

## A. INTRODUCTION

1. This *ad hoc* coalition is comprised of 22 organizations that joined forces to prepare this submission for the second reporting cycle on the Republic of Macedonia (RM) within the UPR, in an attempt to present our observations on human rights (HR) situation. Our views are presented through the prism of recommendations addressed to RM under UPR's first cycle and 2012 Mid-Term Report submitted by RM. The goal is to comment on State's progress in a number of HR fields and provide recommendations. Coalition's members are leading organizations in the respective fields and their engagement is geared towards improving respect for HR in RM. FOSM and MHC organized and led the main consultations for drafting this submission, while other coalition members contributed with: (1) submissions in their relevant fields; and (2) comments to the joint submission. Submitting parties would like to stress the relevance and importance of UPR submission in health made by ESEM and its partners, as well as the joint submission of the Coalition for Sexual and Health Rights of Marginalized Communities and LGBTI Support Centre.

## B. NORMATIVE AND INSTITUTIONAL FRAMEWORK

2. RM has ratified most international and regional treaties.<sup>1</sup> Several important treaties were signed in the period between the two UPR cycles, including the Convention on the Rights of People with Disabilities. Nevertheless, RM should take additional activities to ratify international documents.<sup>2</sup>

3. The Badinter Commission described the 1991 Constitution of the Republic of Macedonia as one of the most correctly drafted in Southeast Europe, as it gives clear and precise guarantees for protection of HR. Constitution was amended on several occasions, including 2001 reforms intended to incorporate the Ohrid Framework Agreement and its principle of equitable representation of ethnic communities, while 2005 reforms introduced major changes to the judicial system.

4. Under EU accession process, RM has undertaken major legal reforms aimed to align domestic legislation with EU *Acquis*.

## C. OBSERVATIONS AND RECOMMENDATIONS ON HUMAN RIGHTS

**5. Recommendation 1:** Most legal amendments envisaged under the Ministry of Labour and Social Policy's 2011 Analysis of Legislative and Financial Implications following the ratification of the Convention on the Rights of Persons with Disabilities (CRPD),<sup>3</sup> are not adopted, while information on implementation of other measures is not publicly available. Government failed to organize and carry out 2012 Census<sup>4</sup> and, hence, there are no official data on the number of disabled citizens. After their intensive advocacy efforts for amending the current legislation, group of NGOs challenged a set of social laws in front of the Constitutional Court, claiming existence of discriminatory provisions for disabled people.<sup>5</sup>

*6. Government must take comprehensive measures and allocate sufficient funds for implementation of CRPD. Social allowances for these people should not be reduced once they turn 26 years. Legislation on needs-based allowance should be introduced.*

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<sup>1</sup> Republic of Macedonia, Common Core Document, April 2013.

<sup>2</sup> See comments for Recommendations 2, 3, 10 and 11.

<sup>3</sup> Available at: [http://www.spinfo.org.mk/index.php?option=com\\_content&view=article&id=3218:slucaj-39&catid=1235:2012&Itemid=532&lang=mkd](http://www.spinfo.org.mk/index.php?option=com_content&view=article&id=3218:slucaj-39&catid=1235:2012&Itemid=532&lang=mkd) and [http://www.spinfo.org.mk/images/sluchai/Ministerstvo\\_za\\_trud\\_i\\_socijalna\\_politika/2012/sl-39/odgovor-na-baranje.pdf](http://www.spinfo.org.mk/images/sluchai/Ministerstvo_za_trud_i_socijalna_politika/2012/sl-39/odgovor-na-baranje.pdf)

<sup>4</sup> Last Census was in 2002.

<sup>5</sup> Petition on establishing constitutionality of legal provision stipulating reduced social allowance for mobility of disabled persons under the age of 26, while social allowance for third party care differs in amount and is insufficient to address needs of persons with moderate, severe and serious mental disabilities once they turn 26 years.

**7. Recommendations 2, 3, 10 and 11:** (2) International Convention for the Protection of All People from Enforced Disappearance is not ratified. Unclear is how it is in conflict with domestic legislation on criminal matters. No activities are taken to analyse Convention's impact on domestic legislation. (3) Although elaboration of Optional Protocol to the International Covenant on Economic, Social and Cultural Rights was announced in 2006, the Protocol is still not signed. Unknown is whether this elaboration was prepared or not. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is not ratified. (10) In 2011, RM acceded to the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence, but the same is not ratified. Convention on Reduction of Statelessness is not signed. (11) Reporting to international bodies tasked with supervision of conventions' implementation is pursued with delays, and stakeholders' participation in this process is minimal.

*8. Immediate efforts are needed to evaluate domestic legislation's compatibility with international law and to ratify the above-referred instruments. The State should improve the participatory process for preparation of reports under ratified treaties.*

**9. Recommendation 4:** Analysis of national legislation established significant alignment with the Convention on the Rights of the Child (CRC).<sup>6</sup> Although there is strong legal framework in place, its implementation is weak. Rights of children are not regulated under a comprehensive legal code, but are stipulated under different laws. Despite the primacy of international documents over national laws, the authorities rarely apply international regulations. Expectations are that education for professionals in this field would result in adequate application of CRC and other international instruments. Positive progress is noted in relation to legislative changes, but problems emerge with enforcement of laws and CRC. This is a result of several factors: inappropriate assessment of funds needed to implement laws; insufficient education of professional staff about adequate application of CRC; absence of monitoring system and sanctions for violators and officers responsible for protection of children rights.

*10. All legal acts on children rights and protection mechanisms need to be systematized under a single legal code and funds should be allocated for policy implementation. Special protection of children in court proceedings is needed when they are victims or witnesses of criminal acts.*

**11. Recommendation 5:** Protection of HR is fragmented and implemented by, to a greater or lesser extent, politically dependent and inadequately staffed institutions. Competences of different institutions overlap in certain areas and some of them are invisible or inaccessible, especially for citizens outside the capital. Ombudsman Office does not operate in full compliance with the Paris Principles. This does not concern only its financial independence, but multidisciplinary expertise of its employees (majority of them have education background in law). Ombudsman's appointment is a political agreement between ruling parties and raises concerns about independence. In 2012, the Ombudsman was accredited with status B (partially independent), due to the possibility given to the Minister of Finance and the Parliament to intervene in its budget and due to absence of competences to take measures against private sector entities in cases of discrimination.

*12. The State must secure full implementation of Paris Principles, such as financial independence and multidisciplinary expertise of employees in the Ombudsman Office, and it should establish a transparent appointment procedure that would result in obtaining Status A accreditation.*

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<sup>6</sup> Ministry of Justice of RM (May 2010): Comparative Overview of Domestic Legislation and Convention on the Rights of the Child. Available at: [http://www.unicef.org/tfyr-macedonia/macedonian/Macedonian\\_Full\\_Report\\_14\\_October\\_Part\\_1%282%29.pdf](http://www.unicef.org/tfyr-macedonia/macedonian/Macedonian_Full_Report_14_October_Part_1%282%29.pdf)

**13. Recommendation 6:** In spite of statements on improved adequate and equitable representation of community members in state administration bodies,<sup>7</sup> worrying is the fact that the State implements this measure in declarative manner, by employing ethnic Albanians and Roma who are then not summoned to perform their job duties. Furthermore, controversial and nationalistic “Skopje 2014” Project, disguised as construction project of the Government, dramatically emphasizes the importance of historic figures that are ethnic Macedonians and neglects recognition of other ethnic communities. This project resulted in postulation of monuments in municipalities with majority Albanian population, without due respect for the Badinter Principle (double majority) in decision-taking on cultural matters.

*14. All government policies must uphold equality of all ethnic communities in the State, and efforts are needed to stimulate integration, inclusion and solidarity as democratic principles of governance.*

**15. Recommendation 7:** Government adopted new, revised, National Action Plan on Rights of Children 2012-2015 (NAPRC). It follows the recommendations and final observations of UN Committee on the Rights of the Child from June 2010. However, this document is not uploaded on the National Commission for Rights of Children’s official website.<sup>8</sup> Authorities deserve praise for organizing consultations with NGOs for drafting NAPRC.

*16. The State should secure sufficient funds for adequate implementation of NAPRC. NCRC should establish mid-term monitoring system for assessing/evaluating NAPRC’s implementation and implementation of UN Committee on the Rights of the Child’s recommendations addressed to the government, and should consult civil society in the process.*

**17. Recommendation 8:** Law on Citizenship provided an opportunity for all Macedonians, nationals of former Yugoslavia, to obtain Macedonian citizenship in the period 1992-93. Large number of citizens, despite being born and having lived in Macedonia, did not use this opportunity due to lack of information, residence abroad, lack of relevant documents, etc. From 1993 onwards they are considered foreigners and have the status of stateless persons. Moreover, provisions from the Law on Aliens and the Law on Citizenship are in collision, as children who have birth certificates, but do not possess any other document, including citizenship, cannot enjoy the status of citizens and associated rights.<sup>9</sup> Barriers are identified in cases when people without status of citizens attempt to initiate alternative procedures in foreign countries in order to establish citizenship on the grounds of origin or family relations.<sup>10</sup> People who turned 18 and are abandoned by or their parents are deceased, cannot obtain IDs due to illegal requirements for insight in parents’ IDs. Inability to appoint guardians for adults that request issuance of first ID is an additional barrier.

18. Asylum seekers face problems with registration of new-borns during the procedure on obtaining asylum status due to non-application of the legal exemptions related to documents required for new-born’s registration. In reality, relevant officers request them to present documents<sup>11</sup> issued by the person’s state of origin, which is contrary to 1951 Convention on the Status of Refugees (CSR), 1967 Protocol.

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<sup>7</sup> 2012 Report of the Ombudsman.

<sup>8</sup> Last accessed on 17.6.2013: <http://www.nkpd.gov.mk>

<sup>9</sup> For these people to obtain citizenship in RM on the basis of marriage, they need to possess valid passports issued by another state and demonstrate legal entry in RM, although they have never left the country nor do they own citizenship or passport issued by another state. Obstacles are noted also in cases when stateless persons request issuance of passport, because of the procedure requirement on presenting an ID or another identification document, which they cannot fulfil.

<sup>10</sup> When this procedure is possible, it implies great financial costs and, if necessary, person’s presence in the foreign country. However, these people cannot leave RM and there are no consular offices that would issue them travelling list to leave the state. Also, stateless persons cannot pursue the procedure on obtaining passport.

<sup>11</sup> Statement on civil law partnership and mother’s birth certificate.

The Directorate for General Records established that it would accept as valid certificates issued by the Asylum Department, which is impossible because the Asylum Department declared incompetent.

*19. Legal solution is needed for stateless persons, born in Macedonia, but without citizenship in another country, to regulate their legal stay. Bureaucratized procedures and unlawful requirements at MOI need to be eliminated. The State should ratify the Convention on the Reduction of Statelessness.*

**20. Recommendations 9, 21, 30 and 33: (9) (30) (33)** Statements on large-scale reforms being implemented to improve inmates' accommodation conditions are false. "Reconstruction of Penitentiary and Correctional Facilities" project was to start in 2011, however, to present, no significant activities are taken. Following the unsuccessful tenders, relevant authorities have not selected a contractor for anticipated construction works. Prison in Kumanovo and correctional facility in Tetovo are not functional. In the meantime, living conditions at existing prisons have deteriorated and are overcrowded. Prisons employees have inadequate experience.<sup>12</sup> **(21) (30) (33)** Living conditions at detention wards are worse compared to prisons and Commission for Protection against Torture's recommendations are not followed through. According to Directorate for Execution of Sanctions' Reports, the number of detainees has increased by 45% in 2008-2010.<sup>13</sup> House Rules for Detainees are not applied. Detention is too long and it is imposed also in cases of minor crimes. There is insufficient use of alternative measures. Detainees frequently complain about inappropriate health care and inefficiency of legal aid. Several complaints were made about prison police torture, especially against people convicted for paedophilia. Judicial supervision does not yield any results. **(30)** Inmates with whom the MHC maintains contact complained about non-implementation of programs for re-socialization and re-integration. These complaints primarily concern educators that are insufficiently trained and their corruptive practices in awarding benefits for good behaviour.<sup>14</sup> Specific treatment is not provided for inmates who serve life sentences. Neither MHC nor media was allowed to visit the 29 inmate serving life sentences due to "safety reasons". **(33)** In 2012, an anonymous photo report was made from the detention ward in Skopje showing police's use of restraining means (detainees were handcuffed to the radiators). Correction facility in Tetovo is not in use since 2001, however reconstruction works have not started to date.

*21. Project on reconstruction of prisons should start immediately. Judicial supervision should be strengthened and judges should develop special reports on the situation at detention wards. Rulebooks on the Rights of Detainees and Inmates should be drafted and distributed. Easy and fast procedure on verification and acting upon complaints should be in place. NGOs and the media should be given access to closed institutions.*

**22. Recommendations 13 and 18: (13)** Commission for Protection against Discrimination does not ensure efficient protection against discrimination. Sexual orientation, as grounds for discrimination, is excluded from the Anti-Discrimination Law. Discrimination and promotion of negative stereotypes against women persist in all areas, including the media. Competences of the Ombudsman and Commission are overlapping.<sup>15</sup> There are no awareness-raising campaigns aimed to promote equality and combat discrimination. Contrary to the principle whereby the burden of proof in discrimination cases lies with the alleged perpetrator, it is the party claiming violation of the right to equality that is obliged to provide evidence and facts to justify his/her claim.

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<sup>12</sup> For example, from public utility enterprises

<sup>13</sup> Annual Reports are available at: <http://www.pravda.gov.mk/tekstoviuis.asp?lang=mak&id=godizv>

<sup>14</sup> Days outside the facility, increased number of visits, etc.

<sup>15</sup> Both, the Ombudsman and the Commission, report that majority of petitions for discrimination are motioned against public institutions (According to relevant legislation, the Ombudsman acts only upon petitions against public institutions, whereas the Commission is competent to protect citizens from all forms of discrimination in public life.. Most commonly indicated grounds for discrimination include ethnicity and political affiliation, while inequality is most frequently reported in the area of employment.

23. Anti-Discrimination Law does not stipulate establishment of expert and administrative services at the Commission, while commissioners do not perform their mandate as full-time job. Given that current commissioners include civil servants at line ministries and members of political parties, there are no guarantees for independence. Commission has little influence in setting its budget or changing budget allocations<sup>16</sup> and their finances are sufficient only to cover commissioners' honoraria. Commission's insufficient capacity results in untimely and ineffective actions upon citizens' petitions<sup>17</sup> and underreporting of discrimination, by unlawful adoption of conclusions to discontinue complaint procedures, in that failing to establish existence of discrimination.<sup>18</sup> **(18)** Although it stated that on the basis of complaints lodged, conscious discrimination against a group of people due to their personal characteristics can easily be established, in that referring to marginalized groups and LGBTI, the Commission does not act upon complaints related to discriminatory statements attacking the dignity of LGBTI people.<sup>19</sup>

*24. Anti-Discrimination Law must include sexual orientation as ground for discrimination. The law should be amended in order to provide sufficient protection against discrimination in a precise procedure led in front of an independent body. The legislation establishing numerous HR bodies should be reviewed in order to avoid current overlap of competences, and instituting a specialized HR body should be reconsidered. Awareness-raising campaigns should be launched in order to promote equality and combat discrimination.*

**25. Recommendation 15:** 2009 Law on Free Legal Aid (LFLA) did not contribute to better access to justice for the vulnerable groups. The LFLA is completely inapplicable. Three years into the law's enforcement and the number of free legal aid applications is decreasing, while rejected applications are twice as many compared to approved applications.<sup>20</sup> This is mainly due to stringent criteria and restricted and unclear definition of legal matters in which legal aid is provided. Although studies show that every second citizen faces a legal problem<sup>21</sup>, in 2012 only 44 applications for free legal aid were approved, and only around 3,900 USD from the state budget were spent.

*26. LFLA and related regulations need to be immediately amended, for the purpose of eliminating procedural and other barriers that denies access to justice for the poor.*

27. Submitting parties welcome the adoption Law on Legalization of Illegally Constructed Buildings (LLICB), but raise concerns about numerous unresolved issues. Often, the plots on which housing is constructed are not covered by spatial plans or land plots where Roma settlement are built are anticipated as green or non-residential areas, which brings under question the legalization process. In some cases, Roma families depend on municipal council's decision to integrate these buildings in relevant urban planning documents, but the municipalities do not change general and detailed urban plans for these plots under the excuse of lack of funds. Moreover, non-resolution of numerous issues that are in conflict with the legalization procedure leads to law's non-implementation.<sup>22</sup>

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<sup>16</sup> <http://soros.org.mk/dokumenti/Shadow-report-for-shadowed-commission-ANG.pdf>

<sup>17</sup> [http://soros.org.mk/dokumenti/Announcement\\_April\\_5\\_2013\\_ENG.pdf](http://soros.org.mk/dokumenti/Announcement_April_5_2013_ENG.pdf)

<sup>18</sup> [http://soros.org.mk/dokumenti/Announcement\\_April\\_29.pdf](http://soros.org.mk/dokumenti/Announcement_April_29.pdf), paragraphs 6 and 7

<sup>19</sup> [http://soros.org.mk/dokumenti/Announcement\\_April\\_29.pdf](http://soros.org.mk/dokumenti/Announcement_April_29.pdf), paragraph 5

<sup>20</sup> Analysis of the Implementation of the Law on Free Legal Aid (2010-2012), MYLA and FOSM, Skopje 2013

<sup>21</sup> Paths to Justice, published by FOSM and prepared by Reactor – Research in Action.

<sup>22</sup> For example: outlay of land below the illegal building subject of legalization (is performed by Agency for Real Estate Cadastre free of charge only in legalization process), establishment of right to possession or use of land, to request fulfilment of contractual obligations related to land plots. Many legalization procedures are problematic due to complicated inheritance procedure, for example, legal heirs live abroad or long procedure for collecting documents to initiate inheritance procedures. Due to unresolved tenure issues, municipalities cannot complete

28. LLICB *should be applied equally for all citizens and necessitates effective enforcement of related policies. Agency for Real Estate Cadastre must enhance its human and technical resources for outlaying land plots with illegally constructed buildings. Municipalities must enhance their efforts to provide urban planning documents for illegal buildings on plots intended for roads, green areas or outside the spatial plan.*

29. Despite improvements in the gender equality legislative framework, women continue to be underrepresented on the labor market and in political and public life, gender based violence remains widespread and government policies created to address these problems are limited in scope. Furthermore, an erosion of women's rights can also be noted, most recently with the new Law on Pregnancy Termination, which was adopted in an expedited procedure and without public consultations, and which imposes administrative barriers that particularly limit access to safe abortions for women from marginalized and rural communities.

30. *Systemic efforts are needed to ensure equality between women and men, especially on the labour market. Relevant financial, human and technical resources should be allocated for the implementation of the new Strategy for equality between women and men.*

**31. Recommendations 16 and 17: (16)** Political representation of women remains low. Gender quotas did not yield expected results, especially on local level, where cases were noted of women resigning their seats<sup>23</sup> in municipal councils after the elections. Women participation is not increased in areas where gender quotas are not imposed and remains below 30%: currently, there are only 2 female ministers (out of 22) and 3 deputy ministers (out of 15). In the period 2009-2013, there were no female mayors in the total of 85 municipalities and only 3 were elected in 2013 local elections. **(17)** Despite government's efforts to target women under active employment measures, they have still not provided tangible results. One major shortcoming identified in this regard is lack of monitoring and evaluation of active measures' implementation, especially because gender desegregated data are not kept for beneficiaries of these measures, making it impossible to track their effectiveness.<sup>24</sup> Work-life balance policies are also missing, in particular those concerning early childhood education and care, given that kindergartens' estimated capacity can provide for only 16% of pre-school age children.

32. *Specific measures should be implemented to ensure equality between men and women in all areas, and in particular participation of women in the public life, family and work life balance*

**33. Recommendation 19:** Implementation of new Law on Criminal Procedure (LCP) from 2010 should have started in 2012, but its enforcement is again delayed for end of 2013. In the meantime, other laws and relevant bylaws<sup>25</sup> are not aligned with provisions from new LCP, while the laws adopted are not harmonized among them<sup>26</sup>. Training on LCP intended for judicial bodies resulted in identification of numerous shortcomings concerning a number of provisions. Public Prosecution and Courts are not

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legalization procedures only on the basis of a notary-certified statement that the applicant has used the land plot for more than 20 years.

<sup>23</sup> Especially ethnic women from rural communities.

<sup>24</sup> Gender-Budget Analysis of Social Protection and Active Employment Policies in the Republic of Macedonia, Ministry of Labour and Social Policy

<sup>25</sup> For example, Law on Public Prosecution, Law on Financial Police, etc.

<sup>26</sup> For example, Law on Police.

equipped to respond to new LCP.<sup>27</sup> Attorneys and the Bar Chamber are not prepared to implement provisions from new LCP.<sup>28</sup>

*34. Greater commitment and increased budget funds are needed for successful implementation of the new LCP, accompanied with adequate changes to said laws and their alignment with the EU directives.*

**35. Recommendations 20 and 22: (20)** National Strategy on Prevention and Protection against Domestic Violence 2012-2015 (NSPPDV) was developed and adopted in July 2012, but was not accompanied with analysis of financial implications and financial plan, which brings under question strategy's implementation. Due to lack of funds, counselling office for domestic violence offenders and parents and children victims of domestic violence is not functional. Social Work Centres have limited capacity and resources to cope with increased workload. Shelters are overcrowded, thus obliging some victims of domestic violence to leave the city, which in turn creates difficulties related to following and attendance at court proceedings. Law on Free Legal Aid includes victims of domestic violence as beneficiaries, but until July 2011 free legal aid was approved only in six cases of domestic violence. On this account, the process on amending the law was initiated in order to enable easier access to free legal aid services for victims of domestic violence. Underway is standardization of free legal aid services intended for victims of domestic violence, which will be piloted by September 2013. As regards prevention and public awareness activities, campaigns are organized only by NGOs and there is tendency of underreporting domestic violence among Roma and Albanian women. Moreover, cases have been reported on institutional discrimination of marginalized women who are victims of domestic violence. Examples thereof are seen in rejection of women under the age of 18 to be admitted at shelters, most prominent among young Roma women in underage marriages. CAHVIO Convention was signed in May 2011, but no measures are taken to align domestic legislation to all forms of violence against women and their protection.

*36. The State must secure funds and develop a financial plan for implementation of NSPPDV. Funds should be allocated for unhindered operation of the counselling centre for parents and children victims of domestic violence. The State must implement CAHVIO's recommendations in the domestic legislation and must provide services for all forms of violence against women, followed by ratification of the Convention. Further efforts are needed to implement the Joint Protocol, in particular related to health institutions that do not comply with the obligation on documenting cases of domestic violence due to absence of relevant legal provisions.*

**37. (22)** New LCP defines the term "victim" and establishes their basic rights. Namely, it stipulates that victims of criminal acts against gender freedom and moral, humanity and international law enjoy special rights, including the right to be interviewed by same-gender policeman and public prosecution officers, right to abstain from answer questions that concern their private life, right to request interviews assisted by visual and audio equipment, and right to exempted the public from main hearings. These rights have not been granted to women victims of violence and domestic violence, especially in cases of criminal acts against HR and freedoms and criminal acts against life and body as stipulated in the Criminal Code.

*38. LCP should be amended in order to enable victims of domestic violence to enjoy the special rights that would protect them as vulnerable category of victims.*

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<sup>27</sup> Especially in relation to research centres that should accommodate a number of forensic inspectors from MOI. Also, there is no recording equipment for interrogation and court hearings, separate entries and premises for plaintiffs and defendants, etc.

<sup>28</sup> There are no lists of on-duty attorneys, free legal aid is inefficient, insufficient budget funds, etc.

**39. Recommendation 25:** Annual number of human trafficking victims identified by institutions is very low compared to data from the region<sup>29</sup>, which raises concerns about insufficient capacity at competent authorities to apply identification indicators. Moreover, this results in limited provision of law-guaranteed protection, support and re-integration for victims. According to current practices, services for human trafficking victims are mainly provided by civil society organizations, including, in particular, medical care, legal aid, education and re-training. State Centre for Victims of Human Trafficking, although established by the Ministry of Labour and Social Policy (MLSP), is provided little finances, while its operation is managed by 2 NGOs that contribute with own human and financial resources. Moreover, victims are denied the right to re-integration due to absence of institutionalized programs for re-integration targeting adult victims of human trafficking, whereas MLSP's program for re-integration of underage victims is not implemented and should be revised.

40. *Measures from the Strategy and Action Plan 2013-2016<sup>30</sup> should be actively implemented, especially in relation to identification and provision of free needs-based services for victims.*

**41. Recommendation 26:** From 2010 the criteria for appointment of judges<sup>31</sup> is constantly postponed. Given that new appointment criteria should be applied from 1.1.2013, the Judicial Council announced a vacancy call on 31.12.2012 pursuant to appointment criteria from the old law. Delayed enforcement of new criteria was abused to promote judges that decided cases with political background.<sup>32</sup> 5 of 13 judges appointed in the newly-established Higher Administrative Court (2011) maintain close relations with members of government and close relatives of investigative judges. In December 2012, B.R. (who graduated at the Faculty of Law in 2009 and passed the bar exam in 2011) was appointed for a member of the Judicial Council, although he does not fulfil the law-stipulated requirements. High number of judges sought protection from the European Court of Human Rights (ECHR) (V.D., J.M., S.P., T. I., etc.) because of unlawful dismissal on the grounds of politically-motivated dismissals.

42. *Law on the Judicial Council and Law-stipulated criteria on appointment and promotion of judges should be adherently applied. The Public Prosecution should act upon misuse of public office for interference and pressure over judges.*

**43. Recommendation 27:** Compared to 2009, situation at law enforcement agencies has improved; however, training for law-enforcement officers in 2012 was performed with delays. Regular training, partially financed by foreign donors, and organization's own funds, were delivered for police and judicial authorities. However, the State does not allocate funds for training of police, penitentiary and court officers. The MOI and Ministry of Justice continue to demonstrate uncooperative attitudes. Professionalization of law enforcement staff is still not on desired level, and citizens continue to make complaints and submissions.

44. *Training for police, penitentiary and court officers must continue in order to increase education on HR and improve their professionalism. In that, the State needs to financially support this process, and together with the civil society, it should be actively involved in training on law-enforcement staff's*

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<sup>29</sup> State Department report.

<sup>30</sup> National Strategy on Fight against Human Trafficking and Illegal Migration in Macedonia, available at: [http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/strategija\\_nap\\_mk\\_0.pdf](http://www.nacionalnakomisija.gov.mk/sites/default/files/prikachyvanja/strategija_nap_mk_0.pdf)

<sup>31</sup> A legal provision stipulating that judges in first-instance courts should be appointed only among graduates from the Academy of Judges and Public Prosecutors.

<sup>32</sup> President of the Basic Court (L.N.) was appointed President of the Supreme Court after having delivered court rulings in the cases "Ashes", "Brodec", "Agim Krasniki". "Jaka Tabak", "Izgreb". Judge from the organized crime department (V.P.) was appointed President of the Basic Court after having delivered court rulings in the cases "Ashes 2", "Viktorija", "Army Weapons". Judge L.C. was appointed judge in the Appeal Court, after serving as second judge in the case "Rover", and others.



*sensitization and education on human rights. Additional progress could be achieved if state and public authorities are more engaged in direct cooperation with civil society organizations that work in these fields.*

**45. Recommendations 28, 31 and 34:** (28) State Commission for Supervision over Penitentiary and Correctional Facilities is established only on paper. It is inactive and does not perform its competences. Hence, with the exception of the Ombudsman, there are no mechanisms for supervision over prisons and Directorate for Execution of Sanctions, whose recommendations and observations would be compulsory for the said institutions. (31) Law on Execution of Sanctions is not implemented in its entirety. Biggest problems identified in that regard include: inadequate hygiene at prisons, insufficient work activities for inmates, absence of any education programs for inmates, inmates are not allowed more than 1 hour per day outdoors, limited mail correspondence, inefficient legal services, failure to adopt several bylaws stemming from the Law, etc. (34) “Stop for Police Brutality” movement was established in 2011. It organized 40-days protests with participation of thousands of citizens demanding external supervision over the police and establishment of responsibility for Martin Neskovski’s death as a result of disproportional use of force. The ruling coalition rejected these demands. In 2012, all opposition parties in the Parliament motioned a proposal for Law on Police Ombudsman, but the parliamentary majority rejected it.

*46. New State Commission for Supervision over Penitentiary and Correctional Facilities should be immediately appointed and should be fully functional. There is an urgent need for organization of public and expert discussions on the most adequate form of external supervision over the police.*

**47. Recommendation 35:** In the last four years, Republic of Macedonia is marked by significant deterioration of freedom of expression, while the situation with media independence is alarming. Deteriorated situations have been duly stated in reports published by all relevant international institutions and organizations.<sup>33</sup> Macedonia has dropped 82 rank positions in the Reporters without Borders’ Index on Freedom of Expression. Reasons thereof include: (1) strong political and economic pressure on the media; (2) arbitrary closure of media outlets (closure of private *TV A1* and three daily newspapers); (3) enhanced political influence in the Broadcasting Council, by increasing the number of BC’s members from 9 to 15, all nominated by state institutions; (4) enormous number of defamation and libel lawsuits against journalists motioned by public office holders; (5) selective implementation of the Broadcasting Law, best demonstrated by withdrawal of *TV A2*’s license on the grounds of non-compliance with programme scheme; (6) violence against journalists goes by unsanctioned (on 24.12.2012, journalist were forcefully evicted from the parliament gallery and nobody was held responsible); (7) Public Broadcasting Service (PBS) has no institutional autonomy and sustainable financing system, while its editorial policy depends on the ruling parties; and (8) low professional standards in the media community.

*48. The State must secure conditions for the media community to establish a self-regulatory body and align media legislation with the international standards. A solution is needed for stabile financing of PBC. Judiciary must adherently apply the case-law of the ECHR and UN Committee on Human Rights.*

**49. Recommendation 36:** Orthodox Archbishopric of Ohrid (POA), close to Greek and Serbian Orthodox Churches, is trying to get registered from 2004. The State persistently rejects POA’s registration under the excuse that there is already one church that represents Orthodox Christians (i.e.,

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<sup>33</sup>Reporters without Borders: [http://fr.rsf.org/IMG/pdf/classement\\_2013\\_gb-bd.pdf](http://fr.rsf.org/IMG/pdf/classement_2013_gb-bd.pdf) page 4; Freedom House: <http://www.freedomhouse.org/sites/default/files/Global%20and%20regional%20tables.pdf> page 4; EU Commission Progress Report: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/mk\\_rapport\\_2012\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/mk_rapport_2012_en.pdf) page14; US Department of State <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#section2afreedom> Section 2/a.

Macedonian Orthodox Church). All applications for POA's registration as a church or religious group have been rejected. In 2011, its followers registered a NGO in order to obtain a status of legal entity. In 2012, as part of the police action "Schismatic", 19 POA monks and supporters were apprehended and are still tried for alleged money laundering by means of donations for the NGO. In 2007, an application was submitted to ECtHR requesting establishment of violation of POA followers' right to freedom of confession.

*50. The State must discontinue prosecution of POA followers and register this organization either as church or religious group.*

**51. Recommendation 37:** Government did not implement significant portion of 2011 OSCE/ODIHR and Venice Commission recommendations aimed to improve the electoral legislation. Mayors are directly elected, but municipal councillors are elected by means of a proportional system with closed lists, which denies the voters their right to express personal preferences. Insufficient transparency of political party election campaign financing continues to raise concerns. Serious claims were made that police and intelligence services are utterly politicized and turned into services of the ruling authorities, targeting the opposition and critically-minded people and organizations. Specifically, during 2013 local elections, state and public administration employees acted as political agitators, doctors agitated with patients, professors with students and parents, social workers with social allowance beneficiaries, public institutions were used for political campaigns, traveling costs were covered from state funds, indoor screens in public transportation broadcasted Prime Minister's speeches, etc.

*52. Following actions are needed: 1) to introduce measures on prevention of demographic interventions; 2) to amend the electoral legislation and introduce open lists of candidates; 3) to strengthen the legislation on political parties financing; 4) to restructure the composition of State Electoral Commission (SEC) and municipal election committees (MEC) into non-partisan and non-administrative bodies, 4) SEC, Public Prosecution and MOI to initiate ex officio procedures on allegations for election irregularities. .*

**53. Recommendation 38:** As rare critics of government policies that demote democracy and lead the State into isolation, human rights activists and organizations are subjected to discredits, pressures and attacks by the ruling party and pro-governmental media.<sup>34</sup> Public Prosecutor does not act upon criminal charges against pro-governmental journalists who attack human rights activists, and discriminate and persecute them because of their commitment for equality, for which the Criminal Code anticipates imprisonment sentence.

54. Recent amendments to the Criminal Code included a provision whereby sanctions for abuse of office applicable for public officers are now extended to cover NGO representatives. Furthermore, the Parliament adopted (in 2012) the third Lustration Law whose scope is extended to cover civil society.<sup>35</sup> The State did not introduce fiscal measures to stimulate civil society's economic activity and self-sustainability.

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<sup>34</sup> <http://www.youtube.com/watch?v=SrVGUz8YAec>;  
<http://www.vecer.com.mk/?ItemID=8C8FF95120F8574D97AEB41616CC4661>;  
<http://kurir.mk/makedonija/partii/114096-VMRO-DPMNE-Stavovite-na-Naumovski-se-stavovi-na-SDSM>;  
<http://www.plusinfo.mk/vest/95795/VMRO-DPMNE-TM-neka-kazhe-zoshto-SDSM-zel-kredit>;

<sup>35</sup> In spite of Constitutional Court's two consecutive decisions that establish State's excessive interference in civil society and violation of the right to association,

55. *The State should secure conditions for unhindered operation of NGOs and human right activists, by eliminating all direct and indirect obstacles. Public Prosecution should have an active role in creating an equality-based environment. The State should implement ECtHR's Radko v. RM judgment.*

**56. Recommendation 39:** Seven years from its adoption, provisions from the Broadcasting Law that should secure political independence of media are not formally applied. One media owner resigned his MP seat in order to avoid conflict of interest. Two media outlets with national concession changed their ownership structures in a controversial manner. Political parties corrupt media owners. This relation is established during all election cycles and implies almost free-of-charge political advertising, whereby advertising services are charged through various forms, such as non-transparent government advertisements and announcements. This results in: distorted media market; government is the biggest advertiser; most media outlets are politicized and unprofessional; social insecurity of journalists and self-censorship. Public Broadcasting Service (PBS) demonstrates serious deviations from its law-stipulated function in society. Instead of promoting public interest, PBS advocates for and imposes government's views and positions. Share of direct budget funds in PBS' revenue is still high (one quarter) and creates problematic financial link between the State and PBS, undermining its independence and autonomy.

57. *Broadcasting Law should be adherently implemented. Government advertising in the media must be transparent and based on clear criteria. Electoral Code should be amended in order to prohibit media donations for political parties. Law on Labour Relations must be adherently implemented. A solution is needed for PBS financing in a manner that would prevent political influence through state funds.*

**58. Recommendation 40:** Ministry of Labour and Social Policy's efforts to increase the number of Roma children in pre-school institutions are insufficient and risk discontinuation of such support upon the donor completion of the project. The support system for underachieving children is not contributing to students' retention and transition in the education system. 2009 and 2011 legal provisions on mandatory additional instruction did not yield the expected results. A recent research<sup>36</sup> showed that additional instruction is attended by students in expectation of a passing mark, while teachers lower their criteria for these students.<sup>37</sup> Moreover, child labour is tolerated (work on stands, season work, waste collection) in the name of "understanding cultural specificities". Although these children are enrolled in schools, they do not attend and/or are minimally involved in classes, further enhancing their segregation and stigmatization.

59. Despite trends on increased number of Roma students with completed education, there are still children who drop out and/or are outside the education system. Although the legislation allows dropped-out students to return in the education system, there are no systemic and financial measures in place to support their "second chance". Season work at the beginning and end of school year and temporary migration of Roma leads to long absences from school. Another trend among Roma that coincides with the visa liberalization is migration to Western European countries. Both trends had negative effects on coverage and grade completion rate among Roma students.

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<sup>36</sup> Implemented in 2012 by the Foundation Open Society – Macedonia, "Education for Underachieving Students: Implementation and Effects of Mandatory Additional Instruction" (author: Ognen Spasovski)

<sup>37</sup> Research showed that teachers at schools with significant number of Roma students more frequently indicated *very often* or *often* in response to the question inquiring about adjusting assessment of students who attend additional instruction (84.8%), compared to teachers at schools without significant number of Roma students (72.8%). Moreover, it was noted that several schools draft the lists of students for additional instruction prior to school year's start, although teachers were unable to assess whether students would underachieve in learning. Such occurrences are indicative of the fact that certain children are stigmatized and from school year's onset are "condemned" to underachievement.

*60. Specific measures and policies are needed, accompanied with relevant budget allocations enabling greater coverage of children in pre-school institutions, especially among Roma, Turks, poor, girls, rural children. The measures should include relevant training programs for teachers. The State must make additional efforts and establish mechanisms for facilitating access to education during temporary/seasons work of their parents.*