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Fourth Opinion on “the former Yugoslav Republic of Macedonia”,  
adopted on 24 February 2016

SUMMARY

“The former Yugoslav Republic of Macedonia” is experiencing a period of serious political crisis and discord, ahead of early parliamentary elections scheduled for June 2016. Political scandals and revelations in 2015 of corruption, systematic breaches of the rule of law, interference with judicial independence and massive violations of fundamental human rights have prompted outrage across ethnic lines and led to a substantial breakdown in trust in public institutions overall. Civil society and national minority representatives all cite respect for the rule of law as their number one and most urgent concern. Despite the unanimous protests against the political structures, society remains deeply divided, with little interaction between the two largest ethnic communities, Macedonians and Albanians. Relations between them are still dominated by mutual fear and distrust as few efforts appear to have been made on either side to overcome the post-conflict stage. Against this background, politicisation of ethnic issues continues and is accompanied by intensive nation-building processes. Political and ethnically based hate speech has become prominent among the political elites and is widely used in the media.

The legislative framework pertaining to the protection of national minorities accords rights only to persons belonging to the six minorities who are explicitly mentioned in the Constitution, thereby in practice excluding persons belonging to the various other and numerically smaller communities. The implementation of the Ohrid Framework Agreement, which remains the most central instrument for the promotion of minority rights, is undergoing a comprehensive review process, in which numerically smaller minorities have not been included. Hopes within civil society and minority representatives are high, however, that the process will lead to a new approach towards the formation of an integrated society that is based on the rule of law and respect for individual rights, including minority rights, for all

persons belonging to national minorities. In particular, it is considered essential that the objective of achieving equitable representation of national minorities in public administration is genuinely implemented through the development of a merit-based recruitment process, and that the increasing separation along ethnic lines within the education system is comprehensively addressed through the promotion of interethnic respect and awareness in all schools.

Roma remain dramatically disadvantaged from a socio-economic point of view and are faced with discriminatory attitudes amongst public employees. Incidents of police brutality and ethnic profiling at the border continue, preventing Roma from exiting the country.

#### Recommendations for immediate action

- Take all necessary measures towards building an integrated society that is firmly based on the rule of law, the protection of human rights, including minority rights, and respect for diversity, and disengage from mutually exclusive ethno-nationalist politics that further the formation of parallel societies;
- Take urgent measures to regain trust in public institutions and actively disengage from politically and ethnically based hate speech; ensure that all instances of hate speech and hate crime are promptly condemned and effectively investigated and sanctioned;
- Take all necessary measures to build an integrated and multilingual education system; allocate an adequate budget and ensure that teachers are appropriately trained and that textbooks and curricula in all schools reflect intercultural content;
- Genuinely implement the principle of equitable representation and promote the effective participation of all persons belonging to national minorities, in public life and in relevant decision-making processes at all levels.

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## I. KEY FINDINGS

### Monitoring process

1. This fourth cycle Opinion on the implementation of the Framework Convention by “the former Yugoslav Republic of Macedonia” was adopted in accordance with Article 26(1) of the Framework Convention and Rule 23 of Resolution (97) 10 of the Committee of Ministers. The findings are based on information contained in the fourth [State Report](#), submitted by the authorities on 15 July 2014, other written sources and on information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Skopje, Kumanovo and Gostivar from 7-11 December 2015.

2. The Advisory Committee expresses its gratitude for the authorities’ co-operation with the monitoring process as well as the assistance provided with respect to the country visit. The third cycle Opinion was published in due process jointly with the government comments and the corresponding Committee of Ministers’ Resolution was translated into the official language as well as into Albanian, Romani, Serbian, Turkish and Vlach, which is highly welcome. Overall however, the Advisory Committee noted limited awareness amongst government officials of the Framework Convention and its provisions as an integral part of the international human rights protection system. While the fourth cycle State Report appears to have been drafted without involvement of minority representatives or input provided from local authorities, a belated consultation process on the realisation of the rights of smaller communities according to the Framework Convention took place shortly before the country visit, organised by the OSCE with participation from relevant government officials, and resulting in a report drafted by an independent expert contracted by the OSCE.<sup>1</sup>

### General overview of the present situation

3. In “the former Yugoslav Republic of Macedonia”, 2015 was a year of political crisis and discord. The large-scale publication of communications illegally intercepted since February, seemingly between highest-level government officials, have exposed systematic breaches of the rule of law, violations of fundamental rights, interference with judicial independence, and widespread corruption. The revelations prompted outrage across ethnic lines and have led to a substantial breakdown in trust in public institutions overall. Civil society and national minority representatives all cite respect for the rule of law as their number one and most urgent concern. Despite the unanimous protests and demonstrations against the political structures, society remains deeply divided, however, with little interaction between the two largest communities, the Macedonian and the Albanian. In the absence of a government strategy to promote interethnic interaction and create an integrated society, divisions are increasingly noticeable in the public sphere, among the political elites, in state institutions, in the education system and in the media. Moreover, political and ethnically based hate speech is increasing and is becoming more prominent also in mainstream political circles. Given the current crisis

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<sup>1</sup> See *Shadow Report on the realization of the rights of smaller communities according to the Framework Convention for the Protection of National Minorities by the communities’ associations that take part in the Participatory Forum*, published by the Agency for the Exercise of Community Rights, November 2015, page 12, [www.aopz.gov.mk/wp-content/uploads/2016/01/Shadow\\_Report\\_Participatory\\_Forum\\_-Nov2015.pdf](http://www.aopz.gov.mk/wp-content/uploads/2016/01/Shadow_Report_Participatory_Forum_-Nov2015.pdf).

situation and despite the fact that larger eruptions of interethnic violence have been averted in recent years, there are widespread fears amongst the population that renewed larger-scale hostilities could be provoked ahead of the early parliamentary elections, first scheduled for April 2016 and re-scheduled in February to take place on 5 June 2016, in order to distract public attention from political failures.

4. The legislative framework pertaining to the protection of national minorities accords rights only to persons belonging to the six minorities who are explicitly mentioned in the Constitution, effectively excluding persons belonging to the various other and numerically smaller communities from the protection of the Framework Convention. The 2001 Ohrid Framework Agreement (OFA)<sup>2</sup> and the ensuing legislative measures to promote its implementation remain the most central mechanisms for the promotion of minority rights. A comprehensive review process is ongoing in early 2016 with support of engaged international organisations, following the preparatory work of six working groups made up of representatives of the four main political parties. Numerically smaller minorities have not been included in this process. Yet, they remain hopeful that the evaluation will lead to a new approach towards the formation of an integrated society that is based on the rule of law and respect for individual rights, including access to minority rights for all persons belonging to national minorities. In particular, it is considered essential by national and international observers that the objective of achieving equitable representation of minority communities in public administration is genuinely implemented. Recruitment processes under the OFA thus far are considered to have led to a large pool of individuals who were recruited, neither on merit, nor based on needs within state institutions but as a reward for demonstrating support for the main political parties. As a result, many of the employees remain in search of active placement while in receipt of a salary, or are engaged in side activities without clear competencies. This situation does not contribute to the effective participation of national minorities in all spheres of public life but feeds the impression of political corruption in society, which views the government as buying votes through its inflated system of public administration. Roma remain dramatically disadvantaged from a socio-economic point of view and are, in addition, faced with discriminatory attitudes amongst public employees in state institutions. Incidents of police brutality and of ethnic profiling at the border continue to be reported regularly, whereby Roma, in an apparent effort to comply with the EU visa-liberalisation agreement, are not allowed to exit the country.

Assessment of measures taken to implement the recommendations for immediate action from the third cycle

5. Efforts have been made to address the problems that Roma confront in the field of education, mainly through increased attention being paid to the enrolment of Roma children in schools. A new Roma National Inclusion Strategy was adopted in 2015 following consultations with minority and civil society representatives. Yet, few of the comments provided were reportedly taken into account. Moreover, there is no comprehensive and up-to-date action plan and no earmarked budget has been allocated for the implementation of comprehensive measures. The vast majority of Roma are not registered with the Employment Agency and thus

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<sup>2</sup> For the original text, see

[www.ec.europa.eu/enlargement/pdf/the\\_former\\_yugoslav\\_republic\\_of\\_macedonia/framework\\_agreement\\_ohrid\\_130801\\_en.pdf](http://www.ec.europa.eu/enlargement/pdf/the_former_yugoslav_republic_of_macedonia/framework_agreement_ohrid_130801_en.pdf).

do not benefit from its programmes to promote their inclusion in the labour market. Despite the fact that many Roma, with the support of legal aid centres, have been able to legalise their properties under a 2011 law, housing conditions remain a serious concern, with some 30% of Roma still living in informal and often sub-standard settlements. Social welfare provisions are insufficient for many families to cover the costs of utilities, transport, and other basic needs. Access to health services remains challenging, particularly for women, and no comprehensive solution has been found to resolve the continued problems in obtaining personal documents.

6. No noticeable progress has been made in the promotion of tolerance, mutual understanding, respect and intercultural dialogue. On the contrary, opportunities for interaction between the two main communities have further diminished and the societal division across ethnic and linguistic lines has intensified in all spheres, manifesting itself in declining numbers of mixed schools and the increasing formation of segregated neighbourhoods and villages. As a result of insufficient bilingual education opportunities, young people are losing the ability to communicate directly with each other. While the number of minority representatives in public administration and the civil service has steadily increased, there is still a pronounced under-representation of persons belonging to national minorities, particularly at senior levels.

Assessment of measures taken to implement the further recommendations from the third cycle

7. The Commission for Protection against Discrimination receives an increasing number of cases every year but it has not been provided with the appropriate financial and human resources to allow it to carry out its duties effectively. Moreover, its composition continues to raise serious concerns with respect to its independence. The Office of the Ombudsman remains underfunded with a reported 25% of its positions remaining vacant for years. Insufficient political attention has been paid to its recommendations. Support available for the cultural activities of national minority associations appears to have declined further and there is no effectively accessible and transparent mechanism to oversee the allocation of funds for the preservation of the specific cultures and identities of numerically smaller national minorities.

8. There are unanimous reports of an escalation of hate speech, often occurring in the context of nationalistic discourse in which national minorities, as well as opposition politicians or civil society activists, are characterised as traitors, including by high-ranking politicians. While a code of ethics for journalists and some efforts towards self-regulation exist, negative stereotypes and inflammatory speech are often amplified in the media, which further entrenches societal divisions across ethnic lines and is reported to have provoked a variety of interethnic incidents. Very few cases, however, are properly investigated as hate crime. Only four cases were reportedly pending before the courts at the end of 2015. Moreover, there are continued allegations of police brutality and abuse of power. While some training related to human rights and non-discrimination standards has been organised, awareness amongst law enforcement and prosecutorial services remains very low. No effectively independent supervisory mechanism has been put in place to monitor police behaviour and apply appropriate sanctions in established cases of human rights violations by the police.

9. The use of national minority languages in contacts with administrative authorities at local level is not comprehensively monitored and no additional resources are provided to the

municipalities where the legislative framework foresees the official use of minority languages. A number of municipalities make efforts to allow for the use of minority languages despite the absence of a legal obligation. Yet, there is no comprehensive strategy to encourage or promote minority languages in the public sphere and civil servants receive no incentives to acquire more minority-language skills. As regards Roma children in the education system, access to preschools remains problematic with a reported attendance rate of under 5% in 2015. Many families are not able to afford the fees or the transport to suitable facilities. While sustained efforts have been made to promote the enrolment of Roma children in primary schools, their disproportionately frequent placement in special schools remains a serious issue that is acknowledged by the authorities. The majority of Roma children attend schools in Macedonian language while they speak Romani at home. Yet, no comprehensive efforts are in place to ensure that Roma children are provided with professional support to overcome language barriers and successfully attend regular public schools.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Personal scope of application

##### *Present situation*

10. Access to rights under the Framework Convention continues to be regulated in line with the authorities' declaration deposited in 2004, which defines national minorities as citizens belonging to the six groups mentioned explicitly in the Preamble of the Constitution.<sup>3</sup> Despite the fact that the Preamble also mentions "others", the legislative framework pertaining to the protection of national minorities accords rights to members of the six listed groups only. While welcoming the assurance given by the authorities that requests for protection under the Framework Convention by representatives of other ethnic groups would be considered on an article-by-article basis,<sup>4</sup> the Advisory Committee notes with regret that efforts made by the representatives of the "others", including numerically smaller groups such as the Egyptian and Croat minorities, as well as possibly larger groups such as the Torbesh community, to be accorded rights based on the same legal grounds as other minority groups, have been rejected with vague references to the Constitution and the legislative framework in place under which they are not accorded a protected status.<sup>5</sup>

11. The Advisory Committee observes that the existing legislative framework, by creating categories of pre-defined groups with varying levels of rights conferred to them (see Article 4), effectively serves to exclude persons belonging to national minorities from the protection under the Framework Convention, which may lead to arbitrary deprivation of persons belonging to national minorities from accessing their rights. It reiterates its standing position that access to rights should be granted on the basis of a flexible approach that is principally open to all persons belonging to national minorities and does not limit access to rights to persons belonging to particular national minorities alone.

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<sup>3</sup> The text of the Declaration dated 2 June 2004 reads : "Referring to the Framework Convention, and taking into account the latest amendments to the Constitution of the Republic of Macedonia, the Minister of Foreign Affairs of Macedonia submits the revised declaration to replace the previous two declarations on the aforesaid Convention: The term "national minorities" used in the Framework Convention and the provisions of the same Convention shall be applied to the citizens of the Republic of Macedonia who live within its borders and who are part of the Albanian people, Turkish people, Vlach people, Serbian people, Roma people and Bosniak people."

<sup>4</sup> See Comments of the Government of "the Former Yugoslav Republic of Macedonia" on the Third Opinion of the Advisory Committee, page 2.

<sup>5</sup> Several requests to Parliament and senior Government have been made on behalf of representatives of communities, such as the Torbesh, Montenegrin and Egyptian communities, on issues related to their rights under the Electoral Code and the Law on Public Holidays. The Advisory Committee further notes the establishment of the "Network for Multicultural Society" in June 2010, a non-governmental organisation that serves as an umbrella organisation for associations representing the Armenian, Croat, Egyptian, Hungarian, Montenegrin, Polish, Russian, Slovenian, and Ukrainian minorities who are organised on a non-governmental, non-partisan, and non-political basis. The Network also maintains contacts with representatives of the Jewish community.



*Recommendation*

12. The Advisory Committee calls on the authorities to develop and apply a flexible case-by-case approach to all requests for the enjoyment of minority rights under the Framework Convention, based on a firm understanding of minority rights as individual human rights.

## Census

*Present situation*

13. The organisation of a comprehensive population and housing census was repeatedly postponed and finally cancelled just prior to its scheduled completion in October 2011. As a result of continued disagreements among the main political parties over the surveying methodology, the State Census Commission resigned and asked all surveyors to suspend their activities.<sup>6</sup> Consequently, all data related to the size of the population and its various groups is drawn from the results of the last census, conducted in November 2002. The Advisory Committee notes with concern that the reliability of these results is widely viewed as doubtful for a variety of reasons. In addition to the fact that the overall population is considered to have substantially decreased in recent years owing to large-scale emigration,<sup>7</sup> representatives of the numerically smaller groups estimate that their size is in fact much larger than reflected in the results of the 2002 census.<sup>8</sup>

14. The Advisory Committee notes concerns from a number of representatives that their right to free self-identification was curtailed in the enumeration process by the fact that they were unaware of its significance in order to gain access to minority rights. Respondents were further not informed of the possibility to indicate multiple affiliations. National minority representatives share the view that persons belonging to numerically smaller groups during the census enumeration process often felt encouraged to declare their affiliation with one of the larger groups, despite the fact that the census questionnaire allowed for the possibility to specify "other". In the case of the so-called "Macedonian Muslims", for instance, who mainly consider themselves as Torbesh, the majority reportedly self-declared either as members of the Macedonian people or, due to their Muslim belief, as members of the Albanian, Turkish or Bosniak communities. It is noteworthy in this context that the Annual Reports of the Ombudsman provide figures and data relating to the "Macedonian Muslims" as an ethnic group, which seems to suggest some level of recognition of existence, despite the fact that persons belonging to that group neither enjoy a protected status nor are guaranteed access to rights within the legislative framework.

15. The Advisory Committee considers that any future census exercise, which is highly significant for the adequate design of public services for the population as well as the development of targeted equality promotion policies (see Article 4), must be strictly based on

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<sup>6</sup> The Advisory Committee is unaware of any concrete plans for the organisation of a population census.

<sup>7</sup> Estimates for the number of mainly young persons who have left the country in recent years vary between 300,000 and 600,000.

<sup>8</sup> According to the 2002 census, the overall population accounted for 2,022,547, of which 1,297,981 or 64.17% declared as Macedonian; 509,083 or 25.17% self-declared as Albanian; 77,959 or 3.85% as Turkish; 53,879 or 2.66% as Roma; 9,695 or 0.47% as Vlach; 35,939 or 1.77% as Serb, and 17,018 or 0.84% indicated ethnic Bosniak affiliation. Some 20,993 persons or 1.03% indicated an "other". See Census of Population, Household and Dwellings in the Republic of Macedonia, Final Data, page 34, at [www.stat.gov.mk/Publikacii/knigaXIII.pdf](http://www.stat.gov.mk/Publikacii/knigaXIII.pdf).

the right to free self-identification and relevant personal data protection standards in the collection, processing and storage of data. In the meantime, it considers that flexibility must be applied in the analysis of the 2002 census data. In addition, it has consistently considered that statistical information regarding the size of the population at central and local levels must be interpreted in close consultation with representatives of the various groups themselves, and cannot be exclusively relied upon. The results must therefore be complemented with regularly updated information that is collected through alternative means, such as independent surveys and research, particularly as the enjoyment of minority rights in the country firmly depends on identification and size of the various groups (see Articles 10, 14 and 15).

### *Recommendations*

16. The Advisory Committee calls on the authorities to flexibly analyse the results of the 2002 census and regularly complement the information with recent data in close consultation with national minority representatives, in particular when using statistical data as the basis for the application of minority rights.

17. It further calls on them to ensure that the principle of free self-identification, including as regards multiple affiliations, is firmly anchored and its application encouraged and monitored in all ongoing and future data collection, processing and storage.

### Article 4 of the Framework Convention

Legal and institutional framework for the promotion of equal access to rights of persons belonging to national minorities

### *Present situation*

18. In the absence of a comprehensive strategy for the protection and promotion of human rights generally, the legal and institutional framework for the promotion of minority rights is made up of various components. The 2001 Ohrid Framework Agreement (OFA), given its nature as a peace agreement, established a consociational political system in which the two largest ethnic communities could safeguard their interests and provide specific guarantees for the Albanian community. The OFA and the ensuing legislative measures to promote its implementation continue to be overseen by the Secretariat for the Implementation of the OFA. Since 2008, the Law on the Promotion and Protection of the Members of Communities that are Less than 20% of the Population accords rights to persons belonging to the five other national minorities, and an Agency for the Exercise of Community Rights was established in 2009. For Roma, access to rights is further dealt with by a Minister without portfolio who is responsible for issues related to the implementation of the Roma Decade, while the adoption of the Roma National Inclusion Strategy has been co-ordinated by the Ministry of Labour and Social Policy. In addition, all persons belonging to national minorities may also avail themselves of the general human rights protection and anti-discrimination mechanisms such as the Office of the Ombudsman and the Commission for Protection against Discrimination (CPD) (see below). While welcoming the variety of institutions that can be turned to for support, the Advisory Committee notes that most persons belonging to national minorities are not only confused by

the various pieces of legislation that are applicable to them, but they also have doubts about the professionalism, independence or competency of the respective bodies.<sup>9</sup>

19. Since its establishment in early 2011, the Commission for Protection against Discrimination (CPD) functions as the main equality body, in line with the 2010 Anti-Discrimination Law.<sup>10</sup> According to information obtained by the Advisory Committee, it received 394 complaints from 2011 until December 2015. The yearly average is slowly increasing but the overall number is still considered by relevant officials to be very low.<sup>11</sup> This is due to fears of secondary victimisation, lack of trust in state institutions, and lack of awareness amongst the public about the CPD's existence and mandate.<sup>12</sup> While agreeing with this assessment, the Advisory Committee further notes serious concerns amongst civil society and minority representatives about the lack of independence of the CPD and about the fact that it can only express non-binding recommendations. Its members from 2011 until the end of 2015 served only part-time for the CPD, while pursuing separate full-time employment, including in government institutions. Its President from 2011 to 2015, for instance, was a State Secretary at the Ministry of Labour and Social Policy, which indeed raises doubts about the CPD's ability during that period to function independently from the government, especially in view of the fact that the majority of complaints it received were related to matters of employment within public institutions.<sup>13</sup> Moreover, it does not have a permanent presence outside of Skopje, which significantly reduces its potential for outreach.<sup>14</sup>

20. In addition, the Advisory Committee notes with concern that the CPD does not have a Secretariat, which prevents the institution from functioning properly.<sup>15</sup> In addition, it raises concerns with respect to the loss of institutional memory as its members serve for five years only.<sup>16</sup> Moreover, the Advisory Committee observes with concern that a number of opinions

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<sup>9</sup> It remains unclear what measures were taken to implement the National Strategy for Equality and Non-Discrimination 2012-2015, yet few results have been achieved. The Advisory Committee has learned that a renewed strategy will be adopted under the supervision of the Ministry of Labour and Social Policy for the period 2016-2020, yet no further information was provided with respect to concrete activities.

<sup>10</sup> According to Article 16 of the Law on Prevention and Protection against Discrimination, the Commission is an independent body, funded by the state budget. The CPD is made up of seven individuals, elected by Parliament. Whereas its first composition with a mandate from 2011 to 2015 included one representative of a smaller community, the second does not.

<sup>11</sup> While some 60 complaints were received in 2011, 78 in 2012 and 84 in 2013, 106 cases are reported to have been received in 2014.

<sup>12</sup> See Annual Report of the CPD 2013, page 6.

<sup>13</sup> See Annual Report, pages 7 and 9.

<sup>14</sup> In the past five years, three complaints were reportedly submitted at local level via the Gender Equality Commissions.

<sup>15</sup> The CPD should decide within 90 days of receipt of the case whether to initiate proceedings or not. According to civil society representatives, this time frame is very rarely respected. In 2014, a network comprised of six civil society organisations working on equality and non-discrimination cases submitted a complaint against the CPD to the Ombudsperson because there had not been any follow-up to ten cases submitted to the CPD between 2011 and 2013. Opinions were delivered only upon instruction from the Ombudsperson, who pointed out that the CPD had not acted in accordance with the law. See European network of legal experts in gender equality and non-discrimination News Report of 11 June 2015,

[www.equalitylaw.eu/index.php?option=com\\_edocman&task=document.viewdoc&id=2864&Itemid=295](http://www.equalitylaw.eu/index.php?option=com_edocman&task=document.viewdoc&id=2864&Itemid=295).

<sup>16</sup> The election of seven second-term members (six men, one woman) of the CPD from 2016-2020 took place in Parliament in early 2016. Only one of the previous members was re-elected. Concerns regarding a lack of transparency in the election process and insufficient human rights experience among the new members have

provided by the CPD appear to reflect inadequate levels of precision and expertise in their legal analysis.<sup>17</sup> Indeed, in only 10% of the complaints it received the CPD determined that discrimination had taken place. In this context, the Advisory Committee notes that the Anti-Discrimination Law places a large burden on the complainant to prove that discrimination has taken place, asking for submission of “facts and proofs from which the act or action of discrimination can be established”, which is not in line with the reverse burden of proof requirement set by the EU Equality Directives which the law intends to transpose.<sup>18</sup> The Advisory Committee has been informed that, as a result, most civil society organisations have decided to disregard the CPD in favour of other institutions, such as the Ombudsman Office which is considered a more efficient body to resolve discrimination-related cases, despite its more limited mandate. In addition, a number of cases have been brought to domestic courts.<sup>19</sup> As of February 2016, there had been nine final decisions establishing that discrimination had taken place in line with the Anti-Discrimination Law, seven of them related to ethnically based discrimination.<sup>20</sup>

21. The Ombudsman Office continues to play an active role in the protection of human rights; since 2011 it has also taken on the mandate of the country's Preventive Mechanism. The Advisory Committee is pleased to note that the institution is well-known, due among other factors to its six regional offices. The Advisory Committee notes with concern, however, that the Office continues to function without adequate resources; the budgetary constraints have prevented the filling of vacancies for a number of years.<sup>21</sup> For instance, only one member of staff deals with the increasing number of cases related to discrimination in the public sphere received by the Office, and only one of four Deputy Ombudspersons has been appointed – which critically undermines the effectiveness of the institution. It is further regrettable that the Office is not able properly to engage in human and minority rights promotion and related awareness-raising activities, including in schools (see also Article 12). According to its own assessment, promotional activities have been made possible only due to project-based international funding. In addition, it is of concern to the Advisory Committee that the recommendations made by the Ombudsperson are, according to his Office, not always implemented by the various government bodies and little follow-up has been given to its Annual or Special Reports. Despite its having been set up as an independent and self-governing body, the Ombudsman Office does not have the mandate or resources to function fully in line

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been raised by civil society representatives, particularly as some of the newly appointed commissioners reportedly have a public record of using openly discriminatory language against some minorities.

<sup>17</sup> A case submitted by the Helsinki Committee in May 2011 regarding alleged segregation of Roma children in two primary schools in Bitola, for instance, received a short and negative opinion in December 2014, explaining that the separate Roma classes were due to parental choice only and thereby disregarding the various reports and contrary arguments submitted by plaintiffs. The practice of segregation was, however, acknowledged in the Annual Report 2014 of the Ombudsman, stating that “children belonging to the Roma community are mostly segregated in special classes when they enrol in the first grade of primary education and first year of secondary education.” See *Republic of Macedonia Ombudsman Annual Report on the Level of Respect, Promotion and Protection of Human Rights and Freedoms 2014*, page 35.

<sup>18</sup> See Art. 25.2 of the Law on Prevention and Protection against Discrimination. See also Report on measures to combat discrimination Directives 2000/43/EC and 2000/78/EC Country Report 2013, The former Yugoslav Republic of Macedonia (FYROM), page 8.

<sup>19</sup> The CPD does not act in cases where court proceedings are ongoing. See State Report, page 9.

<sup>20</sup> Two of the decisions are from the Basic Court Skopje, two from the Basic Court Kochani, three from the Basic Court Delchevo, and two from the Basic Court Vinitsa.

<sup>21</sup> See Annual Report, pages 148-149.

with the Paris Principles. Having been accorded the status B as a National Human Rights Institution by the International Coordinating Committee in 2011, it actively contributed in 2014 to the drafting of amendments to the Law on the Ombudsman aimed at rendering the institution more effective, yet none of its proposals were reportedly taken into account.

### *Recommendations*

22. The Advisory Committee urges the authorities to ensure the effective functioning of the CPD as the main equality body by providing it with an adequately staffed and resourced Secretariat so as to enable it properly to deal with complaints falling within its mandate in line with the law. Furthermore, all necessary efforts must be made to ensure full independence, professionalism and integrity of its members.

23. It further urges them to accord adequate financial and political support to the Ombudsperson by enabling the immediate filling of open vacancies, by according an appropriate budget to enable the proper functioning of the Ombudsman Office in its various capacities, and by promptly and fully implementing its recommendations. Amendments should further be made to the Law on the Ombudsman in order to seek its accreditation as a National Human Rights Institution with status A.

Continued challenges to the effective equality of persons belonging to national minorities

### *Present situation*

24. The Advisory Committee notes with concern that, in addition to the deficiencies in the functioning of the general human rights and anti-discrimination mechanisms described above, the specific structures available to persons belonging to national minorities for the protection and promotion of minority rights appear also not to function properly. The Secretariat for the implementation of the OFA oversees the implementation of the Agreement's main provisions and ensuing legislation. In addition to promoting interethnic relations and dialogue (see further Article 6), it manages the recruitment of persons belonging to national minorities into public services to ensure their equitable representation and participation (see further Article 15). In the view of most national minority representatives, the OFA Secretariat is mainly concerned with the promotion of rights of the numerically largest minority, which is the Albanian. This is particularly so since 2009, when the Agency was established to deal with the rights of the numerically smaller communities. The Advisory Committee notes with concern reports that the OFA implementation practices appear to disregard individual access to equality and equal opportunities, and it instead favours political considerations. While the interethnic nature of the government coalition has promoted interethnic stability, it appears that access to and the enjoyment of rights of persons belonging to the Albanian minority disproportionately depends on their political affiliation, with no supervision being exercised over the way in which their equitable representation is being promoted.

25. The Agency for the Exercise of Community Rights functions merely as an Advisory Body to the government, yet without the authority to supervise effectively the implementation of minority rights. There is reportedly often no follow-up given to its recommendations. Moreover, it acts without a budget and receives financial support for its various activities only from international organisations. The Advisory Committee notes in this context the ongoing discussions regarding a possible establishment of a ministry that would combine the functions

of the Secretariat for the implementation of the OFA and those of the Agency.<sup>22</sup> A Ministry would be equipped with an inspectorate body and a separate budget to oversee and enforce the implementation of relevant provisions in line with international and national standards. While welcoming the idea of creating such a competent body with the proper authority to promote the implementation of minority rights, the Advisory Committee notes substantial opposition among smaller communities who fear that they would be subsumed into the larger groups without adequate recognition or protection of their specific concerns and needs. Indeed, the Advisory Committee is concerned about the deep sense of inequality it observes among persons belonging to the smaller communities, in particular those that are not explicitly mentioned in the Preamble of the Constitution but merely referred to as “others”. It considers therefore that any future step to promote more effectively the access to rights of persons belonging to national minorities should disengage from the current “categorisation” of national minorities according to their relative size, as this could indeed be considered as implying an inferior status for persons belonging to the numerically smallest or presently undefined minorities. Instead, it should be based on an individual rights approach that promotes effective equality and access to rights of all persons belonging to all national minorities.

26. In addition, the Advisory Committee is deeply concerned by the persistent inequalities experienced by persons belonging to the Roma minority (see also comments on Articles 12, 14 and 15), whereby women are particularly affected as a result of multiple forms of discrimination.<sup>23</sup> Many of the Roma reportedly remain without personal documents which severely hinders their access to rights in key spheres of daily life. While welcoming the registration of 2,834 Roma individuals in 2012 following concerted governmental and non-governmental efforts with support from the UNHCR,<sup>24</sup> no comprehensive strategy appears to have been developed generally to promote access to personal documents or even a systematic registration at birth through better co-operation between hospitals and local registries, for instance.<sup>25</sup> According to minority representatives, women face particular obstacles in obtaining documents, which often prevent them also from registering the birth of their new-born children, as costly DNA testing reportedly continues to be insisted upon to prove parental relationship when marriage certificates cannot be produced.<sup>26</sup> As a result, some 1,600 individuals are estimated to remain without any identity documents, 400 of them alone in the municipality of Šuto Orizari.<sup>27</sup> The lack of identity documents prevents many Roma from registering their residence and obtaining ownership and property legalisation documents (see Article 15), while a registered residence is a precondition for the issuance of identity documents. A comprehensive approach is thus required in order to break the cycle and enable Roma to establish their legal status and effectively access their rights.

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<sup>22</sup> See also The Ohrid Framework Agreement Review on Social Cohesion, page 10, recommending the merger of the Agency with the OFA Secretariat to form a Ministry on Political System and Inter-Community Relations [www.eip.org/sites/default/files/OFA%20Review%20on%20Social%20Cohesion.pdf](http://www.eip.org/sites/default/files/OFA%20Review%20on%20Social%20Cohesion.pdf).

<sup>23</sup> See also European Commission Progress Report on the Former Yugoslav Republic of Macedonia, November 2015, page 59.

<sup>24</sup> See EUDO Citizenship Observatory Country Report: Macedonia, page 12.

<sup>25</sup> According to minority representatives, the relevant procedures are still cumbersome and costly, requiring a number of documents to be shown as well as the payment of high fees. See the European Roma and Travellers Forum (ERTF) Factsheet on the situation of Roma in Macedonia, September 2015.

<sup>26</sup> See also information provided in the Third State Report, page 31.

<sup>27</sup> Overall, some 800 persons are registered with the UNHCR as lacking civil registration and documentation, see [www.unhcr.org/pages/49e48d8f6.html#MCDSK](http://www.unhcr.org/pages/49e48d8f6.html#MCDSK).

27. Moreover, there are documented incidents of ethnic profiling at external borders directed primarily at persons belonging to the Roma minority.<sup>28</sup> Repeated independent surveys point to an established practice of not allowing Roma to exit the country, despite having valid travel documents. The Ministry of the Interior confirmed the practice to the Advisory Committee as a procedure that, in an apparent effort to comply with the EU visa-liberalisation agreement, is based on “risk-analysis” and the established profile of so-called “fake asylum-seekers”.<sup>29</sup> This practice reportedly continues despite an increasing number of court decisions that have condemned it and despite the Ministry of the Interior having been ordered to pay compensation to affected individuals.<sup>30</sup> According to officials, the court decisions were prompted by the failure of individual police officers, who have since been reprimanded, rather than the result of a systematic practice. In addition, the freedom of movement of persons belonging to the Roma minority has been seriously curtailed through the confiscation of their passports. The Constitutional Court ruled in June 2014 that the revocation of passports of citizens who had been forcibly returned from other countries following changes to the Law on Travel Documents in 2014 had been unconstitutional.<sup>31</sup>

### *Recommendations*

28. The Advisory Committee urges the authorities to address proactively the inequalities experienced by persons belonging to national minorities and to promote their equal access to rights through the establishment of effective and adequately resourced mechanisms for the implementation of minority rights as an integral part of individual human rights.

29. It further urges them to prioritise the situation of undocumented persons, in particular Roma, by designing and implementing a comprehensive strategy to promote access to identity documents and a systematic and unconditional registration of all new-born children.

30. Practices of ethnic profiling and other means of ethnically based discrimination must further be discontinued immediately and relevant court decisions implemented without delay.

Measures to promote full and effective equality of persons belonging to national minorities

### *Present situation*

31. The Advisory Committee regrets that the Anti-Discrimination Law does not expressly mention a duty to promote equality, as recommended in ECRI’s General Policy Recommendation 7. Positive measures to eliminate or diminish factual inequality in favour of a particular community or marginalised group are explicitly mentioned in Article 13 of the Law, however, and they shall not be deemed discriminatory. Most of the measures that have been developed, such as the provisions ensuing from the OFA and the mechanisms for the communities that constitute less than 20% of the population, are aimed at overcoming structural inequalities based on ethnic origin. Despite this focus on ethnicity and the relative

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<sup>28</sup> A similar event is also reported to have occurred to the Deputy Ombudsman who belongs to the Albanian minority. See Annual Report 2014 of the Ombudsman, page 12.

<sup>29</sup> See also Statement of the then Minister of the Interior of 16 November 2011 at [www.vlada.mk/node/621?language=en-gb](http://www.vlada.mk/node/621?language=en-gb).

<sup>30</sup> See, among others, the decision of the Basic Court of Bitola of November 2015, reported by the European Roma Rights Centre,

[www.errc.org/article/court-rules-macedonian-police-must-pay-for-racial-profiling-at-the-border/4432](http://www.errc.org/article/court-rules-macedonian-police-must-pay-for-racial-profiling-at-the-border/4432).

<sup>31</sup> See Decision of the Constitutional Court of the Republic of Macedonia no. 189/2012-0-0 of 25 June 2014.



size of the respective groups in order to identify the corresponding level of rights, no comprehensive system has been set up to collect and analyse equality data that could be used as the basis for positive measures. Given that the last census dates from 2002 and most groups question the accuracy of the data it provides (see Article 3), the Advisory Committee considers that alternative means should be developed to obtain valid and disaggregated information, in line with the right to free self-identification and with due regard to personal data protection standards, on the number and access to rights situation of the various groups in society and persons belonging to them. It has consistently encouraged states to collect data from a variety of sources, in addition to the population census, such as formal or informal housing and school surveys as well as independent research.<sup>32</sup> Quantitative data must in particular be supplemented with qualitative sociological and other studies when the existing statistical data differ from the estimates made by minority representatives.

32. A new Roma Integration Strategy 2015-2020 has been adopted by the Ministry of Labour and Social Policy focusing on education, housing, health, employment and culture, following a consultation process that also included minority representatives and a number of relevant civil society organisations. Regrettably, however, most of their comments and proposals, such as on education-related matters, were reportedly not taken into account. It further appears that the findings of a review of the implementation of the individual action plans for education, employment, health and housing have not been taken into account in the adoption of the new Strategy. The Advisory Committee notes with concern that a comprehensive and up to date action plan with concrete targets and measures has not yet been adopted, nor has an earmarked budget been set aside for that purpose. According to minority representatives, measures taken in order to promote Roma integration have been project-oriented and supported mainly with foreign funding. The effectiveness of the measures taken, for instance in the field of education, has been questioned repeatedly because of the absence of comprehensive and disaggregated baseline data, in particular as regards the Roma community.<sup>33</sup> It notes with interest in this context the so-called mapping exercise that commenced in January 2016 to obtain reliable data on the number and access to rights situation of Roma in ten municipalities where they reside in substantial numbers. The Advisory Committee trusts that this exercise and any future follow-up will be conducted in close consultation and co-operation with Roma representatives and in full respect of the right to free self-identification.

### *Recommendations*

33. The Advisory Committee calls on the authorities to engage proactively in consultations with representatives of national minorities on adequate ways and methodology of gathering qualitative and quantitative equality data on the size of their communities and access to rights for persons belonging to those communities, in order to ensure that comprehensive and reliable data can be used as the basis for more effective measures to promote equality.

34. Roma representatives should be effectively consulted and included in all discussions and decision-making processes with respect to all strategies and action plans aiming at their better socio-economic inclusion.

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<sup>32</sup> See also ACFC Third Thematic Commentary, para. 19.

<sup>33</sup> See the European Roma and Travellers Forum (ERTF) Factsheet on the situation of Roma in Macedonia, pages 13 and 14.



35. An action plan, containing concrete measures and an adequate budget to implement the new Roma Integration Strategy 2015-2020 must further be adopted to fill the gap created by the expiration of the previous action plans in 2011.

#### Article 5 of the Framework Convention

Support for the preservation and development of national minority identities and cultures

##### *Present situation*

36. The Advisory Committee notes with concern the apparent absence of comprehensive efforts to promote respect for diversity through an inclusive cultural policy that enhances appreciation for the country's multicultural history. An intensive nation-building process vividly carried out through the 'Skopje 2014' projects appears to endorse mainly one ethno-cultural identity. Abundant funds continue to be allocated to the construction of monuments in the centre of the city that celebrate the dominant culture and history,<sup>34</sup> while the main symbols and features of Albanian culture are separately portrayed in another part of the city. The cultural policy therefore appears to reflect the key divisions in society rather than giving adequate space to the diversity in Skopje and beyond over centuries. The Advisory Committee observes with regret that this has contributed to an increasing sense of estrangement between the two numerically largest groups, demonstrated by parallel and unrelated cultural projects that are frequently located far from one another. It further notes that the lack of appreciation for the role of numerically smaller groups in the formation of the country's rich and diverse culture, prevents the development of a sense of civic identity amongst all citizens which could unite the country and encourage representatives of the numerically smaller minorities to develop their specific cultures and traditions as valued and integral elements of a diverse society (see also Article 6). The Advisory Committee notes with concern that, as a result, fear of assimilation is widespread among representatives of the numerically smaller groups. They regret in particular that the Agency for the Exercise of Community Rights does not have the funds or the competency to allocate support for projects aimed at the preservation of their cultures. While the Secretariat for the Implementation of the OFA between 2011 and 2014 reportedly supported 140 cultural projects of associations and foundations directed at various activities for the preservation of non-majority communities' cultures and interethnic cohabitation (see Article 6), only nine of them were projects representing associations and communities that constitute less than 20% of the population.<sup>35</sup>

37. Various forms of assistance continue to be provided to national minority associations at central and local levels. There is no special procedure or fund, however, to ensure that non-majority communities are enabled to preserve their specific identities and cultures. Generally, all applications for funding of cultural projects to the Ministry of Culture are dealt with in the same procedure and using the same criteria. The Advisory Committee was informed that a list of "technical criteria" must be met by all applicants, irrespective of the size of the applying association or the project, without any consideration to the exclusive dependency of non-

<sup>34</sup> According to independent research, the costs for the ongoing projects have risen from the initially announced 80 million Euros to 560 million Euros. See [www.balkaninsight.com/en/article/true-cost-of-skopje-2014-revealed](http://www.balkaninsight.com/en/article/true-cost-of-skopje-2014-revealed).

<sup>35</sup> See *Shadow Report on the realization of the rights of smaller communities according to the Framework Convention for the Protection of National Minorities by the communities' associations that take part in the Participatory Forum*, published by the Agency for the Exercise of Community Rights, November 2015, page 12, [www.aopz.gov.mk/en/shadow-report-participatory-forum-november-2015/](http://www.aopz.gov.mk/en/shadow-report-participatory-forum-november-2015/).

commercially viable projects on external support and without appreciation for their unique contribution to the pluralist cultural heritage of the country.<sup>36</sup> According to the representatives of minority communities, the fact that their applications are assessed with the same standard as all other cultural projects effectively disqualifies many of them. An application to publish a small Croatian language dictionary, for instance, was reportedly unsuccessful because the applicants lacked a regular yearly income with a sizeable turnover of funds and could not demonstrate the employment of full-time staff or the availability of official premises for the project.

38. A special Directorate for the affirmation and promotion of the cultures of members of communities has been established within the Ministry of Culture, tasked with assisting representatives of communities who form less than 20% of the population with their applications for cultural funding. However, the exact outcome of these efforts is unclear and no information could be provided to the Advisory Committee in terms of the actual number of applications dealt with or the amounts of funds provided to such projects as a result. The Advisory Committee notes with concern that the Directorate does not have an earmarked budget to support numerically smaller minorities and it does not appear to have a say in developing the criteria that are applied to the selection of projects. This absence of an effectively accessible mechanism and transparent decision-making processes for the allocation of funding makes it difficult for minority communities to engage in longer-term planning and activism, which however is necessary in particular for the numerically smaller groups to promote their cultural identity sustainably and comprehensively. Representatives of numerically very small communities, including the Polish or Armenian, regret in particular the absence of any premises where they could gather and organise cultural events, possibly in a House of Cultures that could benefit all representatives of smaller communities together.

39. The Advisory Committee further notes that even those communities that have received funding, report that the overall amounts have decreased over the years and are vastly insufficient to maintain their cultural activities effectively.<sup>37</sup> In addition, representatives of a number of national minorities appear unaware of the availability of the various funding opportunities for cultural activities, as information about the application procedures, preconditions, and decision-making processes at central and local levels is neither readily available nor available in minority languages. The Advisory Committee notes that public tenders for cultural projects on the website of the Ministry of Culture are only advertised in the Macedonian language which appears contrary to the Law on the Use of Languages (see Article 10). Public tenders for cultural projects are also advertised in two daily newspapers, one in the Macedonian language (*Utrinski vesnik*) and one in Albanian (*Koxa*). No further efforts seem to have been made to reach out to representatives of smaller communities in order to encourage them to apply for funding.

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<sup>36</sup> The Advisory Committee was informed by the Ministry of Culture that the assessment of the quality of the submitted projects is carried out according to criteria such as the size of the cultural association, the amount of evening concerts organised abroad, the amount of awards and recognitions received, or the authenticity of costumes.

<sup>37</sup> Representatives of the Serb minority, for instance, reported to receive between 2,000 and 2,500 EUR per year.

## *Recommendations*

40. The Advisory Committee calls on the authorities to develop an inclusive cultural policy in co-operation with national minority representatives that aims at protecting and promoting diversity as a valued and integral part of the country's cultural heritage.

41. It further urges them to establish an effective and transparent mechanism for the allocation of support for the preservation and development of minority cultures that is appropriately designed to meet the needs of all national minority communities, including the numerically smaller and "other" ones, and equipped with an adequate budget. Further efforts must be made to involve minority representatives in decision-making processes that must be based on appropriate selection criteria.

## Article 6 of the Framework Convention

### Promotion of interethnic dialogue and tolerance

#### *Present situation*

42. The Advisory Committee commends the activism and professionalism of a network of civil society organisations that are engaged in the promotion of interethnic dialogue and respect, as well as the numerous non-governmental initiatives to bring representatives of different groups together in various areas of the public sphere, including in education, to enhance an environment of solidarity and trust. It notes with deep concern, however, that, despite these efforts, public life continues to be dominated by a pronounced sense of segregation between the two main ethnic groups, which is taking hold of an increasing number of public institutions, urban spaces and schools (see further Article 12). While serious interethnic incidents have successfully been averted in recent years, the Advisory Committee is deeply concerned by the widespread fears amongst its interlocutors of new eruptions of interethnic violence as a result of provocations or manipulation ahead of the June 2016 elections, intended to distract public attention from the ongoing political crisis.<sup>38</sup>

43. The implementation of the OFA thus far appears to be resulting mainly in the development of parallel structures that are indifferent to each other and barely interact. The worthy aim of achieving equitable representation in public services has reportedly led to the creation of a pool of mainly Albanian minority representatives who – if actively working – often are placed in separate buildings or wings of Ministries with no actual tasks or competencies (see further Article 15). According to international and national interlocutors of the Advisory Committee, there have been no joint task forces, press conferences or any joint government action in almost a decade that could demonstrate to the public the values of intercultural co-operation or a firm commitment by the government towards good interethnic relations and trust between the communities. At the local level, the Commissions for Inter-Community Relations that are foreseen in the OFA to promote interethnic dialogue and trust appear not to

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<sup>38</sup> A large-scale publication of illegally intercepted communications since February 2015 has revealed systemic rule of law issues and a massive invasion of fundamental rights, including serious incidents of political corruption at various levels and in multiple ways, interference in judicial affairs, restrictions of the freedom of the media, electoral irregularities and a lack of activity on the part of oversight bodies. See *The former Yugoslav Republic of Macedonia: Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015*, Brussels, 8 June 2015.

function properly (see Article 15). It is further of deep concern to the Advisory Committee that, as a result of the profound societal division, bilingualism is disappearing, particularly among young people, which lastingly frustrates efforts towards interethnic dialogue and effective collaboration (see further Articles 10 and 14). In an atmosphere of strong ethno-nationalism, in particular young people are reported to identify increasingly as representatives of ethnic groups rather than as members of a diverse and united society.<sup>39</sup>

44. The Advisory Committee welcomes in this context the ongoing evaluation of the role of the OFA in enhancing social cohesion. The Secretariat for the implementation of the OFA, with the support of the OSCE and the European Institute of Peace, has engaged in a review process focusing on six thematic areas: anti-discrimination, decentralisation, education, equitable representation, the use of languages, and the situation of numerically smaller communities. Six working groups with representatives of relevant Ministries and other governmental institutions have prepared analyses and policy recommendations that were presented to the government in February 2016 and await adoption.<sup>40</sup> The Advisory Committee notes the hopes placed by civil society and minority representatives in the outcome of this review process which is meant to trigger a new approach towards the formation of an integrated society based on the rule of law and respect for individual human rights. This is expected to become part of the agenda of the new government in line with the EU-related reform priorities.

#### *Recommendations*

45. The Advisory Committee urges the authorities to demonstrate their commitment to the development of an integrated society that is based on respect and trust between the various communities, by prioritising joint activities such as press conferences and public statements and by disengaging from ethno-nationalist policy making.

46. It further calls on them to proactively support the OFA implementation review process and to promote the effective implementation of the Agreement towards lasting interethnic co-operation and stability by establishing functioning dialogue platforms at central and local levels.

### Protection from hate crime

#### *Present situation*

47. Following its amendment in February 2014, the Criminal Code contains several provisions that criminalise hate crime and hate speech, and racist motivation can be considered as an aggravating circumstance of any offence. A working group on hate crime was established by the Ministry of Justice in 2014. The Advisory Committee is concerned, however, by the unanimous observation of civil society and minority representatives that the existing provisions are insufficiently known or used by the relevant prosecution and law enforcement authorities. Despite an overall increase in racially motivated incidents and hate crime, little action has been taken by the prosecution in a number of well-reported cases.<sup>41</sup> While the

<sup>39</sup> A recent survey conducted among young people between 13 and 17 by the University of Skopje revealed that ethnicity is considered the most important identifier, over citizenship.

<sup>40</sup> See The Ohrid Framework Agreement Review on Social Cohesion, at [www.eip.org/sites/default/files/OFA%20Review%20on%20Social%20Cohesion.pdf](http://www.eip.org/sites/default/files/OFA%20Review%20on%20Social%20Cohesion.pdf).

<sup>41</sup> In 2015, the Chief Prosecutor reportedly ordered prosecution services to act for the first time to investigate hate speech by a popular journalist on the private Kanal 5 TV channel. It is equally welcome that the CPD issued a

authorities do not maintain statistics on hate crime,<sup>42</sup> an independent survey conducted in 2013 showed that only 14 cases of hate crime had been registered in courts throughout the country in three years, with most perpetrators freed on probation and the maximum sentence set at five months in jail.<sup>43</sup> According to civil society representatives, hate crime is often still recorded as “violence” or “hooliganism”, thereby downplaying a situation that is increasingly problematic. An increase in racially motivated incidents and calls for violent interethnic clashes at sporting events has equally been reported with little or no action taken by the authorities in response.<sup>44</sup> The Advisory Committee expresses its deep concern about this situation because inadequate police investigation and prosecution may prompt a climate of impunity which can encourage further racially motivated violence. It is not surprising in this context that minority representatives report little awareness of, and trust in, the available legal remedies against hate crime amongst their communities. According to them, affected individuals fear the police as a potential source of further victimisation rather than trust its ability or willingness to provide assistance.

48. The Advisory Committee is further deeply concerned by the recurrent reports, since the third monitoring cycle, of police brutality and excessive use of force demonstrated in particular against Roma, including Roma women and children.<sup>45</sup> While some training of police officers has been conducted to promote their awareness of human rights standards and ensuing obligations when exercising police authority,<sup>46</sup> ill-treatment reportedly continues to take place during random checks on the street, in the course of police raids, as well as at police stations where Roma are victimised when they intend to record a criminal offence directed against them.<sup>47</sup> In 2013, there were 18 complaints filed with the Ombudsman’s Office concerning ill-treatment or excessive use of force by the police, while the Ministry of the Interior’s Sector for Internal Control and Professional Standards (SICPS) received 57 complaints concerning excessive use of force by the police (compared with 73 in 2012). Criminal charges, however, were launched only against one policeman, which raises serious concerns with respect to continued impunity relating to the actions of the security forces.<sup>48</sup> The Advisory Committee reiterates its deep concern regarding the lack of fully independent oversight over the actions of

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call in February 2015 on political parties, media and public institutions to refrain from provoking ethnically based hatred.

<sup>42</sup> See key observations of the OSCE-ODIHR Hate Crime Reporting on the Former Yugoslav Republic of Macedonia, [www.hatecrime.osce.org/former-yugoslav-republic-macedonia](http://www.hatecrime.osce.org/former-yugoslav-republic-macedonia).

<sup>43</sup> Reportedly, most incidents of hate crime and violence erupt between young Macedonians and Albanians, with assault, including the use of illegal weapons, threats and arson described as the most common offences. Anti-Roma incidents are, however, equally reported, including the attack in Kriva Palanka in November 2015 where some 3,000 people gathered to protest against the building of a mosque and demolished a religious building used mainly by Roma. The investigations are, reportedly, still ongoing.

<sup>44</sup> Articles 13 and 14 of the Law on Prevention of Violence and Inappropriate Behaviour at Sporting Competitions provide for misdemeanour charges in such cases, but are reportedly very rarely applied. See Helsinki Committee Analysis of the Situation with Hate Speech in the Republic of Macedonia, page 81.

<sup>45</sup> See for details, among others, Written Comments of the European Roma Rights Centre Concerning Macedonia for consideration by the UN Committee Against Torture, at its 54<sup>th</sup> Session (20 April to 15 May 2015), and the European Roma and Travellers Forum (ERTF) Factsheet on the situation of Roma in Macedonia, September 2015.

<sup>46</sup> See State Report, page 6.

<sup>47</sup> Allegations of systematic ill-treatment of Roma are particularly directed against the police “Unit for First Response and Intervention – Alpha”.

<sup>48</sup> See also European Commission Progress Report, October 2014, page 45, at [www.ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report\\_en.pdf](http://www.ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf).

law enforcement to ensure that police officers are fully accountable to investigate effectively and systematically all incidents of hate crime, including the ill-treatment and excessive use of force stemming from within the police forces.

49. Incidents of hate speech are equally reported to have significantly increased in recent years.<sup>49</sup> It is of deep concern to the Advisory Committee that politically and ethnically motivated hate speech is regularly used in political circles, including by senior politicians in the government.<sup>50</sup> Given the close relations between the main political parties and media providers, such views are uncritically amplified throughout the country in broadcast and electronic media, thereby spreading negative stereotypes and further deepening interethnic tensions.<sup>51</sup> Despite efforts made towards self-regulation and training, notably through relevant civil society organisations, as well as the establishment of some independent oversight bodies, their effectiveness in addressing and curtailing the phenomenon thus far is limited. The Agency for Audio and Audiovisual Media Services, as the successor of the Broadcasting Council, is in charge of monitoring the media for content that could incite hatred. Yet it is not viewed by civil society as an independent body and has reportedly thus far refrained from imposing sanctions, relying instead on “informal warnings” with uncertain results.<sup>52</sup> In addition, the Council of Media Ethics was established in December 2013. Its Complaints Review Commission, which is partially made up of citizens’ representatives, took some action in 2015 to uphold the Code of Ethics of Journalists of Macedonia.<sup>53</sup> The Advisory Committee emphasises the significant role of self-regulatory bodies, such as the Association of Journalists and the Council of Media Ethics, to promote ethical journalism and respect for diversity through their own codes of conduct, while fully respecting the principle of freedom of the media. For this purpose, it is indispensable to promote awareness amongst all journalists and media professionals of the existing ethical standards in order to enhance their professionalism and to ensure that negative stereotyping of certain groups in society and the promulgation of hate speech do not become accepted as normal behaviour amongst citizens.

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<sup>49</sup> For an overview see Helsinki Committee *Analysis of the Situation with Hate Speech in the Republic of Macedonia*, August 2015. See also South East European Media Observatory Flash Report of 13 May 2014.

<sup>50</sup> Civil society representatives and persons with diverging views from the government, for instance, are repeatedly and publicly insulted and labelled in a derogatory way. See [www.balkaninsight.com/en/article/opposition-challenges-pm-s-patriotic-image](http://www.balkaninsight.com/en/article/opposition-challenges-pm-s-patriotic-image).

<sup>51</sup> The indirect control of the government over the media among others through financial dependency, and the bias of the main media providers towards one ruling party have been amply reported, among others, in the *Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015*, page 17, which refers to a media crisis and the fact that the country has dropped to rank 123 in the world according to the 2014 index of press freedoms of Reporters without Borders, page 19.

<sup>52</sup> The use of hate language against ethnic Albanians on a live TV show in February 2014 reportedly prompted little response from the Agency. See [www.balkaninsight.com/en/article/macedonian-editor-accused-of-ethnic-hate-speech](http://www.balkaninsight.com/en/article/macedonian-editor-accused-of-ethnic-hate-speech). Concerns about its independence have been raised in a number of reports. See, for instance, *The Former Yugoslav Republic of Macedonia Early Parliamentary Elections 24 April 2016 OSCE/ODIHR Needs Assessment Mission Report*, 27 November 2015, page 2.

<sup>53</sup> See, among others, Council of Media Ethics of Macedonia Decision of 23 March 2015 in relation to repeated statements containing hate speech without prompt reaction by the responsible journalist, made on TV *Sitel* on the margins of an event of the “Civil Movement for Defense of Macedonia” on 26 February 2015.

## *Recommendations*

50. The Advisory Committee urges the authorities to ensure that the available legal remedies against ethnically based violence and hate crime are applied in practice and that prosecution and law enforcement services are adequately trained to investigate effectively and promptly and sanction all relevant cases. Journalists and media professionals must further be trained to ensure that ethical standards are observed and the propagation of hate speech is prevented.

51. It further urges them again to put in place an effective and fully independent supervisory mechanism to ensure that the adherence to professional standards by the police and other law enforcement agents is effectively monitored and all alleged infringements are properly investigated and adequately sanctioned. More efforts must be made to inform the public about the available legal remedies in cases of misconduct, so as to ensure that trust in the police, in particular among Roma communities, is restored.

## Article 8 of the Framework Convention

### Right to manifest one's belief and to establish religious organisations

#### *Present situation*

52. Persons belonging to national minorities continue to face difficulties in exercising their right to manifest their religions and officially register in accordance with the 2007 Law on Legal Status of a Church, Religious Community and Religious Group. Followers of small religious organisations continue to report that they are treated unfavourably by the government and are faced with bureaucratic obstacles when seeking construction permits for their places of worship.<sup>54</sup> The Bektashi community in Tetovo has been attempting since November 2010 to register as "Bektashi religious community of the Republic of Macedonia".<sup>55</sup> Its various appeals lodged in domestic courts have all been dismissed. The Constitutional Court ruled in November 2012 that the community had not been discriminated against, as it could, despite not being formally registered under the 2007 Act, hold ceremonies in accordance with the Islamic religion and without pressure.<sup>56</sup> It considered further that the non-registration was legitimate to prevent confusion in the public and among the believers, whose rights would otherwise be violated by the impression that the followers of the same religion could be divided in separate entities or communities. An application lodged at the European Court of Human Rights against the rejection remains pending.<sup>57</sup> The Advisory Committee understands that the Bektashi Sufi community considers its spiritual doctrine to be substantially different from that of the Islamic Community of Macedonia. It further notes with concern that the community does not have access to its central place of worship, the Arabati Baba Teke in Tetovo, since armed members

<sup>54</sup> See, among others, Macedonia 2014, International Religious Freedom Report.

<sup>55</sup> According to a letter from the State Religious Commission of 13 June 2002, the Bektashi community was registered in June 2000 in accordance with the 1997 Act on religious communities and groups, with their seat in Arabati Baba Teke in Tetovo. The leader of the community was authorised in February 2007 to carry out religious ceremonies and rituals in its lawful premises. An attempt in 2009 to establish the continuation of the community's legal status since 2000 was rejected at first and second instance.

<sup>56</sup> Decision of Constitutional Court of the Republic of Macedonia no. 24/2012-0-0 of 20 November 2012.

<sup>57</sup> See Application no. 48044/10 Bektashi Community and others against "the former Yugoslav Republic of Macedonia", communicated on 25 August 2014.



of the Islamic Community of Macedonia invaded the property in 2002 to convert it into a mosque. As a result of their inability to register as an official religious organisation, the Bektashi community has not been able to reclaim its property.

53. The Advisory Committee further notes that the repeated attempts of the Orthodox Ohrid Archdiocese to register as a separate religious group have also been dismissed by the domestic courts, finding that there was no substantiated difference between its name and symbols and those of the Macedonian Orthodox Church.<sup>58</sup> The registration of four other Orthodox religious groups are similarly reported to have been rejected in 2014, based on a restrictive interpretation of the 2007 Law and the argumentation that the names and doctrines of religious organisations who wish to register must be different from the already existing ones. The Advisory Committee refers in this context to the jurisprudence of the European Court of Human Rights, according to which states shall not attempt to enforce unity within one religion.<sup>59</sup>

#### *Recommendation*

54. The Advisory Committee calls on the authorities to facilitate the registration of the religious organisations in consultation with representatives of the concerned communities in order to ensure that persons belonging to national minorities can effectively enjoy the right to manifest their beliefs in appropriate places of worship, and are enabled to reclaim their property.

### Article 9 of the Framework Convention

#### Access to broadcast and print media

##### *Present situation*

55. Overall, the media landscape continues to be divided along ethnic and linguistic lines. The first television channel of the public broadcaster offers programming only in Macedonian, without mentioning national minorities or their concerns and interests. The second channel in turn broadcasts entirely in Albanian, as well as four hours daily in Turkish and 30 minutes three times per week in Romani, Serbian, and Vlach. Efforts made by representatives of the Bosniak minority to have access to programming in their language and for their community have not been successful. The second channel is intended for national minorities and reports almost exclusively about national minorities, without mentioning broader political developments and issues of concern to citizens generally. According to minority representatives, it features mainly news and music and the programming in the languages of numerically smaller minorities is often presented during inconvenient time slots. As a result, minority-language programming is generally considered unattractive to viewers and of low quality, both technically and professionally. Journalists are often not sufficiently trained, share among themselves two cameras only, and operate on a very limited budget which does not allow them to cover several stories countrywide at the same time. Minority representatives indicate that most

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<sup>58</sup> See also Application no. 3532/07 Orthodox Ohrid Archdiocese against "the former Yugoslav Republic of Macedonia", case communicated on 22 February 2013. The head of the self-declared Ohrid Archbishopric was convicted for money laundering in what is considered by some as a politically charged trial. He remains in prison, serving a three year sentence.

<sup>59</sup> See Application no. 38178/97 *Serif v. Greece* of 14 December 1999.



members of their communities do not consume national news but instead have turned to the readily available foreign media for news and entertainment. With regard to Romani, the Advisory Committee welcomes the existence of some private regional and local TV and radio that present local news and programming and reportedly have a steady audience.

56. Persons belonging to the other numerically smaller communities such as the Armenian, Montenegrin or Polish, do not have any access to media in their languages. They are concerned in particular about the complete absence of any mention of their existence in the public sphere and are seeking to obtain a TV programme that could possibly combine information about several of them in order to promote awareness within the population about their historic presence in the country. The Advisory Committee is indeed concerned by the lack of coherent efforts made to broadcast intercultural content or promote common media spaces that could be used by all groups. In addition, it was informed that the public broadcaster may, depending on the language it uses, provide quite varying interpretations and perceptions of the same reality, thereby further enhancing the existing societal divisions rather than helping to create interethnic trust and co-operation (see also comments on Article 6). It is welcome in this context that the third public channel still broadcasts information both in Macedonian and Albanian, mainly focused on the activities of and debates in Parliament. Regrettably, this appears to remain the only effort towards bilingualism in the media which could be an effective tool to promote the development of multinational and linguistically diverse audiences.

57. The Advisory Committee further regrets that no support or subsidies are available to smaller media outlets that use minority languages and/or reflect positions of minorities, who suffer a disadvantage as they, due to their size, have difficulties in becoming commercially viable or competing against bigger and mainstream print media. As a result, they are left with the options of either applying for cultural projects to the Ministry of Culture where, again given their small size, they have little chance of success (see Article 5), or seeking international support from the embassies of neighbouring or other states. In addition, minority representatives report that the closure of government-critical media channels has prompted an increasing tendency of self-censorship and has discouraged numerically smaller groups or those with diverging political opinions from actively participating in the media, even by means of social media.<sup>60</sup> The Advisory Committee reiterates the important role of independent and community media to contribute to a pluralist and open environment that promotes outreach towards a diverse society and effectively contributes to the development of an informed electorate.

### *Recommendations*

58. The Advisory Committee calls on the authorities to enlarge their support for minority-language print and broadcast media, including by securing a higher budget and improved technical equipment, to facilitate the adequate coverage of all relevant political and societal developments, not limited to culture, and to ensure that high-quality public service broadcasting is available at central and regional level for all viewers.

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<sup>60</sup> See, for instance, [www.znm.org.mk/drupal-7.7/en/node/929](http://www.znm.org.mk/drupal-7.7/en/node/929), referring to intimidation and threats against journalists, among others by a government official, without that incident having been officially condemned.

59. It further calls on them proactively to ensure that all public broadcasting consistently promotes intercultural respect and awareness of the different interests and concerns of all communities, thereby contributing to the formation of an integrated and inclusive society. More efforts must further be made to ensure that journalists and media professionals with minority background are adequately trained and recruited into all public service broadcasting, including at senior level.

## Article 10 of the Framework Convention

### Legislative framework for the use of languages

#### *Present situation*

60. The use of languages continues to be regulated by the amended Constitution and the 2008 Law on the Use of Languages. Accordingly, the Macedonian language in its Cyrillic script is the official language throughout the country while any other language spoken by at least 20% of the population is also an official language, in its script, as specified.<sup>61</sup> In practice this provision applies to the Albanian language only, which accordingly is used as an official language in a variety of public spheres, such as in Parliament, in communication between citizens and central government institutions, in court proceedings, in administrative proceedings, and in election processes.<sup>62</sup> The Advisory Committee notes, however, that the implementation of these provisions varies greatly. Albanian is used, for instance, by some ministries on equal terms with Macedonian (the official website of the Ministry of Justice, for instance, features information in Macedonian, Albanian and English), while other Ministries provide public information in Macedonian and English (such as the Ministry of Foreign Affairs) or in Macedonian only. Despite the fact that Article 54 of the Law on the Use of Languages specifies that open competitions for projects shall be published in both Macedonian and “the other official language(s)”, the Ministry of Culture’s website provides information on competitions only in Macedonian.<sup>63</sup> The Advisory Committee regrets this lack of unified practice as it sends an ambiguous signal about the interpretation of the Constitutional and legislative provisions with respect to the use of languages, that is not conducive to transparency and legal clarity (see also Article 11).

61. In addition, the languages of communities that constitute more than 20% of the population at local level shall be used in official communication in those municipalities. Of altogether 80 municipalities, 30 have at least one minority community that accounts for 20% of the population. Altogether, 28 municipalities are obliged to provide for official use of Albanian, four municipalities should use Turkish in official communication and one each Serbian and Romani. The Advisory Committee was informed during its visit to Gostivar that the Turkish language is indeed used in official communications where possible, as two municipal employees speak Turkish. However, the municipality has not been able to afford the employment of an interpreter. Turkish is reportedly not used in any written procedures apart from the occasional requests for having identity documents issued also in the Turkish language

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<sup>61</sup> See Amendment V to the Constitution, paragraph 1, which modified its Article 7.

<sup>62</sup> See Articles 3-19, and 21-28 respectively of the Law on the Use of Languages.

<sup>63</sup> The exception is one “call for foreign publishers for financing translation of representative and high-quality works of Macedonian literature into foreign languages.” See [www.kultura.gov.mk/](http://www.kultura.gov.mk/), as accessed on 18 January 2016.

(see Article 11). It is welcome that in some other municipalities where minority communities account for less than 20%, their languages have been anyway accepted for official use by a decision of the council of the respective self-government unit. As a result, there are a number of bilingual and trilingual municipalities, as well as one municipality, Dolneni, where four languages have been accepted for official use. Vlach is used in official communication in Kruševo, despite the fact that only some 11% of the population consider themselves as belonging to the Vlach minority. The Advisory Committee reiterates its opinion that where thresholds exist, these must not be applied rigidly.<sup>64</sup> Flexibility and caution should be exercised in particular in situations where statistics are based on outdated and disputed figures (see Article 3). The Turkish community, for instance, accounts for just under 20% of the population in a number of municipalities according to the 2002 census, which – given the doubts generally expressed about its accuracy – constitutes an unconvincing argument for not accepting the Turkish language in official use.<sup>65</sup>

62. In terms of implementation of the legislation at local level, the Advisory Committee again observes great variety, depending on the availability of resources and political will to find practical solutions. While particularly in almost mono-ethnic minority municipalities, the use of a minority language in official communication is ensured simply by the fact that public servants are themselves fluent, most municipalities which are multilingual in character function on the basis of interpretation services provided at the municipal office. Given budgetary restraints, however, the positions of interpreters are reportedly often not filled, resulting in ad hoc solutions with bilingual bystanders and, ultimately, in a situation where the use of minority languages, even if legally accepted for official use, becomes too cumbersome and lengthy a process to actually take place. As a result, many minority representatives report that they feel discouraged from using their language as it may be viewed negatively to ask for “special treatment”. The Advisory Committee regrets this situation as it may lead to the gradual disappearance of minority languages from the public sphere and may hinder the access of minority-language speakers to information and rights. While acknowledging the costs involved in the use of official interpreters, it considers that the use of minority languages should generally be encouraged and an overall atmosphere created that is conducive and welcoming, in particular through the targeted recruitment of public servants with relevant language skills in multi-ethnic and multilingual municipalities (see also Article 15).

### *Recommendations*

63. The Advisory Committee calls on the authorities at central and local level to ensure that the legislative framework pertaining to the use of languages is consistently implemented in line with the Constitution, and to refrain from relying exclusively on the available and outdated statistics when determining the access to linguistic rights. Close consultations with representatives of all communities must be maintained to establish regularly the existing needs pertaining to the use of languages.

64. It further calls on them to prioritise the recruitment at local level of public servants with appropriate language skills over the employment of interpreters, to ensure that the active use

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<sup>64</sup> See ACFC Third Commentary, para. 57.

<sup>65</sup> The Turkish community, for instance, constitutes according to official data just over 19% in Studeniçani and over 18% in Karbinçi.

of all relevant minority languages is encouraged in the public sphere and in official communication with municipal employees where applicable.

#### Article 11 of the Framework Convention

##### Minority languages in documents and on topographical signs

###### *Present situation*

65. While the issuance of bilingual identity cards featuring both the Macedonian language in Cyrillic script and the languages and scripts used by national minorities remains possible upon request according to the 2005 amendments to the Law on Identity Cards, most persons belonging to national minorities do not make use of this provision but have opted for the regular Macedonian/English version. The Advisory Committee is not aware of particular concerns in this regard. When it comes to topographical signs and street names, Article 40 of the Law on the Use of Languages also foresees the possibility of using two or three languages in the municipalities where one or more minority communities account for at least 20% of the population. In Gostivar, for instance, some official signs are indicated in three languages and the official website also features some information in all three languages. The Advisory Committee notes, however, that some controversy exists in the city of Skopje which, though itself a self-government unit, comprises ten municipalities.<sup>66</sup> Overall, Albanians make up 20.49% of the city's population.<sup>67</sup> Accordingly, all streets and buildings that are under the competence of the City of Skopje should display bilingual signs and names. This, however, is not the case and no mechanisms exist to ensure that the legislation is implemented by the local authority. The Advisory Committee reiterates its emphasis on the highly symbolic significance of bilingualism or trilingualism in signposting to demonstrate appreciation for the diverse character of a given territory, historically and at present.

###### *Recommendation*

66. The Advisory Committee calls on the authorities to ensure that the Law on the Use of Languages with respect to the use of minority languages in topography is effectively implemented by the central authorities and at local level, including in the City of Skopje, and its symbolic value for the integration of society adequately appreciated.

#### Article 12 of the Framework Convention

##### Integrated education

###### *Present situation*

67. According to most interlocutors, divisions in the education system as observed in previous Opinions have significantly intensified in recent years with the number of monolingual

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<sup>66</sup> According to the legislation, the competences over all streets and infrastructure in the City of Skopje are divided between the City and the municipality in question. At municipal level, the Law on the Use of Languages is implemented and bilingual signs are displayed in those municipalities of the city where a minority constitutes over 20%.

<sup>67</sup> See [www.stat.gov.mk/Publikacii/knigaXIII.pdf](http://www.stat.gov.mk/Publikacii/knigaXIII.pdf), page 34.

schools increasing.<sup>68</sup> Over 75% of all monolingual schools use the Macedonian language, with the remainder using mainly Albanian. There are two schools with Turkish as the language of instruction. The majority of the multilingual schools teach in the Macedonian and Albanian languages.<sup>69</sup> While at secondary school level roughly 40% of schools are multilingual, many of them operate in shifts or use separate buildings so that interaction between pupils of different language backgrounds is in fact very limited. According to data collected and surveys made in 2011, only some 10% of primary school students belonging to the two main groups have a realistic opportunity to ever interact with each other in the school environment. The Advisory Committee is deeply concerned about this situation. According to most observers, it has become worse since 2011, despite the fact that the comprehensive government strategy "Steps towards Integrated Education in the Education System of the Republic of Macedonia" was adopted in 2010 with the support of the OSCE.<sup>70</sup> While a variety of projects appear to have been implemented to promote interaction and dialogue among students of different backgrounds, many with international funding, no comprehensive budget was ever allocated for the implementation of the Strategy and no co-ordinated efforts were made to address the situation beyond the implementation of extracurricular project activities.

68. The Advisory Committee welcomes the efforts made by civil society, with international support, to introduce bilingual teaching methodology as a pilot exercise in now 13 mixed schools. According to its interlocutors and the school it visited in Gostivar, the concept of offering voluntary activities in a completely bilingual environment where children playfully learn with and about the other community is highly sought after by children and their parents. Teachers commend in particular that the concept and its teaching modules are developed to suit the national curriculum at both primary and secondary school level, thereby facilitating its implementation and applicability in daily school life.<sup>71</sup> The Advisory Committee is pleased to note information that the concept has been well received by the Minister of Education and may be adopted as a basis for further and more comprehensive efforts to promote an integrated education system where students learn in diverse environments and on the basis of respect for and interest in the other. It is deeply concerned, however, by the overall impression amongst civil society and international observers that in the absence of comprehensive efforts to create an integrated education system, the number of mixed schools may further decline, also as a result of the increased development of segregated neighbourhoods in a number of municipalities (see also Article 15).

69. Furthermore, the portrayal of non-majority communities in textbooks and the curriculum remains a source of concern according to civil society and national minority representatives. National minorities and their longstanding history in the country are reportedly sparingly mentioned and, if so, often through rather negative or stereotyped

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<sup>68</sup> Some 31% of the primary schools in 2011 were multilingual. In the school year 2013/2014, this number had been reduced to 28.6%, although the number of primary schools had increased from 332 to 346.

<sup>69</sup> According to information received by the Ministry of Education, there are 56 schools teaching in Macedonian and Albanian, 21 schools teaching in Macedonian and Turkish, three in Albanian and Turkish, two in Macedonian and Serbian, two in Macedonian and Bosnian, and 14 schools with three languages of instruction (Macedonian, Albanian and Turkish).

<sup>70</sup> See State Report, pages 7 and 24ff.

<sup>71</sup> The Advisory Committee visited the Goce Delcev primary school in Gostivar which applies the Nansen model for integrated education, in co-operation with the Nansen Dialogue Centre Skopje. See [www.ndc.net.mk/index.php/en/latest-news/91-news-eng/844-promotion-of-new-cabinets-and-nansen-classes](http://www.ndc.net.mk/index.php/en/latest-news/91-news-eng/844-promotion-of-new-cabinets-and-nansen-classes).

images. Selective efforts made to remove particularly offensive sections from the history textbook, for instance, have led in a number of cases to the omission of mention of the respective minority, rather than to a revision of the text in agreement with the minority concerned. It is in particular of concern in this regard that the information contained in the curriculum and in textbooks used in the various language schools appears ethnically based thereby further contributing to societal divisions and possibly thwarting future efforts to promote shared opinions and interaction. There is thus still very little intercultural content in the education system, with insufficient attention paid to the promotion of human and minority rights awareness or respect for linguistic and religious diversity. The Advisory Committee reiterates its standing position that the promotion of multilingual schools in diverse societies requires teachers who are actively recruited from both majority and minority groups and appropriately trained to teach in multilingual and diverse environments. Such training should be comprehensively available to teachers as well as to school administrators, but is particularly important for the teaching of history and religion in order to ensure that multiple perspectives are adequately and respectfully accommodated.<sup>72</sup>

### *Recommendations*

70. The Advisory Committee urges the authorities to prioritise the formation of an integrated education system and to allocate adequate resources, both human and financial, as well as continued political and methodological supervision and support to promote mixed school and classroom environments.

71. It further urges them to ensure that teachers and staff of all schools are effectively trained to accommodate diversity in the classroom and promote intercultural respect and understanding in schools, and that textbooks and school curricula adequately reflect and appreciate the ethnic and linguistic diversity in the country.

### Equal access to education

#### *Present situation*

72. Access to education for Roma children remains problematic for a variety of reasons.<sup>73</sup> Despite governmental and non-governmental efforts made to enhance the enrolment of Roma children in preschools, their attendance rate is still low compared to the rest of the population, as parents are often not able to pay the monthly fees for preschools.<sup>74</sup> In addition, there is a lack of sufficient preschools, in particular in areas where Roma live in substantial numbers.<sup>75</sup> While the overall number of Roma children enrolled in primary school has increased,<sup>76</sup> so has the number of Roma-only classes in primary schools according to most observers, and there

<sup>72</sup> See, among others, ACFC First Thematic Commentary on Education, page 18.

<sup>73</sup> For an overview see the European Roma and Travellers Forum (ERTF) Factsheet on the situation of Roma in Macedonia, September 2015, and Civil Society Monitoring Report on the Implementation of the Roma National Integration Strategy and Decade Action Plan in 2012 in Macedonia, at [www.romadecade.org/cms/upload/file/9270\\_file10\\_mc\\_civil-society-monitoring-report\\_en.pdf](http://www.romadecade.org/cms/upload/file/9270_file10_mc_civil-society-monitoring-report_en.pdf).

<sup>74</sup> While some projects implemented under the Roma Education Fund have covered the monthly fee of some 25 EUR for Roma children to attend preschools, only a limited number of children in few schools reportedly benefitted from them.

<sup>75</sup> The municipality of Šuto Orizari, for instance, inhabited by over 22,000 people, mainly of Roma background, only has one preschool, which in addition, is in a deplorable condition. Preschools remain under the overall responsibility of the Ministry of Labour and Social Policy.

<sup>76</sup> See State Report, page 29.

are completely segregated schools.<sup>77</sup> Placement appears to be left to the school administrators and parents without co-ordinated efforts to address the phenomenon of segregation (see also Article 4). Moreover, the number of Roma children in special schools remains disproportionately high despite efforts in recent years to change the practice of testing children without the presence of their parents and without any interpretation being provided. A review (“re-categorisation”) of the cases of 234 Roma children, who were placed in special schools seemingly without the necessary procedures having been followed, was ongoing at the time of the visit of the Advisory Committee, under the supervision of the Ministry of Labour and Social Policy. It remains unclear to what extent the Ministry of Education has developed a comprehensive policy response to prevent such practices in the future, such as the introduction of more culturally sensitive testing of school aptitude in the Romani language and closer supervision of placement decisions at local level.

73. The Advisory Committee was further informed that the quality of education for Roma children generally remains inferior in comparison to the rest of the population.<sup>78</sup> Some 95% of Roma children attend Macedonian language schools but are not offered language tutorials despite the fact that many of them speak Romani at home. A project that trained 30 Roma mediators with the necessary language skills to assist children in their school work was reportedly successful in liaising between schools and Roma communities, thereby preventing discouragement and dropout, which continues to affect mainly Roma girls. However, only two of the skilled mediators were subsequently employed by schools and the recently adopted Roma Integration Strategy is reported to contain plans to employ only some “assistants”, with reduced competencies. The particular socio-economic exclusion of many Roma families which has a detrimental effect on the attendance rate and achievement in school of many Roma children appears still not to be sufficiently taken into account. In addition, Roma children often continue to face prejudice and hostility at schools, which is made worse by inappropriate and biased portrayal of Roma in textbooks (see above). The Advisory Committee welcomes, however, that scholarships for Roma students to enrol in secondary and university education are still available as a result of Roma Education Fund (REF) funding, which is highly appreciated by the community and used by an increasing number of young men and women. While Roma continue to be considerably under-represented at secondary and higher education level, it is further pleased to note reports that the proportion of Roma students who completed primary school and are moving on to secondary level has substantially increased in recent years.

#### *Recommendation*

74. The Advisory Committee urges the authorities to comprehensively address the disproportionately frequent placement of Roma children in special schools and in separate classes. Placement in regular schools and in mixed classes must be the rule and effective supervisory mechanisms put in place to prevent contrary practice at local level.

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<sup>77</sup> The Advisory Committee obtained examples of several segregated primary schools in Bitola, Prilep, Barovci (Skopje) and Stip.

<sup>78</sup> A notable exception has been the engagement of some highly regarded schools in Kumanovo to integrate actively Roma children into their classes. Following initial resistance amongst parents, their integration is reported to have been successful.



## Article 14 of the Framework Convention

## Instruction in and of minority languages

*Present situation*

75. Instruction in minority languages continues to be provided in Albanian, Serbian and Turkish. The quality of education in some of the minority-language schools, however, is considered problematic. Turkish minority representatives report, for instance, that only some 20 of the 65 schools that officially teach subjects in the Turkish language have the resources they need to teach consecutively throughout ten years of obligatory schooling. The others limit the Turkish language education to primary school level, as they lack teachers or appropriate textbooks for secondary school level. Similar concerns are reported by representatives of the Serb minority who consider the quality of education in the Serbian language seriously compromised by the lack of suitably trained teachers. Despite the fact that the Vlach language is accepted as an official language in Kruševo (see Article 10), Vlach is not included in the regular curriculum of any school, not even in Kruševo municipality itself. Bosnian, Romani and Vlach “languages and cultures” can in principle be taught as optional classes for two hours per week provided that a sufficient number of students demand such classes.<sup>79</sup> While noting the steps made to promote pedagogical methods for the teaching of Bosnian, Romani and Vlach,<sup>80</sup> as well as assurances by the Ministry of Education that all efforts are made to respond to such demands, the Advisory Committee regrets to have received information that many requests for such optional classes have been turned down at local level with the argument that there is insufficient demand, that no suitable teachers are available, or that it is for other technical reasons not possible. The Advisory Committee welcomes the fact that the Bosnian language is now taught within the regular curriculum at three schools in Saraj and Veles municipalities. According to minority representatives, many more requests for the attendance of regular Bosnian language classes have been made and the Ministry of Education is reviewing the possibilities to extend the programme to more schools.

76. The Advisory Committee further notes with regret that the attendance of optional classes is reportedly discouraged also by the fact that teachers are rarely equipped with appropriate textbooks, and that classes often either compete with other optional courses such as computer classes or are organised late in the afternoon. Despite a large and sustained interest amongst Roma communities, where Romani is often spoken at home, Romani language and culture classes are reportedly taught in only very few schools. Information about the availability of these optional courses appears to be still insufficient among parents. In addition, requests must be made during the summer period when many Roma families are not present in their school districts. In the view of minority representatives, it is problematic that the organisational costs for optional courses must be covered by the municipalities, because they are often reluctant to spend their limited resources in favour of numerically smaller communities, from whom there is little political capital to be gained. As a result, a number of additional private initiatives for the teaching of minority languages have been taken, often with

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<sup>79</sup> The Advisory Committee obtained varying figures (between 20 and 25) as to the minimum number of students required for the organisation of such elective classes. According to information received by the Ministry of Education in February 2016, there are 34 schools where such elective courses on minority language and culture are offered: Romani is offered in 14 schools, Vlach in nine schools, and Bosnian language is taught in eleven schools, three of which are offering regular classes as a pilot exercise.

<sup>80</sup> See State Report, page 24.



support from interested embassies, such as Croatian- and Russian-language courses organised in Skopje. The Advisory Committee also notes the opening of a private university teaching in the Turkish language in Gostivar, which is attended by some 200 students.

77. As regards the learning of the official language, the Advisory Committee regrets that Albanian students commence the study of the Macedonian language only in the third grade, for two hours per week, and as of the sixth grade for three hours per week. This appears insufficient to gain proficiency in the language, particularly given that there are few opportunities in daily life for Albanian students to use and practice their Macedonian-language skills (see Article 12). Moreover, students who attend Macedonian language schools do not learn any Albanian as part of the curriculum, nor other languages used in official communication in Macedonia. Quite a number of students and parents have reportedly expressed their interest in optional Albanian-language classes. However, the Advisory Committee was informed that they are discouraged from doing so because they are only allowed to register for an Albanian course as a second optional course, i.e., they cannot only learn Albanian, but they must then follow an additional language or a technical course in the afternoon which is too much of a burden for many students. The Advisory Committee notes with concern that the pursuit of bilingualism is effectively discouraged, which has a direct negative impact on the country's ability to function sustainably as a multi-ethnic and multilingual state.

#### *Recommendations*

78. The Advisory Committee calls on the authorities to increase their efforts to maintain high-quality minority-language education and to pursue a close dialogue with national minority representatives, parents and school administrators to ensure that all minority languages, including the languages of the numerically smaller minorities can be learned effectively as part of the regular education system.

79. It further calls on them to consider the introduction of modern bi- and multilingual teaching methods to improve the quality of language teaching methodology at all schools and to effectively assist the high-quality learning of different languages in integrated education environments.

#### Article 15 of the Framework Convention

##### Participation in elected bodies and decision-making processes

#### *Present situation*

80. As a result of the consociational set-up of the state (see Article 4), the four main political parties continue to be established along ethnic lines, which ensures that the two main ethnic communities are represented both in the government coalition and in the opposition. Persons belonging to the Turkish, Serb, Bosniak and Roma minorities have also organised themselves in smaller ethnic political parties. In order for them to enter Parliament and play a role in decision making, however, they must align themselves with one of the main political parties, which reduces their negotiating power. According to the representatives of the numerically smaller minorities, an electoral system based on a single electoral district would be

more favourable for their representation in Parliament than the current system.<sup>81</sup> Overall, minority representatives report that there is little sense of political participation within their communities, with some representatives even making reference to pressures felt ahead of the June 2016 elections to either disengage from politics or support the governing coalition. While welcoming the fact that voter information material is provided in minority languages and efforts are made to promote their participation in the elections,<sup>82</sup> the Advisory Committee is concerned by the limited trust expressed within the various minority communities in a genuinely democratic election process that is based on the equality of votes. It notes in particular the acknowledged need to update the voter lists ahead of the elections, which currently contain 1.7 million registered voters with an overall population of just over 2 million,<sup>83</sup> as well as allegations regarding a pattern of manipulation of votes from persons belonging to the Roma minorities.<sup>84</sup>

81. The Advisory Committee further notes concerns expressed by the representatives of numerically smaller communities that they have been excluded not only from the participatory process leading to and established by the OFA, but that they have equally not been consulted in the ongoing OFA implementation review process.<sup>85</sup> It welcomes in this context the creation of the participatory forum in 2011 at the initiative of the Agency for the Exercise of Community Rights. It is made up of 35 members from the various communities as well as representatives from relevant government bodies, and is highly welcome by representatives of the numerically smaller communities, as the only institutional channel through which they can voice their concerns or views about issues of interest to them. The Advisory Committee notes, however, that the forum only functions as an advisory body, without its own budget and without clear competencies, thereby lacking the power to influence effectively the relevant decision-making processes. In fact, its recommendations appear to be simply acknowledged without being relayed to relevant ministries and without a senior-level government body ensuring that follow-up is co-ordinated at central and local levels.

82. At the local level, the Advisory Committee welcomes that national minorities continue to be relatively well represented. The Roma minority, for instance, has one member in the local council of eight municipalities and there is one municipality where nine of 16 councillors are Roma representatives.<sup>86</sup> Persons belonging to national minorities are further supposed to be represented through the Commissions for Inter-Community Relations that are meant to be established in line with the OFA in all municipalities where communities constitute at least 20% of the population. Some 22 municipalities are thus legally required to establish such

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<sup>81</sup> The current system provides for six electoral districts in the country and three extraterritorial districts for citizens living abroad.

<sup>82</sup> See *The Former Yugoslav Republic of Macedonia Early Parliamentary Elections 24 April 2016 OSCE/ODIHR Needs Assessment Mission Report*, 27 November 2015, page 6.

<sup>83</sup> See Footnote 5.

<sup>84</sup> See Letter of the European Roma Rights Centre to the Public Prosecutor of 26 March 2015, at [www.errc.org/cms/upload/file/macedonia-letter-to-macedonian-public-prosecutor-26-march-2015.pdf](http://www.errc.org/cms/upload/file/macedonia-letter-to-macedonian-public-prosecutor-26-march-2015.pdf).

<sup>85</sup> Representatives of Roma political parties have demanded to be included in the OFA implementation review process, to be granted a seat in the State Election Commission, and to be involved in the negotiations under the Przino Agreement, which was entered into in summer 2015 between the main political parties to overcome the political crisis. See Public Announcement "Roma in political scene in R. Macedonia" of 29 December 2015, at [www.roma.idebate.org/news-articles/roma-political-scene-rmacedonia](http://www.roma.idebate.org/news-articles/roma-political-scene-rmacedonia).

<sup>86</sup> This is the municipality of Šuto Orizari, where 13,342 of 22,017 inhabitants indicated Roma affiliation in the 2002 census. The major is also Roma.

Commissions and an additional 17 have voluntarily decided to do so, which is highly welcome. The Commissions are envisaged to serve as consultative mechanisms and thereby promote interethnic dialogue. The Advisory Committee regrets, however, to have received unanimous reports from civil society and minority representatives that these Commissions, similar to the Gender Equality Commissions that are also supposed to be set up at the local level, are often not functional and, given their lack of clear competencies and a budget, do not have any impact on relevant decision-making processes.<sup>87</sup> In addition, the process of appointing members to these Committees is reportedly often instrumentalised for political purposes, thereby thwarting its important aim of ensuring that the concerns of minority communities are effectively taken into account before relevant decisions are made.

### *Recommendations*

83. The Advisory Committee calls on the authorities to take all necessary measures to ensure that persons belonging to national minorities have an effective and equal opportunity to take part in electoral processes at all levels.

84. It further calls on them to clarify the mandate and competencies of the participatory forum and to ensure that the views and concerns of minority representatives at central and local levels are effectively taken into account by senior government officials in all relevant decision-making processes.

85. Functioning platforms must be established at local level to ensure that minority representatives, including those belonging to numerically smaller minorities, have an effective opportunity to participate in relevant decision making. Efforts should further be made to strengthen the inter-community related mechanisms at local level, including the Commissions.

### Representation in civil service and administration

#### *Present situation*

86. The number of persons belonging to national minorities employed in civil service and public administration has gradually continued to increase over the years.<sup>88</sup> While *equitable* representation in terms of the proportions of the various groups according to the 2002 census has not been reached, updated figures presented in the Annual Report of the Ombudsman of 2014 show that the numbers of persons belonging to the Albanian, Turkish and Romani minorities have particularly increased.<sup>89</sup> Overall, the presence of women representatives of

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<sup>87</sup> See, among others, European Commission Progress Report on the Former Yugoslav Republic of Macedonia, October 2014, page 13. Issues of functionality of the Commissions for Inter-Community Relations are acknowledged on page 32 of the State Report.

<sup>88</sup> See for a detailed breakdown of figures related to minority representation in the various fields of public administration, including local variations, the Ohrid Framework Agreement Review on Social Cohesion, pages 19ff. [www.eip.org/sites/default/files/OFA%20Review%20on%20Social%20Cohesion.pdf](http://www.eip.org/sites/default/files/OFA%20Review%20on%20Social%20Cohesion.pdf).

<sup>89</sup> According to information between 2009 and 2014 presented in various reports available to the OSCE Mission in Skopje, the proportion of ethnic Macedonians in public service went down from 79.9% to 73.9%, Albanians represented 19.5% of the public and civil servants in 2014 (from 14.1% in 2009), Turkish accounted for 1.9% in 2014 (up from 1.3% in 2009), Roma constituted 1.4% (up from 0.8% in 2009), Serbians went down from 1.9% to 1.6%; Bosniaks remained at 0.4% and Vlachs went from 0.8% in 2009 to 0.7% in 2014. See also the census results of 2002, Footnote 5.

national minorities is much lower than the representation of men.<sup>90</sup> It is of concern to the Advisory Committee that the underlying aim of promoting effective participation and representation of minority communities in public institutions appears not to have been furthered in the process. According to unanimous reports of international, civil society and minority representatives, many of the individuals who were recruited by the OFA Secretariat based on Annual Plans for equitable representation developed in each Ministry have yet to be placed in public institutions. According to the Secretariat itself, 30% of its employees are at home pending placement, yet in receipt of salaries, while it is widely estimated that the actual number is higher, reaching up to some 50,000 individuals according to interlocutors of the Advisory Committee. When in service, some of the civil servants recruited according to the OFA are reportedly placed either in separate parts of buildings or even in entirely different locations. This means there is no interaction between civil servants and no genuine inclusion or participation.

87. The Advisory Committee is concerned by the resentment this situation causes on all sides. It leads to minority representatives being viewed as “lazy” and unwilling to work while the employees themselves would wish to contribute with their abilities and skills but feel excluded and manipulated. In addition, it leads to an inflated and inefficient public administration, which is viewed by some interlocutors of the Advisory Committee as susceptible to political manipulation. At the same time, persons belonging to numerically smaller minorities reportedly continue to claim affiliation with one of the larger communities in order to be hired, according to the OFA, as public service still offers a very attractive employment given the overall bleak labour market situation.<sup>91</sup> The Advisory Committee notes plans according to which the recruitment of all public servants, irrespective of their ethnic background, will be taken over by the Ministry of Information Society and Administration as of 2016. It welcomes this development as an effort to promote transparency and accountability in the recruitment process which is to be based on merit and is to prioritise the recruitment and promotion of persons belonging to national minorities in order to ensure that they are effectively represented in public service at all levels.<sup>92</sup> It considers further that the change in the procedure will only be effective if accompanied by targeted training and awareness-raising activities to ensure that the value and objectives of equitable representation are adequately understood by decision makers as well as throughout the civil service.

88. The Advisory Committee welcomes reports that the number of persons belonging to all national minorities in the police, both uniformed and within administration, has reportedly increased over the years, as this may contribute to the development of more trust within minority communities in the police. It is further welcome that national minorities continue to be relatively well represented in public administration at local level. In some cases, however, civil servants appear to be hired in particular for the purpose of addressing the situation of a specific minority or minorities in general, which, while appropriately making use of their

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<sup>90</sup> See *Which gender is the Ohrid Framework Agreement*, Analysis of the Association for Democratic Initiatives, 2013, page 85.

<sup>91</sup> Following continued allegations that the OFA Secretariat was recruiting disproportionately high numbers of persons belonging to the Albanian minority, the management of the recruitment of persons belonging to numerically smaller communities was reportedly handed over to the Secretariat for General Affairs in Government.

<sup>92</sup> Full implementation of the new recruitment system, however, is estimated to take up to three years [www.assembly.coe.int/CommitteeDocs/2014/fmond0c02rev\\_2014\\_EN.pdf](http://www.assembly.coe.int/CommitteeDocs/2014/fmond0c02rev_2014_EN.pdf).

specific linguistic and other abilities, should not be viewed as the main area where persons belonging to national minorities can be suitably employed.<sup>93</sup>

### *Recommendation*

89. The Advisory Committee urges the authorities to ensure that the aim of equitable representation in public administration is implemented genuinely and persons belonging to all national minorities are recruited through a merit-based system and according to actual requirements, so as to ensure that they can effectively contribute to the functioning of an ethnically diverse public administration.

### Effective participation in socio-economic life

#### *Present situation*

90. While there has been some economic recovery, the employment situation overall is still serious. The official unemployment rate stands at around 30%, Eastern areas of the country being especially underdeveloped from an infrastructure point of view. Women generally are particularly affected and, as a result, drawn into the informal labour market. While persons belonging to other national minorities do not report particular obstacles in their access to employment, the Advisory Committee observes with concern that the employment situation amongst Roma communities remains grave with the unemployment rate estimated to be around 70%. It notes in particular that only some 1,750 persons belonging to the Roma minority are registered as active employment seekers with the Employment Agency and thus benefit from the yearly operative plan adopted by the Ministry of Labour and Social Policy to promote their integration into the labour market.<sup>94</sup> According to minority representatives, many Roma have not been clearly informed about the conditions and consequences of registering as an active or passive employment-seeker, as a result of which quite a number of persons have been de-registered without their knowledge and have lost their social benefits as a result. Moreover, it is of deep concern to the Advisory Committee that the vast majority of Roma remains without registration with the Employment Agency and thus without social welfare benefits, yet no comprehensive strategy appears to have been developed to promote their registration.<sup>95</sup>

91. The Advisory Committee further learned that following changes to the Law on Social Welfare in 2015, persons who receive over 7,000 Macedonian Dinar per year (roughly 110 EUR) from another source must report that income and return the welfare benefits they have received. Roma representatives feel that they are particularly targeted with this new provision, as many of them can only get by with international money transfers from family living abroad.

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<sup>93</sup> See the European Roma and Travellers Forum (ERTF) Factsheet on the situation of Roma in Macedonia, page 11.

<sup>94</sup> See State Report, page 22. "Active employment-seekers" are regularly sent possible offers for employment that fit their profile. In order to stay registered as "active", they need to come to the Employment Agency on a monthly basis, which – according to Roma representatives – is difficult for many as the only office in Skopje is located at some distance from the Roma settlement and transportation costs for a return bus ticket must be weighed against the very low monthly family budget. According to the Social Welfare Law, a three-person household receives some 60 EUR per month. A 10% increase has been accorded as of 2016.

<sup>95</sup> Close to 54,000 persons registered as Roma in the 2002 census. Estimates vary between 100,000 – 150,000 Roma living in the country, a significant number of them without any documentation (see Article 4). The Advisory Committee was informed by the Ministry of Labour and Social Policy that the unregistered Roma are not interested in registering and prefer to be in the grey economy.

Moreover, the Ministry of Labour and Social Policy decided to apply this provision retroactively to 2014 which is contrary to Article 52(4) of the Constitution, according to which laws and other regulations may have a retroactive effect only if it is favourable for the citizens.

92. Housing further continues to remain very problematic for many Roma. Following the welcome adoption in 2011 of the Law on the Treatment of Illegally Constructed Buildings, which paved the way for the legalisation of over 200,000 properties in the country, over 1,500 applications have been submitted from persons belonging to the Roma community, often with the support of legal aid centres.<sup>96</sup> The Advisory Committee welcomes the decision in 2014 to render the issuance of official papers from the cadastral office free of charge for social welfare recipients, which has facilitated the legalisation process for many Roma. While in some municipalities such as Gostivar and Kochani, a reported 90% of legalisation applications from Roma have been duly processed, the situation in other municipalities remains uncertain as, overall, only some 25% of the legalisation cases have been completed.<sup>97</sup> The situation of some 2,500 Roma (400 – 600 families) in the Sredorek settlement of Kumanovo is particularly problematic. As the land is identified as green area in the urban plan, a special consent by the municipal council is required in order to move forward with the legalisation requests. Over 200 fully completed applications for legalisation have reportedly been pending since 2011 without the municipal council even having discussed the issue. The Advisory Committee welcomes reports that the Ministry of Transport, following the intervention of the National Roma Centrum, requested the municipality at the end of December 2015 to provide information within five days on the procedure and measures taken with regard to the outstanding applications.<sup>98</sup> No action had been taken, however, until the adoption of this Opinion.

93. The Advisory Committee further notes with deep concern that the living conditions in many of the Roma dwellings remain sub-standard, without safe drinking water or sanitation facilities. Many families are either not connected to utilities or not able to pay for these basic services. According to minority and civil society representatives, Roma are moreover often very poorly informed about their rights and the relevant procedures relating to their housing situation, including their property status, which makes them particularly vulnerable to discrimination, abuse and exposes them to the risk of eviction.

94. The Advisory Committee welcomes important steps that have been taken to promote access to health for socially and economically marginalised groups, among them many Roma. Ante-natal care has become accessible free of charge for social welfare recipients, for instance. Roma remain particularly disadvantaged, however, since there are few doctors available in proximity to the settlements and the costs involved for the transport to and from doctors or hospitals are often too high.<sup>99</sup> In addition, Roma report that they have been refused medical care by some doctors or have received inadequate and negligent treatment inferior to that provided to other patients. The Advisory Committee is pleased to note the intervention by the

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<sup>96</sup> The National Roma Centrum in Kumanovo has played a particularly helpful role in the provision of legal assistance and advice to Roma in Kumanovo and elsewhere.

<sup>97</sup> See Final Report of the State Authorized Auditor, of 20 November 2015, at [www.dzr.mk/Uploads/1\\_48\\_RU\\_Proces\\_legalizacija\\_divogradbi\\_period\\_2001\\_2014\\_GP2015\\_KOMPLET.pdf](http://www.dzr.mk/Uploads/1_48_RU_Proces_legalizacija_divogradbi_period_2001_2014_GP2015_KOMPLET.pdf).

<sup>98</sup> Municipalities should decide on applications within one year. According to Article 27 of the Law on the Treatment of Illegally Constructed Buildings, the Ministry of Transport can take measures to supervise the implementation of the Law at local level.

<sup>99</sup> See for background also Annual Report 2014 of the Ombudsman, page 19.

Ombudsperson in a number of cases where, in particular, Roma appear to have been charged for services that should be provided without cost, or were not released from hospital before the treatment had been paid for. Repeated requests for the services of an obstetrician to be made available to the approximately 8,000 women of reproductive age living in Šuto Orizari were responded to at the end of 2015. The Ministry of Health has facilitated three weekly visits of practitioners from the University clinic for gynaecology. Concerns remain, however, as they reportedly do not provide full health services, and do not prescribe medications or make referrals to health care at the secondary or tertiary levels. According to minority representatives, the unsatisfactory situation regarding access to basic health services is the main reason for their need for foreign money transfers, which however, following the legislative changes in 2015 (see above), now put their badly needed social welfare benefits at risk.

### *Recommendations*

95. The Advisory Committee urges the authorities to intensify their efforts towards the comprehensive registration of all Roma with the Employment Agency, in order to ensure that they can effectively benefit from employment promotion measures and receive social welfare payments. The amendments to the 2015 Social Welfare Law must not be applied retroactively to 2014 and their impact on economically extremely disadvantaged groups should be re-evaluated without delay.

96. It further urges them to promote the implementation at local level of laws and regulations intended for the benefit of citizens, such as related to property legalisation, and to ensure that Roma are not discriminated against in the delivery of services, in particular regarding health.

## Articles 17 and 18 of the Framework Convention

### Bilateral and regional co-operation

#### *Present situation*

97. A number of bilateral agreements with neighbouring and other states exist, that further co-operation on issues pertaining to national minority protection, in particular in the fields of culture and education. The Advisory Committee notes with regret that the transit of high numbers of refugees through the country led to several instances of temporary closures of the border in late 2015 and early 2016, as well as to a practice of selectively allowing only refugees from some countries of origin to enter the country. In February 2016, a fence is being constructed to seal off the border with Greece, creating a blockage for thousands of individuals, including children. While aware of the considerable pressures involved, including from member States of the European Union, the Advisory Committee recalls the "former Yugoslav Republic of Macedonia's" obligations towards human rights and refugees in line with international and regional instruments.

#### *Recommendation*

98. The Advisory Committee calls on the authorities to maintain a spirit of good neighbourly relations and promote close co-operation and co-ordination within the region on a variety of issues pertaining to minority protection, not limited to education and culture.

### III. CONCLUSIONS

99. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by “the former Yugoslav Republic of Macedonia”.

100. The authorities are invited to take account of the detailed observations and recommendations contained in Sections I and II of the Advisory Committee’s Fourth Opinion.<sup>100</sup> In particular, they should take the following measures to improve further the implementation of the Framework Convention:

#### Recommendations for immediate action<sup>101</sup>

- Take all necessary measures towards building an integrated society that is firmly based on the rule of law, the protection of human rights, including minority rights, and respect for diversity, and disengage from mutually exclusive ethno-nationalist politics that further the formation of parallel societies;
- Take urgent measures to regain trust in public institutions and actively disengage from politically and ethnically based hate speech; ensure that all instances of hate speech and hate crime are promptly condemned and effectively investigated and sanctioned;
- Take all necessary measures to build an integrated and multilingual education system; allocate an adequate budget and ensure that teachers are appropriately trained and that textbooks and curricula in all schools reflect intercultural content;
- Genuinely implement the principle of equitable representation and promote the effective participation of all persons belonging to national minorities, in public life and in relevant decision-making processes at all levels.

#### Further recommendations<sup>102</sup>

- Develop a flexible approach to requests for the enjoyment of minority rights of persons belonging to national minorities who are not explicitly mentioned in the Constitution and ensure that the right to free self-identification is applied in all data collection exercises, including with respect to multiple affiliations;

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<sup>100</sup> A link to the Opinion is to be inserted in the draft resolution before submission to the GR-H.

<sup>101</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

<sup>102</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.



- Ensure the proper functioning of the Commission for Protection against Discrimination as a fully independent and professional equality body, equipped with a functioning Secretariat, and take comprehensive measures to promote awareness of applicable anti-discrimination standards within the judiciary and amongst society, particularly among the most disadvantaged;
- Provide adequate political and financial support to the Office of the Ombudsman and ensure that all vacancies are promptly and adequately filled;
- Proactively address the inequalities experienced by persons belonging to national minorities, in particular persons belonging to numerically smaller minorities and Roma, and regularly collect disaggregated data for the design of effective measures for the promotion of equal opportunities, in close consultation with minority representatives;
- Establish an effective and transparent mechanism for the allocation of support for the preservation and development of national minority cultures, and increase the available funding opportunities;
- Raise public awareness of the legal remedies available against hate crime and hate speech and promote professional journalism and ethical behaviour in the media through targeted training activities;
- Put in place an effective and fully independent supervisory mechanism to ensure that the adherence to professional standards by the police is properly monitored and all alleged infringements are promptly investigated and sanctioned in accordance with the law;
- Facilitate the registration of the religious organisations of persons belonging to national minorities in view of ensuring that they can effectively enjoy the right to manifest their specific beliefs in their appropriate places of worship;
- Enhance support to minority-language media, including independent and small media outlets, and promote a pluralist media environment; proactively ensure that all public broadcasting contributes to the formation of an integrated and inclusive society by promoting intercultural respect and awareness;
- Monitor and ensure the effective implementation of the Law on the Use of Languages at central and local levels, including as regards the display of minority languages in topographical signs; encourage the use of minority languages in the public sphere where possible and refrain from relying exclusively on outdated statistics;
- Comprehensively address the propensity to place Roma children in special schools and separate classes and take all measures to actively promote their inclusion in mainstream education, including the appropriate employment of suitably skilled staff;

- Pursue a close dialogue with national minority representatives and increase efforts to provide high-quality minority-language education, including in the languages of numerically smaller minorities, through the introduction of modern bi- and multilingual teaching methodologies in all schools;
- Ensure that Roma representatives are effectively included in all decision-making processes related to the promotion of their socio-economic integration, including the adoption and implementation of relevant strategies and action plans, and take all necessary measures to resolve the remaining obstacles to the issuance of personal documentation, registration, and property legalisation processes.