, heads of shift in police stations, and officers of the Directorate for execution of sanctions and its Security Sector in the ‘Idrizovo’ prison.

Through its activities, the Sector makes further efforts to upgrade its institutional and inter-institutional cooperation with other institutions in charge of combating unlawful action (such as: Organized Crime Unit, public prosecutor’s offices, and courts). The Sector is obliged to make consultations with the competent office of the public prosecutor. This control body in the Ministry of Interior acted in timely and comprehensive manner upon all communication coming from the public prosecutor’s offices and courts.

The Ministry of Interior of the Republic of Macedonia also maintains permanent inter-institutional cooperation with other bodies such as: the State Labour Inspectorate, the State Market Inspectorate, the State Transport Inspectorate, as well as with the Unit for Professional Accountability in the Customs Administration of the Republic of Macedonia, with the aim of conducting joint monitoring and controls.

Based on documented unprofessional conduct in course of police duty in 2009, the Sector for internal control and professional standards initiated disciplinary action against 201 Ministry officers before the Ministry Dismissal Commission, while the Sector initiated against another 160 officers the penalty of salary reduction. Likewise, the Sector issued written reprimand to 193 officers. Another 13 officers

were punished by being offered a lower paid job, while another 28 Ministry officers were punished by being suspended from their working place. Another 66 officers were directly dismissed without referring their cases to the Dismissal Commission due to the gravity of the cases (58 of these involve criminal charges filed by the Organized Crime Unit that relate to criminal offences of receiving bribe against officers of the Border Police at the Tabanovce and Kafasan border crossings). Misdemeanor charges were filed against one officer; damages claims were filed against 91 officers.

In cases of indications of criminal offences, the Sector for internal control and professional standards has filed 36 criminal charges against 50 officers for the perpetration of 44 criminal offences. In context of the aforementioned, in the course of this year 67 *Special Reports* have been prepared and submitted to the Public Prosecutor's Office in the Republic of Macedonia. Of them, 33 were prepared upon the very request by the Public Prosecutor's Office, while the other 34 are Special Reports Informing the Competent Public Prosecutor for his further legal action.

In order to maintain a transparent manner of operation by the Sector for internal control and professional standards and come closer to the citizens, its Working reports other with annual and periodic statistical indicators, Rules of procedure, Working program, Anticorruption program of the Ministry of the Interior, and all other activities conducted by the Sector are posted on the Ministry website.

Thus far, this Sector in the Ministry of Interior has had meetings with several similar departments and services from other countries, for the purpose of sharing experience and implementation of best practices.

Last year, officers of the Sector attended:

- the Austrian Federal Bureau for Internal Affairs and its Bureau for Internal Investigations;

- 3<sup>rd</sup> International Anticorruption Summer School in Herrnstein, Austria; - the Regional Conference of the Police Internal Control Services of the SEE Countries, in Budva, Montenegro.

- the 9<sup>th</sup> EPAC (European Partners Against Corruption, an independent and informal organization of police internal control bodies and of anticorruption authorities of the CoE and EU member states) Conference held in the Republic of Slovenia (the Sector for internal control and professional standards was admitted as full member of the EPAC).

Representatives of the Sector made study visit to:

- CIVIPOL (November 2009);

- French General Inspection of the National Police;

- the General Inspection of the Prefecture Police Services;

- the General Inspection of the Administration;

Furthermore, exchanges of experiences were conducted between the General Inspection of the National Police of France and officers of the Sector for internal control and professional standards (May 2009, in Skopje).

Aiming to timely and effective execution of the tasks and duties of the Sector, the Ministry of Interior is in progress of purchasing highly sophisticated equipment that will enable the Sector to independently gather evidence concerning crime perpetrators from the ranks and files of the police and the Ministry.



