

# **UNITED NATIONS CHILDREN'S FUND**

former Yugoslav Republic of Macedonia

Report to the second cycle of Universal Periodic Review (UPR) of the Human Rights Council

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This report was prepared for the purposes of informing the second Universal Periodic Review UPR) for the former Yugoslav Republic of Macedonia that will be conducted by the Human Rights Council (HRC), a subsidiary organ of the General Assembly established with the adoption of resolution 60/251. In accordance with the objectives of the UPR, UNICEF provides unbiased and truthful information in its area of expertise and competence. UNICEF's primary concern is the fulfilment and realization of all child rights in accordance with the Convention on the Rights of Children, the first legally binding international instrument to incorporate the full range of human rights—civil, cultural, economic, political and social rights.



## LIST OF ABBREVIATIONS

CRC CONVENTION ON THE RIGHTS OF THE CHILD

CSW CENTRE FOR SOCIAL WORK

ECD EARLY CHILDHOOD DEVELOPMENT

ECHR EUROPEAN CONVENTION ON HUMAN RIGHTS

ECTHR EUROPEAN COURT OF HUMAN RIGHTS

ELDS EARLY LEARNING AND DEVELOPMENT STANDARDS

HEALTH - CHILDREN AND YOUTH

ICF-CY INTERNATIONAL CLASSIFICATION OF FUNCTIONING, DISABILITY AND

JJ JUVENILE JUSTICE

MICS MULTIPLE INDICATOR CLUSTER SURVEY

MISA MINISTRY OF INFORMATION SOCIETY AND ADMINISTRATION

MOE MINISTRY OF EDUCATION MOH MINISTRY OF HEALTH

MOLSP MINISTRY OF LABOUR AND SOCIAL POLICY NCRC NATIONAL CHILD RIGHTS COMMISSION



#### I. BACKGROUND AND FRAMEWORK

### A. Scope of International Obligation

The State's commitment to human-rights is reflected in the fact that the former Yugoslav Republic of Macedonia is a signatory to most international human rights treaties, including the UN Convention on the Rights of the Child and the Convention on Elimination of all forms of Discrimination against Women<sup>i</sup>; as well as the European Social Charter. In 2011 it ratified the UN Convention on the Rights of Persons with Disabilities and the corresponding Optional Protocol. In May 2012, the country signed the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, which is yet to be ratified.

However, according to the US State Department's 2012 Country Reports on Human Rights Practices<sup>ii</sup> the government's failure to fully respect the rule of law is reflected in significant levels of corruption. Other problems noted include tensions between ethnic Macedonian and Albanian communities; societal discrimination against Roma, women and persons with disability; overcrowding in prisons; domestic violence; and trafficking in persons. The 2012 EC Country Progress Report<sup>iii</sup> also noted limited progress in the promotion and enforcement of human rights and identified uneven implementation of the legal framework as the major problem. In 2012 the European Court of Human Rights (ECtHR) delivered eight judgements finding that Macedonia had violated rights guaranteed by the European Convention on Human Rights (ECHR). A total of 374 new applications allocated to a decision body have been made to the ECtHR since October 2010. By September 2011, 1,111 allocated applications regarding the former Yugoslav Republic of Macedonia were pending before the ECtHR.

### B. Constitutional and legislative framework

The Constitution defines the state as a democratic and social state. Political representatives are elected through free and fair elections. The rights of citizens as defined in Chapter II, which states that all citizens enjoy equal freedoms regardless of gender, race, skin colour, national or social background, political or religious belief, and social and economic conditions. This Chapter defines a broad range of civil, political and cultural rights as defined through international and domestic legal instruments.

### C. Institutional and human rights infrastructure and policy measures

The National Child Rights Commission (NCRC) established in 2007 with the mandate of monitoring and reporting on the implementation of the National Action Plan for Children (2006-2015), as well as the Convention on the Rights of the Child (CRC), remains an, under-resourced body which has not yet met its full potential. The body lacks a dedicated budget and a permanent secretariat, both of which are among the ingredients which would improve the ability of the NCRC to fully meet the intended mandate.

As of 2009, a Parliamentary Working Group on Child Rights was established. It functions with its limited mandate to monitor child rights related legislation and to undertake further activities to raise awareness about child rights issues. The Working Group has committed to follow-up on conditions in the juvenile correctional facilities in the country following two rounds of monitoring by MPs and the adoption of conclusions and recommendations. This is a practice that should continue and extend to other areas, such as health and education facilities for children, strengthening the oversight role of Parliament.

The Ombudsman's Office has established a separate department for the protection of the rights of children. Further efforts are needed to raise awareness about the role of the Ombudsman for children,



as well as to strengthen the organization financially and administratively to be able to effectively deal with reported child rights violations.

#### II. COOPERATION WITH HUMAN RIGHTS MECHANISMS

### A. Cooperation with treaty bodies

The country submitted its second period report to the Committee on the Rights of the Child for 54<sup>th</sup> session in May 2010, based upon which the Committee issued concluding observations indicating the progress made from the first periodic report, and recommendations for actions to be taken to ensure full compliance with the CRC.

# III. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS, TAKING INTO ACCOUNT APPLICABLE INTERNATIONAL HUMANITARIAN LAW

### A. Equality and Non Discrimination

New anti-discrimination legislation was introduced in 2010. A Commission for Protection against Discrimination has been established and has started to act on the complaints submitted. However, there are still gaps and the capacities of the Commission need to be strengthened.

In the area of education, discriminatory practices lead to incidences of non-acceptance of children with disabilities in the regular schools because of discriminatory practices of parents of other children as well as teachers. There is a legislative framework in place to prevent such occurrences; however its implementation is weak. Roma children are over-represented in Special Schools, which has been cited as evidence of discriminatory practices towards this community, as well as of systemic incentives that encourage parents of Roma children to send them to special rather than regular schools.

There is evidence of discrimination when applying for and receiving of social benefits. UNICEF's study on "Strengthening Social Protection for Children" generates evidence that such discriminatory practices are mainly directed towards Roma, but in different circumstances other ethnicities such as Albanian and/or Macedonian are affected.

Discrimination against Roma persists, including continued stereotyping in the media and in social networks on the internet. They are the country's most disadvantaged and most vulnerable minority.

### B. Administration of justice, including impunity, and the rule of law

According to the CRC Concluding Observations, the major barrier to full realisation of children's rights is weak enforcement of legislation and poor implementation of policy. New legislation was developed and adopted at a very fast pace and over the last few years, several child-related legal reforms were initiated. A new Juvenile Justice Law was adopted in 2007. Juvenile justice professionals from all relevant institutions have benefited from comprehensive training and collection of statistical data on juvenile justice has improved. The court data collection system (ACCMIS) was changed and introduced an indicator to collect data on child victims, mediation, alternative measures. An assessment of the secondary legislation for children victims of violence is on-going and new by-laws regulating violence of children will be completed this year. The primary legal framework is in place; its implementation is being hindered by the lack of secondary legislation targeting child victims. This includes by-laws, standards, and procedures that should regulate proceedings for dealing with

<sup>&</sup>lt;sup>1</sup> "Strengthening Social Protection for Children – Country Report: Analysis and recommendations for a more equitable and efficient child benefit system" UNICEF, 2013, p. 21



child victims, as well as guidelines to define the roles and responsibilities of different professionals who work/come into contact with these children.

However, a 2011 gap analysis<sup>iv</sup> of the normative framework for juvenile justice concluded that, while laws and policies have brought the Macedonian juvenile justice system into line with international standards, there continues to be difficulty in implementation due to lack of capacity within the system and poor harmonization between the Juvenile Justice (JJ) law and other legislation. There is an urgent need to codify all provisions concerning juveniles (including execution of sanctions), because continuous legislative amendments not only provoke confusion and instability, but they also demand a continuous training for proper implementation of provisions. While eleven municipal councils for the prevention of juvenile delinquency have been set up, they remain underfunded and understaffed, and leadership and coordination of the reform process needs to be strengthened.

The situation in detention and correctional facilities in the country still requires upgrading and the European Commission also noted in their 2012 Country Progress Report (CPR) that the situation in the educational-correctional facility in the town of Veles remains a matter of serious concern, in particular with regard to the treatment of juveniles in the closed wing, provision of external healthcare, education and rehabilitation services.

Free legal aid is not provided to children in conflict with the law, although it is mandatory. Child-friendly procedures are not consistently practiced for children victim of violence and child witnesses. They are often revictimized by being asked to give testimony more than twice. (the JJ law gives limit of two interviews maximum for the whole procedure). Prevention, rehabilitation and re-socialization services to victims in the course and after the judicial process are scarce and limited to Centre for Social Work interventions.

### C. Right to Privacy, marriage and family life

Official data on children without parental care is ambiguous and contradictory, with different statistics quoted within the same documents, so figures can only be indicative at best. A new data collection system was established in all Centres for Social Work and it is operational as of 2012. For the first time the country will be able to generate accurate and reliable data on social services. Given the relatively recent introduction of the system CSWs are not consistently using it.

The process of de- institutionalization (DI) has been on hold. However, the government has recently pledged to accelerate the DI process. UNICEF remains concerned that the approach as conceived in the country is piecemeal and not the necessary holistic approach focusing on the system as a whole. Greater focus should be placed on prevention of baby abandonment, introducing stronger gate-keeping mechanisms, strengthening community based services and expanding foster care. Whatever model of care is put in place has to address a range of issues - the need for improved strategic and operational planning, resource allocation and accountability; standard setting, registration, certification and inspection of professionals and services; management, monitoring and reviewing systems and mechanisms; motivation and support of care teams and carers; and above all, facilitating the child's own input into the decision-making process.

As a result of recent reforms (introduction of electronic selection system, deadlines for the adoption procedure and assessment frameworks for the adoptive parents and children), the adoption process is now simpler and more transparent, and assessment programmes for children and parents in the adoption process are in place.

### D. Right to social security and adequate standards of living

The prevailing economic conditions in the country remain unfavourable with moderate growth projections for 2012 (approx. 2%). This is insufficient to make significant impact on the high levels of poverty (30.4%) and

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unemployment (30.6%)<sup>2</sup>. Limited growth of fiscal space is one of the reasons funding allocations to the social sectors that are essential to ensure access to quality social services for children, particularly for the most marginalized, continue to diminish.

Children experience all forms of poverty more acutely than adults because of their vulnerability, and because lost opportunities in childhood often cannot be regained later in life.<sup>3</sup> The State Statistical office (SSO) places the official poverty threshold line at 70% of median equivalent expenditure. According to its latest published report on poverty, the official poverty rate in the country in 2011 was 30.4%, a 0.5% points decrease compared to 2010

According to the Constitution, the state provides for the social protection and social security of citizens in accordance with the principle of social justice. According to the Programme for Child Protection, 182 the following financial benefits are to be provided in accordance with the rights of children to social welfare support: the right to a child allowance; the right to a special allowance; the right to a one-off provision of financial assistance for a newborn; and financial assistance and parental allowance for the third and fourth child.

New data suggests that social transfers (excluding pensions) make a very small difference to the overall poverty levels. While pre-transfer poverty rates (EU method – see below) are estimated at 42.8%, after pensions the levels are brought down to 30.5%, and if we add the social transfers the level decreases by only 3.2% points.<sup>4</sup>

UNICEF conducted an assessment of the child benefits system in the country to determine its effectiveness and efficiency in reaching the poorest and thereby alleviating poverty. In absence of a universal child allowance, influencing child poverty is done through targeted allowances that have a limited impact. For example, only 1 in 5 children from the poorest quintile receive child allowances, and it only represents around a quarter of their already meager income, which is an indication of its inadequacy.<sup>5</sup>

A robust data collection system in the Centres for Social Work (LIRIKUS) containing information on social service beneficiaries is now in place and mandatory for use for data collection by Centres for Social Work. Currently it is being connected with the social benefits database which is expected to improve the effectiveness of the system. Also, the State Statistical Office is amending its data collection forms based on the data received from LIRIKUS. The system if fully managed by the Ministry of Labour and Social Policy (MoSLP) and there is high level of commitment from the MoLSP to the data collection.

### E. Right to health

Despite good progress in reducing **infant mortality** rate from 11.7 in 2009 down to 7.5 in 2011, 30% increase is noted in 2012, with infant mortality rate at 9.7<sup>6</sup>. Disparities continue to persist among different ethnic communities. Roma and Albanian children have 25% higher infant mortality<sup>7</sup>. This child indicator is almost 2.5 times higher than average in the EU, which is set at 4/1000.8 Limited progress made in determining and addressing causes of infant mortality. At the initiative of the Ministry of Health, a mid-term review of the National Safe Motherhood Strategy (2010-2015) is scheduled for June, 2013. This process is envisaged to mobilize institutions and national experts with the purpose to sharpen the focus of the national efforts in reducing child and infant mortality, and make adjustments to accelerate further progress, in particular for the most disadvantaged children. As part of this process, review of major causes of mortality in children will be performed.

<sup>&</sup>lt;sup>2</sup> State Statistical Office, unemployment (http://www.stat.gov.mk/pdf/2013/2.1.13.04.pdf) and poverty (http://www.stat.gov.mk/pdf/2012/4.1.12.50.pdf)

<sup>&</sup>lt;sup>3</sup> "Child Poverty Study in fyr Macedonia" UNCICEF, 2008, p.8

<sup>&</sup>lt;sup>4</sup> State Statistical Office News Release No. 4.1.12.83, 05/11/2012, available at: http://www.stat.gov.mk/pdf/2012/4.1.12.83.pdf
5 "Strengthening Social Protection for Children", UNICEF 2013, p. ii

<sup>&</sup>lt;sup>6</sup> State Statistical Office 2013, available at: <a href="http://www.stat.gov.mk/PrikaziSoopstenie.aspx?id=9&rbr=958">http://www.stat.gov.mk/PrikaziSoopstenie.aspx?id=9&rbr=958</a>;

<sup>&</sup>lt;sup>7</sup> Institute for Mother and Child Health, Health Situation of Women and Children, 2011;

<sup>8</sup> http://data.euro.who.int/hfadb/tables/tableA.php?w=1024&h=768 (accessed date, 03 April, 2013);



Child nutrition indicators have gradually improved during the past decade. The prevalence of **anaemia** and under nutrition among children <5 has decreased from 26% in 2004 to 22% in 2011<sup>9</sup>, and the prevalence of **stunting** has dropped from 8.7% in 2005 down to 5% in 2012. Stunting among Roma children has not progressed since 2005 and it is set at 16.5% in 2012, which is 3 times higher than national average. Stunting in children is important indicator that constrains physical and cognitive development of children and their later performance and inclusion in pre-school and school education. This condition also place children at risk for early development of chronic diseases<sup>11</sup>. There has been **limited progress made in the area of nutrition**. The National strategy to improve the nutrition status of women and children in the country was endorsed by the professional medical associations. However, the fiscal implications of the strategy should be endorsed by the government, along with onset of key strategic interventions. Limited progress and significant disparities based on ethnic background and place of residence continue to persist and affect proper growth and development of children, particularly Roma.

Planning, budgeting and implementation of the public health programmes pertinent to mother and child health should be improved at both at national and local level. According to the annual report of the State Audit Office this process hampers realization of basic health rights guaranteed with the constitution of the country. Some major weaknesses identified are the following:: i) lack of accountability of public health institutions (recipients of the programme funds) in accurate and timely reporting for completion of the assigned activities; ii) unrealistic budget planning and budget execution, without proper monitoring mechanism established by the Ministry of Health and the Health Insurance Fund; iii) inadequate public procurement procedures; and iv) poor management of medical stocks, especially for vaccines, which affects the efficiency of the immunization programme<sup>12</sup>. Service delivery for most vulnerable families and children is also constrained due to weak management of public health programmes pertinent to mother and child health care. This affects delivery of an essential package of services (covering antenatal and new-born care) provided through the community nurses and targeting 9,000 socially deprived families, out of which 2,500 are Roma.

Progress can be noted concerning modernization and improved management of public health programmes through introduction of evidence-based and long-term planning process. The rationale behind this was to help modernize national public health programmes, account for regional and local health disparities, address weak management capacities of the public health administration, in the context of decreasing portfolio of funding both from the government and the international partners. In this context, the Ministry of Health developed national guidelines for management of public health programmes along with corresponding management software for planning, budgeting, monitoring and reporting on programme activities as part of the Government Health Information System. Full application of the management software at all levels should take place in 2013.

Access to and quality of basic health services still remains a challenge for the health sector, especially for children with disabilities. Despite good indicators for coverage and utilization of child health services at the national level, access to adequate and holistic community health care remains a problem for children with developmental difficulties and for socially vulnerable groups. In this regard, community nursing system ("patronage nurses") remains largely unutilized potential to serve as the most powerful "equalizer" in the health system. Unavailability and inadequate utilization of counselling centres for children with developmental risks and developmental delays prevents early detection and proper care and developmental stimulation of children. Home visiting care is unevenly distributed throughout the country and has no capacity for early detection and care of children with developmental risks and difficulties. Lack of knowledge by parents also contributes to poor service utilization<sup>13</sup>

<sup>&</sup>lt;sup>9</sup> http://www.unicef.org/tfyrmacedonia/NutritionSurveyENG(1).pdf (accessed date, 03 April, 2013);

<sup>&</sup>lt;sup>10</sup> MICS. Multiple Indicator Cluster Survey, MoH, MISP, MoE, 2012 (in print);

<sup>11</sup> http://www.unicef.org/tfyrmacedonia/NutritionSurveyENG(1).pdf (accessed date, 03 April, 2013);

<sup>&</sup>lt;sup>12</sup> State Audit Office, 2012 (dzr.mk, accessed date 20 November, 2012);

<sup>&</sup>lt;sup>13</sup> Community Nursing Assessment, UNICEF/Ministry of Health (2012);



### F. Right to Education

The right to education is guaranteed for all in the Constitution. Primary and secondary education are provided universally and are mandatory and free of charge. There is increasing awareness of the importance of education among the Roma population. Despite the visible progress however, there are still discrepancies between the primary school enrolment rates among Roma (86%) and the national average which is close to 100%. Secondary school national attendance rates are 84% for boys and 81% for girls. The rates among Roma are 42% and 35% respectively. Similarly, while 85% of Albanian boys attend secondary school, only 68% of Albanian girls do.

The literacy rate among Roma women is of particular concern since it is a key factor influencing mother and child health and later children's educational performance, and thus breaking inter-generational cycles of poverty. So it is disappointing to note that later MICS4 data indicates a slight fall in literacy among women aged 15-24, from 99 per cent in 2002 to 97 per cent in 2011 (100% for Macedonians; 97% for Albanians; and 77% for Roma); and that only one in two Roma women aged 15-24 living in the poorest households are able to read.

Pre-school education is not, however, free of charge and pre-school coverage rates continue to be low. 22% of pre-school aged children attend a form of pre-school education. That percentage is 3% among Albanian children and 4% among Roma children. Similarly, in urban areas pre-school attendance rates are 37% while in rural settings only 6%. The current system of **financing of the Early Childhood Development sector** remains one of the key obstacles for ensuring universal access especially in rural and marginalized communities. Nevertheless, progress has been made with the recent (February 2013) adoption of ECD Law which has introduced diversified ECD service provision both in terms of service providers and in terms of types of programmes provided, ensuring quality of services through licencing of ECD staff and their continued professional development, strengthened role of the inspection, focus on child outcomes, record keeping and child/staff portfolio based on Early Learning and Development Standards (ELDS).

In Education, more should be done by Government and donors in terms of **ensuring the most vulnerable have access to quality education,** as has been reported in various events and documents of Roma Decade Action Plans and OFA Action Plan. However, the debate around reaching out to the most marginalized children<sup>14</sup>, inclusion in the classroom and overall quality of education in the country is intensifying.

Also the first Parents Resource Center for parents of children with disability is now established. Linked to the previously discussed access to education for children with disabilities (see III.A), it is important to mention that schools lack adequate equipment to accommodate children with disabilities, such as ramps, elevators or other physical requirements to enable easy access of children with disabilities. Schools are becoming increasingly aware of this need, which is a positive development, however greater investment in infrastructure, and enabling the use of resources (staff and equipment) available in special schools in regular schools should be introduced. Finally, teachers frequently lack the skills necessary to work with children with special needs, while the number of schools with school inclusion teams in support to children with special education needs (SEN) is limited.

In terms of inter-ethnic relations in education, the trend of increasing separation by ethnicity in schools and in municipalities continues. The activities aimed at inter-ethnic integration are primarily supported by the donors (Norwegian Government and USAID). There is still the need to enhance coordination around a system-wide approach.

### G. Persons with disabilities

<sup>&</sup>lt;sup>14</sup> Evaluation of CCT uptake in secondary education shows that less than 50 per cent of eligible Roma receive CCT among other reasons because of not completing primary education

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Speaking of data on children with disabilities, the most important information – total number of children with disabilities, with details on types of disabilities – is missing. There is no institution responsible for collection of such data, nor is any budget allocated for it.

The categorization of persons with disabilities is a major gap in the system because it forms the basis for realization of the rights of persons with disabilities. The existing categorization commissions concentrate on fulfilling their immediate responsibility of sorting children into pre-determined categories and severity levels as defined by the rulebook. Sorting people into fixed groups according to type and severity of impairment clearly does not provide the flexibility to acknowledge that a person might be severely limited in their mobility, but fully able to participate once the barriers that hinders participation are taken away. Therefore, the different aspects of what a specific disability may mean with regards to education, transport, housing, work or other policy domains have to be considered relative to the requirements for participation in those settings.

Currently, children are sent to the commission for categorisation where they are assessed and tested in one location for a few hours and emerge from this event as being categorised according to type of disability and severity. That being said, there is on-going process to change the system for categorization of children with disabilities and commitment from the MoLSP to change the model. UNICEF is promoting the use of International Classification of Functioning, Disability and Health – Children and Youth (ICF-CY) as a platform which integrates the medical and social models of inclusion and is to be used as a guide for holistic and interdisciplinary approaches to assessment and intervention. ICF-CY promotes the teacher as the leader of the learning and education process, while ensuring inclusion teachers need support from other experts. ICF-CY is being introduced in the work of the Commission for Categorization which is of high importance given the functioning of this commission in the past as a factor of segregation of Roma children in special schools.

Centres for Social Work are the only entry points to identify disability and as a consequence to receive additional resources for families in need Centres for Social Work have many responsibilities beyond evaluating the findings and opinions of the commission, but also in passing judgment as to the adequacy of the opinions and in developing an individual plan. Overloaded with administrative work which takes up most of their staff's time, CSWs struggle to fulfil their role. The current responsibilities of the Centre for Social Work therefore need to be reconsidered.

Access to and quality of **basic health services** still remains a challenge for the health sector, especially for children with disabilities. Despite good indicators for coverage and utilization of child health services at the national level, access to adequate and holistic community health care remains a problem for children with developmental difficulties and for socially vulnerable groups

There is some progress achieved at system level in terms of **inclusive education** for children with disabilities: in-service teacher training programme on inclusive education has been developed and national trainers have been trained. The roll out training to schools will be initiated in the second half of 2013.

Currently the MoLSP with UNICEF support is working on reform of the categorization process and introducing the social model of classification based on the International Framework for Classification of Disability.

Currently there are 23 day-care centres for children with disabilities. The MoLSP gradually over the years increased the number of DCC and each year is opening new DCC. The centres are fully managed and funded by the MOLSP.

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<sup>&</sup>lt;sup>i</sup> See *Universal Periodic Review Midterm Report of the Republic of Macedonia on Progress in Implementing Recommendations* 2009 – 2011 for a complete update on the status of international treaties in FYROM.

ii US State Department Country Reports on Human Rights Practice; FYROM, Washington, 2012

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iii EC, CPR 2012 op cit iv Sykiotou A.P. Improvement of the Justice for Children Normative Framework: Legal Gap Analysis PRI/UNICEF/EC, Skopje 2011