

May 2012

MACEDONIA: EU Enlargement Programme 2012 ERRC report

1. Anti-discrimination law

The impact of the Law for Prevention and Protection against Discrimination which entered into force in January 2011 is not yet clear.¹ However there are several issues of non-compliance with the EU Racial Equality Directive and the Employment Equality Directive such as shifting of the burden of proof, the use of statistics as evidence in indirect discrimination cases and the locus standi position limited at judicial procedures only and collective interest of certain groups. Similarly, the law omits to name and prohibit segregation as a special form of discrimination. In January 2011, Commission for Protection against Discrimination were elected. The independence and impartiality of the Committee, which was established in January 2011, is still considered questionable given that three of the seven members are employed in State institutions. The current president of the Committee serves as Advisor at the Ministry of Labour and Social Affairs, another committee member is also employed in the Ministry of Labour and Social Affairs and a third is employed in the Parliament.²

As of November 2011, 42 complaints had been submitted to the Commission on Protection from Discrimination; only one of which was submitted by a Romani person addressing discriminatory refusal to allow him to attend a concert.³ As of May 2012 the case was pending. The Commission should take care that the relevant provisions of the anti-discrimination legislation are brought to the attention of Roma communities, and implement awareness raising campaigns on non-discrimination.

The 2011 Report of the Ombudsman indicates that 87 complaints were submitted by Roma that year. Out of 87, 15 of complaints related to police procedures, 18 were about social protection and security, nine were about civil status and other internal affairs, eight were about pensions, 11 were about consumption rights, one related to non-discrimination and appropriate equitable representation, eight were about the judiciary, six related to labour relations, three were about housing relations, one related to health care, one related to education, science, culture and sport, three were about the rights of children, one related to urban planning and building and two related to penitentiaries.⁴

2. Access to education

Although there has been improvement in the field of education of Roma in Macedonia, an ongoing problem is the overrepresentation of Romani pupils in special schools for children with disabilities or in mainstream schools offering special classes for children with disabilities. Children in special education in Macedonia are isolated from the mainstream school population and are offered a substandard curriculum that does not prepare them for educational success or employment. The special education system thus

¹ Law for Prevention and Protection against Discrimination, available at: <http://www.pravo.org.mk/documentDetail.php?id=4846>.

² See: <http://www.kzd.mk/mk/za-kzd/clenovi>.

³ ERRC interview with Dusko Minovski, Chairman of the Commission for Protection Against Discrimination MK/NOV2011/9

⁴ 2011 Report by Ombudsman of Macedonia. On file with the ERRC.

violates the Convention on the Rights of Persons with Disabilities, which the European Union ratified on 23 December 2010,⁵ and Macedonia ratified on 29 December 2011.⁶ In addition, the disproportionate number of Romani children in these schools is evidence of illegal discrimination on the basis of ethnicity in violation of a host of Macedonia's international legal obligations.

Research conducted by ERRC among school representatives and parents of Romani children reveals that many parents willingly send their children to special schools, giving different reasons for such decisions. They range from financial reasons and benefits in participating in special schools, to discrimination and violence faced in mainstream schools from non-Roma and the greater opportunities to easily get a job in the industrial sector as employers who employ "disabled" people do not have to pay taxes for them and receive governmental subsidies.⁷

A former education mediator in Kavadarci elaborated: "The reason that parents place their children into special classes is due to their economic situation and the poverty that reigns among Roma as well as the financial gains from such schooling. There is a factory here in Kavadarci that employs people who attended special classes and therefore parents place their children in such classes to get a job."⁸

For a child to study in the special school or to attend the special class within the standard primary school, the child first has to undergo testing in front of the Commission for Categorization, and parents have to consent that their child be tested. ERRC research has revealed some cases of Romani children who were enrolled in a special school without being tested and categorised as having a disability.⁹ According to some school authorities there are several reasons for this: some of the children do not personal documents so no recommendation for special school can be issued for this child and the special school accepts them anyway, or a school accepts children without proper documentation to exaggerate the need for a special school or a class and to keep jobs for the school employees who work with them.¹⁰

A mother of two Romani children reported: "I decided to enrol them in special classes because the school provides free meals, books and travel expenses. They did not undergo testing by the school and I did not require that from a specialist at all."¹¹

The over-representation of Romani children in social schools have been highlighted as an issue requiring urgent Government action since the publication of an Ombudsman's report in February 2010. In the ensuing period, the ERRC is not aware of any concrete measures taken by Macedonian educational authorities to reduce or eliminate the over-representation of Romani children in special education and facilitate the transfer of such children back into a mainstream education setting.

3. Freedom of movement

Since visa liberalisation began, allowing Macedonian citizens to travel to the EU Schengen Zone in December 2009 without a visa, the number of asylum seekers from Macedonia, mostly in Belgium, Sweden, Austria and Germany, significantly increased. It was also reported that data presented by the EU officials shows that most of the asylum seekers are of Romani ethnicity.¹² EU officials called on Macedonian authorities to take measures to prevent their citizens asking for asylum in the EU because the majority were perceived to be seeking asylum for economic reasons.¹³ In order to diffuse pressures from the European Union, Macedonian authorities have prevented hundreds of Macedonian citizens from leaving their country.¹⁴ The ERRC has documented cases as recent as March 2012 in which Macedonian border officials have prevented Roma in possession of all requisite documentation from exiting the country. Some sources have suggested that border police are instructed to check Roma especially. A Romani man from Shtip reported, "A month ago, I headed to Greece by car to purchase some car parts. I

⁵ See: <http://www.un.org/disabilities/countries.asp?id=166>.

⁶ See: http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IV-15&chapter=4&lang=en.

⁷ ERRC interviews in Shtip, Bitola, Prilep, Skopje, Delcevo, Kumanovo.

⁸ ERRC Interview MK/JUNE2011/12

⁹ ERRC research mission March 2011.

¹⁰ ERRC research mission March 2011.

¹¹ ERRC Interview MK/JUNE2011/13

¹² *Euractiv*, "Europe hit by scores of Western Balkan Asylum Seekers", 21 October 2010.

¹³ See: <http://www.euractiv.com/enlargement/europe-hit-scores-western-balkan-asylum-seekers-news-498992>.

¹⁴ *Balkan Insight*, "Belgium says Macedonia Curbing Asylum Seekers", 02 July 2011, available at:

<http://www.eurasiareview.com/02072011-belgium-says-macedonia-curbing-asylum-seekers/>

departed from Strumica and at the Gevgelija border I was returned. The border guard explicitly told me that they received an order not to allow Roma to pass the border. Of course, they inserted two lines in the passport, meaning that I cannot pass the border for 24 hours".¹⁵

ERRC research in other instances confirmed targeting of Roma by Macedonian border officials. In some cases, only Romani persons on buses full of Romani and non-Romani passengers were asked to provide documents in addition to their passports, to justify the purpose of their travel. At the border between Macedonia and Serbia, a Romani ERRC staff member was the only passenger from a full bus of people who was asked to show his language abilities, agree to a search of his luggage and justify the purpose of his trip to Macedonian customs control. Then he was explicitly asked if he is Romani. The ERRC staff member told border officials that they cannot ask this question, they apologised, returned his passport and quickly left. In another case, a Romani woman from Kumanovo reported:

I was headed to Germany by bus to visit my relatives. When we arrived at the Tabanovce border crossing,¹⁶ I was asked by a Macedonian border guard where I was going. I explained to him that I am going to visit my relatives in Germany, then he asked for proof and I showed him. Once he took a look at it, he told me that it is not the proper one; I was supposed to get the original. As an epilogue, I was returned home with a stamp in my passport containing letters "AZ". I was the only Roma in the bus and the only one who was asked for such documents and the only one who was returned home, the other travellers were allowed to cross the border.¹⁷

If returned from the border, Macedonian citizens receive the stamp and "AZ" signs in their passports. This potentially affects all future travel in the Schengen zone. The "AZ" stamp indicates 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.¹⁸

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".¹⁹ Governmental measures to reduce the number of asylum seekers from Macedonia are a form of discrimination on Romani citizens wishing to travel for a variety of purposes, including visiting families in the EU or visiting as tourists.

4. Housing

The most immediate and pressing human rights issue identified by the Romani community in Macedonia is housing. Most of the Romani population is concentrated and lives in segregated settlements in cities, while in the villages there are fewer, more integrated Roma. Most segregated settlements in the cities are characterised by substandard housing conditions, without proper access to services. Residents often do not have property papers for the land nor the objects/houses in which they live, thus most of them lack legal security of tenure and are an easy target for forced eviction.²⁰

The Macedonian Government adopted an Action plan on Roma Housing within the Decade of Roma Inclusion but little progress has been made to date. According to the Decade watch report on Macedonia in 2010, two thirds of the interviewees indicated that housing conditions among Roma are worse than they were in 2005 when the Decade started.²¹

¹⁵ ERRC Interview MK/NOV2011/29

¹⁶ Tabanovce border is situated 8km from Kumanovo, in proximity to the border with Serbia.

¹⁷ ERRC Interview MK/AUG2011/3

¹⁸ ERRC telephone interview with Independent Inspector, Border Surveillance Control, Ministry of Interior. Skopje: 17 April 2012

¹⁹ Macedonia to block Roma from EU, available at: <http://www.dw.de/dw/article/0,,15865850,00.html>.
<http://balkans.courriers.info/article17525.html>

²⁰ ERRC "Standards do not apply", December 2010, available at: <http://www.errc.org/cms/upload/file/standards-do-not-apply-01-december-2010.pdf>

²¹ Decade Watch, *MK Decade Watch 2010*, available at:

http://www.romadecade.org/files/downloads/Decade%20Watch%202010/Decade%20Watch_2010_Macedonia_EN.pdf

In February 2011, the Macedonian parliament adopted the Law on the Treatment of Illegally Constructed Buildings (LTICB).²² The LTICB regulates the conditions, methods and procedures for legalisation of buildings constructed without proper permits or not zoned for residential use. The LTICB provided a unique opportunity for the owners of illegal buildings that were built before February 2011 to legalise their property, with many Roma as potential beneficiaries. Although this law represents a much-needed opportunity for many Roma, obstacles to its implementation persist. ERRC research at the time the law was enacted demonstrated that many Roma were not able to cover the cost of the application, in particular a geodetic survey that costs 60 Eurocents per square metre.²³

Based on ERRC research highlighting the complicated administrative procedure and financial limitations of most members of the Romani community, civil society organisations have joined together to address these barriers. The National Roma Centrum (NRC) and Habitat for Humanity Macedonia (HFH Macedonia), with the support of the Foundation Open Society - Macedonia (OSF) developed and implemented a project in order to increase the percentage of submitted requests for legalisation of houses by Roma. The project was realised in 18 municipalities in Macedonia. In the first phase of the project 1,519 Romani households submitted claims and started administrative procedures for legalisation.

However, without ongoing legal and financial support, most of these applications are at risk of rejection. Thus, NRC will implement a second phase of the project, providing ongoing financial, administrative and technical support to the process of legalisation of the homes of Romani people, from 2012 until 2015. For the purpose of the project NRC has already opened a Resource Centre in Kumanovo where all interested Romani people can access technical and legal assistance.

Recently, the ERRC monitored the conditions in the social housing units Cicino Selo, Skopje, and Strahil Andasarov, Ljubanci, which are inhabited by mostly Roma. Cicino Selo is a former holiday camp near Skopje, which has been used as a shelter for refugees, Internally Displaced Persons and homeless people since the 1990s. According to the ERRC research, 111 persons live here, the majority of whom are Romani (75 persons or 22 families, including 20 children and four babies). Strahil Andasarov in Ljubanci is a segregated shelter for Roma. According to ERRC research there are eight Romani families living there: 16 adults and 34 children.²⁴ None of the Romani children living in “Strahil Andasarov” attend school.

Living conditions in these two settlements were seriously criticised by the Macedonian Ombudsman in 2009. ERRC research confirms that conditions have not improved at all since that time. The facilities are old and damaged. They lack fridges, stoves and heating. Some residents do not even have beds, so they sleep on the floor. One Romani man reported “We have two rooms: one has two beds and another doesn’t have beds. The children sleep in the beds and we sleep on the floor”.²⁵

²² Law on the Treatment of Illegally Constructed Buildings - LTICB (Закон за постапување со бесправно изградени објекти), available only in Macedonian at: <http://www.pravo.org.mk/documentDetail.php?id=5488>. The law was adopted on 24 February and entered into force on 4 March 2011. It remains in force for six years, which means that the process of legalisation has to finish in six years.

²³ ERRC Interview MK/APR2011/3

²⁴ ERRC Interview MK/JULY2011/1

²⁵ ERRC Interview MK/DEC2011/6