



**International covenant
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HUMAN RIGHTS COMMITTEE
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

1. The Committee considered the second periodic report of The former Yugoslav Republic of Macedonia (CCPR/C/MKD/2) at its 2525th and 2526th meetings (CCPR/C/SR.2525-2526), held on 26 March 2008, and adopted the following concluding observations at its 2537th meeting (CCPR/C/SR.2537), held on 3 April 2008.

A. Introduction

2. The Committee notes the submission of the State party's second periodic report elaborated in conformity with the reporting guidelines, which was six years overdue, and welcomes the information on developments since the consideration of the initial report as well as the written answers provided in advance.

3. The Committee appreciates the positive dialogue with a delegation composed of experts competent in various fields relevant for the implementation of the Covenant, and welcomes their efforts to answer the Committee's written and oral questions during the examination of the State party's report.

B. Positive aspects

4. The Committee welcomes the significant and wide-ranging legislative and institutional changes and reforms that have been introduced in the State party in the period covered by the second periodic report, with a view to improving the judicial system in the country.

5. The Committee welcomes the adoption of the new Law on Legal Status of a Church, Religious Community and Religious Groups, which brings about more equality among religious groups and churches.

6. The Committee welcomes the amendments to the Criminal Code, decriminalizing the offences of defamation (art. 172), insult (art. 173) and expressing personal or family circumstances (art. 174) as steps in the right direction towards ensuring freedom of opinion and expression particularly of journalists and publishers.

C. Principal subjects of concern and recommendations

7. The Committee welcomes the establishment of the Office of the National Ombudsman, but notes that it is not fully in accordance with the principles relating to the status of national institutions (Paris Principles), adopted by the General Assembly in resolution 48/134 (art. 2).

The State party should ensure that the Office of the National Ombudsman is fully in accordance with the Paris Principles and ensure that it is completely independent also in terms of funding. The Committee also invites the State party to consider the establishment of a more widely mandated national human rights institution for the protection and promotion of human rights and fundamental freedom in The former Yugoslav Republic of Macedonia.

8. The Committee, while commending the numerous efforts taken by the State party to combat corruption, be it high-level or small-scale, with a view to achieving the “zero tolerance” goal for corruption in the State party, remains concerned about the persistence of corruption and its negative impact on the full enjoyment of the rights guaranteed by the Covenant (art. 2).

The State party should continue its efforts to combat corruption so that attitudes in society change and corruption is not perceived as unavoidable.

9. The Committee, while welcoming the adoption of the Law on Equal Opportunities for Men and Women and the increasing number of women holding higher positions in the private sector, remains concerned by the level of participation and representation of women in governmental institutions as well as by the way women are perceived in society (arts. 3 and 25, 26).

The State party should continue to promote the participation and representation of women in the governmental and private sector and implement positive measures in accordance with article 6 of the Law on Equal Opportunities for Men and Women to this end. It should further undertake educational campaigns to change the perception of women in stereotypical roles in the State party’s society.

10. The Committee is concerned about the undue burden of proof, detrimental to the protection of victims, required for a conviction of rape in the legal definition of rape in the State party’s Criminal Code (art. 2 (1), 3, 7 and 26 of the Covenant). It welcomes the State party’s readiness to take into account the Committee’s concerns and recommendation regarding this issue in their current effort to amend the Criminal Code.

The State party should amend the law to ensure that no undue burden of proof is imposed on victims of rape and no environment of impunity is created for perpetrators of such crimes.

11. The Committee notes the long-standing concerns about the behavior of certain elements of the police forces, including ill-treatment of detainees, as well as reports of deficiencies in the current police internal oversight mechanisms. It is, in particular, concerned about reports of

police violence against members of minority groups, in particular against Roma, and the lack of effective investigation of such cases (arts. 2, 7, 9, 10, 26).

The State party should enhance the human rights training of its police and continue to sensitize the police forces regarding the special vulnerabilities of minority groups, such as Roma. It should also ensure that all allegations of ill-treatment are investigated and those found responsible punished. The State party should also establish an independent monitoring body for the police.

12. The Committee is concerned about the scope of the Law on Amnesty and the number of persons to whom it has been applied. It observes that a political desire for an amnesty for crimes committed in periods of civil war may also lead to a form of impunity incompatible with the Covenant. The Committee reiterates the view, as expressed in its general comment No. 20 (1992) on prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, that amnesty laws are generally incompatible with the duty of States parties to investigate such acts, to guarantee freedom from such acts within their jurisdiction and to ensure that they do not occur in the future. The Committee is further concerned that victim organizations were not consulted in the drafting process of this Law (arts. 2, 6, 7).

The State party should ensure that the Law on Amnesty is not applied to the most serious human rights violations or violations that amount to crimes against humanity or war crimes. It should also ensure that human rights violations are thoroughly investigated, those responsible brought to justice and that adequate reparation is made to the victims and their families.

13. The Committee, albeit commending the various efforts made by the State party to address and combat trafficking in women and children, remains concerned about this phenomenon and in particular about the low number of cases where compensation for non-pecuniary damage has been granted (arts. 3, 8, 24).

The State party should continue to implement and enforce its measures to combat trafficking in women and children and bring those responsible to justice. Training for police, border guards, judges, lawyers and other relevant personnel should be provided, in order to raise awareness of the sensitivity of the issue of trafficking and the rights of victims. Measures should be taken to enhance the level of indemnification of victims of trafficking and to ensure that assistance schemes are not applied in a selective manner. The State party should also undertake to promote a change of public perception regarding the issue of trafficking, in particular with regard to the status of trafficked persons as victims.

14. The Committee notes the investigation undertaken by the State party and its denial of any involvement in the rendition of Khaled al-Masri, notwithstanding the highly detailed allegations, as well as the concerns expressed inter alia by the Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners of the European Parliament, in the report by Dick Marty on behalf of the Council of Europe and in the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/MKD/CO/7) (arts. 2, 7, 9, 10 of the Covenant).

The State party should consider undertaking a new and comprehensive investigation of the allegations made by Mr. al-Masri. The investigation should take

account of all available evidence and seek the cooperation of Mr. al-Masri himself. If the investigation concludes that the State party did violate the Covenant-protected rights of Mr. al-Masri, it should provide him with appropriate compensation. The State party should also review its practices and procedures whereby it would never perpetrate acts such as those alleged by Mr. al-Masri.

15. The Committee, while noting the low number of internally displaced persons (IDPs) and the efforts made by the State party to provide a solution to their plight, is concerned that many of these persons, so many years after the events leading to their displacement, still remain in collective shelters (art. 12).

The State party should find, without further delay, durable solutions for all IDPs in consultation with the remaining displaced persons and in accordance with the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add. 2).

16. The Committee notes the State party's commitment not to forcibly return rejected asylum-seekers to Kosovo and to fully cooperate with the Office of the United Nations High Commissioner for Refugees in order to ensure a return in safety and dignity, but remains concerned about the system of appeal regarding the independence of the appellate instance (arts. 7, 12, 13).

The State party should ensure that return is always fully voluntary and not enforced where return in safety and dignity cannot be assured. To this end, the State party should particularly ensure that an effective system of appeal is in place.

17. The Committee, while commending the efforts taken and the significant progress made by the State party to increase the efficiency of the judicial system, remains concerned about the substantial backlog of court cases and the delays in proceedings, as well as the lack of court translators and interpreters for Albanian, Romani, Turkish and other minority languages (art. 14).

The State party should continue its efforts to reduce the backlog of court cases and decrease the delays in the proceedings. It should increase the training of translators and interpreters for the respective minority languages.

18. The Committee notes with concern alleged irregularities during the local elections in 2005, including the inadequate supply of ballot papers to some minority groups, while noting the efforts of the State party to address these problems (art. 25).

The State party should take measures to ensure that future elections are conducted in a manner fully guaranteeing the free expression of the will of the electors.

19. The Committee, while commending efforts taken by the State party to improve the situation of minorities, including the Roma population, remains concerned about the inadequate opportunities for members of minority groups, in particular Roma, to receive education at the primary and secondary levels in their language, as well as the high level of premature termination of schooling among Roma children. Segregationist trends and the harassment against Roma children in schools remain a source of concern to the Committee (arts. 26, 27).

The State party should continue to strengthen its efforts towards providing children of minorities with adequate opportunities to receive education in their own language

and should take measures to prevent premature termination of schooling among such children. It should further undertake all possible measures to prevent segregation of Roma children in schools and build an environment of mutual respect to avoid incidents of harassment against children of minority groups. Teacher training should include enhanced sensitization towards minority issues.

20. The Committee sets 1 April 2012 as the date for the submission of the third periodic report of The former Yugoslav Republic of Macedonia. It requests that the State party's second report and the present concluding observations be published and widely disseminated in the State party, to the general public as well as to the judicial, legislative and administrative authorities. Hard copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and other relevant places. It would be desirable to distribute a summary of the report and the concluding observations to minorities in their own languages. Furthermore, the third periodic report should be circulated for the attention of the non-governmental organizations operating in the country.

21. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up to the Committee's recommendations in paragraphs 12, 14 and 15 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole, as well as on the difficulties encountered in this regard.
