



# 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\*

1. The Committee considered the combined eighth to tenth periodic reports of the former Yugoslav Republic of Macedonia (CERD/C/MKD/8-10), submitted in one document, at its 2365th and 2366th meetings (CERD/C/SR.2365, CERD/C/SR.2366), held on 11 and 12 August 2015. At its 2384th meeting, held on 25 August 2015, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the combined eighth to tenth periodic reports of the State party and appreciates that it includes responses to the concerns raised by the Committee in its previous concluding observations. The Committee welcomes the oral presentation given by the State party's delegation, consisting of representatives of various executive bodies, including persons belonging to minority groups. The Committee also appreciates the open and constructive dialogue held with the State party.

#### B. Positive aspects

3. The Committee welcomes the ratification by the State party of the following international human rights instruments:

(a) The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in February 2009;

(b) The Convention on the Rights of Persons with Disabilities and its Optional Protocol in December 2011.

4. The Committee also welcomes the legislative and institutional measures taken during the period under consideration, including:

(a) The amendment in 2011 of article 20 of the Law on Social Protection, prohibiting direct or indirect discrimination on the grounds of, inter alia, gender, race, colour or national, ethnic, social, political, religious, cultural or linguistic background;

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\* Adopted by the Committee at its eighty-seventh session (3-28 August 2015).



(b) The adoption in 2012 of the National Strategy on Equality and Non-Discrimination on the grounds of ethnic affiliation, age, mental or physical disability or gender (2012-2015);

(c) The adoption in 2010 of the National Action Plan for Advancing the Social Status of Roma Women;

(d) The implementation of a project to provide free textbooks in Romani for the optional subject "Roma Language and Culture" since the 2010/11 school year;

(e) The establishment in 2012 of the Inter-Sector Human Rights Body to advance the coordination of human rights activities and exchange information on the implementation of recommendations from United Nations human rights bodies.

5. Following its recommendations in 2007 (CERD/C/MKD/CO/7, paras. 17 and 18), the Committee welcomes the measures taken by the State party, which have decreased the school drop-out rate of children belonging to minority groups and increased the number of secondary school and university students, in particular girls, from these communities, including:

(a) The introduction of compulsory secondary education in the 2008/09 school year, with free transportation provided to all primary and secondary pupils travelling at least 2 km from home to school;

(b) The Project for Providing Scholarships, Mentorship and Tutorship to Roma Secondary School Pupils, since November 2009;

(c) The Conditional Cash Transfers Project, which helps to provide financial assistance, conditional upon regular school attendance, to secondary school pupils whose parents receive welfare.

## **C. Concern and recommendations**

### **Monitoring racial discrimination**

6. While taking note of the data available in the periodic report and the core document, the Committee notes that the State party has not conducted a census since 2002. It regrets the lack of disaggregated socioeconomic data on the population, including on the prison population, that would allow the Committee to better assess the situation of groups at risk of racial discrimination.

**7. In line with its revised reporting guidelines (CERD/C/2007/1, paras. 10 and 12), the Committee encourages the State party to conduct a census as soon as possible, or to collect updated data on the demographic composition of its population by other appropriate methods. The Committee recommends that the State party collect disaggregated statistics on the enjoyment of economic, social and cultural rights enshrined in the Convention by all ethnic communities, including ethnic Macedonians and ethnic Albanians, in full respect of the principles of confidentiality, informed consent and self-identification. The Committee would welcome in particular data specifying where each minority community is living amid which majority.**

### **The Convention in domestic legislation**

8. The Committee is concerned about the absence of a clear definition of racial discrimination in the State party's legislation in line with article 1 of the Convention, despite numerous grounds of discrimination introduced into its legislation. It also regrets that the Criminal Code does not address assistance to racist organizations and the financing thereof. The Committee is further concerned about reports that the provisions of the 2010

Law on the Prevention and Protection Against Discrimination are unclear and not harmonized with existing legislation (arts. 1, 2 and. 4).

9. **The Committee:**

(a) **Recommends that the State party revise its Criminal Code to ensure that it contains a clear and comprehensive definition of racial discrimination that is fully consistent with article 1 of the Convention;**

(b) **Bearing in mind its general recommendation No. 35 (2013) on combating racist hate speech, and recalling that the provisions of article 4 of the Convention are mandatory, recommends that measures be taken to include in its legislation all aspects of this article, including provisions on the prohibition of organizations that promote or incite racial discrimination and participation in or assistance to such organizations;**

(c) **Encourages the State party to amend the Law on the Prevention and Protection Against Discrimination in accordance with the Convention and domestic legislation, in particular regarding court protection, the burden of proof and special measures;**

(d) **Recommends that the State party ensure that all the provisions related to the prohibition of racial discrimination are fully understood and disseminated to the public and the judiciary. The Committee requests that the State party include information on relevant cases tried and sanctions applied for racial discrimination in its next periodic report.**

**National institutions**

10. The Committee is concerned about shortcomings in the current law regarding the mandate and the selection process of the Ombudsman as well as the resources allocated to the Ombudsman to undertake some key activities. The Committee is further concerned by reports that the Commission for the Prevention and Protection against Discrimination has limited financial and human resources, which hampers its ability to successfully fulfil its mandate. The Committee finally notes the lack of clear coordination between the Ombudsman and the Commission when assisting victims of racial discrimination (arts. 2 and 6).

11. **The Committee recommends that the State party:**

(a) **Amend the law on the Ombudsman as soon as possible to consolidate the mandate of the Ombudsman with regard to the promotion and protection of human rights, to strengthen its role as the national preventive mechanism and to ensure its financial independence in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). The State party should fully cooperate with the Ombudsman and act on its recommendations, in particular pursuant to the fight against racial discrimination;**

(b) **Ensure that the Commission for the Prevention and Protection against Discrimination is provided with adequate financial and human resources that guarantee its independence and effectiveness. The Commission's advisory and educational functions should also be strengthened;**

(c) **Clarify the mandate of national mechanisms, such as the Ombudsman and the Commission, avoiding duplication and encouraging coordination and synergy between them to enhance the protection against racial discrimination and violations of other human rights.**

### **Situation of migrants, asylum seekers and refugees**

12. While noting the challenges faced by the State party in terms of influx of migrants in the country, and despite some positive measures taken, the Committee expresses its concern about:

(a) Lengthy administrative detention of asylum seekers, mainly those who are summoned to appear before the courts as witnesses in criminal trials, and the detention of unaccompanied minors;

(b) Reported cases of expulsion without proper assessment of possible infringement of the principle of non-refoulement;

(c) Poor material conditions in reception centres for foreigners, irregularities in the treatment of transit migrants and potential asylum seekers and lack of local integration programmes (arts. 2 and 5).

13. **Bearing in mind its general recommendation No. 30 (2005) on discrimination against non-citizens, the Committee recommends that the State party:**

(a) **Refrain from the lengthy detention of migrants as potential witnesses in criminal trials while combating smuggling. The Committee also recommends that the State party significantly reduce the maximum period of detention under the new draft law on foreigners and effectively ensure that asylum seekers, in particular unaccompanied minors, are not detained except as a last resort and for the shortest time possible;**

(b) **Guarantee that all cases of expulsion are well assessed and do not lead to the expulsion of persons who may be subjected to persecution. The State party should also provide asylum seekers with avenues of appeal and recourse prior to the expulsion and ensure they are treated with respect;**

(c) **Continue with its efforts to improve the living conditions at the reception centres for foreigners. While welcoming the measures taken to address overcrowding and bad conditions in the Gazi Baba reception centre for foreigners, the Committee requests that the Ombudsman, in its capacity as the national preventive mechanism, and concerned non-governmental organizations be granted access to all reception centres with the aim to monitoring conditions and preventing the mistreatment of detainees. The Committee further recommends that the State party implement its new 2015-2025 Strategy on the Integration of Refugees and Foreign Nationals to enhance local integration programmes.**

### **Freedom of movement**

14. The Committee is concerned about reports that citizens belonging to Roma and Albanian communities have been prevented from leaving the country on the grounds that they would apply for asylum in European Union countries, and have had their travel documents confiscated. The Committee notes the 2014 ruling of the Constitutional Court that abolished restrictive provisions of the Law on Travel Documents, but remains concerned by the ethnic profiling of these communities by border police officers (arts. 2 and 5).

15. **While taking note of the delegation's declaration that the State party will implement the above-mentioned ruling, the Committee recommends that the State party closely assess and take steps to respond to the causes that lead persons belonging to these communities to leave or seek refuge in other countries. The Committee recommends that the State party fully respect the right to freedom of movement of its citizens and their right to leave and return to the country. In the light of its general recommendation 31 (2005) on the prevention of racial discrimination in the**

**administration and functioning of the criminal justice system, the Committee recalls that States parties should take the necessary steps to prevent questioning, arrests and searches solely on the basis of the ethnicity of individuals. The mere perception or the fact of belonging to an ethnic group is not a sufficient reason, de jure or de facto, to restrict the right to movement.**

#### **Situation of Roma**

16. The Committee is concerned by:

(a) The information regarding existing segregation of Roma in the field of education despite significant progress achieved by the State party in this area. The Committee is concerned by the information related to the refusal by some schools to enrol Roma students, including in Bitola, the occurrence of self-segregation by Roma students and the still high percentage of Roma in schools for children with intellectual disabilities;

(b) The slow progress achieved with respect to the State party's efforts to allocate social housing to Roma families and improve living conditions in Roma settlements through the implementation of projects under the Decade and Strategy for the Roma;

(c) The fact that persons belonging to the Roma community continue to be the most affected by poverty, material deprivation, unemployment and social exclusion (arts. 2, 3 and 5).

**17. In view of its general recommendations 27 (2000) on discrimination against Roma, the Committee recommends that the State party:**

(a) **Firmly address the issue of segregation of Roma children in education in line with article 3 of the Convention. The Committee underlines that conditions of racial segregation are not necessarily created by governmental policies but may arise as an unintended by-product of actions of private persons leading to social isolation. The State party should eliminate any discrimination against Roma students in their access to adequate education and combat stereotypes that lead to social exclusion;**

(b) **Strengthen its efforts to provide adequate social housing to Roma families through special programmes for housing by municipalities, including by allocating an adequate budget for such programmes;**

(c) **Continue to take special measures for Roma, in accordance with general recommendation No. 32 (2009) on the meaning and scope of special measures in the Convention, by promoting the employment and advancement of Roma and combating their social exclusion.**

#### **Gender-related dimensions of racial discrimination**

18. The Committee expresses its concern about:

(a) The vulnerability of women belonging to minority groups as regards the violation of their right to employment and their overrepresentation in low-paid jobs despite the measures taken by the State party to increase their access to the labour market through a number of measures and projects (arts. 2 and 5);

(b) The prevalence of early marriage within the Roma and Albanian communities, which is considered a traditional practice, without adequate responses from the State party to combat this harmful practice in an efficient manner;

(c) The underreporting of incidences of domestic violence, which particularly affects women belonging to minority groups. Bearing in mind cases of early marriage in the country, the Committee regrets that women under the age of 18 are not admitted in shelter

centres. The Committee is also concerned by the information according to which the 2014 Law on the Prevention of and Protection against Domestic Violence does not provide for the appropriate protection of women victims of domestic violence.

19. **In the light of its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party:**

(a) **Allocate sufficient resources to the implementation of the National Action Plan on Roma Women (2016-2020) and the grant scheme “Integration of Women from Ethnic Communities in the Labour Market” and inform the Committee on concrete results;**

(b) **Monitor and assess the situation, including by involving civil society organizations, with the aim of combating early marriage, and raise awareness among the population, in particular those communities concerned, on the negative impact of this practice on girls’ education, health and employment prospects;**

(c) **Raise awareness among the population, in particular of persons belonging to minority groups, on the prohibition and negative effects of gender-based violence, and inform potential victims on the remedies available. The State party should ensure that the above-mentioned law is fully in line with its international obligations, that perpetrators are duly prosecuted and that effective protection is provided to victims of domestic violence regardless of age.**

#### **Situation of children**

20. The Committee notes with concern:

(a) The situation of children living in the street, most of whom belong to the Roma community. Despite the protocols for the treatment of these children developed by the State party, and the existence of day centres in Bitola, Skopje and Prilep where they have access to education and other basic services, the problem persists;

(b) The reported increase of children addicted to drugs, in particular Roma, whose situation is worsened by the poverty of their parents and the legal obstacles for children under the age of 18 to access substance abuse treatments;

(c) The ongoing lack of identity documents of some Roma, which prevents them from accessing social security benefits. The Committee notes the assertion by the State party that 550 persons have been identified as not having had their births registered in the Birth Register. It is concerned that only 120 among them have been registered so far (arts. 2 and 5).

21. **The Committee recommends that the State party:**

(a) **Provide adequate institutional protection to children living in the street and enhance the efficiency of protocols aiming at the reintegration of these children into their family. The State party should tackle the root causes of this phenomenon in collaboration with the parents, non-governmental organizations and the concerned children;**

(b) **Continue to develop prevention programmes and ensure access for all to the rehabilitation programmes for drug users, including those under the age of 18;**

(c) **Take measures to identify children whose births were not registered and who lack identity documents and continue to proceed with retroactive birth registration and issuance of documents, including, if possible, by simplifying the entire process.**

### **Evaluation of national policies**

22. While welcoming a number of the measures and policies taken by the State party, the Committee regrets the lack of sufficient information on concrete results obtained, such as through the 2012 National Strategy on Equality and Non-Discrimination, the National Strategy for the Roma and the 2005-2015 Decade for Roma Inclusion. The Committee is concerned by the information that some of these policies have not received sufficient funding (arts. 2 and 5).

**23. The Committee recommends that the State party assess the impact of its policies to improve the design and implementation of subsequent programmes. The Committee also recommends that the State party establish effective mechanisms to involve targeted groups in the development and implementation of policies affecting them at the national and local levels.**

### **Right to participate in public life**

24. The Committee notes the delegation's declaration that, since 2001, the representation of smaller ethnic communities in public administration has increased. Despite this apparent progress, the Committee believes that efforts are still needed in terms of access to leading and managerial positions by the members of the communities who are not majority, in particular of those who belong to smaller ethnic communities (arts. 2 and 5).

**25. The Committee recommends that the State party continue to strengthen the efforts for the implementation of the principle of adequate and equitable representation, strive for the representation of smaller communities in managerial posts and fully cooperate with the Ombudsman in monitoring the implementation of this principle.**

## **D. Other recommendations**

### **Ratification of other treaties**

26. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have a direct relevance to communities that may be the subject of racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

### **Follow-up to the Durban Declaration and Programme of Action**

27. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

### **International Decade for People of African Descent**

28. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed the International Decade for People of African Descent for 2015-2024, and

Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party includes in its next report precise information on the concrete measures adopted in this framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

#### **Consultations with civil society**

29. The Committee recommends that the State party continue to consult and expand its dialogue with civil society organizations working in the area of human rights protection, in particular on combating racial discrimination, in connection with the preparation of the next periodic report and the follow-up to the present concluding observations.

#### **Dissemination**

30. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the Committee's concluding observations with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

#### **Amendment to article 8 of the Convention**

31. The Committee recommends that the State party ratify the amendment to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the 14th Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

#### **Follow-up to concluding observations**

32. In accordance with article 9 (1) of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 11, 15 and 25 above.

#### **Paragraphs of particular importance**

33. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 13, 17, 19 and 21 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

#### **Preparation of the next periodic report**

34. The Committee recommends that the State party submit its 11th to 14th periodic reports, in a single document, by 17 September 2018, taking into account the reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the word limit of 21,200 for periodic reports and 42,400 for the common core document.

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