

Council of Europe contribution for the 32nd UPR session (October-November 2019) regarding FYROM

Contents

<i>Prevention of torture (CPT).....</i>	<i>2</i>
<i>Council of Europe Commissioner for Human Rights</i>	<i>3</i>
<i>Fight against racism and intolerance (ECRI).....</i>	<i>5</i>
<i>Protection of minorities</i>	<i>5</i>
<i>Framework Convention for the Protection of National Minorities</i>	<i>5</i>
<i>European Charter for Regional or Minority Languages.....</i>	<i>5</i>
<i>Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM)</i>	<i>6</i>
<i>Action against trafficking in human beings (GRETA).....</i>	<i>6</i>
<i>Preventing and combating violence against women and domestic violence</i>	<i>7</i>
<i>Protection of children against sexual abuse (Lanzarote Convention).....</i>	<i>8</i>
<i>Fight against corruption (GRECO).....</i>	<i>9</i>
<i>Execution of judgments and decisions of the European Court of Human Rights.....</i>	<i>9</i>
<i>Statistical data</i>	<i>9</i>
<i>Main cases / groups of cases under the Committee of Ministers' supervision</i>	<i>10</i>
<i>Social and Economic Rights (ECSR)</i>	<i>10</i>
<i>Venice Commission</i>	<i>10</i>
<i>Protection against discrimination, protection of privacy</i>	<i>11</i>
<i>Judiciary.....</i>	<i>11</i>
<i>Elections</i>	<i>11</i>

Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

2016 ad hoc visit

The CPT's report: <http://rm.coe.int/pdf/168075d656>



168075d656.pdf

The Government's response: <http://rm.coe.int/pdf/168075d657>



168075d657.pdf

News flash on the publication of the report and response for a brief summary:

<https://www.coe.int/en/web/cpt/-/cpt-publishes-highly-critical-report-on-prisons-in-the-former-yugoslav-republic-of-macedonia->

2014 periodic visit

The CPT's report: <http://rm.coe.int/doc/09000016806974f0>



16806974f0.pdf

Executive summary of the report: <http://rm.coe.int/doc/090000168069d27f>



168069d27f.pdf

The Government's response: <http://rm.coe.int/doc/09000016806974f1>



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News flash on the publication of the report and response for a brief summary:

<https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-report-on-the-former-yugoslav-republic-of-macedoni-6>

Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

The Commissioner carried out a [visit](#) to “the former Yugoslav Republic of Macedonia” between 26 and 29 November 2012. In the subsequent [report](#), published in April 2013, he covered issues pertaining to transitional justice and social cohesion, and the human rights of Roma.

With regard to **social cohesion**, the Commissioner observed that, despite progress in implementing the Ohrid Framework Peace Agreement, Macedonian society remained deeply divided along ethnic lines. The Commissioner recommended that the authorities enhance measures to foster interethnic and intercultural integration, and called on political actors to strongly condemn violent inter-ethnic incidents such as the ones that occurred in the first half of that year (2012). He stressed the specific role and responsibility of the media in promoting inter-ethnic tolerance. The Commissioner furthermore expressed concern about segregation of pupils in public education along language (and hence ethnic) lines, and encouraged the authorities to work toward integrated and multilingual education. As to **transitional justice**, the Commissioner observed that, arguably, the continued impunity for gross violations of human rights or serious violations of international humanitarian law committed during the 2001 conflict was hindering social cohesion and reconciliation in the country. He recalled the principle that amnesties should not be applied to gross human rights violations, and urged the authorities to ensure accountability for serious crimes committed during the 2001 conflict, to clarify the fate of those still missing, and to ratify the UN Convention on the Non-applicability of Statutory Limitations to Crimes against Humanity and War Crimes. In addition, the Commissioner expressed concerns about the proportionality and constitutionality of the lustration process that was underway at the time of the visit, and stressed that lustration should never be used for political or personal purposes.

On the human rights of **Roma**, the Commissioner expressed concerns about the overrepresentation of Roma children in special-needs schools and urged the authorities to ensure equal access to the mainstream education system and teaching assistants where needed. The Commissioner observed that exit control measures involving ethnic profiling of Roma interfered with their freedom to leave a country and the right to seek asylum in other countries, and urged the authorities to immediately end this practice. This finding led to the publication by the Commissioner for human rights of an issue paper on “[The Right to Leave a country](#)”. The Commissioner called on the authorities to continue their efforts to resolve the problem of statelessness among the Roma community, which often originates from a lack of birth registration and the ensuing obstacles for obtaining identity documents. Finally, the Commissioner welcomed the assistance provided to Kosovo¹ Roma refugees, and called on the authorities to resolve issues pertaining to their legal status so as to enable full and effective local integration of those who cannot or do not wish to return.

In 2015, the Commissioner issued two Facebook statements related to **media freedom** in “the former Yugoslav Republic of Macedonia”. The first [one](#) raised concerns about allegations of mass unauthorised surveillance of journalists in the country. In the [second](#), the Commissioner expressed

¹ All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

solidarity with journalist Borjan Jovanovski who had received death threats, and called on the authorities to restore a safe and serene climate for the media to work freely.

In 2017, the Commissioner published a [human rights comment](#) regretting that reconciliation is stalled in the Western Balkans, in which he mentioned “the former Yugoslav Republic of Macedonia” in relation to the application of amnesty for serious human rights violations committed during the 2001 conflict, as well as the ethnic segregation in education.

From 29 January to 2 February 2018, the Commissioner conducted a follow-up visit to “the former Yugoslav Republic of Macedonia”, with a particular focus on **inclusive education (between ethnic groups and for children with disabilities) and social cohesion**. In the [press release](#) that followed the visit, the Commissioner regretted that separation between ethnic communities continued and may even have increased since his previous visit. He called on the authorities to urgently adopt an integration strategy, and implement policies to encourage interaction and social cohesion while protecting diversity. In the field of education specifically, the Commissioner called on the authorities to reform the education system to ensure interaction between children of various ethnic groups, and opportunities for all children to learn languages at an early age, in particular the Macedonian language for all children and Albanian and other non-majority languages in areas where such communities live in significant numbers. The Commissioner encouraged the authorities to increase their efforts to include **children with disabilities** in regular schools and regular classes. He welcomed measures to re-evaluate **Roma children** who may have been wrongly directly to special-needs schools.

The Commissioner welcomed proposed amendments to the **law against discrimination** that would extend the list of grounds of discrimination to include sexual orientation and gender identity and strengthen the functioning of the Commission for the Protection against Discrimination. He welcomed progress towards the establishment of a **Police Oversight Mechanism** to safeguard against police violence. He called on the authorities to deal more effectively with human rights violations at the borders, such as **pushbacks and trafficking** of migrants and asylum seekers. The Commissioner welcomed efforts to eliminate ethnic profiling of **Roma** at the borders but called on the authorities to better support the reintegration of Roma returned from third countries. The Commissioner stressed the importance of effectively investigating and prosecuting **hate crimes**, including against journalists and LGBTI people. Finally, he welcomed the government’s commitment to move forward with **de-institutionalisation of persons with disabilities**.

Overall, the Commissioner noted that this visit was taking place in the context of an improved climate for human rights and urged the Macedonian authorities to seize the moment to achieve real changes to enable the enjoyment of human rights by all.



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Fight against racism and intolerance (ECRI)

The European Commission against Racism and Intolerance ([ECRI](#)) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. 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.

As part of ECRI’s ongoing country monitoring work, ECRI adopted its Fifth report on “the former Yugoslav Republic of Macedonia” on 18 March 2016:

https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Former_Yugoslav_Republic_Macedonia/MKD-CbC-V-2016-021-ENG.pdf



MKD-CbC-V-2016-02
1-ENG.pdf

Protection of minorities

Framework Convention for the Protection of National Minorities

The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

The Advisory Committee on the Framework Convention adopted the 4th Opinion in respect of “The former Yugoslav Republic of Macedonia” on 24 February 2016

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806d23e3>



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The CM Resolution on “The former Yugoslav Republic of Macedonia” is pending.

European Charter for Regional or Minority Languages

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals. A committee of independent experts examines the

state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

Ad hoc Committee of Experts on Roma and Traveller Issues (CAHROM)

Following the High-Level meeting, intergovernmental work on Roma issues has been upgraded: on 16 February 2011 the Ministers Deputies adopted terms of reference for a new Committee of Experts (CAHROM) to be answerable directly to the Committee of Ministers. The [terms of reference](#) - which have been renewed by the Ministers Deputies for the years 2018-2019 - place emphasis on the analysis and evaluation of the implementation of national policies and thematic exchanges of experience and good practices. European Union institutions, international organisations, the European Roma and Travellers Forum and other relevant (Roma and Traveller) organisations are associated as observers to the CAHROM.

“The former Yugoslav Republic of Macedonia” is the most active country regarding participation in CAHROM thematic visits which are peer-to-peer experts meeting aimed at exchanging experience and good practices on specific topics relevant to national Roma integration strategies/policies. Since 2012 the country hosted a thematic visit devoted to the Social housing for Roma and participated in 10 others visits, namely: Social housing for Roma and legalization of Roma settlements and houses, Solving the legal status of Roma from ex-Yugoslavia and their lack of personal identity documents, Inclusive pre-school education for Roma children, Roma health mediators, Vocational training/education for Roma, Testing systems and diagnoses for Roma children with allegedly mild mental disabilities, Roma mediation (with a focus on school mediators/assistants), Challenges and best practices in implementing Roma inclusion strategies (including mechanism for solving personal identification documents and improving access to social services), Roma access to employment (with a focus on Roma women and youth) and confirmed its participation in forthcoming (November 2018) visit on Solving the lack of identity documents and statelessness (all together – 11 thematic visits). Endorsed reports of above mentioned CAHROM thematic visits are available at: www.coe.int/cahrom

Action against trafficking in human beings (GRETA)

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in

particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

GRETA's page on "the former Yugoslav Republic of Macedonia":

<http://www.coe.int/en/web/anti-human-trafficking/-the-former-yugoslav-republic-of-macedonia->

In the context of the 2nd evaluation round, the following documents are available on "the former Yugoslav Republic of Macedonia":

- [GRETA's Report and Government's Comments](#), published 21 February 2018
- [Recommendation of the Committee of the Parties](#), adopted 9 February 2018
- [Government's Reply to GRETA's 2nd Questionnaire](#), published 27 January 2017
 - [Appendix 3](#) (all other appendices appear in the Government's Reply, or are only available in Macedonian)
 - [Appendix 6](#)
 - [Appendix 9](#)
 - [Appendix 12](#)
 - [Appendix 13](#)
- [news item on the 2nd evaluation round country visit](#)



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Preventing and combating violence against women and domestic violence

The Council of Europe Convention on preventing and Combating violence against women and domestic violence ([Istanbul Convention](#), CETS No. 210) provides for two types of monitoring procedures: a country-by-country evaluation procedure and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention. [GREVIO](#), the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

The former Yugoslav Republic of Macedonia deposited its instrument of ratification of the Istanbul Convention on 23 March 2018. Following the evaluation order established by GREVIO, the evaluation process in respect of the former Yugoslav Republic of Macedonia is planned to start on 2020 when GREVIO's questionnaire will be sent to the authorities of this country.

Protection of children against sexual abuse (Lanzarote Convention)

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as "[the Lanzarote Convention](#)", requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

The "Lanzarote Committee" (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme; starting with sexual abuse in the circle of trust.

As to the 1st monitoring round on the "Protection of children against sexual exploitation and sexual abuse in the circle of trust", the Former Yugoslav Republic of Macedonia was urged to:

- review their legislation to specify that the child's age for engaging in sexual activities is not relevant in the case of sexual abuse in the circle of trust (R5, 1st implementation report);
- [as it limits mandatory screening only to specific professionals] to extend such screening to the recruitment of all professionals (public or private) in regular contact with children (R19, 2nd implementation report);
- put in place effective intervention programs or measures for persons, including children, who fear they may offend to prevent the risk of offences being committed (R24, 2nd implementation report);
- put in place a tool or procedure to make an assessment of the dangerousness and possible risks of repetition of sexual offences against children (R26, 2nd implementation report);
- put in place a tool or procedure to evaluate the effectiveness of the intervention programmes or measures (R27, 2nd implementation report);
- put in place an offer dedicated to meet the developmental needs of children who sexually offend, including those who are below the age of criminal responsibility with a view to providing them adapted programmes or measures so that they can be helped (R28, 2nd implementation report);
- which have not yet put in place effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed, in the pre-trial phase of the procedure, to do so (R29, 2nd implementation report);
- which have not yet put in place effective intervention programmes or measures in prison, to do so (R31, 2nd implementation report).

As regards the urgent monitoring round on "Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse", the Former Yugoslav Republic of Macedonia (as well as the other 39 parties covered by the round) received the following 5 "urge recommendations":

- urges Parties in line with Article 5 of the Convention to effectively screen all persons who, by their professions, have regular contact with children affected by the refugee crisis

for convictions of acts of sexual exploitation or sexual abuse of children in line with their internal law (R18);

- since examining the family situation is important where there are suspicions of child sexual exploitation or abuse, urges Parties to take the necessary measures to avoid risks that the child may be abused or exploited in case of family reunification (R27);
- urges Parties that have not yet done so to take the necessary legislative or other measures to ensure that child victims of sexual exploitation and sexual abuse affected by the refugee crisis may benefit from therapeutic assistance, notably emergency psychological care (R29);
- urges Parties to encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that appropriate support may be provided immediately after the disclosure of sexual exploitation and sexual abuse (R30);
- urges Parties to make use, within the context of the refugee crisis, of the specific co-operation tools already available in the framework of Europol/Interpol which are specifically aimed at identifying victims of sexual exploitation and sexual abuse (R33).

Fight against corruption (GRECO)

The 'Group of States against Corruption' (GRECO) monitors all its members through a "horizontal" evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

On 12 October 2016, GRECO published the Compliance Report of "the former Yugoslav Republic of Macedonia" compliance with its recommendations. It is available here: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c9b18>.



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An update is expected to be discussed and adopted by GRECO in the course of 2018.

Execution of judgments and decisions of the European Court of Human Rights

Statistical data

At 31 December 2017, there were 52 (66 cases at 31.12.2016) cases against "the former Yugoslav Republic of Macedonia" pending before the Committee of Ministers for supervision of their execution. Among these cases, 25 cases were "leading cases" evidencing more or less important general problems (28 "leading" cases at 31.12.2016).

In 2017, the CM was seized by 3 new leading case (5 new leading cases in 2016) and the amount of just satisfaction awarded was € 87 530 (€ 102 870 awarded in 2016). In 2018², there was no new leading case brought before the CM and the sums awarded in 2018 as just satisfaction amount to € 11 060.

² Statistical data at 14th June 2018.

In 2017, 25 cases (79 cases closed in 2016) were closed by the adoption of a Final Resolution.

Main cases / groups of cases under the Committee of Ministers' supervision

The main cases presently under the Committee of Minister's supervision cover notably the issues presented below. For fuller overview of the situation see the [Country Factsheets](#) available on the website of the Department for the Execution of Judgments of the European Court of Human Rights and in the [Committee of Ministers' Annual Reports](#) on its supervision activity. More detailed information on the status of execution in individual cases can be found through [Hudoc-EXEC](#).

Action of security forces – secret rendition operation

Abduction, unlawful detention, torture and inhuman and degrading treatment during and following a “secret rendition” operation of the CIA.

El-Masri, application No. 39630/09, judgment final on 13/12/2012, enhanced supervision.

Actions of security forces – incommunicado detention

Failure to investigate allegations of ill-treatment and torture during incommunicado detention; violation of the right to a fair trial through the use of a confession statement made under duress.

Hajrulahu, application No. 37537/07, judgment final on 29/01/2016, enhanced supervision.

Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

[“The former Yugoslav Republic of Macedonia” and the Social Charter](#)



[ESC_FYROM.pdf](#)

Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

Since 2013 the Commission adopted several opinions on the protection against discrimination and protection of privacy, on the judiciary and on the Election Code of **“the former Yugoslav Republic of Macedonia”**.

Protection against discrimination, protection of privacy

[CDL-AD\(2018\)001](#)

Opinion on the draft law on prevention and protection against discrimination

[CDL-AD\(2016\)008](#)

Opinion on the Law on the protection of privacy and on the Law on the protection of whistleblowers

Judiciary

[CDL-AD\(2017\)033](#)

Opinion on the draft law on the termination of the validity of the Law on the council for establishment of facts and initiation of proceedings for determination of accountability for judges, on the draft law amending the Law on the Judicial Council, and on the draft law amending the Law on witness protection

[CDL-AD\(2015\)042](#)

Opinion on the Laws on the disciplinary liability and evaluation of judges

[CDL-AD\(2014\)026](#)

Opinion on the seven amendments to the Constitution concerning, in particular, the Judicial Council, the competence of the Constitutional Court and special financial zones

Elections

[CDL-AD\(2016\)032](#)

Joint Opinion on the Electoral Code, as amended on 9 November 2015

[CDL-AD\(2013\)020](#)

Joint Opinion on the Electoral Code



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CDL_AD_2017_033.
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