

**Written Comments of the European Roma Rights Center
Concerning The Former Yugoslav Republic of Macedonia**

**For Consideration by the European Commission against Racism and Intolerance
in Strasbourg in June 1998**

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Executive Summary

The European Roma Rights Center ("ERRC"), an international public interest law organisation based in Budapest, respectfully submits written comments concerning the Former Yugoslav Republic of Macedonia ("Macedonia") for consideration by the European Commission against Racism and Intolerance ("ECRI").

We are aware of the economic and political difficulties which have confronted the Macedonian government since its independence from the Yugoslav federation in 1991. Notwithstanding these problems, we submit that the government has fallen short of its obligations under international law to combat racism and intolerance.

Racially-motivated violence against Roma by police and others is endemic, and existing criminal legislation has proven inadequate to provide remedies. The Ministry of Interior has shown reluctance to discipline its own employees, prosecutors have resisted pressing charges, and courts have failed to impose sanctions for racially-motivated violence, even where evidence is compelling.

Roma have suffered large-scale discrimination in access to citizenship. The 1992 citizenship law imposed unduly stringent requirements in breach of European standards-- including a 15-year-residence requirement, a physical and mental health pre-condition, and unreasonably high administrative fees-- which have disproportionately affected Roma. As a result, thousands of Roma who have genuine and long-standing ties to the territory of Macedonia are presently *de jure* or *de facto* stateless in their own land.

Widespread poverty, inflated costs of educational materials, and inadequate government efforts to provide financial assistance deny Romani children effective equality in access to education. In addition, most Romani students have no opportunity to be educated in the Romanes language.

Macedonia has failed to adopt measures to prevent and sanction race discrimination in the field of employment. As a result, Roma seeking to find or retain jobs routinely endure discriminatory practices, and unemployment levels in the Romani community remain excessive. There are virtually no Roma in the judiciary, the national legislature, local government, or the army or the police.

In view of the foregoing, the Macedonian government should adopt and implement legislation specifically outlawing-- and providing enhanced penalties for-- racially-motivated violence; undertake effective measures to ensure that police officers are disciplined and prosecuted for abuse; amend the citizenship law to eliminate its restrictive requirements and ensure non-discriminatory access to citizenship; urgently remedy cases of *de jure* or *de facto* statelessness; and take legal and other affirmative measures to end racial discrimination in the fields of education and employment.

Expertise and Interest of the ERRC

The ERRC monitors the situation of Roma in Europe and provides legal defence to victims of human rights violations. Since its establishment in January 1996, the ERRC has undertaken first-hand field research in more than a dozen countries, including Macedonia, and has disseminated numerous publications, from book-length studies to advocacy letters

and public statements. A full-time ERRC monitor is presently stationed in Macedonia reporting regularly on human rights developments concerning Roma. ERRC publications about Macedonia and other countries, and additional information about the organisation, are available on the Internet at <http://www.errc.com>. We submit that our extensive factual research concerning Macedonia, and our participation in litigation there on behalf of Roma who have been the victims of racially-motivated crimes, warrant the attention of ECRI to our written comments.

Discussion

I. Legal Aspects¹

A. International Legal Instruments

In recent years, Macedonia has ratified most international legal instruments addressing questions of racism and intolerance. However, the State has not yet made the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (subjecting itself to the CERD's individual complaint procedure), although Macedonian authorities expressed their willingness to do so at the August 1997 CERD session.² In addition, as of 31 May, 1998, Macedonia had signed, but had still not ratified, the European Social Charter and the European Charter for Regional or Minority Languages.

B. Constitutional Provisions

The Constitution of the Republic of Macedonia ("Constitution"), which entered into force on 20 November, 1991, accords the Romani people recognition as a national minority.³ Notwithstanding this provision, which is to be applauded, the ERRC has the following concerns related to the constitutional protections provided to Roma in Macedonia:

1. The definition of Macedonia as a "national state of the Macedonian people"⁴ has been criticised by international monitoring organisations, as well as representatives of ethnic minority groups, as an attempt to define as second-class citizens persons not of Macedonian nationality.⁵
2. The right to a fair trial is not guaranteed by the Constitution. Although the Parliamentary Assembly of the Council of Europe has already noted and drawn the attention

¹ Following the topic outline employed by ECRI in "ECRI's country-by-country approach, Volume I" (1997), these comments address legal issues related to Roma according to the categories set forth therein. Nonetheless, legal problems which arise under more specific topics-- i.e., citizenship, education, employment-- are addressed within each section. See Policy Aspects, *infra*.

² See Concluding Observations of the Committee on the Elimination of Racial Discrimination: The Former Yugoslav Republic of Macedonia, CERD/C/304/Add. 38, 15 October 1997, paragraph 5.

³ See Constitution of Macedonia, Preamble ("[...] full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies and other nationalities living in the Republic of Macedonia.").

⁴ *Ibid.*

⁵ According to Human Rights Watch/Helsinki: "Albanian deputies in parliament did not vote on the new constitution in protest of the formulation." See HRW/Helsinki: *A Threat to 'Stability'. Human Rights Violations in Macedonia*, New York, 1996, p. 20, footnote 16.

of the government to this serious constitutional gap,⁶ to date no steps have been taken by Macedonian lawmakers to remedy it.

3. Article 9 of the Constitution - which guarantees equality before the Constitution and the law - does not include all grounds of discrimination expressly listed in Article 14 of the European Convention on Human Rights (ECHR). In particular, Article 9 does not guarantee protection against discrimination based on "language" or on "association with a national minority".

4. Article 54 establishes the possibility to restrict the exercise of certain freedoms and rights and provides that the restriction may not discriminate on various grounds. However, the provisions specifying these grounds do not include association with a national minority. Paragraph 2 of Article 54 provides that freedoms and rights may be restricted "during states of war⁷ and emergencies,⁸ in accordance with the provision of the Constitution" without imposing a clear proportionality requirement between the extent of the limitation and the exigencies of the situation.⁹

5. Article 34 of the Constitution limits to "citizens" the right to social security, notwithstanding States' obligation, pursuant to Article 12(4)(a) of the European Social Charter, to ensure "equal treatment with their own nationals of the nationals of other Parties in respect of social security rights [...]." Similarly, the Constitution limits to "citizens" both the right of assistance to those who are "infirm or unfit to work" (Article 35), and the right to health care (Article 39), notwithstanding the obligation to provide such assistance to "any person."¹⁰

C. Criminal Law Provisions

The incorporation of specific anti-discrimination provisions in the Criminal Code¹¹ is welcome. However, the ERRC is concerned both with the absence of legislation specifically proscribing racially-motivated violence, and with the failure of authorities to date effectively to implement existing penal provisions.

The Macedonian Criminal Code fails expressly to identify racially motivated violence as a crime or to define racial motivation as an aggravating circumstance warranting sentencing enhancement for crimes of violence. Criminal Code articles which sanction defamation, incitement to racial hatred, genocide, and racial or other forms of discrimination,¹² do not address crimes of racially-motivated violence *per se*. There exists no clear legal authority to guide prosecutors and judges who might wish to describe a crime as racially-motivated.

⁶ Paragraph 9 (iv) of the Parliamentary Assembly's Opinion 191(1995) on the application by the Former Yugoslav Republic of Macedonia for membership of the Council of Europe reads: "[S]hould the constitution be amended, the right to a fair trial will be included in Article 13 of the constitution".

⁷ Article 124 of the Constitution provides that a state of war exists when direct danger of military attack on the Republic is impending, or when the Republic is attacked, or war is declared on it.

⁸ Article 125 of the Constitution provides that state of emergency exists when major natural disasters or epidemics take place.

⁹ Article 15(1) of the ECHR which provides that the States may derogate from their obligations under the Convention "[...] to the extent strictly required by the exigencies of the situation".

¹⁰ Article 13(1) of the European Social Charter obliges contracting States "[...] to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources [...] be granted adequate assistance[...]."

¹¹ Articles 137 and 417 of the Criminal Code.

¹² Articles 319, 403, 408 and 417 of the Criminal Code.

Nor is existing anti-discrimination legislation consistently applied. Article 137 of the Criminal Code provides for terms of imprisonment of (i) between three months and three years for certain discriminatory practices, and (ii) between six months and five years when the perpetrator is an official who commits the crime in the course of official duties. However, two years after this legislation entered into force, the ERRC is not aware of a single case in which these code provisions have been applied.

ERRC field research has revealed numerous instances in which reported cases of violence against Roma have not been investigated properly, or at all. In cases where an investigation is conducted, non-Romani perpetrators often go unpunished, notwithstanding the existence of proof of their involvement in criminal activity.¹³

D. Civil and Administrative Law Provisions

ERRC is unaware of any existing legislation implementing the non-discrimination clauses of the Constitution in the fields of employment or housing. Moreover, notwithstanding the requirement of Article 5(f) of the International Convention on the Elimination of All Forms of Racial Discrimination, Macedonia has yet to secure by law the right of access on a non-discriminatory basis to public accommodations.

II. Policy Aspects

A. Citizenship and Status of Non-Citizens

On November 11, 1992, the Act on Citizenship of the Republic of Macedonia (the "1992 citizenship law")¹⁴ replaced the federal 1976 citizenship law of the former Socialist Republic of Yugoslavia and the 1977 Macedonian republican citizenship law (the "1977 citizenship law"). The 1992 citizenship law provides for acquisition of citizenship by four means: origin, birth, naturalisation, and international treaty.¹⁵

Before the 1992 citizenship law entered into force, every citizen of the Yugoslav federation had possessed two citizenships-- a federal one and a republican one. The initial body of citizens of the new Macedonian state was constituted by former citizens of the Yugoslav federation who simultaneously held Macedonian republican citizenship. For registered residents of Macedonia who held Yugoslav federal citizenship and citizenship of one of the other Yugoslav republics, the 1992 law foresees a naturalisation procedure. This naturalisation procedure was applied in a simplified form during the first year of validity of the law.

Criticism of the Macedonian citizenship law has focused on the naturalisation requirements, and in particular the fifteen year residence requirement. The restrictive character of the 1992 citizenship law has given rise to numerous cases of *de jure* and *de facto* stateless persons. According to the 1994 census, a total of 18,851 persons-- out of whom

¹³ Indeed, the government's failure to make public information concerning the effectiveness (if any) of existing remedies for racially-motivated violence has already been noted by inter-governmental organs. In its Concluding Observations from October 1997, the CERD asked to be provided with information on "the effectiveness of remedies in cases of racial discrimination, on the number of complaints of racial or racially motivated offences, and on the judicial action taken on those complaints and the redress or compensation awarded to victims." CERD/C/304/Add.38, 15 October, 1997, paragraph 14.

¹⁴ Law 67/1992.

¹⁵ Article 3 of Law 67/1992.

4,356 were Roma-- lacked any citizenship.¹⁶ In fact, ERRC field research indicates that the number of stateless Roma is significantly higher. In Kumanovo alone, 30% of approximately 5,000 Roma are not citizens of any country. Similar percentages have been reported in Skopje.¹⁷ In Tetovo between 500 and 1000 Roma have no citizenship.¹⁸ Additional large numbers of Roma are formally citizens of other former Yugoslav republics who have never acquired Macedonian citizenship.¹⁹

1. The initial body of citizens

According to Art. 26(1) of the 1992 citizenship law, holders of former Macedonian republican citizenship acquired citizenship of the new successor state by submitting a form containing personal details and paying an administrative fee amounting to the equivalent of 5 DEM. The procedure usually took from four to six weeks.

2. The simplified naturalisation procedure: 11 Nov. 1992 to 11 Nov. 1993

From 11 November 1992 to 11 November 1993, citizens of the former Yugoslav federation who (i) were also citizens of one of the other federal republics (i.e., not Macedonia) and (ii) were "registered" as residents on Macedonian territory, could acquire Macedonian citizenship upon request, provided that they satisfied three requirements. First, they had to show that they had a permanent source of income. Second, they had to be over 18 years of age. Third, they had to demonstrate that, at the time of the application, they had been legal residents of Macedonia for at least 15 years.²⁰ Finally, applicants for citizenship were required to pay an administrative processing fee of 50 USD.

The effect of these requirements was disproportionately felt by the Romani population of Macedonia. First, 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 the Special Rapporteur for the UN Commission of Human Rights has observed, "[...] republican citizenship within SFRY was essentially symbolic and had little or no legal effect."²¹ Accordingly, many Roma who could have qualified as Macedonian republican citizens never took the time to do so. Second, given the high rate of unemployment among Roma and discrimination against them

¹⁶ See statistics provided by the Macedonian Government in the Third Periodic Report submitted to the UN Committee on the Elimination of Racial Discrimination, CERD/C/270/Add.2, 13 March, 1997, paragraph 57.

¹⁷ ERRC Interview with Fait Kamberovski, Chairman of the Kumanovo branch of the Democratic Party for the Total Emancipation of Roma, August 1997, Kumanovo.

¹⁸ ERRC Interview with Saladjin Rustemi, August 1997, Tetovo.

¹⁹ ERRC research has revealed serious procedural defects in the citizenship application process which have led to situations of *de jure* statelessness. Thus, in the normal course, documents certifying the applicant's release from a previous citizenship should be processed directly by both countries' embassies precisely to avoid the inadvertent creation of stateless persons. In some cases, however, applicants have been released from one citizenship before they have obtained another. Thus, Camil Music, a 52-year old Romani man who has lived forty years in Kumanovo, reported that he was denied Macedonian citizenship after he had been released from Serbian citizenship, because he lacked the money to pay the administrative fee imposed by the Macedonian authorities. Although he has satisfied all legal requirements for the acquisition of Macedonian citizenship, he is *de jure* stateless.

²⁰ Article 26(3) of Law 67/1992.

²¹ See UN Commission on Human Rights, "Situation of Human Rights in the Territory of Former Yugoslavia: Fifth periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 32 of Commission resolution 1993/7 of 23 February, 1993", E/CN.4/1994/47, 17 November, 1993, p. 16.

in access to social assistance, many Roma could not satisfy the permanent income requirement. Third, many Roma who had lived for extended periods in Macedonia had never formally registered as legal residents. Fourth, many Roma lacked the financial means to pay the 50 USD administrative fee. Finally, the government's failure adequately to publicise the procedures deprived many potential applicants-- both Roma and non-Roma-- of an effective opportunity to apply for citizenship in due time.

3. Naturalisation procedure as of 12 November 1993

The requirements for gaining Macedonian citizenship by naturalisation are set out in Article 7 of the 1992 citizenship law. The applicant is required:

- to be 18 years of age;
- to have resided legally on the territory of Macedonia continuously for at least 15 years before submitting the application for citizenship;
- to be physically and mentally healthy;
- to have living facilities and a permanent source of funds;
- not to have been charged with criminal offences;
- to speak the Macedonian language²²;
- to ensure that admittance to citizenship does not endanger the security and defence of the country;
- to have been released from any other state's citizenship.

Notwithstanding the substantial discretion states enjoy in establishing the conditions for acquisition and loss of citizenship, this discretion must be exercised within the limits established by international law and with respect for individual rights and freedoms. In this context, a number of the requirements of the Macedonian citizenship law pertaining to the acquisition of citizenship after November 11, 1993 are unduly restrictive when compared with established European practice. The ERRC is deeply concerned by the high number of *de jure* and *de facto* stateless persons in Macedonia and by the discriminatory effect of the Macedonian citizenship law on the country's Romani community.

a) 15-year legal residence requirement

The 15-year legal residence requirement far exceeds the common European standard. For example, article 6(3) of the new European Convention on Nationality -- signed but not ratified by the FYR of Macedonia -- provides that, in establishing the conditions for naturalisation, a state party shall not require a period of residence in excess of ten years. Of course, this requirement applies to the acquisition of citizenship for immigrants in ordinary circumstances, not for applicants whose personal circumstances are the direct result of state succession.²³ Successor state discretion to grant or withhold citizenship must be exercised

²² A school diploma from a Macedonian school satisfies the language criteria. For persons without such a diploma, oral exams are held three times per month by a special governmental committee which evaluates the satisfactory character of knowledge of Macedonian language.

²³ See UN Commission on Human Rights, *op. cit.*, 1993, p. 17 (It is "imperative to distinguish between the citizenship law of a State dealing with immigration under ordinary circumstances, where the applicant may have no social attachment to the territory concerned, as opposed to a new State where denial of citizenship on the basis of ethnic or national origin affects those who have previously enjoyed citizenship of the predecessor State and lawful residence on the territory concerned"). See also Report of the Experts of the Council of Europe on the citizenship laws of the Czech Republic and Slovakia and their implementation and replies of the Governments of the Czech Republic and Slovakia," Strasbourg, 2 April, 1996, DIR/JUR/(96)4, paragraph 149 ("Acquisition and loss of citizenship and status of aliens

pursuant to Article 18 of the Convention, which “needs to be seen in the light of the presumption under international law that the population follows the change of sovereignty over the territory in matters of nationality.”²⁴

Even compared with other successor states, Macedonia's 15-year requirement is three times the period imposed by Croatia, the Czech Republic, and Estonia.²⁵ As a rule, successor states have historically conferred nationality upon those former citizens of the predecessor state who continued to reside on the affected territory.²⁶

The OSCE High Commissioner on National Minorities recommended that Macedonia reduce the period of required residence to five years.²⁷ However, to date the Macedonian government has expressed no more than a willingness²⁸ to reduce the required period from 15 to ten years.

In view of the foregoing, the ERRC believes that the Macedonian government should adopt the so-called “zero option”-- that is, to extend the right of option to citizenship to all citizens of the predecessor state residing on its territory at the moment the new Macedonian state came into existence.

It is clear that, like the simplified naturalisation procedure in force until November 1993, the 15-year residence requirement applicable thereafter has had a disproportionate effect on Roma. The reasons are manifold. First, Roma in Macedonia have traditionally been more mobile than other communities. Prior to 1992, whole families commonly moved from one Yugoslav republic to another looking for job opportunities or for better living conditions. Moreover, many Macedonian Roma who migrated to western Europe and subsequently returned to the country-- voluntarily or otherwise-- do not have 15 years of residence. Second, many Roma lived in unregistered dwellings or residences which lacked a clear legal status, circumstances which are not recognised by the residence requirement. Finally, suspicion of government authorities borne of years of prejudice and mistreatment discouraged many Roma who could have gained legal resident status from formally registering to claim it.

b) The requirement "to be physically and mentally healthy"

This requirement bars from citizenship persons who meet all remaining requirements, solely on the ground that they suffer from mental or physical disabilities. Especially troubling

cannot be considered according to the same criteria in the case of State succession and in the case of ordinary immigrants taking up residence in a state and eventually applying for its citizenship”).

²⁴ See Explanatory report to the European Convention on Nationality, paragraph 108.

²⁵ See European Commission for Democracy Through Law, "Consequences for State Succession for Nationality", report adopted on 13-14 September, 1996 (CDL-NAT(96)9), p. 23, paragraph 81 (referring to citizenship laws of Croatia, Czech Republic, and Estonia).

²⁶ European Commission for Democracy through Law, “Declaration on the Consequences of State Succession for the Nationality of Natural Persons” (“Declaration on the Consequences of State Succession”) (1997), Explanatory Report. See also “Declaration on the Consequences of State Succession,” Article 8(a) (“In all cases of state succession, the successor state shall grant its nationality to all nationals of the predecessor state residing permanently on the transferred territory”).

²⁷ Letter from OSCE High Commissioner on National Minorities Max van der Stoep to Foreign Minister of Macedonia Stevo Crvenkovski dated 16 November, 1994. Ref. number 3016/94/L.

²⁸ See "Certain clarifications in respect of the regulation of the citizenship status in the Republic of Macedonia" (document attached to 4 March, 1998 letter from Honourable Ljubica Z. Acevska, Ambassador of Macedonia to Mr. Michael Hathaway, Chief of Staff, Commission on Security and Cooperation in Europe, U.S. Congress, No. 022/011/98).

is the application of this requirement to those infected with HIV/AIDS, terminally ill persons, individuals committed to mental institutions, or those who have received treatment for alcoholism or drug addiction. The mere existence of this requirement may discourage people from seeking needed treatment. The exclusion of physically or mentally ill individuals from citizenship constitutes cruel treatment in breach of Article 7 of the International Covenant on Civil and Political Rights (ICCPR).

c. The requirement of "living facilities" and a "permanent source of funds"

These requirements are unduly restrictive as measured against European standards. Although several of the more recent European citizenship laws adopted by successor states require that applicants demonstrate a lawful means of subsistence, the Macedonian requirements both of "living facilities" and a "permanent source of funds" impose undue hardship on indigent applicants. The law does not clarify the meaning of "living facilities", leaving broad discretion to administrators to decide which types of accommodation qualify and what standard of proof applicants must meet. As to the source of funds requirement, the inclusion of the term "permanent" within the legal text negatively impacts Roma and others who are employed, if at all, primarily in the "informal" sector, where continuous, let alone, permanent employment, is unusual. Additionally, it is not clear how much money would have to be deposited in a bank to constitute a "permanent source of funds." Taking into consideration the high unemployment rate and widespread poverty levels among the Romani population, the income requirement has a particularly discriminatory effect on Romani applicants.

Many Roma have reported that, notwithstanding the Macedonian government's representation that social assistance is included among the possible sources of income for purposes of the citizenship law,²⁹ local authorities often do not consider social welfare to be a source of permanent income and reject citizenship applications on that ground.³⁰ Furthermore, although the 1992 citizenship law provides for more favourable treatment of the applications of the spouses of Macedonian citizens,³¹ the manner in which the permanent source of income requirement is applied has sapped the force of this legislative preference.

d. Unreasonable administrative fees

In November 1993, the administrative fee for acquiring citizenship through naturalisation was set at 500 USD³². The fee has reportedly since been lowered to 250 USD in an effort to alleviate the financial burden for applicants. However, this amount, which represents approximately three months' average salary in Macedonia, is still high enough to render citizenship a luxury out of reach for most Roma. Moreover, the law contains no waiver provision for indigents.

²⁹ See Reply of The Former Yugoslav Republic of Macedonia in the "European Bulletin of Nationality" DIR/JUR (97)4, p. 176 (In determining an applicant's "permanent source of funds," administrative authorities take into account, among other items, permanent social assistance, savings deposits, income from agricultural activities, and verified statements of financial support by one family member for another.)

³⁰ ERRC interviews, Macedonia, August 1997.

³¹ Under Article 9 of Law 67/1992, spouses of Macedonian citizens may acquire citizenship through naturalisation without fulfilling the residence, language and "release from other citizenship" requirements. Indeed, international law obliges governments to facilitate the acquisition of citizenship by the spouses of their nationals. See Article 6 paragraph 4(a) of the European Convention on Nationality and the Committee of Ministers Resolution (77)12 on the Nationality of Spouses of Different Nationalities.

³² ERRC interviews, August 1997, Macedonia; and Human Rights Watch/Helsinki, *op.cit.*, 1996, p. 76.

The exorbitant application fee imposed by the Macedonian authorities is not “reasonable” as required by Article 13(1) of the European Convention on Nationality.³³ It also has a discriminatory effect upon indigent applicants, among whom Roma-- due to their precarious economic situation-- are over-represented. Moreover, the absence of a waiver provision operates as an “obstacle” for Roma as well as other applicants, and is inconsistent with Article 13(2) of the Convention on Nationality³⁴ and with the common practice of European states.

B. Education and Training

The right to education is constitutionally guaranteed. The Constitution provides that education is accessible to everyone under equal conditions; primary education is compulsory and free.³⁵ The right to education under equal conditions is further guaranteed by Article 13 of the Act on Secondary Education. Members of national minorities may receive education in their own language under conditions stipulated by law.³⁶ In practice, however, these guarantees are not realised.

Romani children do not enjoy effective equality in access to education. Government officials deny that there exist statistics to verify school attendance of Romani children.³⁷ However, Romani leaders report that as many as ten percent of school-aged Romani children never enrol in the first grade, half of those who do start classes drop out by the fifth grade, and only 35-40% finish eighth grade. On average, only one Romani child per year finishes tertiary education, including two-year colleges. The Committee on the Elimination of Racial Discrimination has expressed concern regarding the low level of participation of Romani children, particularly in secondary and higher education.³⁸

In seeking to explain the low attendance rates, the government has asserted: “[F]or many Romany families education comes last when allocating funds from the family budget. Large numbers of Romany children leave school at early stages, as a result of lack of funds. This attitude has a negative effect on the education of the Romany minority, which later influences their social status and integration in all areas of society.”³⁹ In fact, not parental neglect but rather poverty and the failure to provide financial support to meet children’s educational needs, are the main reasons for the low rates of school attendance among Romani children. Although primary instruction is free, parents must cover the costs of proper dress for school, as well as text books and all other educational materials. School books for a pupil in the eighth grade cost as much as 75% of the monthly social welfare allotment for a family of four. Moreover, by law, children whose unemployed parents have not acquired Macedonian citizenship are not entitled to any financial assistance.⁴⁰ According to domestic monitoring organisations,⁴¹ 50,000 children from poor families are deprived of education in Macedonia. Moreover, Roma are in practice denied the right to receive education in their mother tongue. Although primary education is available in Macedonian, Albanian, Turkish

³³ Article 13(1) provides: “Each State Party shall ensure that the fees for the acquisition, retention, loss, recovery or certification of its nationality be reasonable.”

³⁴ Article 13(2) provides: “Each State Party shall ensure that the fees for an administrative or judicial review be not an obstacle for applicants.”

³⁵ Article 44 of the Constitution.

³⁶ Article 48 of the Constitution.

³⁷ ERRC interview with Mr. Zoran Todorov, Ministry of Foreign Affairs, Skopje, 21 August, 1997.

³⁸ See CERD/C/304/Add. 38, 15 October, 1997, paragraph 10.

³⁹ See in the Initial Report of the Former Yugoslav Republic of Macedonia under the UN Convention on the Rights of the Child, CRC/C/8/Add.36, 27 July, 1997, paragraph 201.

⁴⁰ See CRC/C/8/Add.36, 27 July, 1997, paragraph 184.

⁴¹ The association called “The First Children Embassy in the World - Medjashi” and the Association for Protection of Children in Macedonia, referred to in *ibid.*, paragraph 190.

and Serbian, extra-curricular teaching in Romanes is provided in only four schools in Skopje, and nowhere else.⁴² Under these circumstances, indigent children-- often Roma-- do not have effective access to education.

C. Employment

Macedonia has ratified numerous ILO Conventions which prohibit, among other things, discrimination in the field of employment.⁴³ In addition, Article 32 of the Constitution provides, "Every job is open to all under equal conditions." However, to date Macedonia has not promulgated any implementing legislation or other anti-discrimination framework specifically addressing the field of employment. As a result, ethnic minorities-- Roma in particular-- suffer widespread labour discrimination.

The overall economic situation in Macedonia is precarious, with more than 37% of the working age population unemployed as of April 1998.⁴⁴ Even considered against such a dire backdrop, Roma suffer disproportionately in the employment market. Although the Macedonian government estimated only 10,865 unemployed Roma nation-wide as of March 1996,⁴⁵ ERRC research suggests that Roma are afflicted by a level of massive chronic unemployment which far outstrips official statistics.

The absence of concrete procedural safeguards against employment discrimination has left Roma vulnerable to ill-treatment. In practice, Roma are often the first to be fired and the last to be hired. For example, in 1990, several days after the brewery in Kocani was privatised, approximately one hundred Roma lost their jobs.⁴⁶ All but two of the dismissed have been replaced by non-Roma. In the town of Prilep, although Roma used to work in four large factories, since 1990, three have been closed and the remaining factory-- *Tutunsky Combinat*-- reportedly has not employed any Roma in the last eight years.

The ERRC has received reports that even well-qualified Roma are not hired for jobs which are available. For example, a shoe factory in Štip which recently advertised 150 openings refused to hire a single Rom, although many Romani applicants satisfied the published requirements.⁴⁷ Similarly, Roma allege that racially motivated rejection of job applications is endemic in Kumanovo, where only ten or twelve of the approximately 5,000 Romani inhabitants are employed.⁴⁸

⁴² According to Zoran Todorov, Ministry of Foreign Affairs, in 1997, 554 pupils took advantage of optional classes in Romanes: 63 in Jane Sandanski school, 127 in Vasil Glavinov school, 259 in Bratja Ramis i Hamid school and 105 in 26th of July school.

⁴³ Forced Labour Convention, 1930 (No.29); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87); The Right to Organise and Collective Bargaining Convention, 1949 (No.98); Equal Remuneration Convention, 1951 (No.100); Abolition of Forced Labour Convention, 1957 (No.105); Discrimination (Employment and Occupation) Convention, 1958 (No.111); Minimum Age Convention, 1973 (No.138). See "Standard-setting policy: ratification and promotion of fundamental ILO Conventions," ILO Committee on Legal Issues and International Labour Standards (LILS), document GB.271/LILS/6, Annex II.

⁴⁴ Unemployment figures for April 1998 provided by the Macedonian Ministry of Social Affairs.

⁴⁵ "The Situation of the Roma in the Republic of Macedonia", unpublished but distributed by the Ministry of Social Affairs, pp. 2-4, as well as supplementary data distributed by the Foreign Ministry concerning the final results of the 1994 census. The Ministry's figures do not include many categories of the nominally employed, such as employees of factories in the process of bankruptcy, many of whom have neither reported to work, nor collected wages, for up to a year.

⁴⁶ ERRC interviews, 14 August, 1997, Kocani.

⁴⁷ ERRC interviews, 16 August, 1997, Štip.

⁴⁸ ERRC interviews, 9 August, 1997, Kumanovo.

Finally, inflated unemployment levels among Romani adults have intensified the pressures on Romani children to accept employment at very low wages under often unsuitable conditions. The Law on Employment Relations provides for fines ranging from 50 to 100 average monthly salaries for any employer who fails to provide special protection for workers under 18 years of age. The Criminal Code penalises any infringements of the rights pertaining to employment relations, including excessive working hours, denial of rest time, bans on overtime and night work, and exploitation of minors. However, these legal provisions are simply not enforced. Young children, many of them Roma, are regularly employed at tasks such as selling cigarettes or other products at open markets.⁴⁹

D. Statistics

The failure to date to gather reliable data concerning the number of Roma in Macedonia impedes governmental efforts to design policies aimed at reversing racism and intolerance. Although the 1994 census lists 43,707 Roma (2.2% of the population) in Macedonia, estimates of Romani leaders range between 150,000 and 250,000. Underestimation of the number of Roma in official statistics leads to institutional underrepresentation, inadequate levels of funding and mischaracterization of the scope of problems faced by Roma in the fields of employment, education, housing and administration of justice. Particularly in view of the widespread reluctance of Roma to self-identify in official censuses, and the large numbers of Roma who are *de jure* or *de facto* stateless (see section II. A, *supra*), accurate statistics are essential.⁵⁰

E. Racial Violence and Harassment

1. Police Abuse

ERRC has documented numerous cases in which the police have subjected Romani detainees to physical abuse, have obtained statements under threat, and have denied access to counsel. Arrests are often conducted by police in violation of legal safeguards.⁵¹ ERRC field research suggests that police ill-treatment of Roma is particularly common in Ohrid, Prilep, Skopje, Štip, Tetovo, Kocani, Kumanovo and Makedonska Kamenica.

Notwithstanding the frequency of police abuse, and the numerous avenues for legal redress when such cases are reported,⁵² the number of investigations-- let alone, of cases in which disciplinary or criminal sanctions have been imposed-- is small.⁵³ Monitoring

⁴⁹ See CRC/C/8/Add.36, 27 July, 1997, paragraph 246.

⁵⁰ Indeed, official statistics may be further distorted by community pressure on Roma to identify themselves as belonging to another ethnic group. In cities such as Tetovo and Gostivar, Albanians seeking to increase their representation in local and national institutions have reportedly pressured some Roma to claim that they are Albanians, to study in Albanian schools and to vote for Albanian candidates. ERRC Interviews, August 1997, Tetovo and Gostivar.

⁵¹ The Special Rapporteur of the UN Commission of Human Rights has expressed concern regarding the widespread police practice of forcing persons to attend so-called "informative talks" in the absence of counsel in an effort to obtain confessions under pressure. See UN Commission on Human Rights, "Situation of Human Rights in the Former Yugoslav Republic of Macedonia", final report submitted by Ms. Elisabeth Rehn, Special Rapporteur of the UN Commission on Human Rights, E/CN/1998/12, 30 September, 1997, paragraph 24.

⁵² The Ministry of Interior's Department of Internal Affairs investigates reports of police abuse and recommends disciplinary actions. Alternatively, aggrieved citizens may press civil or criminal charges against law enforcement officials, or they may appeal to the office of the Ombudsman.

⁵³ According to the Macedonian Helsinki Committee, by the end of 1996, no police officer had been found guilty of a crime and sentenced by a court of law. Two cases were still pending at that time. See International Helsinki Federation for Human Rights, *Annual Report 1997*, Vienna, 1997, p. 173.

organisations have criticised the authorities' inadequate efforts to combat police violence. To date, the Ministry of Interior has proven reluctant to discipline its employees, prosecutors have resisted pressing charges against police officers, and several courts have refused to convict police implicated in violence, despite a preponderance of evidence.⁵⁴

Reported cases of police violence against Roma include the following:

a. In late August 1996, 17-year-old S.N. was taken to the police station in the central Macedonian town of Štip in connection with a fight between Roma and ethnic Macedonians. S.N. was interrogated-- in the absence of counsel-- by six policemen, then asked to sign a statement which he was not given time to read. He was told that, if he refused to sign, he would be "taken down to the cell." During the course of their detention, S.N. and two other men were allegedly beaten with truncheons by six policemen, and held for more than 24 hours in a cell without food or water.⁵⁵

b. A 27-year-old Romani man from Štip named Demir Sulejmanov reported to the ERRC that, in March 1998, he had been beaten by police after he was detained in connection with the theft of two sheep. According to Mr Sulejmanov, policemen uttering racist epithets beat him and another man with sticks and fists until they were bloody. Upon release the following day, Mr. Sulejmanov went to the hospital, where his arm, which had been broken, was placed in a cast.

c. According to the organisation Association of Human Rights Protection of Roma, on April 10, 1998, Perušan Jašarov and Fejmi Demirov were beaten by police following their arrest in a downtown bar in Štip. Perušan Jašarov told the Association of Human Rights Protection of Roma:

They drove us to the police station where they started to torture me. They took me into a room alone, made me squat and when I was down with my knees bent, one of them kicked me in the chest and blood came out of my mouth. Then one of the policemen took me by the hair and pulled me up violently. Then he started to hit me on the head with a truncheon. Late in the evening three new officers came in and continued to beat me. They beat me in turns during the period between midnight and 5 a.m. and afterwards they took us to another office for questioning. They let me go at 11 a.m. the next morning and I went to the hospital.

Mr Jašarov was so badly hurt due to kicks he had received in the face that his speech was still impaired four months later.

d. An 18-year-old Romani boy from Kocani reported that, in August 1996, after being hospitalised following a street fight with several non-Roma, the police took him from the hospital and brought him to the police station for interrogation. There, he was allegedly beaten with sticks on his back, sides and ribs. Several hours later, he was released without being charged with any crime.⁵⁶

e. A 14-year-old Romani boy from Ohrid was arrested following a street fight in July 1997 and taken to the police station. There he was interrogated without a lawyer, beaten and held the entire night. During the interrogation, the boy was threatened that, if he reported his

⁵⁴ See for example Macedonian Helsinki Committee, *Annual Report on 1997*; International Helsinki Federation for Human Rights, op. cit., pp. 173-174; and Human Rights Watch/Helsinki, *Police Violence in Macedonia*, New York, April 1998.

⁵⁵ ERRC interview, 15 August, 1997, Štip.

⁵⁶ ERRC interview, 14 August, 1997, Kocani.

mistreatment, he would be beaten again and sent to prison. The boy's parents were not notified of his arrest until the following morning, when he was released.⁵⁷

f. ERRC has documented numerous abuses arising from application of the 1995 Law on Commerce, which banned the outdoor sale of textiles and has had a disproportionately negative effect on Roma. In Skopje, vendors reported bi-weekly raids by up to 25 police officers at the Bit Bazaar, the Green Bazaar and the Kamenni Most. When targeting unlicensed vendors, the police allegedly single out Romani sellers for physical violence and confiscate their goods without providing receipts. Often, the beatings are accompanied by racial insults. The number of reports that detainees are held for up to 24 hours without being provided food or water indicates that this practice has become routine. The following cases are illustrative:

1) Rekibe Mehmed, a 41-year-old Romani woman, died on 9 August, 1996, after being beaten and kicked by the police conducting a raid at the Green Bazaar in Skopje. On Monday, 11 August, two days after the incident, the Ministry of the Interior announced that an autopsy had revealed that Mrs. Mehmed had died of heart failure. Shortly thereafter, an investigating judge decided that on the basis of the autopsy, there would be no investigation. An article published shortly afterwards in the Macedonian daily *Nova Makedonija* quoted an aunt of Mrs. Mehmed to the effect that it was a pity that while washing the body for burial they had not photographed it, since she had large bruises on her neck and right shoulder. The Mehmed family-- some of whom were witnesses to the police attack-- reported that no state official had ever contacted them or taken statements from them. They also allege that, although local television stations recorded witness statements on video cassette and submitted them to the Ministry of the Interior, the Ministry did not open any investigation.⁵⁸

2) In June 1997, 16-year-old Serdar Asanov was taken to the local police station in Kamenica, where he was allegedly beaten and racially insulted by two police officers for trying to sell stockings and T-shirts in the market without a licence. All his merchandise-- for which he was not given receipt-- was confiscated. Asanov reported to the ERRC that six months earlier, he had been similarly beaten in a police station in Štip.⁵⁹

3) In July 1997, Šukri Mustafov was taken to the police station in Kamenica because he had been selling plastic bags and soap in the bazaar without a licence. According to Mustafov, he was placed in a dark cell where three policemen took turns beating him with truncheons for three hours. He was then left in the cell for 24 hours without food or water, following which he was transferred to the police station in Kocani. At the police station in Kocani, when Mustafov demanded the return of plastic bags and soaps which the police had confiscated, the police struck him again several times with a truncheon.⁶⁰

4) In May 1997, in the north-western town of Tetovo, 26-year-old M.N. was approached by police while he was selling items without a license in the parking lot of a hospital. According to the victim, one police officer took him inside a hospital room, handcuffed him to a chair and hit him with a truncheon on the back of the head, at which point M.N. lost consciousness. M.N. was later brought to a police station and charged with resisting arrest.⁶¹

⁵⁷ ERRC interview, 9 August, 1997, Ohrid.

⁵⁸ ERRC interview with the Mehmed family, 12 August, 1997, Skopje.

⁵⁹ ERRC interview with Serdar Asanov, 14 August, 1997, Kocani.

⁶⁰ ERRC interview with Šukri Mustafov, 14 August, 1997, Kocani.

⁶¹ ERRC interview with M.N., 11 August, 1997, Tetovo.

2. Community Violence

Ethnically motivated violence against Roma has increased significantly and presently occurs in both predominantly Albanian areas and predominantly Macedonian areas in Macedonia. Roma from the Tetje neighbourhood in Tetovo have reported that, in recent years, gangs of ethnic Albanians have on at least six occasions attacked houses of Roma, beaten the inhabitants and looted the contents. Several Romani girls have been attacked and raped on the road which connects Tetje with the centre of Tetovo. Both police officials in Tetovo and the Assistant to the Minister of Internal Affairs, Dr. Zoran Veruševski, have acknowledged that they are aware of these incidents.⁶² The frequency of attacks on Roma in Kocani has led many to move to rural settlements like Vinica.

The following are examples of violence against Roma for which the authorities have to date failed to provide effective remedies:

a. In mid-June 1997, while collecting scrap metal in Bajnica settlement outside Gostivar, Nezmedit Teiri and his minor nephew were surrounded by a group of approximately ten ethnic Albanians who pelted them with stones while shouting racial epithets. The attack ceased when a group of Romani men arrived at the scene. Mr. Teiri was reportedly hit with stones in the arm, chest and mouth, and suffered damage to his teeth. The victim filed a complaint with the local police-- but only one of the attackers was charged.⁶³

b. In mid-July 1997, a Romani man was beaten in a swimming pool in Kocani by a group of ethnic Macedonians. Following the attack, his face badly swollen and his right ear bleeding, the victim was brought to the hospital. A physician bandaged his ear but refused to document his wounds in writing. The victim filed a complaint with the police and indicated that he would be able to identify three of the attackers. Several months later, when he inquired about the progress of the investigation, a police officer advised that an investigation was pending, not against any of his attackers, but rather against himself.⁶⁴

F. Participation of Roma in Public Life

The ERRC notes with concern the virtual absence of Roma from all branches of government. Although representation of other minorities in public institutions has more than tripled in the past seven years,⁶⁵ the Macedonian government has undertaken no efforts to increase representation of Roma.

According to government statistics,⁶⁶ there are no Romani junior officers,⁶⁷ no Romani senior officers,⁶⁸ and no Romani generals in the Ministry of Defence or the Army.

⁶² ERRC interview with Assistant to the Minister of the Interior Dr. Zoran Veruševski, 19 August, 1997, Skopje.

⁶³ ERRC interview with Nezmedit Teiri, 17 August, 1997, Gostivar.

⁶⁴ ERRC interview with 23-year-old S.I., 14 August, 1997, Kocani.

⁶⁵ See UN Commission on Human Rights, *op. cit.* 1997, paragraph 27.

⁶⁶ See CERD/C/270/Add.2, 13 March, 1997, paragraph 15.

⁶⁷ 8.64% of junior officers are members of national minorities, of whom 5.14% are Albanian, 2.8% are Serb and 0.7% are Turkish. See *ibid.*, paragraph 15(a)(ii).

⁶⁸ 5.6% of senior officers are members of national minorities, of whom 3.1% are Albanian, 2.1% are Serb and 0.4% are Turkish. See *ibid.*, paragraph 15(a)(iii).

The situation is similarly poor among the Ministry's civilian personnel.⁶⁹ Furthermore, the first generation of cadets from the Military Academy does not comprise a single Rom.⁷⁰

There are no Romani judges serving on either of the nation's highest judicial tribunals, the Macedonian Judicial Council or the Supreme Court. Only 0.8% of first instance judges and 1.14% of appellate court judges belong to minority groups other than Albanians, Turks and Serbs.⁷¹ Two members of the 120-seat Parliament are Roma. Only in one municipality in the entire country-- Suto Orizari-- is the mayor of Romani origin.

The Ministry of Internal Affairs reports⁷² that 8.7% of its employees belong to national minority groups, but provides no further information concerning membership in individual ethnic groups.

In view of the foregoing, the Macedonian authorities should be strongly urged to adopt comprehensive and affirmative measures to increase employment of Roma in all public institutions.

⁶⁹ 8.16% of civilian personnel at the Ministry of Defence and the Army are members of national minorities, of whom 2.87% are Albanian, 4.8% are Serb and 0.4% are Turkish. See *ibid.*, paragraph 15(a)(i).

⁷⁰ 14% of the first generation of cadets at the Military Academy are members of national minorities, of whom 12% are Albanian, 1% are Turk and 1% are Serb. See *ibid.*, paragraph 15(a)(v).

⁷¹ See *ibid.*, paragraph 16 (b) and (c).

⁷² See *ibid.*, paragraph 15(b).