



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia\*

1. The Human Rights Committee considered the third periodic report submitted by the former Yugoslav Republic of Macedonia (CCPR/C/MKD/3) at its 3170th and 3171th meetings (CCPR/C/SR.3170 and 3171), held on 2 and 3 July 2015. At its 3191th meeting, held on 20 July 2015, the Committee adopted the following concluding observations.

##### A. Introduction

2. The Committee welcomes the submission of the third periodic report of the Former Yugoslav Republic of Macedonia. It expresses appreciation for the information contained therein and for the opportunity to renew its constructive dialogue with the State party's high-level interministerial delegation on the measures that the State party has taken during the reporting period to implement the provisions of the International Covenant on Civil and Political Rights. The Committee appreciates the State party's written replies (CCPR/C/MKD/Q/3/Add.1) to the list of issues (CCPR/C/MKD/Q/3), which were supplemented by the oral and written responses provided by the delegation.

##### B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following:

- (a) The Law on Equal Opportunities for Women and Men, in 2012;
- (b) The Law on the Prevention of and Protection against Domestic Violence, in 2014.

4. The Committee welcomes the ratification of, or accession to, the following international instruments by the State party:

- (a) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2009;
- (b) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, in 2011.

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\* Adopted by the Committee at its 114th session (29 June–24 July 2015).



## C. Principal subjects of concern and recommendations

### Office of the Ombudsman

5. The Committee is concerned that the draft amendments to the Law on the Ombudsman do not fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and that the Ombudsman lacks the human and financial resources necessary to carry out its mandate. The Committee is also concerned about the limited follow-up to and implementation of the Ombudsman's recommendations by the State party (art. 2).

**The State party should ensure that the draft amendments to the Law on the Ombudsman are in line with the Paris Principles (General Assembly resolution 48/134, annex). It should also provide the Office of the Ombudsman with the human and financial resources necessary to ensure that it can effectively and independently implement its mandate. The State party should intensify its efforts in responding diligently and promptly to the Ombudsman's recommendations.**

### Absence of complaints under the Optional Protocol to the Covenant

6. While noting that the State party ratified the Optional Protocol to the Covenant in 1994, the Committee is concerned that the absence so far of any complaints registered under this procedure may indicate a lack of awareness of it (art. 2).

**The State party should take the measures necessary to raise awareness of the complaints procedure under the Optional Protocol. It should also establish mechanisms to facilitate the implementation of the Committee's future Views, so as to guarantee the right to an effective remedy, as established in article 2 (3) of the Covenant.**

### Sexual orientation and gender identity

7. The Committee is concerned that the Law on the Prevention of and Protection against Discrimination does not explicitly prohibit discrimination on the basis of sexual orientation and gender identity. The Committee is also concerned about the prevalence of stereotypes and prejudice against lesbian, gay, bisexual, transgender and intersex persons. In this regard, it is particularly concerned about reports of acts of violence against such persons and at reports of a lack of effective investigations and prosecutions (arts. 2 and 26).

**The State party should amend its Law on the Prevention of and Protection against Discrimination with a view to explicitly prohibiting discrimination on the basis of sexual orientation and gender identity. The State party should intensify its efforts to combat stereotypes and prejudice against lesbian, gay, bisexual, transgender and intersex persons, including by:**

- (a) **Organizing awareness-raising campaigns aimed at the general public;**
- (b) **Providing appropriate training to public officials so as to put an end to the social stigmatization of lesbian, gay, bisexual, transgender and intersex persons;**
- (c) **Ensuring that all reports of violence against lesbian, gay, bisexual, transgender and intersex persons are effectively investigated and that perpetrators of violence on the grounds of sexual orientation are prosecuted and sanctioned.**

### Discrimination against Roma

8. While welcoming the efforts made by the State party to eliminate discrimination against Roma, including the adoption of a revised strategy for the period 2014–2020, the

Committee remains concerned about the low participation of Roma individuals in public life and decision-making processes (arts. 2 and 27).

**The State party should allocate additional resources to put into effect all plans designed to remove obstacles to the practical exercise by Roma of their rights under the Covenant. The State party should also take measures to increase participation of Roma in public life and decision-making processes.**

#### **Participation of women**

9. While welcoming the measures taken by the State party to enhance the participation of women in the labour market and public life, the Committee remains concerned about the low representation of women in the political and public sectors, particularly in decision-making positions. It is also concerned about the persistent wage gap between women and men and the prevalence of gender biases and stereotypes in the State party (art. 3).

**The State party should further strengthen its efforts to increase the participation of women in the political and public sectors, particularly in decision-making positions and, if necessary, through appropriate temporary special measures to give full effect to the provisions of the Covenant. The State party should also take concrete measures to close the wage gap between men and women and eliminate gender biases and stereotypes on the role and responsibilities of men and women in the family and society.**

#### **Domestic violence against women and children**

10. While noting the measures taken by the State party to prevent violence against women and children, the Committee remains concerned about the lack of information on sanctions imposed on perpetrators, as well as on remedies provided to victims. The Committee is particularly concerned that unmarried mothers who are between 16 and 18 years old and who are victims of domestic violence have no right to stay in shelters owing to their status as unaccompanied minors. (arts. 7, 23 and 24).

#### **The State party should:**

(a) **Ensure that cases of domestic violence are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims have access to effective remedies and means of protection, including an adequate number of shelters available in all parts of the country;**

(b) **Eliminate violence against women and children and consider recognizing violence against women and children as a specific criminal act in the Penal Code;**

(c) **Take concrete measures to ensure access to specialized assistance to all victims of domestic violence, particularly to unmarried mothers who are between 16 and 18 years old;**

(d) **Continue carrying out awareness-raising campaigns to sensitize the population on the prevention of and protection against domestic violence;**

(e) **Organize training sessions for local authorities and law enforcement officials, as well as social workers and medical personnel, on how to detect and adequately advise victims of domestic violence.**

#### **Voluntary termination of pregnancy**

11. The Committee is concerned about reports that the State party has conducted anti-abortion campaigns over a number of years, which has had the effect of stigmatizing those who undergo abortions and may prompt some women to seek to undergo clandestine

abortions that are unsafe, putting their lives and health at risk. In this context, the Committee is also concerned that the conditions introduced in the Law on Termination of Pregnancy of 2013 may cumulatively limit access to legal abortions (arts. 3, 6, 7 and 17).

**The State party should avoid pursuing any further campaigns used to stigmatize those who undergo abortions. It should take concrete measures, including amending the Law on Termination of Pregnancy, to eliminate all procedural barriers that could lead women to resort to illegal abortions, which could put their lives and health at risk.**

#### **Torture and excessive use of force by law enforcement officials**

12. The Committee is concerned about reports of police brutality and excessive use of force by law enforcement officials, particularly against Roma and members of other minorities. It is also concerned about reports of ill-treatment and torture by prison staff in detention facilities. The Committee is also concerned about the lack of investigation of and prosecution for crimes committed by law enforcement personnel. (arts. 2, 7 and 9).

**The State party should strengthen its efforts to eliminate police brutality and the excessive use of force by law enforcement officials and ensure that the police force receives quality professional training that includes full respect for human rights. The State party should also ensure that cases of torture and excessive use of force by law enforcement officials are systematically investigated, that the perpetrators are prosecuted and punished and that appropriate compensation is awarded to the victims.**

#### **Conditions of detention**

13. The Committee is concerned about reports of poor living conditions in detention facilities, including a high rate of overcrowding, security concerns and poor sanitary and health conditions (art. 10).

**The State party should strengthen its efforts to improve the living conditions in detention facilities on a sustainable basis with regard to access to adequate health-care services and sanitary conditions, with a view to achieving full compliance with the requirements of article 10. It should also take measures to reduce overcrowding, including by using alternatives to detention.**

#### **Administration of justice**

14. The Committee is concerned about shortcomings in the independence of the judiciary, including in the procedure of appointment and promotion and discipline of judges and allegations of political interference over certain court proceedings. It is also concerned about undue delays in trial procedures, in particular in first instance and administrative courts, which have resulted in a substantial backlog of court cases (art. 14).

#### **The State party should:**

(a) **Reinforce measures to guarantee and protect the full independence and impartiality of the judiciary by ensuring that judiciaries operate without pressure and interference from the executive power or other outside influences;**

(b) **Ensure that the appointment and promotion of judges is made in accordance with objective criteria of competence and merit and that dismissal of judges takes place with full respect for due process and on the basis of predetermination of the causes for dismissal;**

(c) **Ensure the right to a fair trial without undue delay in line with article 14 of the Covenant;**

(d) **Improve the functioning of the judicial system, including by increasing the number of qualified and professionally trained judicial personnel.**

#### **Trafficking in human beings**

15. The Committee regrets the lack of information on measures taken to combat trafficking in human beings for the purposes of forced labour and sexual exploitation. The Committee is also concerned about the low number of identified victims of trafficking and about the fact that the majority of those identified are children. It is also concerned at the lack of information on the number of reported cases, investigations and prosecutions initiated and actual convictions (art. 8).

**The State party should take measures to combat trafficking in persons, systematically and vigorously investigate and prosecute perpetrators and ensure that, when convicted, they are adequately sanctioned. The State party should intensify its efforts to guarantee adequate protection, reparation and compensation to victims, including rehabilitation.**

#### **Freedom of movement**

16. The Committee is concerned about the fact that between 2011 and the end of 2014, thousands of State party nationals were denied exit from the territory of the State party and about allegations of ethnic profiling, particularly of Roma, limiting freedom of movement across the State party's borders (art. 12).

**The State party should take measures to ensure that the right to freedom of movement in the State party is fully respected, in compliance with article 12 of the Covenant.**

#### **Non-discrimination and the rights of refugees and asylum seekers**

17. The Committee is concerned that conditions of detention for migrants and asylum seekers, including in the Reception Centre for Foreigners (Gazi Baba), are inhuman and degrading, and include overcrowding and inadequate sanitary conditions and health-care services. It is also concerned that although the Law on Foreigners (arts. 112 and 113) stipulates that unaccompanied minors should be separated from adults and have guardians assigned to them, the Law is not always implemented. The Committee is further concerned about the reported practice of denying or revoking the authorizations extended to refugees and asylum seekers on the grounds of a threat to national security, a practice that reportedly results in expulsions to countries where the individuals concerned might be exposed to the death penalty and/or violations of articles 7 and 9 of the Covenant (arts. 2, 7, 10 and 24).

#### **The State party should:**

(a) **Ensure that detention of asylum seekers, irregular migrants and refugees is used only as a measure of last resort and for the shortest possible period of time, and that alternatives to detention are available in law and implemented in practice;**

(b) **End as a matter of urgency the detention of unaccompanied minors, except as a measure of last resort and for the shortest possible period of time. The State party should, without delay, find alternative accommodation for unaccompanied minors so that they are not detained in the same facilities as adults and ensure that guardians are appointed without delay to provide legal, social, medical and psychosocial assistance;**

(c) Strengthen its efforts to improve the living conditions in detention centres for migrants and asylum seekers, including in the Reception Centre for Foreigners (Gazi Baba) by providing adequate health-care services and sanitary conditions. It should also take concrete measures to reduce overcrowding, including by using alternatives to detention;

(d) Respect the principle of non-refoulement by ensuring that asylum seekers are neither extradited, deported nor expelled to a country where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated under articles 6 and 7 of the Covenant.

#### **Freedom of expression and association**

18. The Committee is concerned about the selective allocation of public funds to media outlets and about the lack of independence of the State broadcasting council (Council of the Agency for Audio and Audiovisual Media Services), reportedly as a result of the introduction of Government-appointed members in this body. The Committee is also concerned about reports that journalists have been repeatedly subjected to surveillance, threatened, attacked and detained. Lastly, it is particularly concerned at information received about the spread of impunity for harassment and acts of violence against journalists (arts. 19 and 22).

**The State party should take the steps necessary to ensure that any restrictions to the freedom of expression fully comply with the strict requirements of article 19 (3) of the Covenant, as further developed in the Committee's general comment No. 34. The State party should ensure the full enjoyment by all of the freedom of expression and association, and protect journalists and others who exercise these rights from harassment, intimidation and violence. It should also investigate without further delay such cases and prosecute those responsible.**

#### **Freedom of assembly**

19. The Committee is concerned about reports that the demonstration that took place in Skopje on 5 May 2015 was dispersed by the police resorting to excessive violence against demonstrators and journalists, and that dozens of demonstrators were arrested and in some cases held in pretrial detention notwithstanding their lack of a criminal record and the relatively light nature of the charges brought against them (art. 21).

**The State party should effectively investigate all allegations of police violence against journalists and demonstrators in connection with the events of 5 May 2015. The State party should always attempt to resort to alternatives to detention in cases involving individuals who do not present a risk to public safety and should consider the impact of implementing its criminal laws against demonstrators on its duty to facilitate the right of peaceful assembly.**

#### **Birth registration and identity documents**

20. The Committee is concerned at the slow progress made in retroactively identifying cases of children who have not been registered and do not have identity documents and in issuing birth registration upon birth. It is also concerned about the lack of information on how failure to register newborns and obtain birth certificates affects the ability to access to health, education and other public services (art. 24).

**The State party should accelerate its efforts to identify children whose birth has not been registered and children without identity documents and to ensure the retroactive registration of births and the issuance of documents for those children. It should also ensure that children without identity documents are not refused access to health,**

education and other public services. The State party should strengthen its efforts to ensure birth registration and the provision of birth certificates for all children, particularly in rural areas, through interventions such as awareness-raising programmes and by simplifying registration procedures.

#### **Rights of the child**

21. The Committee is concerned that institutional and de facto discrimination against children persists in the State party, particularly children who are members of minority communities and children who are held in correctional institutions. The Committee is particularly concerned about reports of increasing drug use by children and the lack of relevant treatment and resocialization programmes (arts. 2, 24 and 27).

**The State party should take measures to eliminate all forms of institutional and de facto discrimination against children, particularly children who are members of minority communities and children who are held in correctional institutions. It should ensure that drug-prevention and rehabilitation programmes are available to all children.**

#### **Political rights**

22. While noting the measures taken by the State party to complete the electoral list, including by updating the voters list four times a year, the Committee remains concerned about reports that persons with disabilities and persons held in detention facilities have been unable to exercise their voting rights owing to administrative obstacles (art. 25).

**The State party should ensure that voting rights are made accessible to all citizens, including persons with disabilities and persons deprived of their liberty. The State party should also take measures to rectify all administrative obstacles to ensure the equal and full voting rights of all citizens.**

#### **Mass surveillance of communications**

23. The Committee is concerned about reports that thousands of State party nationals, including opposition politicians and journalists, have been allegedly subjected to wiretapping by the security services, potentially affecting their rights to freedom of expression and privacy. The Committee is also concerned that individuals who have been subjected to unlawful surveillance are not systematically informed thereof and therefore are not in a position to gain access to adequate legal remedies (arts. 2, 17 and 19).

**The State party should take all measures necessary to ensure that its surveillance activities conform to its obligations under the Covenant, including article 17. In particular, measures should be taken to ensure that any interference with the right to privacy complies with the principles of legality, proportionality and necessity. It should also ensure that persons who are unlawfully monitored are systematically informed thereof and have access to adequate remedies.**

#### **Dissemination of information relating to the Covenant**

24. The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of its third periodic report, the written replies to the list of issues drawn up by the Committee and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public.

25. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of

the Committee's recommendations made in paragraphs 15 (trafficking in human beings), 16 (freedom of movement) and 23 (mass surveillance of communications) above.

26. The Committee requests the State party to submit its next periodic report by 24 July 2020 and to include specific up-to-date information on the implementation of all its recommendations and of the Covenant as a whole. The Committee requests the State party, in the preparation of the report, to broadly consult civil society and non-governmental organizations operating in the country. The word limit for the report is 21,200 words, in accordance with General Assembly resolution 68/268.

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