



19 September 2006

**WRITTEN COMMENTS OF THE EUROPEAN RIGHTS CENTRE AND THE NATIONAL ROMA CENTRUM
CONCERNING THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA**

**FOR CONSIDERATION BY
THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
AT ITS 37TH SESSION**

1. OVERVIEW

- 1.1 The European Roma Rights Centre (ERRC)¹ and the National Roma Centrum (NRC)² respectfully submit written comments concerning the Former Yugoslav Republic of Macedonia (hereafter “Macedonia”) for consideration by the United National Committee on Economic, Social and Cultural Rights (the “Committee”) at its 37th Session to be held 6-24 November 2006 in Geneva. This report is submitted as additional information for the Committee in its review of Macedonia’s Initial Report (hereafter “State Report”), submitted under Articles 16 and 17 of the Covenant in July 2005.
- 1.2 During the period 2005-2006, the organisations submitting these comments have been involved in a major project supported by the European Union’s CARDS programme³ involving, among other things, human rights documentation and training, as well as legal defence for Romani victims of discrimination and other forms of human rights abuse. Materials gathered in the course of this project have provided a substantial basis for the present submission. The ERRC and persons involved in the NRC have been documenting human rights issues facing Roma in Macedonia on a continuous basis since 1997.
- 1.3 The Constitution of Macedonia, and the amendments which were adopted as a result of the Ohrid Framework Agreement (hereafter “Framework Agreement”) in 2001, provides general protection against discrimination and guarantees that citizens have the right freely to determine their political

¹ The European Roma Rights Centre (ERRC) is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves, in particular, strategic litigation, international advocacy, research and policy development and training of Romani activists. The ERRC is a cooperating member of the International Helsinki Federation for Human Rights and has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

² The National Roma Centrum (NRC) is a professional Romani non-governmental organization based in Kumanovo, Macedonia, which represents and stimulates the active participation and integration of Romani people on the principles of the modern multiethnic European society. Its activities focus on human rights, lobbying, education and employment.

³ The contents of the document are the sole responsibility of the ERRC and NRC and should not be regarded as necessarily reflecting the opinions of the European Union.

status and freely to pursue their economic, social, and cultural development. Roma are recognized as an ethnic minority under the Macedonian Constitution. The Constitution guarantees the protection of the ethnic, cultural, linguistic identity of all communities. Despite Macedonia's commitments under international treaties, such as the ICESCR, as well as Constitutional and other legal provisions guaranteeing equality, Roma in Macedonia live on the margins of the society, often in extreme poverty, and face significant barriers in accessing key economic and social rights, such as employment, social welfare, housing, health care and education.

- 1.4 Roma in Macedonia suffer widespread discrimination as a result of their ethnic origin. Romani women further suffer "double disadvantage" as a result of their ethnicity and their gender. The few mentions of measures to address the situation of Roma in the State report, despite abundant indications that Roma comprise the most vulnerable group in Macedonia, is indicative of the lack of interest and dearth of sufficient will on the part of Macedonian authorities to address the problems of Roma at a level adequate to need.
- 1.5 In recent years, the Macedonian government has taken some positive steps towards addressing the overall situation of this extremely marginalized community. On 31 January 2005, the Macedonian government adopted the National Strategy for Roma in Macedonia, which constitutes the government's plan for fostering integration of, and improving the overall situation of, the Romani community in Macedonia. In February 2005, the Macedonian government also joined the multi-country initiative Decade of Roma Inclusion 2005-2015, within which additional action plans for improving the access of Roma to adequate education, housing, health care and employment were adopted in November 2005.
- 1.6 However, Romani and other interested organisations and parties in Macedonia often criticise these measures for reasons including: i) the absence of tangible targets and actions in said plans which might render them effective; and ii) the lack of real political will to implement those measures which do exist and to improve the situation of Roma.
- 1.7 Ongoing research and other activities in Macedonia by the ERRC and NRC in recent years indicate that discrimination against Roma in key areas of ICESCR competence have been and remain a key concern in Macedonia. These matters are particularly worrying in light of the fact that the Macedonian government has, to date, failed to adopt a comprehensive anti-discrimination law framework through which Roma might seek to secure their rights and/or challenge abuses when these occur.
- 1.8 This report does not constitute a comprehensive assessment of all issues facing Roma in Macedonia. It does, however, describe some key areas of concern for Roma related to rights enshrined in the ICESCR. The ERRC and NEC hope that this report will assist the Committee in arriving at a more complete assessment of Convention matters and provide suggestions as to possible recommendations to the Macedonian Government by the Committee.

2. INTRODUCTION

- 2.1 At the time of the 2002 census in Macedonia, 53,879 persons stated that they were Romani. When compared to the official total population of 2,022,547 persons, Roma comprise approximately 2.66% of the total population of Macedonia. However, there are significant disparities between official data and estimates by non-governmental sources, which put the number of Roma living in Macedonia at 80,000-135,000.⁴ This would place Roma at between 3.95% and 6.67% of the total population.
- 2.2 Since the introduction of political pluralism and first multiparty elections in Macedonia, Roma have had political representatives in the Parliament (Sobranie, the legislative body): in 1990, there were two Romani members; in 1994, 1998 and 2002, one member; and in the 2006 elections, two Romani members were elected to the 120 member Parliament. At the municipal level, in 2004/05, Roma accounted for 0.31% of all members of local council in Macedonia. In 2003/04, that figure was 0.19%

⁴ Lakinska, Prof Divna, Zaklina Durmis, Azbija Memedov and Ljativ Demir. Needs assessment for the Roma Education Fund, Macedonia. World Bank, November 2004, p. 5.

and in 2002/03, 0.29%.⁵ Despite the political presentation of Roma at the national and local levels (representation which is, however, not numerically contiguous with the total population of Roma in Macedonia), Romani participation in decision-making processes is not effective, and most Roma regard themselves as partially or totally excluded from decision-making.

- 2.3 Access to personal documents is a particular concern for Romani individuals in Macedonia, and problems in this area impact access to all other rights. For example, according to research conducted in early 2006 by the NRC in Kumanovo's Sredorek Romani neighbourhood,
- of 2,497 Romani individuals, 164 (6.6%) did not possess birth certificates; and
 - of 1,182 Romani individuals over the age of 18, 222 (18.8%) did not have official identity cards.
- 2.4 Primarily due to obstruction by Macedonian officials, it is estimated that approximately 2,000 Roma in Macedonia have not yet managed to acquire Macedonian citizenship, despite legal amendments specifically aimed at facilitating their access to Macedonian citizenship.⁶ These persons have been deprived of the most basic element of participation in Macedonia society since Macedonia declared independence in 1991, and, as a result of not possessing Macedonian citizenship, are excluded de jure from a number of entitlements crucial for realizing fundamental Covenant rights. These facts are noteworthy in light of the decade-long pressure the Macedonian government has been under once and for all to resolve this issue.
- 2.5 The specific situation of the approximately 2,000 Kosovar Romani, Ashkali and Egyptian (RAE) refugees living in Macedonia also deserves particular mention. Persons in this category are even more vulnerable because of their tenuous status in the country, which includes living under durable, long-term threat of forced expulsion from Macedonia. This is the result of the Macedonian government's failure to establish effectively the status of such persons living in Macedonia during the seven years following the Kosovo conflict.⁷ During the first years after the conflict, the Macedonian government regulated their status through a group-based temporary protection mechanism which it renewed every six months, usually at the last minute before expiry of the status, provoking repeated duress and extreme anxiety among the persons concerned. In August 2003, under international pressure, the government altered its approach and invited these persons to apply for asylum on an individual basis, following adoption of a new law on asylum.⁸ Despite the elapse of over seven years since the refugees first arrived however, neither the group protection mechanism nor the offer to apply for asylum under the new law have proven effective as modes of integration for these persons, and on a number of occasions, Macedonian officials have stated that they expect most of the refugees to leave. Macedonian officials have forcibly expelled a number of these individuals, and as a result these issues are now being

⁵ Ministry for Labour and Social Policy. January 2005. Strategy for Roma in the Republic of Macedonia. Available online at: <http://www.ecmirom.org/download/Roma%20Strategy%20English.pdf>.

⁶ Upon gaining independence, Macedonia enacted legislation under which only those individuals with Macedonian republican citizenship were automatically eligible for citizenship in the new state. A large number of Roma were not holders of Macedonian republican citizenship under the 1977 citizenship law, and, consequently, were not among those included in the initial body of citizens of the new state. As a result of international pressure, Macedonia has recently undertaken amendments to the law. However, despite the involvement of several intergovernmental agencies in the process of amending the citizenship law, legal provisions regulating the status of persons who should by right have access to citizenship in Macedonia, as a result of their real and effective ties to Macedonia and the particular circumstances of Macedonia's succession from the former Yugoslavia, are not yet in conformity with international law, and in particular with the European Convention on Nationality's chapter on citizenship in the context of state succession.

⁷ Speaking on the Kosovar Romani refugee population in Macedonia at a meeting in Pristina in March 2005, Ms Cathrine Walker, a UNHCR Macedonia representative, stated that there were 719 asylum seekers, 28 recognised refugees and 1,234 persons with temporary humanitarian protection status.

⁸ Although the 1951 Convention relating to the Status of Refugees has been in effect in Macedonia throughout the entire period since arrival of these refugees in 1999, the Macedonian government has rigidly maintained that, without implementing domestic legislation, it could not be applied.

reviewed by the European Court of Human Rights. Persons refused asylum in Macedonia have subsequently received asylum elsewhere, confirming widespread views that the Macedonian judiciary may be incapable of examining asylum applications independently. A number of the Kosovo RAE refugees currently in Macedonia are currently accommodated in private housing in the Suto Orizari municipality of the capital Skopje. Their monthly rental costs have been paid by the UNHCR as Macedonian law precludes them from working legally.

3. DISCUSSION

3.1 Article 2 of the Covenant

- 3.1.1 Despite numerous international instruments to which Macedonia is a party,⁹ as well as anti-discrimination clauses in its Constitution, Macedonian legislation affords little meaningful protection from discrimination, particularly on the basis of race or ethnicity. The few declaratory anti-discrimination provisions in various domestic legal instruments are too vague to afford effective remedies against discrimination, and are even less effective as deterrents against discriminatory policies or practices.
- 3.1.2 Article 9 of the Macedonian Constitution provides a general protection against discrimination, stating, “All citizens of Macedonia are equal in their freedoms and rights, regardless of gender, race, skin colour, national or social origin, political or religious beliefs, property or social status.” However, as no specific consequences are stipulated for the violation of the Constitutional provisions, it is not clear how one would make use of them in practice.
- 3.1.3 Macedonian lawmakers have enacted particular law in the field of gender discrimination. On 29 May 2006, a new Law on Equal Opportunities for Men and Women was adopted. It is too early to know what effect this law will have in diminishing or eliminating gender discrimination in Macedonia.
- 3.1.4 There also exist some provisions in criminal, civil and administrative procedures which enshrine protections related to equality, such as Article 319 of the Criminal Code, which establishes as a crime the promotion of national, racial or religious hatred, discord or intolerance. However, these provisions are rarely, if ever, invoked. More crucially, criminal code provisions banning the promotion of promoting ideologies of hatred are not designed to eliminate racial discrimination – a different form of harm – nor are they known to have this effect in practice. This is certainly the case in Macedonia, where criminal code Article 319 has had no discernable effect whatsoever in diminishing very high levels of racial discrimination against Roma in the realisation of Covenant rights, as well as in the realisation of other rights. The ERRC and NRC have no knowledge of cases of discrimination against Roma decided by Macedonian courts on the basis of these provisions. In addition, it is unclear whether, taken on their own, criminal sanctions constitute sufficient legal protection against discrimination, due in particular to high standards of proof required in the context of criminal proceedings which can rarely, if ever be met in cases involving racial discrimination. The absence of comprehensive civil and administrative law banning racial discrimination renders individuals vulnerable in the extreme to the frustration of Covenant rights for arbitrary reasons of racial hatred, intolerance or privilege.
- 3.1.5 As General Comment 3 of the Committee notes, the adoption of legislative measures is “indispensable” for nearly all substantive rights of the Covenant.¹⁰ Standards on anti-discrimination law in Europe are currently set primarily by the European Council of the European Union Directive 2000/43/EC “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin”

⁹ In addition to the Covenant on Economic, Social and Cultural Rights, Macedonia is a party to the International Covenant on Civil and Political Rights (succeeded to on 17 September 1991), the Convention for the Elimination of All Forms of Racial Discrimination (succeeded to on 17 September 1991), the Convention on the Rights of the Child (succeeded to on 17 September 1991), the Convention on the Elimination of All Forms of Discrimination Against Women (succeeded to on 17 September 1994), the European Convention on Human Rights and Fundamental Freedoms (ratified on 10 April 1997) and the European Social Charter (ratified on 31 March 2005).

¹⁰ CESCR General Comment 3, 14/12/90, para. 3.

(hereafter “the Directive”). The Directive is a component of the *acquis communautaire* – the body of law governing the European Union. Macedonia must bring the substance of the Directive into its domestic law by the date of its accession to the European Union. Since early 2005, two draft laws developed by non-governmental organisations have existed in Macedonia. However, the government has failed to even consider either of these drafts, despite the continuous urging of civil society. The failure of the Macedonian government to even consider these bills seriously calls into question the government’s commitment to take action against racial discrimination.

3.2 Articles 6 and 7 of the Covenant

- 3.2.1 With regard to Articles 6 and 7 of the Covenant, the extremely high unemployment level amongst Roma is of serious concern. Discrimination against Roma is increasingly being reported in access to employment, and the low educational attainment level¹¹ has very serious consequences for Roma in this sphere of life. As a result of the aforementioned factors, Roma in Macedonia are in very difficult situation with regard to employment and working conditions.
- 3.2.2 In its response to the questionnaire for the preparation of the European Commission's Opinion on Macedonia’s application for membership of the European Union, the Macedonian government stated, “The current social and economic situation of Roma, who are especially burdened by transition problems, places them in the category of the poorest citizens of the Republic of Macedonia. According to the data of the Employment Agency of the Republic of Macedonia, the total number of unemployed Roma on 31 August 2004 was 17,014 (4.3% of the total number of the unemployed), of which 7114 were women.”¹²
- 3.2.3 According to the statistical database of the Macedonian Agency for Employment in 2004, for every one employed Romani individual, nearly three are unemployed.¹³ According to data from the State Statistical Office, the unemployment rate of Roma was 83.4% in 2003, 72.4% in 2002 and 71.6% in 2001. Comparatively, the national average of unemployed persons in the same years was 36.6%, 31.9% and 30.5%, respectively – less than half the rate for Roma.¹⁴
- 3.2.4 Non-governmental organisations further hold that, in reality, the percentage of unemployed Roma in Macedonia is much higher, reaching 95% in some areas.¹⁵
- 3.2.5 It is therefore of serious concern that the Macedonian government makes no reference whatsoever to the situation of Roma in its discussion of Articles 6 and 7 in its report to the CESCR. At later points in the report, mention is made of action plans adopted by the Macedonian government within the Decade of Roma Inclusion 2005-2015 that address employment issues, but absolutely no information on the substance or impact of these plans is provided.

¹¹ According to 2003 information from the Agency for Employment, of those Romani individuals registered with the Agency, 33% had not completed primary education, while 67% had completed primary education and 7% had completed secondary school. Only 0.1% had a university degree. For further discussion on education issues, see section 3.6 of this submission.

¹² Answers to the Questionnaire for the Preparation of the European Commission's Opinion on the Application of the Republic of Macedonia for Membership of the European Union, Political criteria - Minorities rights and protection of minorities, p. 416. Available online at: <http://www.sei.gov.mk/download/Questionnaire/1-01%20-%20Political%20Criteria.pdf>.

¹³ 3,558 employed Romani individuals compared to 9,776 unemployed Romani individuals.

¹⁴ Answers to the Questionnaire for the Preparation of the European Commission's Opinion on the Application of the Republic of Macedonia for Membership of the European Union, Political criteria - Minorities rights and protection of minorities, p. 401. Available online at: <http://www.sei.gov.mk/download/Questionnaire/1-01%20-%20Political%20Criteria.pdf>.

¹⁵ Ministry for Labour and Social Policy. January 2005. Strategy for Roma in the Republic of Macedonia, p. 31. Available online at: <http://www.ecmirom.org/download/Roma%20Strategy%20English.pdf>.

- 3.2.6 A 2004 needs assessment published by the World Bank found that the name, surname and ethnicity of job seekers significantly affect decisions to hire or not hire in Macedonia.¹⁶ Similarly, the report referred to a 2003 survey of 750 Roma in which 50% of the interviewees stated that they had experienced discrimination when applying for work.
- 3.2.7 During research conducted in 2004 by the ERRC and partners Roma Center of Skopje (RSC) and Open Society Institute's Network Women Program (NWP), 43% of Romani women who reported having experienced discrimination in access to employment were refused employment for reasons including explicit and open racial discrimination. Roma have been refused work on grounds such as, "Roma are not appropriate for the job."¹⁷
- 3.2.8 Regular monitoring of the situation of Roma in Macedonia by the ERRC and NRC in the intervening period indicates that practices of discrimination against Roma in access to employment continue in Macedonia. For instance:
- According to documentation undertaken by the ERRC and the NRC, Romani job-seekers in the central Macedonian town of Prilep were discriminated against by the local tobacco factory "*Akcionersko Društvo Tutunski Kombinat - Prilep*" in June 2006. Beginning on 16 June, the Prilep Tobacco Factory published job advertisements for low-skilled seasonal workers in local newspapers for seven days. Hiring was to be undertaken through the local employment bureau. According to their testimony, on 23 June, Mr Bilent Kazimoski and Orhan Ademoski, Romani men aged 24 and 35 from Prilep, submitted applications for the positions through the local employment office. When handing in their applications, the clerk reportedly informed Mr Kazimoski and Mr Ademoski that approximately 80 Roma had applied for the positions. On 25 June, the list of employed individuals was posted; only one Romani individual was on the list. During a meeting with the ERRC/NRC on 6 July, Mr Atanas Gagaleski, the person at the tobacco firm responsible for employment, stated that 400 people applied for the positions and 200 were hired. Therefore, while Romani applicants reportedly accounted for 20% of the total number of applicants, only one of the persons hired was Romani. Mr Gagaleski informed the ERRC/NRC researcher that the employer is not bound to ensure ethnic proportionality and that "the employer decides whether he will receive Nesime or Atanas" – Nesime being the name of the ERRC/NRC's Romani researcher.
- 3.2.9 ERRC/RCS/NWP research also found that 35% of Romani women who reported discrimination in access to employment experienced discriminatory working conditions. These women reported being forced to work longer hours than non-Roma and/or being transferred to positions with lower salaries and less opportunity for career advancement.¹⁸ For instance:
- During field research conducted in 2004, 49-year-old Ms B.M. from Prilep testified to the ERRC/RSC/NWP: "I was working as a mechanical worker in a tobacco factory for 10 years [...] My boss did not like Gypsies and he placed all us Roma in another department with much more and harder work and with lower salaries [...] I complained but without any success. I had to work and couldn't resign [...]."

¹⁶ Lakinska, Divna, Zaklina Durmis, Azbija Memedov and Ljativ Demir. Needs Assessment for the Roma Education Fund, Macedonia. World Bank, November 2004, p. 20.

¹⁷ In a project supported by the UNIFEM regional office in Bratislava, the RCS, ERRC and NWP jointly guided a team of 11 Romani women researchers who undertook research in 7 cities and towns in Macedonia. The results of the research were published in the form of a shadow report, submitted to the United Nations Committee on the Elimination of Discrimination Against Women for its review of Macedonia in January 2005.

RSC/ERRC/NWP. 2005. Shadow Report On the Situation of Romani Women In the Republic of Macedonia. Available online at: <http://www.errc.org/db/01/97/m00000197.pdf>.

¹⁸ RSC/ERRC/NWP. 2005. Shadow Report On the Situation of Romani Women In the Republic of Macedonia. Available online at: <http://www.errc.org/db/01/97/m00000197.pdf>.

- 3.2.10 According to information published by the State Statistical Office, as of 31 December 2005, Roma accounted for 0.8% persons employed within the state administration.¹⁹ At the municipal level, according to the same source, Roma accounted for 0.79% of persons employed at the municipal administrative level as of 31 December 2004.²⁰ Bearing in mind that Roma accounted for at least 2.6% of the total population in Macedonia, Roma appear to be very significantly under-represented in the public sector.
- 3.2.11 Recalling that one of the main priorities during the first period of implementation of the Framework Agreement was on improving equal representation in the state administration, the Macedonian government appears to be failing where Roma are concerned. For example, as of December 2002, Roma accounted for 0.51% of all persons paid from the Macedonian State Budget. Several years later, on July 2005, the same figure was 0.50%; a decrease of 0.01%. Comparing the same data for ethnic Albanians, for example, one can see a differentiation in the approach of Macedonian authorities. In December 2002, ethnic Albanians accounted for 11.65% of persons paid from the state budget, while in July 2005, the same figure was 15.30%; an increase of 3.65%.²¹
- 3.2.12 Seventy-six percent of Romani women earning some form of income work on the black market, according to ERRC/RSC/NWP research. These women do not enjoy a secure labour contract, decent working conditions and social security benefits.

3.3 Article 9 of the Covenant

- 3.3.1 Article 9 of the Covenant guarantees everyone the right to “social security, including social insurance”. The Macedonian Constitution guarantees, at Article 35, the right to social protection and social security for all citizens of Macedonia. The ERRC and NRC are concerned that a significant number of Romani individuals are barred access to the aforementioned social security benefits as a result of both direct and indirect discrimination.
- 3.3.2 The ERRC and NRC note that in its report on the implementation of the ICESCR, the Macedonian government does not provide any information on the situation of Roma in its discussion of Article 9.
- 3.3.3 Article 11 of the 1997 Law on Health Care establishes the Macedonian system of compulsory, state-sponsored health insurance. Persons registered as unemployed and students should have access to said health insurance. According to the law, beneficiaries of compulsory health insurance are entitled to primary health care. However, according to a 2005 nationwide survey undertaken by the Macedonian NGOs “Luludi” Roma Association of Women and Youth and “For a Happy Childhood” on access to health insurance and health care, of 1,000 Romani families surveyed, 39.42% did not have health insurance. Amongst the reasons cited for not having health insurance were the lack of proper paperwork (34.15%), unregulated citizenship status (12.2%), incomplete primary education (19.51%), unemployment (12.2%) and refugee status (7.31%).²²
- 3.3.4 Direct discrimination against Roma by social services workers impacts the ability of Roma to access social benefits. According to ERRC research, conducted in partnership with the Štip-based NGO Association for the Human Rights Protection of Roma (ARRP), seven representatives of the Romani community in the northeastern Macedonian town of Vinica went to the local Social Welfare Office to ask for assistance after their electricity had been cut off at the end of 2003. The representatives hoped

¹⁹ Ministry of Foreign Affairs. June 2006. Second Report Submitted by the Former Yugoslav Republic of Macedonia Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities. p. 62. Available online at: [http://www.coe.int/t/e/human_rights/minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/2._Second_cycle/PDF_2nd_SR_FYROM_eng.pdf](http://www.coe.int/t/e/human_rights/minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/2._Second_cycle/PDF_2nd_SR_FYROM_eng.pdf).

²⁰ Ibid, p. 63.

²¹ Ibid, p. 61.

²² Published 29 June 2005 by OneWorld.Net.

the director of the Social Welfare Office would issue a letter to the public utilities company asking that their water be restored and their debt forgiven because of their material situation. However, according to ERRC/ARRP research, the director of the Social Welfare Office called for police assistance upon seeing the Romani group speaking with the office secretary, reportedly out of fear that they would attack her. Soon thereafter, five police officers arrived at the Social Welfare Office and an officer in civilian clothing stated to the group, "What are you doing here? Leave this office at once. Go look for your rights in India; not here." At this point, the Romani representatives left the building.

- 3.3.5 In addition to the above, provisions of the social welfare law negatively affect Roma disproportionately. For instance, a registered residence by required to access social welfare. Romani residents of informal unregistered housing in Macedonia experience great difficulties in accessing social welfare as a result.
- 3.3.6 In addition, a level of subjectivity present in the social welfare law, whereby social welfare workers access, during home visits, living conditions and individual needs for social welfare, also impacts the ability of Roma to access social welfare. For instance, many Roma from the Sredorek Romani settlement in Kumanovo have complained to the ERRC/NRC that social welfare workers have discontinued their welfare payments following home visits during which said workers noted that the residents possessed signs of wealth, such as television sets, and therefore were not in need of social assistance. Many of these individuals are at risk of falling into extreme poverty as their social assistance constituted their only form of income.
- 3.3.7 Finally, the lack of participation by Roma in the formal labour market in Macedonia has pernicious effects in the area of access to social benefits. Those persons who are not formally employed, or are not registered with the Agency for Employment (for reasons cited above) are excluded from access to social pensions in later stages of life. During ERRC/RSC/NWP research in 2004, of seven women of retirement age interviewed, only 3 stated that they receive a pension.

3.4 Article 11 of the Covenant

- 3.4.1 Article 11 of the Covenant recognises the right of everyone "to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right." The ERRC and NRC are concerned that the Macedonian Government has not taken all necessary steps to achieve adequate housing for Macedonian Roma.
- 3.4.2 Ninety-five percent of Roma in Macedonia live in urban areas. Most are concentrated in the poorer areas (including ghetto-like slum settlements) or in suburb areas. The living conditions in such areas are often highly substandard, lacking basic infrastructure and services that the state should provide, such as electricity, water, sewage removal, garbage collection or paved roads. Where running water is present in Romani communities, it is often polluted.
- 3.4.3 By way of example, a questionnaire circulated in Skopje's Suto Orizari neighbourhood, the results of which were published in 2005, found that:
- More than half of the families were living with another family;
 - 40% of Roma in the neighbourhood live with in an area of less than 2 by 5 metres;
 - More than half of respondents did not have conditions for personal hygiene (bathing), while 40% access water through pumps in their yards or in public places, about 15% use improvised toilets, and about 1.5% are without any water supply at all.²³

²³ Ministry for Labour and Social Policy. January 2005. Strategy for Roma in Republic Macedonia, p. 24. Available online at: <http://www.ecmirom.org/download/Roma%20Strategy%20English.pdf>.

- 3.4.4 While housing is a priority area in both the Strategy for Roma and the Decade for Roma Inclusion 2002-2015, the ERRC and NRC are concerned that very little if any visible change has occurred this regard since their adoption by the government.
- 3.4.5 The substandard conditions of Romani settlements increase the likelihood of public health risks. Indeed, during an ERRC mission in April 2004, the ERRC encountered a Romani family living in informal housing infected with tuberculosis in Skopje's Suto Orizari neighbourhood.
- 3.4.6 The Committee has stated that legal security of tenure is a fundamental component of the right to adequate housing. Many Romani settlements have existed for many years outside urban planning schemes, therefore property status has remained unregulated. In its own Strategy for Roma, the Macedonian government gives credence to information from human rights organisations which indicates that amongst the Roma population there are approximately 14,000 unsolved property status cases. The Strategy further states that, according to some estimates, 70% of Roma do not possess legal title to the place in which they live.²⁴
- 3.4.7 Romani residents of informal housing areas live under the constant threat of eviction. In practice, Macedonian authorities regularly undertake forced evictions of Roma. For example:
- In October 2005, in the presence of police forces, Gostivar municipal authorities forcibly evicted a group of Romani families from the sheds in which they lived on Leningradska Street in order to make way for a parking lot. The eviction order, which had been issued early in 2005, was appealed on 8 August 2005 by one of the affected Romani individuals, Mr Ramadan Sherie, to the Ministry for Transport and Connections. The appeal, which was based on the fact that the Republic of Macedonia and not the municipality owned the land and buildings, was rejected in September 2005 and, in October 2005, the evictions were carried out by municipal authorities and the houses destroyed. Alternative accommodation was reportedly offered to the residents and the national government provided 100 EUR per month for rental costs until May 2006. However, the actual costs of renting accommodation in Macedonia is much higher than this and some of the families were forced to move in with relatives in overcrowded circumstances. Unhappy with their situation, the affected families protested against their situation in front of the Macedonian Parliament. Some of the families had reportedly requested permission to purchase their sheds although the procedure for purchasing the sheds was not complete when they received the eviction orders. Mr Sherie appealed his case through Macedonian court structures all the way to the Supreme Court and, on 11 January 2006, the Supreme Court decided that the eviction orders were not legal because the municipal government did not have jurisdiction to make such a decision. As of the date of this submission, Mr Sherie was preparing to file a civil claim for damages with legal support from the ERRC and NRC.

3.5 Article 12 of the Covenant

- 3.5.1 As to Article 12 of the Covenant, the ERRC and NRC are concerned that Macedonian Government has not taken all necessary steps to achieve the full realization of "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" where Roma are concerned. Despite explicit constitutional provisions protecting the right of access to health care for all Macedonian citizens, Roma in Macedonia are in practice subject to discrimination when seeking to exercise this right, and in practice the health status of Roma in Macedonia is markedly worse than that of any other segment of the Macedonian population.
- 3.5.2 In its Strategy for Roma, the Macedonian government states that the life expectancy of Roma is lower than that of the non-Romani population in Macedonia.²⁵ According to information from the State

²⁴ Ibid, p. 23.

²⁵ Ministry for Labour and Social Policy. January 2005. Strategy for Roma in the Republic of Macedonia. Available online at: <http://www.ecmirom.org/download/Roma%20Strategy%20English.pdf>.

Statistical Office, at 13.9%, the infant mortality rate amongst the Romani population is higher than that of any other ethnic group in Macedonia.²⁶

- 3.5.3 The extremely poor living conditions and the environmental hygiene of Romani settlements lead to the epidemic, endemic, and other diseases and medical conditions for Roma in Macedonia. Frequently Romani settlements do not have access to clean drinking water or sanitation facilities. As to Article 12(2)(c) of the Covenant, the general state of health for Roma living on settlements is deteriorated to such a degree that many have become a public health threat and major public health risks may be going unaddressed in Romani communities.
- 3.5.4 For example, in April 2005, the ERRC interviewed Ms R.P., a 25-year-old Romani woman, in the Suto Orizari municipality of Skopje who had been diagnosed the previous December with tuberculosis. Two of the five children in her care had also been diagnosed with tuberculosis in December 2004. She had not yet taken the other children in her care for medical examination because “they are not coughing too much yet.” Ms R.P. was not receiving any treatment as of the date of the interview, and it was unclear whether she could be admitted for treatment in Skopje’s tuberculosis treatment facility in the Vodno neighbourhood, because her medical insurance booklet had not been updated since Autumn 2004. A nurse at a walk-in clinic in Suto Orizari told the ERRC that there was no major risk of a tuberculosis epidemic in Suto Orizari. However, she wore a mask throughout the interview (which took place in the presence of Ms R.P.), and at several points during the interview left the building, apparently for fresh air and in evident fear of contracting some form of contagious disease.
- 3.5.5 Furthermore, where many Romani communities are concerned, the government has failed to undertake “the creation of conditions which would assure to all medical service and medical attention in the event of sickness”. Indeed, the most egregious form of discrimination in the field of health care in Macedonia is the denial of access to medical care on racist grounds. In its Strategy for Roma, the Macedonian government states, “There are cases of the health personnel neglecting the Roma patients or showing prejudices towards them; there are cases of segregation in the hospital accommodation and care.”
- 3.5.6 During ERRC/RSC/NWP research, 48% of interviewees reported having experienced discrimination in access to health care. Of these persons, 57.5% described mistreatment and insults from doctors and 42.5% reported such treatment by other medical personnel, including nurses and cleaners. Several examples illustrate the kinds of treatment Romani individuals are subjected to when accessing health care:
- 27-year-old Ms I.A. from Kumanovo reported: “I was the only Romani person in the hospital room. The medical personnel regularly changed the sheets of the other but not mine. When I complained, they told me that I don’t have clean sheets at home and I sleep on the floor. Therefore, I’m not allowed to ask for more than I deserve.”
 - 15-year-old Ms M.T. from Stip reported: “When I gave birth to my (only) child, the medical personnel insulted me the entire time, saying, ‘You Gypsies have too many children and your breath smells from hunger.’”
- 3.5.7 In addition to such overt forms of racially-motivated mistreatment, Romani individuals are often provided with inadequate treatment in health facilities. For instance, according to ERRC/NRC documentation, on 19 November 2005, without the proper license, Dr S.S. conducted an abortion procedure on Ms E.R., an 18-year-old Romani woman and mother of one, in the private gynaecological clinic “Medicus AS” in Prilep, for which she was paid. Following the abortion, Ms E.R. began experiencing extreme pain in her abdomen and choking. She and her family asked Dr S.S. for help. Rather than simply treating her, Dr S.S. sent Ms E.R. to the state hospital where she stayed for two days without any concrete medical intervention and or information about her health condition. After two

²⁶ Answers to the Questionnaire for the Preparation of the European Commission's Opinion on the Application of the Republic of Macedonia for Membership of the European Union, Political criteria -- Minorities rights and protection of minorities, p. 402. Available online at:

<http://www.sei.gov.mk/download/Questionnaire/1-01%20-%20Political%20Criteria.pdf>.

days, Ms E.R.'s health condition worsened markedly and she was urgently sent to the State Gynecological Clinic in Skopje. Ms E.R. arrived at the clinic in critical condition. During an emergency examination, doctors found injuries to her uterus as a result of the abortion and, in order to save her life, immediately conducted an emergency operation.

- 3.5.8 In addition to the above, unemployment resulting in the inability to pay informal but required participation fees for medical treatment and medication, coupled with the lack of access state-sponsored health insurance (See Section 3.3) has direct, at times severe consequences for the health situation of Roma. A study published by the UNDP in 2005 indicates that 79% of Roma do not have access to essential drugs. Comparatively, only 49% of non-Roma living in close proximity to Roma do not have access to essential drugs while the national average is only 21%.²⁷
- 3.5.9 During documentation by the ERRC/RCS/NWP, 18-year-old B.K. from Stip testified that the child she gave birth to in 2004 died several hours after being discharged from hospital because Ms B.K. could not afford to pay the associated costs. Ms B.K.'s child had been born prematurely in the 7th month of pregnancy and was supposed to stay in an incubator for 2 months. However, on the second day, doctors ordered Ms B.K. to take her child home because she didn't have any money.

3.6 Article 13 of the Covenant

- 3.6.1 As to Article 13 of the Covenant, the ERRC and NRC are concerned that the general picture presented by the Government in its report fails to address adequately the disparities between the situation of the majority of the children in the Macedonian educational system and the situation of children belonging to the Romani minority.
- 3.6.2 According to a 2004 study by the UNDP,²⁸ only 82% of Roma can read and write, compared to 97% of non-Roma who live in close proximity to Roma. The UNDP also found that 31% of Roma have no education whatsoever or inadequate education, compared to 8% of non-Roma who live in close proximity to Roma. Of the total number of Roma surveyed, 22% of Romani men and 39% Romani women had no education whatsoever or incomplete elementary education.
- 3.6.3 According to information from the Ministry of Education and Science, during the 2002/03 school year, Romani pupils accounted for 0.034% of all primary school students, 0.0068% of all secondary school students and 0.29% of all post-secondary school students.²⁹ As Roma accounted for 2.66% of the total population in Macedonia in the same year, there appears to be a gross under-representation of Romani pupils in the Macedonian education system,³⁰ while scholarships offered by private institutions to Romani university students have contributed to the increased presence of Roma in post-secondary education.
- 3.6.4 Violations of the right of Roma to education take the form of discriminatory and segregationist practices, such as the segregation of Romani children into so-called "Roma classes", in classes for the mentally disabled or even within classrooms; racially-motivated abuse in school; and the apathy of

²⁷ UNDP. Faces of Poverty, Faces of Hope: Vulnerability Profiles for Decade of Roma Inclusion Countries. Bratislava, 2005. Available online at: <http://vulnerability.undp.sk/DOCUMENTS/macedonia.pdf>.

²⁸ UNDP. Faces of Poverty, Faces of Hope: Vulnerability Profiles for Decade of Roma Inclusion Countries. Bratislava, 2005. Available online at: <http://vulnerability.undp.sk>.

²⁹ Answers to the Questionnaire for the Preparation of the European Commission's Opinion on the Application of the Republic of Macedonia for Membership of the European Union, Political criteria - Minorities rights and protection of minorities, pp. 401 and 402. Available online at: <http://www.sei.gov.mk/download/Questionnaire/1-01%20-%20Political%20Criteria.pdf>.

³⁰ While the Macedonian government has a scholarship programme for Romani students in secondary school, the programme is not nearly sufficient to meet the needs of Romani pupils and does not address under representation issues at the pre-school, primary or post-secondary levels.

Macedonian school authorities in combating low attendance and high drop-out rates among Romani school-age children and, in particular, Romani girls.

- 3.6.5 For instance, during the 2005-2006 school year, school authorities placed five Romani pupils were placed in segregated “Roma-only” classes in the Goce Delchev elementary school in Gostivar, Macedonia, according to the Macedonian national newspaper Vreme of 26 April 2006. Vreme quoted Mr Reis Jonuzi, the pupils’ teacher, as having stated that the classes were formed because the ethnic Macedonian and Albanian teachers in other classes will not accept the children in their classes. When classes started in September, the class reported had fifteen children. However, the 10 ethnic Macedonian children in the class were quickly transferred to other classes. According to Vreme, Mr Jonuzi believes that if the school was not discriminating against the Romani pupils, they would also have been transferred to other classes shortly after the school year began. The article stated that the same situation prevailed during the 2004/2005 school year.
- 3.6.6 In school, Romani children face prejudice, exclusion and abuse by school authorities, teachers and other pupils. Discrimination and prejudice influence the experiences of Romani children in the classroom and very often form the primary incentive for dropping out of school. Fifty-seven percent of Roma interviewed by the ERRC/RSC/NWP indicated that the attitude of their teachers had greatly influenced their educational careers. For example, 29-year-old N.P. from Skopje stated that her high school professors used to state: “What is this Gypsy girl doing in this school? You Gypsies do not learn properly [...]” Ninety percent of the Romani women who reported that they experienced discrimination in school stated that other children in their class called them “Gypsies” and did not want to communicate with them. Twenty-year-old F.S. from Kumanovo, the only Romani pupil in her class, was beaten and mistreated by her ethnic Macedonian classmates “every day” until she dropped out of school in the second grade.
- 3.6.7 The low level of educational attainment greatly impacts all other areas of life. As a result of the low levels of education held by a great number of Roma in Macedonia, many Roma who do succeed in accessing employment are engaged in only the least paid and unskilled forms of employment, usually in the form of hard physical labour.
- 3.6.8 In light of the above mentioned barriers to equal education, the ERRC and NRC are concerned that, aside from scholarships for university students (provided primarily if not exclusively by non-governmental sources) and those in secondary education, the only other programme mentioned in the State Report aimed at increasing the participation of Roma in school seeks to educate Romani parents about the importance of education. There is regularly and repeatedly articulated need for material and financial support for Romani children in primary and pre-school education.

3.7 Article 15 of the Covenant

- 3.7.1 As to Article 15 of the Covenant, the ERRC and NRC are concerned that the Macedonian government does not take seriously its commitments to ensure the right of Roma to take part in cultural life.
- 3.7.2 According to the government’s Roma Strategy, there are no state cultural organizations that constantly cultivate the Romani culture in Macedonia. The Strategy further states that the Macedonian government has never financed any studies dealing with the history of the culture and traditions of the Roma in Macedonia.³¹

³¹ Ministry for Labour and Social Policy. January 2005. Strategy for Roma in Republic Macedonia, p. 24. Available online at: <http://www.ecmirom.org/download/Roma%20Strategy%20English.pdf>.

3.7.3 Finally, Macedonian legal provisions related to language rights have resulted in the Romani language being officially used in only one municipality, while Roma are present in very significant numbers in many municipalities in Macedonia.

4. RECOMMENDATIONS

4.1 The ERRC and NRC urge the Committee to recommend to the Macedonian government to undertake the following urgent measures to redress of the worrying situation of Roma in Macedonia:

1. Without delay, adopt comprehensive anti-discrimination law securing protection against discrimination – in particular racial discrimination – in all areas relevant for realizing the rights secured in the Covenant. Particular attention should be paid providing mechanisms to ensure real and effective remedy in cases of discrimination against Roma, including effective and dissuasive sanctions for perpetrators and adequate damages for victims. The minimum standards applied by the Government in adopting comprehensive law banning racial discrimination should be those established in European Council of the European Union Directive 2000/43/EC “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin”;
2. Facilitate, as a matter of priority, for those Roma currently without access to citizenship, effective access to citizenship. Ensure that all Roma are in possession of those documents required to realise fundamental Covenant rights.
3. Without delay, provide to Kosovar Roma, Ashkaelia and Egyptian refugees in Macedonia durable residence status, including the progressive accrual of rights, leading without arbitrary delay to access to the citizenship of the Macedonian state;
4. Adopt and implement, within the frameworks of the Strategy for Roma and the Decade for Roma Inclusion 2005-2015, effective programmes to ensure the realisation of all Covenant rights where Roma are concerned. Adequate targets should be established and funding made available to a level sufficient to meet intrinsic needs in these areas;
5. Adopt and implement measures, including but not necessarily limited to anti-racism training, codes of conduct and job performance reviews for the prevention of discriminatory and degrading treatment of Roma by public officials, including teachers and other educational official, doctors, medical personnel, civil servants and law enforcement officials;
6. Proactively recruit qualified Roma for professional positions in the national and local administration, labour offices, social security offices, health care centres, and schools;
7. Provide free-of-charge vocational training programmes for Romani individuals of working age in order to improve employability and address the current high levels of unemployment in this vulnerable group;
8. Ensure access of Roma to all social services. In particular, remedy the current lack of access to state-sponsored health insurance by significant numbers of Roma;
9. Provide security of tenure for residents of Romani communities and settlements as a matter of priority for improving the housing situation of Roma, in addition to improving infrastructure in Romani neighbourhoods and protecting the inhabitants from forced and arbitrary evictions;
10. Take action to eliminate so-called “participation fees” for users of the health care system so as to ensure unimpeded address to medical treatment and required medication;
11. Proactively identify and treat public health concerns in Romani neighbourhoods;

12. Without delay, adopt and financially support measures to achieve effective equality for Roma in access to education. Such programmes should address all levels of education, but particular attention should be placed on the pre- and elementary and secondary school levels;
13. Without delay, end the practice of segregating Romani children into so-called “Roma classes”. Integrate all Romani students into mainstream classes and, where necessary, design and implement adequately funded and staffed programmes aimed at easing the transition from segregated to integrated schooling;
14. Widen the practice of providing scholarships for Romani pupils to include pre-school and primary education, to reach all children who would demonstrate such need;
15. Develop and implement catch-up or adult education programmes aimed at remedying the legacies of substandard education and non-schooling of Roma;
16. Where instances of abuse in the school system are reported – abuse including exclusionary practices, physical and verbal assault, humiliating treatment, and failure by teachers and school administrators to protect Romani children from peer abuse – without delay, punish school authorities responsible, and implement measures aimed at preventing further abuse;
17. Develop curriculum resources for teaching Romani language, culture, and history in schools, and make them available to all schools, so that all children in Macedonia learn of the valuable contributions Roma have made to Macedonian society;
18. Broaden possibilities for use of the Romani language in state institutions and processes;
19. Systematically collect and make available data disaggregated by ethnicity in areas of relevance to the ICESCR;