

Written Comments

of the European Roma Rights Centre Concerning Macedonia

For Consideration by the Committee on the Elimination of the Racial Discrimination at its 87th session (03 - 28 August 2015)

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INTRODUCTION

This list of critical issues with background information is presented by the European Roma Rights Centre (ERRC)¹ for consideration by the Committee on the Elimination of the Racial Discrimination at its **87th session (03 - 28 August 2015)**. It contains country-specific information on issues affecting Roma in Macedonia that raises questions under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD or Covenant hereafter).

The Republic of Macedonia has 2,022,547 inhabitants, of whom 53,879 (2.66%) have declared themselves Roma.² However, the available unofficial estimate for Roma is 135,490 (6.77%).³ Roma live in 75 out of 85 municipalities across the country.⁴ According to official data, the majority of Roma live in the capital, Skopje (23,475), with 56% of Skopje's Roma concentrated in the municipality of Šuto Orizari (13,342).⁵

Violence against Roma and ill-treatment by police (Article 5)

The ERRC remains concerned at the level of police brutality against Roma in Macedonia in parallel with the level of impunity displayed amongst the responsible authorities. Below are a series of documented cases of police abuse against the Roma community in Macedonia reflecting persistent discriminatory police behavior which is both excessive and unwarranted, breaching the overarching principle of non-discrimination prescribed under the ICERD in conjunction with Article 5. The ERRC draws the Committee's attention to the following incidents:

1. On 19 May 2014 at 20:20, a man reported the abuse of his 17 year-old son and his 12 year-old cousin by four police officers. The two children headed out to go shopping when suddenly four police officers belonging to the special 'Alfa' unit started to beat the two children without any prior warning, suspecting that the boy had stolen a woman's purse. The incident occurred at Skopsko Kale (Skopje Fortress). The police officers did not stop physically beating the two children even when their parents arrived at the scene. The police did not allow the parents to approach their children. The 17 year-old boy was subsequently taken to 'Bit Pazar' police station for interrogation. During the interrogation,

¹ The European Roma Rights Centre is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education. See: www.errc.org.

² Census of Population, Households and Dwellings in the Republic of Macedonia, 2002, available at:

http://www.stat.gov.mk/pdf/kniga_13.pdf (last visit 22 December 2012).

³ Open Society Institute Report, "No Data - No Progress, Data Collection in Countries Participating to the Decade of Roma Inclusion 2005-2015", August 2010, available at:

http://www.opensocietyfoundations.org/sites/default/files/no-data-no-progress-country-reports-20100628_0.pdf (last visit 18 December 2012).

⁴ Statistical Yearbook of the Republic of Macedonia, 2013, available at:

<http://www.stat.gov.mk/Publikacii/PDFGodisnik2013/03-Naselenie-Population.pdf>

⁵ Ibid.

the four police officers allegedly tried to force one of the boys to admit to the crime by slapping him in the face. After they concluded that the minor did not commit the act, he was released.⁶ The ERRC is providing legal representation to both victims in cooperation with the Macedonian Helsinki Committee.

2. On 5 February 2013, an eighteen year-old Romani man reported abuse carried out by two police officers, again belonging to the special 'Alfa' unit. The Romani man was selling perfumes in the centre of Skopje when two plain-clothes policemen approached him and asked for his ID. The two policemen then told him to follow them to the 'Bit Pazar' Police Station, where they started to interrogate him, on suspicion of theft due primarily to his ethnicity. Later, another three police officers joined the interrogation. One of them tried to force the Romani man to admit to having broken a car window. When he denied any responsibility, the interrogator started shouting at him and humiliating him with the following words 'you cigan,⁷ admit that you are a thief' and kicked him hard in his leg, leaving him in severe pain.⁸ The Romani man did not want to file any complaint against the police officers due to fear of reprisals.
3. On 5 May 2013, around 19:30 two uniformed police officers went to the Romani neighbourhood of Topana in Skopje, following an alert that a Romani person, who was on prison leave and failed to return in time, had wounded another man with a knife. The policemen called for a back-up of 50-60 police officers, including the special 'Alfa' police unit. Once they arrived at the scene, they raided the Roma community, and forcibly entered Romani houses, without providing any explanation. The policemen physically assaulted ten Roma, including three women. The police subsequently issued a public statement saying that locals resisted and attacked police officers during the arrest. The ERRC is providing legal representation to one of the victims, and the case is currently pending in front of the Macedonian Public Prosecutor's office.⁹

According to the Committee of Ministers of the Council of Europe, in spite of the diminishing number of cases of ill-treatment by the police, such cases continue to be reported and, according to non-governmental sources, persons belonging to national minorities, especially Roma, are disproportionately targeted. Allegations of discriminatory ill-treatment of Roma are not always properly investigated.¹⁰

Macedonia has pledged under its 2014 Universal Periodic Review to implement the recommendation to "fight impunity for violence against marginalized persons motivated by their

⁶ ERRC Interview MK/MAY2014/17

⁷ The word 'cigan' is always pejorative in Macedonian.

⁸ ERRC Interview MK/FEB2014/7.

⁹ ERRC Interview MK/JUNE2013/4.

¹⁰ Committee of Ministers of the Council of Europe, "Resolution CM/ResCMN(2012)13 on the implementation of the Framework Convention for the Protection of National Minorities by "the former Yugoslav Republic of Macedonia", 4 July 2012, available at: <https://wcd.coe.int/ViewDoc.jsp?id=1959557&Site=CM>

ethnicity, religion, or sexual orientation, particularly through an improved awareness of public opinion, and the police and judicial authorities.¹¹

The UN Committee against Torture's concluding observations in 2015 to Macedonia, inter alia, stated that it remains concerned at information regarding the excessive use of force by police officials against Roma particularly those committed by members of the "Alfa" unit. The Committee was also concerned regarding the outcome of the investigation into the case on 5 May 2013 where approximately 50 police officers, including those belonging to the special police unit "Alfa", allegedly forcibly entered several Romani houses and local shops in a Roma neighborhood 'Topaana' in Skopje, using excessive and arbitrary force when they were attempting to arrest a person. It was alleged that, without providing any explanation, the police harassed and pushed people, and that police officers kicked, punched and hit members of the Roma community with batons, injuring 10 individuals.¹²

Furthermore, the Committee requested the Macedonian Government to combat and prevent discriminatory police misconduct by ensuring that all alleged cases of excessive use of force by law enforcement officials against members of the Roma community are promptly and effectively recorded and investigated and, as appropriate, prosecuted and punished, ensuring that the victims are provided with an opportunity to seek redress including sufficient rehabilitation. Additionally, the aforementioned Committee recommended that the Macedonian Government should enhance the human rights training of law enforcement officials, particularly focusing on providing training to police forces on the rights of all citizens and minorities, including Roma, to be free from arbitrary force and ill-treatment in discharging their duties.¹³

The right to leave any country, including one's own (Article 2 and 5)

Since visa liberalisation got underway in December 2009, allowing Macedonian citizens to travel to the EU Schengen area without visas (for up to 90 days), the number of asylum seekers from Macedonia, mostly filing their protection claims in Belgium, Sweden and Germany, has significantly increased.¹⁴ The most frequent reasons provided for asylum claims concern lack of health care, unemployment and lack of schooling in Macedonia.¹⁵ In general, the authorities in receiving countries claim that the vast majority of the asylums seekers are of Romani ethnicity despite the fact that countries such as Germany do not register the ethnicity of asylum seekers.

¹¹ Report of the Working Group on the Universal Periodic Review, 16 June 2014, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/053/66/PDF/G1405366.pdf?OpenElement>

¹² UN CAT 2015 concluding observations on the third periodical report of FYROM, available at: http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/MKD/CAT_C_MKD_CO_3_20486_E.pdf

¹³ Ibid.

¹⁴ For example, UNHCR data for 2010 show that EU member states and Switzerland received 6,289 asylum applications from citizens of "the former Yugoslav Republic of Macedonia", whereas the corresponding number for 2009 (i.e. prior to visa liberalisation) was 838. See: Council of Europe Commissioner for Human Rights, Report on his visit to "the former Yugoslav Republic of Macedonia" from 26 to 29 November 2012, p. 24.

¹⁵ Council of Europe Commissioner for Human Rights, Report on his visit to "the former Yugoslav Republic of Macedonia" from 26 to 29 November 2012, p. 24.

EU officials have called on the Macedonian authorities to take measures to prevent their citizens claiming asylum in the EU, because the majority of applicants have been perceived as illegitimate asylum seekers.¹⁶

As a response to intensified calls from EU officials to manage migration properly, and to the threat of the re-introduction of visas, in 2011 the Macedonian Parliament adopted an amendment to the Law on Travel Documents (LTD)¹⁷ which introduced a new ground to revoke existing passports or to refuse issuing new passports. Article 37 of the amendment stipulates that a person who has been forcibly returned or expelled from another country due to violating the regulations on entry and stay in that country shall not be issued a passport.¹⁸ If the individual already has a passport, it will be confiscated¹⁹ for a period of one year.²⁰

Apart from the problem of passport revocation, ethnic profiling of Roma by border police and unlawfully controlling exits from Macedonia targeting mainly Macedonian Roma are additional problems infringing on a person's freedom of movement. The ERRC documented cases of Macedonian officials engaging in racially motivated discriminatory practices at the Macedonian border, in an apparent effort to discourage Roma from leaving the country and claiming asylum in the EU.

Between 2011 and May 2015, the ERRC documented the cases of 176 Romani individuals who were prevented from exiting the country, and became aware of another 63 such cases. In the same period, the ERRC documented 75 cases in which Macedonian border officials revoked the passports of Romani individuals who had been deported from EU countries as failed asylum seekers, and became aware of another 155 such cases. Additionally, ERRC documented cases where Macedonian Roma after being deported from Western European countries and having their passports confiscated by Macedonian authorities faced a ban on using their ID card to cross the border.

Most of the ERRC's documented cases show that only Roma were asked for evidence to justify why they intended to leave Macedonia, non-Roma were never requested to do so. It appears that the border officials were instructed to act based on the ethnicity of the people trying to leave, some Roma were told explicitly by the border officials that they could not cross the border due to their ethnicity. According to the ERRC documented cases in the period between 2011

¹⁶ ERRC submission to the European Commission on Macedonia, May 2014, available at:

<http://www.errc.org/cms/upload/file/ec-progress-report-macedonia-2014.pdf>

¹⁷ Закон за изменување и дополнување на Законот за патните исправи на државјаните на Република Македонија (Law on amendments of the Law on Travel Documents for Citizens of Rep. of Macedonia), („Сл. весник на РМ„ бр. 135/11 од 03.10.2011), available at: http://mfa.gov.mk/sites/default/files/zakoni_dokumenti

¹⁸ Член 37 став 1 точка 6 (Article 37, paragraph 1, point 6) Закон за патните исправи на државјаните на Република Македонија (Law on Travel Documents for Citizens of Rep. of Macedonia), („Сл. весник на РМ„ бр. 67/92, 20/03, 46/04, 19/07, 84/08, 51/11, 135/11), available at:

http://mfa.gov.mk/sites/default/files/zakoni_dokumenti

¹⁹ Ibid., Article 37, paragraph 2.

²⁰ Ibid., Article 38, paragraph 4.

and 2014, 60% of Roma refused the right to leave were told by the border officials that they (the border officials) were instructed to restrict the rights of Roma. It appears that they were 'instructed' to act based on race. Thirty per cent of those Roma concerned were told *explicitly* by the border officials that they could not cross the border due to their Roma ethnicity.

In response to the gravity of these violations on the right to leave one's own country, the ERRC conducted several legal and advocacy activities. Firstly, in February 2014, the ERRC (and other parties) launched a Constitutional Court initiative challenging the abovementioned amendments to the Law on Travel Documents (LTD)²¹ allowing for the revocation of passports. The ERRC complained to the Constitutional Court (the Court) that the LTD granted the authorities excessive powers to revoke the passports of citizens who have been forcibly returned or expelled from another country for having violated that country's rules on entry and stay, contrary to the Constitution of the Republic of Macedonia as well as to international instruments for the protection of human rights and fundamental freedoms.²²

The Court, on 25 June 2014, declared the impugned provisions (Article 37 paragraph 1 point 6 and Article 38 paragraph 4 of the LTD) unconstitutional. According to the Court, the highest judicial body in Macedonia, articles of the LTD which allowed the authorities to impose severe restrictions on freedom of movement of Macedonian citizens were incompatible with the constitutional right to freedom of movement.²³ The authorities argued that the passport revocation measure was necessary to prevent or minimise the risk of individuals violating the immigration laws of other countries, thus damaging the country's reputation.²⁴ However, the Court concluded that these reasons were not legitimate. The Constitution sets out an exhaustive list of the grounds for restricting the right to leave the country including national security, public health and in order to conduct criminal proceedings. Protecting the country's reputation or the immigration laws of another country does not fall within any of these categories. In addition, the Court stated that such a blanket measure was not proportionate because it imposed excessive limitations on the freedom of movement. Following the above outlined favourable ruling of the Constitutional Court of Macedonia, the ERRC organised a free movement campaign with its partner organisations²⁵ in five cities in Macedonia.

Secondly, in relation to ethnic profiling, the ERRC conducted a testing exercise in order to collect evidence of discriminatory administrative practice and ethnic profiling of Roma trying to exercise their right to leave their own country. The profiles of the different test groups were

²¹ ERRC, "ERRC Challenges Discrimination of Roma at the Border Before the Constitutional Court of Macedonia", press release, 26 February 2014, available at: <http://www.errc.org/article/errc-challenges-discrimination-of-roma-at-the-border-before-the-constitutional-court-of-macedonia/4248>

²² Ibid.

²³ ERRC, "Highest court in Macedonia Upholds Freedom of Movement for all Macedonians, including Roma", press release, 15 July 2014, available at: <http://www.errc.org/article/highest-court-in-macedonia-upholds-freedom-of-movement-for-all-macedonians-including-roma/4301>

²⁴ ERRC, "Highest court in Macedonia Upholds Freedom of Movement for all Macedonians, including Roma", press release, 15 July 2014, available at: <http://www.errc.org/article/highest-court-in-macedonia-upholds-freedom-of-movement-for-all-macedonians-including-roma/4301>

²⁵ "ROMA S.O.S."; "Romano Avazi"; "Bairska Svetlina" and the "National Roma Centrum" delivered the campaign in Prilep, Bitola, Tetovo, Skopje and Kumanovo.

similar, the only significant difference was their ethnic background. The results showed explicit violations of the freedom of movement, it also revealed that these restrictions on movement were based on ethnic profiling of and discrimination against Macedonian Roma when it comes to exercising their right to leave their own country.²⁶

Additionally, as indicated above Macedonian Roma are faced with additional obstructions in exercising their free movement rights. Namely, some of the Macedonian Roma, after being deported from Western European countries and having their passports confiscated by Macedonian authorities faced a ban on using their ID card to cross the border, an order issued by the Ministry for Interior.

Such a ban can be issued only in exceptional circumstances with a court order i.e. a decision. The bans on using ID cards to cross the border in these cases, were issued without court orders, moreover the legal reasoning for issuing travel ban is based on the provisions of the Law on Travel Documents which were declared, as indicated above, unconstitutional by the Constitutional Court. Although not many Roma faced such restrictions, there is no evidence that any non-Roma were issued with similar travel bans.

ERRC believes that imposing a ban on using ID cards to cross state borders, contrary to the positive domestic legislation, constitutes a violation of the right to leave one's country. In addition, such practice by Macedonian border police constitutes direct discrimination based on ethnicity as existing evidence shows that only Roma (although not all Roma) are targeted by such measures.

Data and findings from national and international institutions

The Council of Europe's Commissioner for Human Rights (the Commissioner), stated that from the end of 2009 to November 2012 about 7,000 Macedonian citizens, mostly Roma, were not allowed to leave the country and had their travel documents confiscated.²⁷ Likewise, according to the U.S. Department of State in 2011 alone, during a seven-month period, more than 1,500 Macedonian citizens, mostly Roma, were refused exit from the country on the basis of being potential asylum seekers.²⁸ Furthermore, according to the same source after just one year the number of Macedonian citizens who were denied exit from Macedonia increased from 1,500 in 2011 to 8,322 in 2012.²⁹

²⁶ ERRC is considering having a separate report around this initiative.

²⁷ Council of Europe Commissioner for Human Rights, Report on his visit to "the former Yugoslav Republic of Macedonia" from 26 to 29 November 2012, p. 25.

²⁸ Bureau of Democracy, Human Rights and Labour, U.S. Department of State, *Country Report on Human Rights Practices for 2011 – Macedonia*, p.18.

²⁹ Bureau of Democracy, Human Rights and Labor, U.S. Department of State, *Country Report on Human Rights Practices for 2013 – Macedonia*, p. 12, available at: <http://www.state.gov/documents/organization/220516.pdf>.

The Commissioner reports that such measures interfere with the internationally established right to leave one's country, and undermines the right to seek asylum. Instead of penalising people for attempting to exercise their human rights, the authorities should better address the root causes of poverty and social exclusion which push individuals to seek refuge abroad in the first place.³⁰ According to the Commissioner, the situation is of particular concern noting in 2013 that

these restrictive, migration-related measures have been adopted at the instigation of EU member states in pursuance of their immigration and border control policies, and have been tainted by discrimination as they have targeted and affected, in practice, the Roma.³¹

Furthermore, according to the FRONTEX report "Western Balkan Annual Risk Analysis 2014"³² in 2013, 6,700 individuals were denied exit from Macedonia. It is not indicated if they were all Macedonian nationals or if the number includes everyone (foreigners as well) who were denied exit from Macedonia. However, other sources indicate that this only refers to Macedonian nationals. Statistics available from the Ministry of the Interior's website shows that in 2013 only 416 foreign nationals were denied exit from Macedonia.³³

The following table shows sources of data on the number of people denied exit from Macedonia in recent years:

<u>CoE Commissioner for Human Rights</u>	<u>ERRC data request to the Ministry for Interior</u>	<u>US government</u>	<u>FRONTEX "Western Balkan Annual Risk Analysis 2014"</u>
December 2009- November 2012	October 2011-March 2014	April -October 2011	2013
7,000	2,843	1,500(2011)³⁴ 8.322(2012)³⁵	6,700³⁶

³⁰ Council of Europe Commissioner for Human Rights, Report on his visit to "the former Yugoslav Republic of Macedonia" from 26 to 29 November 2012.

³¹ Issue paper by Nils Muižnieks, Council of Europe Commissioner for Human Rights, The right to leave a country, October 2013, available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2401714&SecMode=1&DocId=2082060&Usage=2>.

³² Western Balkans Annual Risks Analysis 2014, available at: http://frontex.europa.eu/assets/Publications/Risk_Analysis/WB_ARA_2014.pdf

³³ Official web site of the Ministry for Interior, available at: <http://www.mvr.gov.mk/>

³⁴ Bureau of Democracy, Human Rights and Labour, U.S. Department of State, *Country Report on Human Rights Practices for 2011 – Macedonia*, p.18.

³⁵ Bureau of Democracy, Human Rights and Labor, U.S. Department of State, *Country Report on Human Rights Practices for 2013 – Macedonia*, p. 12, available at: <http://www.state.gov/documents/organization/220516.pdf>.

The Macedonian *Ombudsman's Annual Report 2013* reported an increased number of complaints of discrimination, based on their ethnicity as members of the Roma community, as a consequence of their return from border crossings from the Republic of Macedonia.³⁷ The Ombudsman stresses in his recommendations that domestic and international standards must be applied to guarantee the right of free movement of citizens.³⁸ Reiterated again in its 2014 *Annual Report*, where inter alia, it stated that the deputy Ombudsman (who has Romani origin) encountered the same obstacle while she was trying to exit the country.³⁹

Due to the lack of implementation by the Ministry for the Interior of the Ombudsman's recommendations and the continued practice preventing Roma from crossing the border, the Ombudsman, in 2015, publicly condemned the ethnic profiling and unlawful obstruction of Roma in exercising their right to leave their own country.⁴⁰

Concerning the right to participate in elections, protected under Article 5 (c) of the Covenant, in particular the right to vote, in March 2015 recorded conversations regarding the manipulation of Roma votes were leaked to the press.⁴¹ The Minister for the Interior, Gordana Jankulovska and other high-level officials, allegedly the voices identified in the recordings, were involved in unlawfully manipulating Roma by taking and keeping their passports as a guarantee for obtaining their vote for a specific political party. ERRC also understands that in the course of these leaked conversations, there was a discussion about manipulating Roma by making promises in relation to social assistance and/or benefits.⁴²

The right to Housing (Article 5)

The ERRC became aware of a Roma neighbourhood in Kavadarci called Teneke Mahala which is at risk of eviction and removal to inadequate, unacceptable accommodation in containers in an isolated area of Macedonia. This planned action is blatant segregation on the basis of ethnicity, an outright form of discrimination in housing backed by the Macedonian Government. The neighbourhood consists of 18 houses, all of which are Roma, originally established in 1976. The families live in substandard living conditions, lacking electricity, sewer systems and adequate, accessible water supplies. From the information obtained by the ERRC, no attempts have been made by the authorities to date to improve the living conditions of the residents of Teneke Mahala.

³⁶ Not indicated if they are all Macedonian nationals or the number includes all people (foreigners as well) who were denied exit from Macedonia. However other sources indicate that this only refers to Macedonian nationals. Statistics available at the [Ministry of Interior](#) website show that in 2013 only 416 foreign nationals were denied exit from Macedonia.

³⁷ Ombudsman Annual Report 2013, March 2013, p. 18, available at: <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2013-Ang.pdf>

³⁸ Ibid, p. 18

³⁹ Ombudsman Annual Report 2014, March 2015, p.80, available at: <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2014/GI%202014.pdf>

⁴⁰ "Otvoreno" a public debate on the human rights situation in Macedonia, available at: https://www.youtube.com/watch?v=0m8hiQgy_dM

In June 2015 the local authorities decided to evict the Romani neighbourhood, without previously informing them of this decision. Money was set aside from the municipal budget to purchase “second-hand containers” for re-housing the affected Roma community. The decision specified that containers would be available for eight families of “Roma nationality” who are currently residing in the informal settlement at Teneke Mahala but the ERRC does not know how these families will be selected. The local authorities also instructed the construction and environment agency to act within its powers and responsibilities to issue an eviction notice to the Roma neighbourhood.

The actions of the municipality are in direct violation of the state parties duty to pursue non-discriminatory practices, policies and legislation in line with its legal obligations under ICERD.

Racial Discrimination (Article 2, 3, 4 and 5)

The Law for the Prevention of and Protection against Discrimination (LPPD) was adopted on 8 February 2010, and came into force in January 2011.⁴³ Some legal experts claimed that it is not in compliance with EU law. The points of contention refer to non-compliance with the EU Racial Equality Directive and the Employment Equality Directive including the absence of an explicit legal framework or established practice allowing the use of statistics as evidence in indirect discrimination and failure to define and prohibit segregation as a special form of discrimination.⁴⁴ The party claiming discrimination has to provide all the facts and evidence to support such a claim, the defending party has an obligation to substantiate that discrimination has not occurred (Article 38). Additionally, the LPPD does not explicitly include the possibility of a method for proving discriminatory treatment.

The Commission for Protection against Discrimination (CPD), comprising of seven members, became functional in January 2011.⁴⁵ The CPD does not have a mandate to impose sanctions, but only to issue opinions and recommendations. If the discriminating party refuses to comply with the CPD’s recommendation, the CPD may initiate proceedings before the relevant bodies (Article 28 LPPD), such as a misdemeanour or a criminal complaint. Although third parties can directly be involved in legal proceedings, as co-litigants or on behalf of a person claiming discrimination, the law does not explicitly allow for the CPD to act as an “intervener” or “co-litigant” in discrimination claims before civil courts. The law foresees that associations, foundations, institutions and other organisations *from civil society* may co-litigate the

⁴³ Law on Prevention and Protection from Discrimination („Службен весник на Република Македонија“ бр.50/2010), available at: http://nkt.mtsp.gov.mk/nkt/content/Documents/anti_discrimination_law_mkd_2010.pdf

⁴⁴ ERRC submission to UN CEDAW on Macedonia, January 2013, available at: <http://www.errc.org/cms/upload/file/macedoniacedaw-submission-30-january-2013.pdf>.

⁴⁵ *SETimes*, “Macedonians get new resource against discrimination”, 19 January 2011, available at: http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2011/01/19/feature-03 (last visit 22 December 2012)

discrimination claim under certain conditions,⁴⁶ while institutions dealing with the protection of the right to equal treatment may appear as an “intervener” in civil proceedings (Article 39 paragraph 1), thus implying the CPD as well.

The independence and expertise of the members of the Commission are questionable, considering that some of the members were until recently or are still employed in state institutions, and not all of them have experience of working on human rights issues.⁴⁷ The European Commission 2013 report on Macedonia noted that “concerns remain about the Commission’s independence, given its persistent lack of financial and human resources”.⁴⁸

Additionally, in relation to the outlined recordings, the officials speaking used insulting language by calling Roma “Gypsy”, which has a very negative connotation and a stigmatising effect in Macedonian society. This kind of derogatory vocabulary has also been used by the Head of the Commission for Protection of Discrimination.⁴⁹

Recommendations:

1. Provide human rights law training to all police forces including the Alfa unit with a strong emphasis on non-discrimination.
2. Ensure independent investigations of systemic ill-treatment of Roma and others by the “Alfa” police unit;
3. Halt the practice by border police of restricting the right to leave one’s own country, in particular against the Roma, as guaranteed under domestic and international law and equally stop the practice of confiscating identity documents of Roma trying to leave the country.
4. Fully adhere to the decision of the Constitutional Court of R.Macedonia regarding the Law on Travel Documents;
5. To introduce human rights training for border officials and ensure that Roma are no longer to be profiled and discriminated when they are trying to leave the country;
6. Halt all actions of housing segregation of Roma and ensure their right to adequate housing;

⁴⁶ Provided that they have justified interest and make probable that the right to equal treatment of greater number of persons has been violated (Article 41 paragraph 1 LPPD).

⁴⁷ For an assessment see European Network of Legal Experts in the Non-Discrimination Field, “FYR Macedonia - The Assembly of the Republic of Macedonia appointed the members of the first Commission for Protection against Discrimination”, available at: http://www.non-discrimination.net/content/media/MK-7-Members_of_first_equality_body_appointed.pdf (last visit; for the biographies see the website of the Commission for Protection against Discrimination available at: <http://www.kzd.mk/mk/za-kzd/clenovi> (last visit 14 March 2013)

⁴⁸ European Commission, *Commission Staff Working Paper – the Former Yugoslav Republic of Macedonia Progress Report 2013*, 16 October 2013, available at: http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mk_rapport_2013.pdf.

7. Ensure that any evictions that do take place are a means of last resort, and are carried out in accordance with both national and international law, including ensuring that those evicted have access to effective remedies against forced eviction and;
8. Establish a system of control and hold to account border officials and any other actors responsible for discriminating against Roma in access to freedom of movement in breach of national and international law.