

**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA "
SUBJECT TO INTERIM FOLLOW-UP**

Adopted on 20 March 2013¹

¹ Any developments which occurred after 17.09.2012, date on which the response of the authorities of "the former Yugoslav Republic of Macedonia" to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, are not taken into account in this analysis.

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FOREWORD

As part of the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.

Accordingly and in line with the guidelines for the fourth round of ECRI's country-by-country work brought to the attention of the Ministers' Deputies on 7 February 2007¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2007)986/4.1.

1. *In its report on "the former Yugoslav Republic of Macedonia" (fourth monitoring cycle) published on 15 June 2010, ECRI encourages the authorities to continue the civil and administrative legislative process under way with a view to adopting comprehensive legislation on protection against discrimination, granting victims the highest level of protection. It strongly recommends that, in this connection, they take account of its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination¹ and its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.*

The authorities of "the former Yugoslav Republic of Macedonia" have informed ECRI that the Law on the Prevention of and Protection against Discrimination was enacted on 8 April 2010 (and published in the country's official gazette on 13 April 2010). They have also indicated that, in accordance with the said law, the Commission for Protection against Discrimination was established and started functioning on 1 January 2011.

The authorities have informed ECRI that, in 2011, about 60 petitions were filed with the Commission, which issued an opinion on about half of them. In five cases in which discrimination was identified, the Commission has provided recommendations on how to redress the violation.

The authorities have indicated that the Commission can interview witnesses and conduct or commission investigations. It cooperates with all relevant institutions, including the Ombudsman.

Non-governmental sources have raised concerns about the Commission's independence. These are related to its composition and the fact that it lacks its own secretariat and autonomy in managing its budget. They have also informed ECRI that 2011 passed without the Commission's raising with the competent authorities any issues under the Law on the Prevention of and Protection against Discrimination.

ECRI welcomes the enactment of Law on the Prevention of and Protection against Discrimination and the establishment of a Commission for Protection against Discrimination. However, bearing in mind that the Commission is a newly established organ in respect of which many concerns have been raised, ECRI concludes that the recommendation has been partly implemented.

2. *In its report on "the former Yugoslav Republic of Macedonia" (fourth monitoring cycle), ECRI urges the authorities to end any practice of improperly sending Roma children to educational facilities for pupils with a mental disability, to identify the children concerned and to reintegrate them in mainstream schools and to implement a streaming system which guarantees that only children effectively suffering from a mental disability are guided towards the specialist education sector.*

The authorities have informed ECRI that in February 2010 the Ombudsman visited several special schools for disabled children and prepared a report with recommendations. In the light of this report, the Ministry of Labour and Social Policy, in cooperation with the Ministry of Education and Science and the Ministry of Health, took an initiative for "enhancing the work of the commissions for the categorisation of children with developmental disabilities". It is these commissions that direct children to special schools. One of the ministry's objectives was to address the related problems of overrepresentation of Roma children in special schools and the Roma parents' lack of information about these schools' true nature. The system currently used for directing children to special schools will be assessed, the work of the commissions will be standardised and improved and a by-law will be drafted.

¹ In accordance with ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, racial discrimination is understood as meaning any difference of treatment based on grounds such as "race", colour, language, religion, nationality or national or ethnic origin which has no objective and reasonable justification.

ECRI takes note of the progress made. It will take stock of the results achieved once the new system is in place. Moreover, ECRI is interested in Roma children who have already been misdirected to special schools. The authorities should have made arrangements for reintegrating these children into mainstream schools. ECRI regrets that no steps have been taken in this direction. ECRI, therefore, concludes that this recommendation has not been fulfilled.

3. *In its report on "the former Yugoslav Republic of Macedonia" (fourth monitoring cycle), ECRI recommends that the authorities devise and implement, in close co-operation with civil society, a national strategy to combat racism and intolerance in the long term, including a long-lasting general information and awareness-raising campaign.*

The authorities have informed ECRI that the Ministry of Labour and Social Policy prepared the National Strategy for Equality and Non-Discrimination on grounds of ethnicity, gender, age, and physical and mental disability (NSEN), which was adopted in January 2012 and will cover a three-year period. Moreover, the ministry has signed a memorandum of cooperation with the OSCE to set up a project towards the effective implementation of the strategy. The authorities have also informed ECRI of various activities that had been organised (with cooperation from the British Council) before the adoption of NSEN in order, inter alia, to raise awareness about the Law on the Prevention of and Protection against Discrimination.

ECRI welcomes the NSEN, which, however, does not target discrimination on grounds of religion and language. Moreover, ECRI notes that the authorities have not provided any information on civil society participation in the strategy's preparation and implementation. ECRI, therefore, concludes that the recommendation has been partly implemented.

