

# **JOINT SUBMISSION ON THE REPUBLIC OF MACEDONIA FOR THE UNITED NATIONS UNIVERSAL PERIODIC REVIEW**

(18<sup>th</sup> session of the Working Group, January/February 2014)

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## **SUMMARY**

1. This Joint Submission was prepared by the Centre for Regional Policy Research and Cooperation ‘Studiorum’, Roma Organization for Multicultural Affirmation S.O.S., and Association of Education Workers and Protection of the Rights of Women and Children ‘LIL’, non-governmental organizations based in Skopje and Prilep, Macedonia. It was prepared on the basis of data gathered or analyzed by these organizations, as well as data from other sources.
2. The Submission focuses on four key areas, selected on the basis of the recommendations from the first review cycle and the expertise and areas of work of the three organizations. These are: (1) international obligations, (2) institutional and legal framework for Human Rights protection and promotion, (3) equality and non-discrimination and (4) minority rights. Although a number of positive developments towards implementation of these recommendations have taken place, as this submission will show, a lot remains to be done.

## **I. INTERNATIONAL OBLIGATIONS**

3. The Republic of Macedonia (Macedonia, State under review) hasn’t ratified the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol of the International Covenant for Economic, Social and Cultural Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In its mid-term report the Government announced that actions will be taken in order to prepare the ground for the ratification of these Conventions, as well as that these actions will be completed by autumn 2013, to date these have not taken place.
4. The ratification of the Convention on the Reduction of Statelessness was not part of the recommendations in the first review cycle. Although this is understandable as this Convention is not part of the corpus of international law on which the UPR focuses, the importance of this document is great in the context of Macedonia. It can significantly influence the possibility for a group of persons to enjoy their Human Rights on equal grounds with the other citizens. Namely, the country has a significant number of so-called ‘habitual residents’. These are persons that following the dissolution of Yugoslavia remained in Macedonia but for various reasons did not manage to acquire Macedonian citizenship, or a citizenship of any of the other republics. Ratification of this Convention, and its subsequent implementation at national level via alignment

of the domestic legal framework with this Convention, will create conditions for resolving the status of these ‘habitual residents’.

5. It is difficult to argue that the country conducts systematic efforts towards harmonization of the national legislation with international human rights instruments.<sup>1</sup> There is a governmental body with such a competence – the Inter-governmental Coordinating Body on Human Rights. This body was recently reformed, in terms of membership and competences. However, no results from its work can be seen yet.
6. The country is still lagging behind with its reporting duties. The reporting due dates for the ICESCR, CAT, CERD have passed, and the country still hasn’t submitted reports as per its obligations under these international treaties.<sup>2</sup>
7. It can also be challenged that the country is acting upon the recommendation to accomplish progressively the human rights goals as set forth in Human Rights Council resolution 9/12,<sup>3</sup> especially with regards to goals 1-a (as it has not ratified all core Human Rights instruments), 1-c (as it has not established a national Human Rights institution in line with the Paris Principles), 1-e and 1-f (as it has not adopted national programmes in accordance with these goals).
8. **Recommendations:**
  - **Ratify the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol of the International Covenant for Economic, Social and Cultural Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**
  - **Ratify the Convention on the Reduction of Statelessness, and conduct subsequent national legislation alignment, as a step towards resolving the habitual residents’ citizenship problem.**
  - **Encourage and support the work of the Inter-governmental Coordinating Body on Human Rights, in order for it to be able to fulfill its competences. This body should enhance its cooperation with CSOs, Human Rights activists and relevant academics and experts.**
  - **Enhance efforts towards progressive accomplishment of the Human Rights goals set in Human Rights Council Resolution 9/12 and report on the undertaken actions to the Human Rights Council, as under this Resolution.**

## **II. INSTITUTIONAL AND LEGAL FRAMEWORK FOR HUMAN RIGHTS PROTECTION AND PROMOTION**

9. Two institutions can be categorized as national Human Rights institutions (NHRIs) in the country. These are the Ombudsperson of the Republic of Macedonia (Ombudsperson) and the Commission for Protection against Discrimination (CPAD).

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<sup>1</sup> Recommendation 4 from the first UPR cycle, accepted by the state under review.

<sup>2</sup> Information retrieved from the Treaty Office of the UN on June 18th, 2013:

<[http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-3-a&chapter=4&lang=en](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3-a&chapter=4&lang=en)>

<sup>3</sup> Recommendation 42 from the first UPR cycle, accepted by the state under review.

10. The 1991 Constitution foresaw the establishment of the Ombudsperson, which started to function in 1997, once the Law on the Ombudsperson was passed. It currently operates under the new Law on the Ombudsperson, passed in 2003. Since 2009 it functions as a National Preventive Mechanism (NPM) under the Optional Protocol of the Convention against Torture.
11. As of October 2011, the Ombudsperson holds a 'B' accreditation from the ICC. This was due to lack of transparency and participation in the selection process, limitation of pluralism to ethnicity only, no explicit competence under the law to promote Human Rights, and need for enhanced cooperation with universal and regional bodies and with CSOs.<sup>4</sup> It should be added here that securing sufficient resources to fulfill its mandate, a requirement under the Paris Principles, has also been a problem for this institution. The Ombudsperson has reported lack of funds, most notably for the operating of the NPM, in two subsequent annual reports.
12. The CPAD started to operate in January 2011 under the Law on Prevention and Protection against Discrimination (2010). It is, under the law, an independent state body. The CPAD is composed of seven commissioners, appointed by the Parliament from a proposed list (prepared by the competent Parliamentary Commission) drafted on the basis of applications received under a public call. However, the appointment procedure for the first composition of this body was controversial, as the competences of some of the appointed members was brought under question. On the one hand, some of the appointed commissioners have close to none Human Rights-relevant education or experience (or very little working experience at all), or are individuals with connections to the currently ruling political party, and even individuals with full time jobs in state institutions.<sup>5</sup> On the other hand, some of the unsuccessful candidates are university professors with long working experience in Human Rights,<sup>6</sup> some of the most active Human Rights defenders in the country, including people advocating for the rights of persons with disabilities and LGBTIQ community.<sup>7</sup> This generated doubts about the independence and impartiality, as well as expertise, of this body since the first day it was established. It also raises the issue of revision of the provision in the Anti-discrimination Law which prescribes the selection criteria, as these can be subject to wide interpretation and can open space for candidates with any 'social sciences' education and/or experiences, not related to equality and non-discrimination or to Human Rights in general, to be appointed as members.<sup>8</sup>
13. Moreover, the offices of the CPAD, which were provided by the government, are in the same building with part of the offices of the Ministry of Interior and of other public bodies/institutions. This is in clear contravention with the Paris Principles and with other NHRI European regional standards. Aside from such psychological barrier to accessibility, the CPAD is also inaccessible

<sup>4</sup> ICC October 2011 Accreditation Report. *OHCHR Website*.

<[http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20REPORT%20OCTOBER%202011%20-%20FINAL%20\(with%20annexes\).pdf](http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Documents/SCA%20REPORT%20OCTOBER%202011%20-%20FINAL%20(with%20annexes).pdf)>. Last accessed: 24.06.2013

<sup>5</sup> "National Human Rights Institutions in Macedonia: Normative Models and Challenges". Background Study. Skopje, 2012: Centre for Regional Policy Research and Cooperation 'Studiorum'. See also, the decision of the Parliament containing the full CVs of the appointed commissioners: *Parliament Website*.

<<http://www.sobranie.mk/ext/exporteddocumentdownloadwindow.aspx?Id=312a8c76-9290-4b14-9ded-4ce7382366cf&t=pdf>>. Last accessed: 24.06.2013

<sup>6</sup> Two of the university professors have specialization in equality and non-discrimination, one of which a member and former chair of the UN Working Group of Experts on People of African Descent.

<sup>7</sup> "National Human Rights Institutions in Macedonia: Normative Models and Challenges". Background Study. Skopje, 2012: Centre for Regional Policy Research and Cooperation 'Studiorum'.

<sup>8</sup> *Ibid.*

for persons with physical impairments, as their offices are at the 19<sup>th</sup> floor in the building, and are accessible only via staircase and there is an elevator going up only to the 18<sup>th</sup> floor.<sup>9</sup>

14. Alike the Ombudsperson, the CPAD also has been allocated for three years in a row now an annual budget which clearly does not provide this body with sufficient resources to fulfill its mandate. Namely, the funds are able to cover only the annual honoraria for the CPAD members. No additional funds have allocated, in spite of CPAD's requests in two subsequent annual reports.
15. Under the Anti-discrimination Law, the administrative and technical work of the CPAD should be done by the Commissioners themselves. Given that the commissioners' engagement in the CPAD is not a full time one, this is a serious obstacle for the normal functioning of the CPAD, especially when one takes into consideration the broad range of competences this body has.<sup>10</sup> In the first months of operation, the CPAD had administrative support from the Ministry of Labour and Social Policy (MLSP). This was highly problematic, as it inflicted upon the independence of the CPAD, and its operating principles. Namely, cases filed to the CPAD were received and registered in the MLSP, which should not be a practice. Outsourcing of NHRIs protection work should be avoided due to its sensitive nature. Later, volunteers were assisting the work of the equality body (including one jurist volunteer, which assisted the protection work of the CPAD). Currently there is one volunteer and one trainee (a Roma), hired through an OSCE funded project. Although addressing the 'administrative support' issue via volunteers and trainees is a better solution than the initial one (support from the MLSP), this cannot be an acceptable solution under international NHRI standards. Moreover, this solution seriously undermines the possibility for building an institutional memory and capacity of the institution.
16. The Ombudsperson and the CPAD have overlapping competences when it comes to providing protection against discrimination in the public sector. This can cause confusion for the potential victims of discrimination as to which institution they can file their case to. Although the Anti-discrimination Law prescribes an obligation for these two institutions to cooperate, it does not address the issue of overlapping competences. The two institutions have been going about this issue via in-formal arrangements at first, followed by a Memorandum for Understanding.<sup>11</sup>
17. Another body which is working on promotion of Human Rights, though cannot be seen as a 'classic' NHRI, is the Agency on the Realization of the Rights of the Communities.<sup>12</sup> The Agency is to advance the rights of the smaller ethnic communities in relation to education, culture and cultural heritage, information, language, public participation, to oversee the implementation of the OFA with regards to the smaller ethnic communities, including monitoring of the implementation of the principle of equitable and just representation and related laws, etc. This body also has resources problems. Although its budget has been slightly increased for 2013, it still remains underfunded and not in a position to exercise its full competences.<sup>13</sup>

## 18. Recommendations:

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<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> More on this body in section IV: Minority Rights.

<sup>13</sup> "Effective Political Participation of Small(er) Ethnic Communities in Local Self-Government in Macedonia: Impact of the Ohrid Framework Agreement". Background Study. Skopje, 2011: Centre for Regional Policy Research and Cooperation 'Studiorum'.

- **Provide necessary resources for the Ombudsperson and the CPAD to effectively exercise their full mandate.**
- **Review the Anti-discrimination Law in order to provide legal grounds for administrative and technical support of the CPAD.**
- **Revise the Law on the Ombudsperson in terms of its mandate in order to allow it to conduct Human Rights promotion activities.**
- **Revise the legal framework to provide for appointment procedures in line with the Paris Principles for both the Ombudsperson and the CPAD.**
- **Assist the Ombudsperson to act upon the ICC recommendations and acquire ‘A’ status.**
- **Create conditions for enhanced independence of the CPAD.**

### III. EQUALITY AND NON-DISCRIMINATION

19. The legal framework for promoting equality and protecting against discrimination consists of several laws. The Constitution contains a provision on equality on a limited number of grounds and for citizens only. In April 2010 the Law on Prevention and Protection against Discrimination (Anti-discrimination Law), first comprehensive legislation for non-discrimination, was adopted. Other important laws are the Law on Equality among Women and Men, the Law on Labour Relations, the Law on Realisation of the Rights of the Communities, laws dealing with primary, secondary and tertiary education and education of adults, laws on health insurance and health protection, and other laws dealing with social security. The Criminal Code is also of relevance as it defines several criminal deeds related to discrimination, including incitement of racial discrimination and unrest.
20. Protection against discrimination is provided by the Constitutional Court, the regular courts, the CPAD, the Ombudsperson and the Legal Representative for Equality among Women and Men. The first two are judicial, while the other three are quasi-judicial bodies. There are other bodies with competences in equality and non-discrimination; however these are the ones that can act upon filed discrimination cases. The CPAD is the latest addition to this institutional framework and the first equality body in the country. It has vast competences which surpass the requirements of the Paris Principles. It is authorized, *inter alia*, to consider discrimination cases regarding natural and legal persons in a number of fields and grounds.<sup>14</sup> In spite of the extensive list of discrimination grounds contained in this law, sexual orientation and gender identity are not explicitly mentioned in it.<sup>15</sup>
21. Following the adoption of the Anti-discrimination Law the reporting of discrimination cases to the competent courts and bodies increased, and the reporting to the new body – the CPAD grew in its second year of operation. However, the reporting rates are still low when compared to other

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<sup>14</sup> The law numbers several fields and closes the provision with ‘any other field established by law’. It also contains an open ended provision on discrimination grounds, ending with ‘any other ground provided for by law or a ratified international treaty’.

<sup>15</sup> Recommendations 13 and 18-a from the first UPR cycle, accepted by the state under review.

types of cases filed to these institutions.<sup>16</sup> This can be contributed to lack of trust in the institutions, low level of information, awareness and capacity to recognize discrimination, and fear of victimization.

22. It is also important to give a few notes on the effectiveness of some of these institutions and bodies. The Constitutional Court maintains its reluctance to find discrimination in potential discrimination cases filed to it, while the CPAD, even though only in its second year of existence, already has a backlog of cases. This makes it difficult to consider these two institutions as effective mechanisms that can provide for protection against discrimination. In its annual report for 2012 the CPAD did not provide statistics or reasoning behind this backlog. However, NGOs have called upon the Parliament to hold a discussion on the CPAD annual report and to demand from this body an explanation on the backlog.<sup>17</sup>
23. In view of the effectiveness, it is important to mention that the decisions of both CPAD and the Ombudsperson are not legally binding. This weakens the potential impact that the protection work of these institutions can have. Coupled with the practice of the Constitutional Court described above, potential discrimination victims are left without an institution that can provide for an effective and just legal remedy. It can also dissuade potential applicants to file cases to these institutions.
24. A National Strategy on Equality and Non-discrimination on Grounds of Ethnic Affiliation, Age, Mental and Physical Disability and Sex (Equality Strategy) was adopted in 2012.<sup>18</sup> The controversy of the consultation process on the draft-text was the exclusion of relevant CSOs from the process.<sup>19</sup> The Government promoted the draft-text and the plan for the public consultations<sup>20</sup> in November 2011, setting a target to adopt the text by the end of the year 2011.<sup>21</sup> This clearly shows lack of intention to conduct open, participative and engaging public consultations on the draft-text of the Strategy. Because of its very limited scope and the adoption procedure, this Strategy cannot be considered as a national Human Rights action plan, as vouched for by the Vienna Declaration and Program of Action and other UN documents.

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<sup>16</sup> The courts decided only a few discrimination cases, predominantly in the area of labour relations. The reporting pattern of discrimination cases to the Constitutional Court also shows very small number of cases as well as reluctance in finding discrimination. Out of the total number of cases which the Ombudsperson receives, the number of discrimination cases is always the lowest one. In 2012, 32 cases were filed (0.74% of the total number of cases), and discrimination was found in 9 cases, all in the area of labour law and all on grounds of ethnicity. The CPAD received 77 cases in 2012, while in 2011 the number was lower - 60 cases. The largest number of cases was on the grounds of ethnicity, health status, belonging to a marginalised group, and on personal or social status, in the fields of employment and labour relations, followed by social security, access to goods and services, and judiciary and administration.

<sup>17</sup> Source: Network on Non-discrimination. *Roma Organization for Multicultural Affirmation S.O.S. Website*. <[http://www.romasosprilep.org/index.php?option=com\\_content&view=article&id=109%3A2013-05-07-07-05-07&catid=4%3A2011-01-26-07-58-17&lang=en](http://www.romasosprilep.org/index.php?option=com_content&view=article&id=109%3A2013-05-07-07-05-07&catid=4%3A2011-01-26-07-58-17&lang=en)>. Last accessed: 15.06.2013

<sup>18</sup> National Strategy on Equality and Non-discrimination on Grounds of Ethnic Affiliation, Age, Mental and Physical Disability and Sex. Ministry of Labour and Social Policy (2012). <[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCkQFjAA&url=http%3A%2F%2Fwww.mt.sp.gov.mk%2FWBStorage%2FFiles%2Fstrategija\\_ednakvost.doc&ei=1\\_7CUbnON8jctAac6oFI&usq=AFQjCNGRdMyFxFxTgJ7s6Fy2iBoKyfL0G\\_lg&bvm=bv.48175248,d.Yms](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCkQFjAA&url=http%3A%2F%2Fwww.mt.sp.gov.mk%2FWBStorage%2FFiles%2Fstrategija_ednakvost.doc&ei=1_7CUbnON8jctAac6oFI&usq=AFQjCNGRdMyFxFxTgJ7s6Fy2iBoKyfL0G_lg&bvm=bv.48175248,d.Yms)>. Last accessed: 15.06.2013

<sup>19</sup> Commencement of a Process of Consultations on Draft-national Strategy on Equality and Non-discrimination. *Non-discrimination Network Website*.

<<http://www.non-discrimination.net/content/media/MK-20-MK-17-Strategy%20equality.pdf>>. Last accessed: 18.06.2013

<sup>20</sup> It was planned that only three consultations take place.

<sup>21</sup> This means that it planned for less than two months of public consultations and for revision of the draft-text of the strategy in accordance with the feedback gathered from the consultations.

25. The Equality Strategy deals only with the following grounds: ethnic affiliation, sex, disability and age. The text of the strategy does not explain the reasons behind the choice of protected grounds on which it is focused, but merely states that these are the ones that have been identified as priority grounds. This raises the issue of the importance of statistics for countering discrimination. Each strategic document can largely support its choice of priority with use of statistical data. The CPAD has a competence to gather statistical data, create databases, and conduct research on discrimination, however (as noted above) it does not have sufficient resources for its basic operation, let alone resources to fund complex activities such as creating and maintaining databases and gathering statistical data.
26. Moreover, the Equality Strategy does not clearly target all groups that are considered as vulnerable and marginalized. Namely, it does not address issues pertaining to protection against discrimination for the LGBTIQ, people living with HIV, and illicit drug users. Moreover, there have been several initiatives in the past few years to dislocate centers for illicit drug users from central/urban areas in the municipalities, into rural and remote parts,<sup>22</sup> which can contribute to their further marginalisation.
27. When it comes to the issue of equality and discrimination, it is important to address the situation with the Roma community. Although these are discussed in the next section, it is important to note here that a very small number of filed discrimination cases involve the Roma community. This is in contrast with various surveys' findings, showing that Roma are main subject of stereotypes, prejudice and discrimination.<sup>23</sup>
28. **Recommendations:**
- **Provide necessary resources for the Ombudsperson and the CPAD to effectively exercise their full mandate.**
  - **Revise the mandate of the Ombudsperson to allow it, under law, to be able to conduct Human Rights promotion activities.**
  - **Organize campaigns to raise awareness on discrimination and to inform the citizens of the possibilities for protection against discrimination. As part of this campaign, special attention should be placed on activities related to Roma and countering the widespread discrimination against this group.**
  - **Explicitly number sexual orientation and gender identity as protected grounds in the Anti-discrimination Law.**
  - **Open a consultative process on a national Human Rights action plan, with wide and full participation of all relevant stakeholders, followed by adoption of the plan.**
  - **Continue efforts to promote the rights of vulnerable groups, including LGBTIQ community, people living with HIV, and illicit drug users.**

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<sup>22</sup> The latest example was an initiative promoted by a candidate for Mayor from the ruling party at the 2013 local elections (she won the elections) to dislocate the center in the Kisela Voda municipality (part of the City of Skopje – the capital of the country).

<sup>23</sup> Eurobarometer 'Discrimination in the EU – FYROM Factsheet'. <[http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_317\\_fact\\_mk\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_317_fact_mk_en.pdf)>. Last accessed: 19.06.2013. "Effective Political Participation of Small(er) Ethnic Communities in Local Self-Government in Macedonia: Impact of the Ohrid Framework Agreement". Background Study. Skopje, 2011: Centre for Regional Policy Research and Cooperation 'Studiorum'.

#### IV. MINORITY RIGHTS

29. Minority rights are in the focus of a large portion of the activities of the Government, which can be attributed both to the diverse ethnic composition of the country, as well as to the 2001 ethnic conflict. The implementation of the measures foreseen in the Ohrid Framework Agreement (OFA)<sup>24</sup> has been one of the main reform drives in the country. Some of the most important measures introduced by it are the principle of equitable and just representation of the ethnic communities, rights related to political participation and to local self-government.
30. What remains of large concern is the effect OFA measures had on the so-called ‘smaller ethnic communities’ and implementation of these measures with regards to these communities. These are the communities which are numerically represented with less than 20% of the population: Turks, Roma, Serbs, Vlachs, Bosniacs and others.
31. The implementation of the OFA with regards to the principle of equitable and just representation of the ethnic communities has had very little impact on the representation of the smaller ethnic communities, as very little progress was made. The Ombudsperson reports annually on the implementation of this principle noting progress for 2012, however with a large focus in the implementation on the Albanian community (represented with 25% of the total population).<sup>25</sup> This institution recommended in the same report that the principle should be equally implemented by all actors and with regards to all communities, paying special attention to the representation of the smaller ethnic communities.<sup>26</sup>
32. The passing of the Law on Realization of the Rights of the Communities Represented with Less than 20% was very important for implementation of the OFA with regards to the smaller ethnic communities. This law provided for the establishment of the Agency for the Realization of the Rights of the Communities largely tasked with promotion and support competences for the smaller ethnic communities. However, research shows that, due to delays in its establishment, weak legal competences and lack of resources,<sup>27</sup> the Agency has a questionable effectiveness and efficiency and lacks visibility.<sup>28</sup>
33. As part of the decentralization reform conducted as part of the OFA implementation, a new Law on Local Self-government was adopted, providing for a legal obligation for establishment of Commissions for Relations among the Communities in all units of local self-government (ULSG) with at least 20% of communities not in a majority, and for voluntary decision on establishment of such a commission by the ULSG itself. A 2011 study showed that only three municipalities with a legal obligation to establish such Commissions haven’t done so, but also that several municipalities have voluntarily established such commissions. The same study showed reluctance with a big part of the interviewees (from state institutions, units of local self-government and

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<sup>24</sup> The OFA was signed by the leaders of the four largest political parties at the time to end the 2001 conflict.

<sup>25</sup> Ombudsperson Annual Report 2012. *Ombudsperson Website*.

<<http://www.ombudsman.mk/ombudsman/upload/documents/2013/GI-2012.pdf>>. Last accessed: 12.06.2013

<sup>26</sup> *Ibid.* 39-44

<sup>27</sup> There was a tendency of decreasing its annual budget from one year to the next; its budget was also always affected with each rebalance of the state budget. Data from: State budgets and budget revisions for years 2009, 2010, 2011 and 2012.

<sup>28</sup> “National Human Rights Institutions in Macedonia: Normative Models and Challenges”. Background Study. Skopje, 2012: Centre for Regional Policy Research and Cooperation ‘Studiorum’. 67

CSOs) on the operation of and the effect from the work of these commissions.<sup>29</sup> Many interviewees, including from the ULSG, have expressed an opinion that the work of these commissions has boiled down to resolving local ethnic issues and/or that these commissions meet only ad hoc and do not really function as a mechanism. This can be contributed to the lack of financial resources to support their work, as well as their advisory role and inability to influence the municipal councils.<sup>30</sup>

34. The (progressive) realization of economic, social and cultural rights of the ethnic communities in the country that are not a majority remains one of the open issues, especially for the Roma. Macedonia takes part in the Decade of Roma Inclusion (2005-2015), an intergovernmental initiative focusing on four large areas – housing, education, health and employment and three cross-cutting issues (discrimination, gender and poverty). There are separate national action plans for each of these areas.
35. Albeit with positive developments, there is a lot of room for further improvements. One of the greatest areas of concern is the exercise of the right to health for Roma people. The Government has adopted a National Action Plan on Health for implementation of the Decade of Roma Inclusion which was supposed to be implemented by the end of 2011. However its implementation is at a status quo. The number of Roma medical practitioners is still very low, as is the number of primary healthcare services close to Roma settlements. One of the measures foreseen in the National Action Plan on Health, and the only one that has been (partly) implemented thus far, is introducing Roma health mediators (RHM). Although planned for 16 municipalities, it has been so far implemented in only 8 municipalities employing 15 RHMs.<sup>31</sup> On four of the other measures under this action plan the Ministry of Health has discarded its obligation to act, claiming lack of competences and/or legal grounds for acting.<sup>32</sup> Moreover, up to 2011 the annual state budget allocated funds for implementation of this action plan were reassigned to other budget lines. They were spent for the implementation for the first time in 2012, only to cover the honoraria of the Roma health mediators. This leads to the conclusion that there is no active measure (and an appropriate time frame) for removing the obstacles for improving the health status of the Roma.
36. Moreover, cases of medical errors and malpractice and refusal to provide health services to Roma have been documented by CSOs.<sup>33</sup> The relevant institutions have been notified, and some cases were filed to the competent institutions, however reaction on part of the state and its institutions is lacking. This assists the maintenance of a climate of impunity for medical errors. In order to provide for greater protection of the rights of patients, a Law on Protection of the Rights of Patients was adopted in 2008. However, the infrastructure for its implementation is still not in place. Under this law, Advisors for protection of the rights of patients should be appointed in each inpatient healthcare institution. However, to date this is not the case. This seriously undermines

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<sup>29</sup> *Ibid.* 68-73

<sup>30</sup> “National Human Rights Institutions in Macedonia: Normative Models and Challenges”. Background Study. Skopje, 2012: Centre for Regional Policy Research and Cooperation ‘Studiorum’. 72, 73

<sup>31</sup> Roma Health Mediators. *Ministry of Health Website*. <<http://mz.gov.mk/romski-zdravstveni-medijatori-2/>>. Last accessed: 17.06.2013

<sup>32</sup> Advocacy Group for Roma Health Rights, as quoted in: Status Quo in the Institutional Efforts to Improve the Health Status of Roma. <<http://www.makdenes.org/content/article/24982731.html>>. Last accessed: 24.06.2013

<sup>33</sup> Roma S.O.S works on documenting such cases and on reporting these to the competent institutions.

the possibility for patients to exercise their rights under this law, including the right to information.

37. In its documenting work, Roma S.O.S. has identified cases of deliberate prolonging of court proceedings, and untimely and unjust protection of the potential victims of violations (mostly from Roma ethnic origin). Putting in place the necessary mechanisms and putting them to function can have a positive impact on the possibility for protection in these cases. Moreover, the unequal treatment resulting with discrimination in access to health services is not yet recognized in practice as a violation of the rights, because of the inability of competent bodies to identify grounds for acting in such cases. Consequently, this implies a need for additional education and training of institutions tasked with protection against discrimination.
38. Another obstacle for part of the minorities in the country to enjoy their economic, social and cultural rights is citizenship. As noted in section II of this submission, this is an issue of serious concern for the group of habitual residents. Although the Law on Health Insurance provides for universal (citizenship-based) health insurance, these persons cannot satisfy the legal criteria under the Law on Citizenship, so they remain without citizenship, and thus also without health insurance. According to available statistics from 2011, there are 499 habitual residents of which 67% cannot exercise their right to health insurance.<sup>34</sup> Adding special provisions with eased conditions for acquiring citizenship for this specific group will act towards removing this obstacle (see also Part I of this submission, on the ratification of the Convention on the Reduction of Statelessness).

39. **Recommendations:**

- **Ensure implementation of the principle of equitable and just representation for all ethnic communities, with a special focus on the smaller ethnic communities as currently least represented ones.**
- **Allocate the Agency for the Realization of the Rights of the Communities sufficient resources to exercise its competences.**
- **Revise the role of the local Commissions for Relations among the Communities in order to provide for legal grounds for greater influence in the councils of the units of local self-government.**
- **Address discrimination issues which stand in the way of realization of the basic economic, social and cultural rights of Roma.**
- **Adopt a new National Action Plan on Health in relation to the Decade of Roma Inclusion to fit the current needs and allocate sufficient funds for its implementation. In order to ensure that the current needs will be fully reflected in this action plan, CSOs which work with Roma need to be consulted and fully included in the process of drafting of this action plan.**
- **Introduce legislative changes or adding special provisions for eased conditions on acquiring citizenship for the group of habitual residents.**

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<sup>34</sup> Data from the Macedonian Young Lawyers Association ([www.myla.org.mk](http://www.myla.org.mk)). On file with author.