

20 April 2012

Mr Nikola Gruevski, Prime Minister
Ms Teuta Arifi, Deputy Prime Minister for European Affairs
Ms Gordana Jankulovska, Minister of Interior
Mr Blerim Bexheti, Minister of Justice
Mr Nikola Popovski, Minister of Foreign Affairs
Mr Neždet Mustafa, Minister without Portfolio
Mr Vanco Kargov, Macedonia Customs Administration
Mr Idzet Memeti, Ombudsman Republic of Macedonia
Mr Dushko Minovski, Commission on Protection against Discrimination

Re: Freedom of Movement at Macedonian Borders

The European Roma Rights Centre is writing to express concern about violations of the right to freedom of movement at the Macedonian border.

On 25 March 2012, a group of five Romani musicians from Kocani possessing all documentation required to enter the Schengen zone were prevented from crossing the border at Tabanovce. Travelling to Germany to perform at a wedding, they were refused permission to cross the border under suspicion that they would seek asylum in Germany. As a result, border guards put "AZ" stamps in the passports of two individuals, and one individual's passport was marked with a line across the final page. AZ stamps and lines indicate that the passport holder has tried to cross the border without meeting all necessary requirements and therefore may be suspected of being an asylum seeker.¹ The other two had no marks in their passport, but all were prevented from exercising their right to freely leave the country.²

In 2011, the ERRC documented at least 10 cases in which Romani people were denied the right to exit the country at Macedonian border crossings.³ The Council of Europe's Commissioner for Human Rights has also raised concern about the 'scapegoating' of Roma over the pressures on the visa system in Europe, and underlining that the right to leave one's country was universally protected and expressed.⁴

In addition, a recent media report indicates that the Macedonian government intends to bring in new measures to reduce immigration to the EU by restricting freedom of movement to anyone who has unsuccessfully tried to seek asylum previously and returned to Macedonia, and by criminalising "asylum abuse".⁵

The ERRC recalls that any formal or informal measures that prevent freedom of movement and target a particular ethnic group are incompatible with international standards. Macedonia has ratified the

¹ ERRC telephone interview with Independent Inspector, Border Surveillance Control, Ministry of Interior. Skopje: 17 April 2012.

² ERRC telephone interview with local NGO: 28 March 2012.

³ ERRC unpublished research data shows that Romani individuals were denied the right to exit Macedonia at the Tabanovce and Novo Selo-Petric border crossings.

⁴ Thomas Hammarberg, *Human Rights Comment*, available at: http://commissioner.cws.coe.int/tiki-view_blog_post.php?postId=193.

⁵ Macedonia to block Roma from EU, available at: <http://www.dw.de/dw/article/0,,15865850,00.html>.

European Convention on Human Rights (Protocol 4, Article 2);⁶ the European Social Charter (Article 18),⁷ the Universal Declaration on Human Rights (Article 13)⁸, the International Covenant on Civil and Political Rights (Article 12)⁹ and the International Convention on the Elimination of All Forms of Racial Discrimination¹⁰. These international laws guarantee that anyone in possession of valid identification documents is free to reside in the country and leave of their own will, without any discriminatory restrictions.

Freedom of movement is also guaranteed by the Macedonian Constitution (Article 27)¹¹ and protected by the Law on Prevention and Protection Against Discrimination.¹²

In addition, as an EU candidate country, Macedonia has agreed to comply with the Copenhagen Criteria,¹³ according to which the candidate state should guarantee the democracy, the rule of law, human rights and protection of minorities.

The ERRC asks Macedonian authorities to undertake the following measures as soon as possible:

- Provide new, unmarked, travel documentation to the individuals affected in this case;
- Eliminate any punitive laws, policies and practices that limit the right to free movement; in particular, personal data about potential asylum seekers should not be gathered or used as a basis for preventing a citizen from leaving the country;
- Investigate and stop any official or informal measures that directly or indirectly discriminate against Roma crossing the border to travel outside of the country;
- Review all (proposed) laws, policies and practices and ensure non-discrimination and compliance with international human rights standards;
- Develop and publicise information on the requirements for Macedonian citizens who wish to travel outside the country.

We request to be informed of all actions undertaken by your respective offices in response to this letter and would welcome the opportunity to discuss this issue further,

Sincerely,

Dezideriu Gergely
Executive Director

TO:

Mr Nikola Gruevski, Prime Minister

⁶ Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950, ETS 5, available at: <http://www.unhcr.org/refworld/docid/3ae6b3b04.html>.

⁷ Council of Europe, European Social Charter (Revised), 3 May 1996, ETS 163, available at: <http://www.unhcr.org/refworld/docid/3ae6b3678.html>.

⁸ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <http://www.unhcr.org/refworld/docid/3ae6b3712c.html>.

⁹ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <http://www.unhcr.org/refworld/docid/3ae6b3aa0.html>.

¹⁰ UN General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195, available at: <http://www.unhcr.org/refworld/docid/3ae6b3940.html>.

¹¹ Constitution of the Republic of Macedonia, available at: <http://www.sobranie.mk/en/default.asp?ItemID=9F7452BF44EE814B8DB897C1858B71FF>.

¹² Law on Prevention and Protection Against Discrimination, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_172446.pdf.

¹³ Council of the European Union, *Council Decision on the principles, priorities and conditions contained in the Accession Partnership with the former Yugoslav Republic of Macedonia and repealing Decision 2006/57/EC*, 18 February 2008, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:080:0032:01:EN:HTML>.

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Mr Nils Muižnieks, Commissioner for Human Rights, Council of Europe
Ms Cecilia Malmström, Commissioner, Directorate-General Home Affairs, European Commission
Mr Andrzej Mirga, Senior Adviser on Roma and Sinti Issues, OSCE
Ambassador Janez Lenarčič, Director, Office for Democratic Institutions and Human Rights