



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Concluding observations on the combined eighth to tenth
periodic reports of the former Yugoslav Republic of
Macedonia**

Addendum

**Information received from the former Yugoslav Republic of
Macedonia on follow-up to the concluding observations***

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* The present document is being issued without formal editing.

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Recommendation 11-a

1. The Amendments to the Law on the Ombudsman were adopted in September 2016 in order to further improve the system of human rights protection and promotion in the Republic of Macedonia in compliance with international human rights standards.
2. The amendments aim at achieving the following:
 - Full compliance with the Paris Principles on the National Institution of Human Rights;
 - Introducing the promotion of human rights as part of the mandate of the Ombudsman's Office;
 - Greater pluralism and strengthening of the independence in its functioning; and
 - Further alignment of the law with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which requires functional and operational independence of the National Preventive Mechanism.
3. The Ombudsman's Office of the Republic of Macedonia in October 2011 upon an application for accreditation to the International Coordinating Committee of National Human Rights Institution received status B. Then it was determined that the institution partially met the criteria for National institution with status A. In its evaluation, the Subcommittee on Accreditation determined that improvements were needed in regard to the: defined mandate of the institution of Ombudsman of the Republic of Macedonia, the appointments, composition and the pluralism of the Ombudsman's Office, its funding in relation to the functioning as a National Preventive Mechanism, as well as its interaction with the international human rights system.
4. Therefore, Article 2 of the amendments extends the mandate of the Ombudsman by including the promotion of human rights and freedoms into its competence and envisages that the Ombudsman monitors the respect of human rights and indicates the need for their protection, conducts relevant research, organizes educational activities, timely and regular information to the public, cooperates with civil society, international organizations and academia, and initiates harmonization of legislation with international and regional human rights standards. Furthermore the amendments allow the possibility for the promotion to be conducted through the Public Broadcasting Service which is also charged with the task to contribute towards the respect and promotion of human rights, as well as to raise awareness.
5. In order to implement the recommendations of the Subcommittee on Accreditation related to the selection process and the pluralism of the Ombudsman Office, the adopted amendments also make a requirement for a public vacancy announcement both for the position of the Ombudsman and the Ombudsman's Deputies, whereby due account should be taken for the principle of gender — balance. It also provides for a greater diversity by prescribing that one of the Deputies to the Ombudsman can be selected among candidates with an university education not related to law.
6. The adopted amendments also regulate in more details the functioning and the competences of the Ombudsman as a National Preventive Mechanism, thus making further alignment with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified by the Republic of Macedonia on 30 December 2008.
7. Regarding the funds for the work, the amendments provide that there should be an allocation of resources for the functioning of the Ombudsman as National Preventive Mechanism by establishing a special budgetary program.

Recommendation 11-b

8. Activities to further promote and strengthen the functioning of the Commission for Protection against Discrimination are in progress.

Recommendation 11-c

9. The Law on Ombudsman regulates the mandate of the Ombudsman to undertake measures and actions for protecting the principles of non-discrimination.

10. The Law on Prevention and Protection against Discrimination defines the grounds for discrimination under Article 3 on the basis of which the Commission also acts.

11. These legislative provisions imply that both the Commission and the Ombudsman have competence in the field of protection against discrimination, whereby the grounds for non-discrimination are more comprehensively regulated in the Law on Prevention and Protection from Discrimination.

12. There is a difference in the scope of responsibility of the Ombudsman and the Commission:

13. Under the Law on Prevention and Protection from Discrimination, protection from and ban of discrimination applies to all natural and legal persons in the exercise of the rights and freedoms guaranteed by the Constitution and laws of the Republic of Macedonia.

14. Under the Law on Ombudsman, the Ombudsman is an organ of the Republic of Macedonia that protects the constitutional and legal rights of citizens and all other persons when these are infringed by acts, actions and omissions by the state administration bodies and other bodies and organizations with public powers and an organ that undertakes actions and measures to protect the principles of non-discrimination and equitable representation of communities in state bodies, bodies of local government and public institutions and services.

Recommendation 15

15. The Law on Border Control (Article 4) is applied for all persons crossing the state border of the Republic of Macedonia, regardless of their socio-economic, religious, or ethnic affiliation. According to Article 8, paragraph 3, of the Law on Border Control (Official Gazette of the Republic of Macedonia No. 171/10), while conducting border control, police officers shall not discriminate in terms of gender, racial or ethnic origin, skin color, age, nationality affiliation, social background, religious belief, disability, sexual orientation, and economic and social condition of the individuals checked by the authorities.

16. The right to equality and the right to freedom of movement are guaranteed by the Constitution of the Republic of Macedonia; likewise, one must bear in mind that with the intention of leaving the territory of the country, it is necessary to respect the conditions of entry and the right to freedom of movement within the territory of the Member States of the European Union, as defined under Article 17 (1) of the Treaty, the Schengen Borders Code as well as the EU Directive 38/2004 of 29 April 2004.

17. For a smooth exit from the territory of the Republic of Macedonia and entry into an EU Member State, pursuant to Article 5 of the Schengen Borders Code, it is not enough to possess only a valid biometric passport, but it is also required to meet other conditions and possess also additional documents or certificates that are provided for under Annex 1 of this Regulation of the EU, i.e., documents that justify or prove the motives and purposes of travel and stay in the EU Member States.

18. In the Republic of Macedonia there is no ban on exit as such, but in accordance with legal regulations and contractual obligations under the Agreement on visa liberalization between the Republic of Macedonia and the EU, as an international valid agreement,

Macedonian nationals, who do not have the necessary documentation under this Agreement, are informed of this and are also informed that they may leave the country upon completion of the required documentation.

19. Also, the Ministry of Interior, through its Sector for Internal Control and Professional Standards, supervises the Ministry employees; likewise, the Ministry, through this Sector, continuously acts upon complaints filed by citizens; in all cases which the Sector was informed about that there had been any illegal or unprofessional police conduct, the Ministry or the Sector acts professionally investigating complaints, with equal treatment of all citizens regardless of their ethnic, religious and gender affiliation or any other basis for possible discrimination, without exception, while delivering timely responses to the individuals that have filed the complaints.

20. For the purpose of implementation of prevention programs, the Ministry of Interior also conducted public forums and panel discussions in order to explain to the population the consequences of the submission of unfounded requests for asylum in the Western countries, with the involvement of inspectors for prevention and the OSCE.

21. In the recent period, the Ministry largely seeks to raise awareness among members of the police force with regard to respect for human rights, informing that in this context, particular attention is paid to cooperation with non-governmental organizations and the Ombudsman's Office for the implementation of joint training, as well as with the Council of Europe, OSCE and other international organizations. At the Ministry, meetings with senior police staff in different organizational units and various police stations are periodically held; these meetings are used to point to the necessity of strict adherence to the human rights and freedoms in exercising police powers, respect for the laws and bylaws and internal regulations of the Ministry.

Recommendation 25

22. In February 2016, the new Law on Administrative Officers entered into force that improves efficiency in the implementation of the principle of an adequate and equitable representation of ethnic communities. The methodology for planning of employment in the public sector provides for the content of the annual plan for employment of persons belonging to ethnic communities.

23. In addition, there is increased role of the Secretariat for the Implementation of the Framework Agreement aimed at monitoring employees in the state administration bodies. All state administration bodies are obliged to submit their annual plans for employment in the public sector to the Secretariat for an opinion. In addition, it is planned that the Secretariat will delegate its members to the Commissions for the selection of candidates for employment and this in turn will make monitoring of the implementation of adequate and equitable representation more effective. In terms of career advancement, the Law on Administrative Officers provides strict legal procedures that must be followed.
