

Submission by the United Nations High Commissioner for Refugees (UNHCR)

For the Office of the High Commissioner for Human Rights' Compilation Report –

Universal Periodic Review:

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

I. BACKGROUND INFORMATION

The Former Yugoslav Republic of Macedonia ratified the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as *1951 Convention*) in January 1994. The country has also succeeded to the *1954 Convention Relating to the Status of Stateless Persons* (1954 Convention), but has yet not acceded to the *1961 Convention on the Reduction of Statelessness* (1961 Convention).

The *Law on Asylum and Temporary Protection* (LATP), adopted in 2003, last amended in December 2012, contains a definition of a refugee in line with the *1951 Convention* definition, as well as, a definition of persons eligible for subsidiary protection in line with the EU Qualification Directive.¹ The LATP also contains: (1) a provision for temporary protection in cases of mass influx; (2) safeguards against *refoulement*; (3) basic refugee status determination (RSD) procedural guarantees, including for persons with specific needs such as victims of human trafficking; (4) reference to gender- and child-specific persecution; (5) the rights and obligations of UNHCR persons of concern; (7) and acknowledgment of UNHCR's supervisory role in matters related to asylum and temporary protection. Asylum-seekers receive legal aid at all stages of the RSD procedure.² In 2014, a new law is envisaged to be adopted in line with the recast EU asylum Directives.

At the end of 2012, there were around 2,700 persons of concern to UNHCR Representation in Skopje. 1,100 of these persons were forcibly displaced from neighbouring Kosovo (UN SCR: 1244) and 638 were asylum-seekers from countries outside of the region. The remaining 905 are persons of undetermined nationality at risk of becoming stateless. Persons of concern from Kosovo displaced as a result of the 1999 crisis are primarily Roma, Ashkali and

¹ EU Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

² See, Revised Text of the Law on Asylum and Temporary Protection established by the Parliamentary Legislative Committee, pursuant to Article 33 of 2008 Law and published in the Official Gazette encompassing 2003 Law on Asylum and Temporary Protection, 2007 Law Changing and Amending the Law on Asylum and Temporary Protection and 2008 Law Changing and Amending Law on Asylum and Temporary Protection [The former Yugoslav Republic of Macedonia], 12 February 2009, available at: <http://www.refworld.org/docid/4c28ba522.html>.

Egyptian (RAE). Of these 1,100 persons (270 families), the vast majority are in the process of local integration.

New asylum-seekers are mainly from Afghanistan, Pakistan and Somalia, as well as Algeria and Syria in 2013. A small number of asylum-seekers also come from other countries such as, Eritrea, the Occupied Palestinian Territory, Georgia, Iran, Iraq, India, Libya, Morocco, Nepal, Sudan, Sri Lanka, the Russian Federation and Tunisia. Most of these asylum-seekers entered Macedonia through Greece as part of the rising flow of mixed migration en route to the EU. Most asylum-seekers are single men (90%) between the ages of 18 and 35. There continues to be a trend of spontaneous departures before final determination of asylum claims, including some 55 unaccompanied minors registered throughout 2012, mostly boys.

The population of persons at risk of becoming stateless is comprised of long term habitual residents who are considered by the authorities as having links to one of the other former Yugoslav republics and persons of undetermined nationality who have applied for Macedonian nationality. UNHCR is primarily focused on the long term habitual residents, which comprises 95% of the total population of persons at risk of becoming stateless in Macedonia.

II. ACHIEVEMENTS AND BEST PRACTICES

1. New Amendments to the Law on Asylum and Temporary Protection (LATP)

UNHCR welcomes the adoption of the latest amendments to the *Law on Asylum and Temporary Protection* (LATP) in December 2012. The amendments were drafted through the Working Group on Changing and Amending the Law on Asylum and Temporary Protection. This Working Group was convened in February 2011 to align Macedonia's asylum legislation fully with the EU Directives in the field of asylum. UNHCR played an active role in the process and most of the recommendations provided by UNHCR to the Working Group were included, thus ensuring incorporation of the principles of the *1951 Convention*.

2. Durable Solutions

In 2008 and 2009, the Government adopted the 2008-2015 Strategy for Refugee and Foreigner Integration (Integration Strategy) and the National Action Plan for Implementation of the Strategy (Action Plan), enabling over 71% of persons granted asylum to apply for local integration. The Government established the Centre for Integration of Refugees and Foreigners to implement the Integration Strategy. Activities foreseen under the Integration Strategy are dependent on funding. The Centre has completed the integration plans for the 195 families registered for integration, with a focus on their housing needs. In December 2011, the Ministry identified a suitable State-owned land site for the construction of the first 20 social housing units. The construction is expected to be completed by the end of 2013, thus creating the necessary preconditions for the local integration of the most vulnerable refugee families. These activities are undertaken in cooperation with the Ministry of Labour and Social Policy.

Furthermore in line with the Integration Strategy, the *Health Insurance Law* was amended in February 2012 to include persons granted asylum as beneficiaries of State provided health insurance on equal terms with nationals. In addition, all person of concern, including those granted subsidiary protection, have access to public primary and secondary school, while persons recognized as refugees have access to tertiary education under conditions applicable to foreigners.

Additionally, amendments to the *Law on Citizenship* in 2008 provide for the facilitated naturalization of recognized refugees and stateless persons.³ Although the *Law on Citizenship* does not contain any specific provisions explicitly referring to naturalisation of persons granted subsidiary protection, it does provide grounds for the naturalization of foreigners who have legally and continuously resided in the country for at least eight years. By the end of 2012, some 60 persons granted subsidiary protection opted for naturalization. Naturalization and regulation of legal status on a permanent basis through family links established with Macedonian nationals is considered as another sustainable durable solution.

III. KEY PROTECTION CHALLENGES AND RECOMMENDATIONS

Issue 1: Fair and Efficient RSD Procedures and effective protection of asylum-seekers

UNHCR welcomes the established institutional and legislative asylum system in the country. In practice however, there remain several gaps affecting the access of asylum-seekers to the RSD procedures, their protection against *refoulement* and the standards for the adjudication of asylum claims.

- Access to RSD procedures

Based on the data provided by the Section for Asylum within the Ministry of Interior (SfA), there is no recorded identification of asylum-seekers at border crossing points or elsewhere in the country other than in the country's capital, Skopje. Even in Skopje, applications are lodged at one police station situated in the vicinity of the Reception Centre for asylum-seekers and other persons in need. The SfA has no designated contact office within their premises, nor are there reception hours for asylum-seekers. The only contact with the SfA available is at the police station in an *ad hoc* manner. Most of registered asylum-seekers in the country have either been referred to the SfA by the Transit Centre for Foreigners (majority) or UNHCR's legal aid implementing partner.

- Access to Identification Documents and protection against refoulement

Given that only one day a week is designated as a reception day, the process of photographing and fingerprinting new asylum-seekers progresses very slowly, leaving the vast majority of asylum-seekers unregistered and undocumented. Although asylum-seekers do receive sealed attestation letters issued by the SfA confirming their status as asylum-seekers in the country, this document does not include a photograph of the asylum-seekers, and is thus insufficient in ensuring their freedom of movement and safeguarding the *non-refoulement* principle. It has often been reported that asylum-seekers are encountering problems with regular police officers, as the written attestation is not accepted as a valid identification document, making asylum-seekers vulnerable.

UNHCR welcomes the efforts taken by the SfA to strengthen protection for asylum-seekers since the beginning of 2013, by increasing the rate of issuing IDs. In this context, it should be mentioned that the high turnover of asylum-seekers leaving the country within weeks of lodging an asylum application adds to the situation of them being left undocumented while registered as asylum-seekers in Macedonia.

³ Article 7-a of the Law on Citizenship

In addition, in terms of the issuance of documents to recognized refugees, the Convention Travel Documents (CTD) issued by the SfA are non-machine-readable, which creates issues obtaining entry and exit visas. Therefore, refugees, as CTD holders, are unable to travel outside of the country.

- *Adjudication of Asylum Claims*

As noted in the EC Council 2012 Progress Report issued in October 2012: “*The asylum procedure, in particular for first instance asylum decisions, is slow and unsatisfactory.*”⁴ Practice confirms that adjudication of asylum claims performed by SfA is almost non-existent. The recognition rate remains very low. Since mid-2008 the authorities have recognized the right to asylum for subsidiary protection to only one asylum-seeker, while no person was recognized as a refugee. The SfA practice is limited to merely verifying subsidiary protection status of Kosovo applicants present in the country since 1999 or issuing conclusions for discontinuation of the procedure to asylum-seekers soon after their spontaneous departure. Furthermore, the procedure may also be prolonged for two or more months under the reasoning of having no qualified interpreters in Pashtu or other non-UN official languages. In 2012, UNHCR’s legal implementing partner representing asylum-seekers submitted over 40 complaints to the State Administrative Inspectorate challenging the lawfulness of the prolonged procedure by the SfA.

The SfA maintains the standards, as well as legal deadline of 10 to 25 days for providing notifications concerning the residual caseload. However, new asylum-seekers are facing delays, at average between 30 and 60 days, with a maximum of 240 days in a few cases. New asylum claims are generally presumed to be unfounded or abusive, as the majority of asylum-seekers use the country only as transit. Of those cases decided at first instance, most asylum claims are rejected based on the “threat to national security”⁵ and some based on the application of the “safe third country” principle.

- *Judicial Review of Asylum Cases*

There is an appeal system in place; however, according to information available to UNHCR, the Administrative Court has continued to render decisions on asylum cases mainly on procedural aspects rather than substantive issues, and without hearing the applicant. In this regard, the Human Rights Committee during its 92nd Session expressed concern regarding the Government’s system of appeal, specifically “regarding the independence of the appellate instance,” and recommended that the country “ensure that an effective system of appeal is in place.”⁶

The Court in 2012 reverted as erroneous the first 3 of the 9 SfA’s decisions based on the grounds of “threat to national security” taken in 2011 concerning Kosovo RAE. Nonetheless, the SfA again issued the same decision and recently Courts have confirmed first instance decisions rejecting asylum applications based on the applicant being a “threat to the national security.”

⁴ 4.24. Chapter 24: Justice, freedom and security, European Commission the FYR of Macedonia 2012 Progress Report

⁵ Article 6 of the Law on Asylum and Temporary Protection

⁶ Human Rights Committee, CCPR/C/MKD/CO/2, 92nd Session, 3 April 2008, paragraph 16, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/411/69/PDF/G0841169.pdf?OpenElement>

Recommendations:

- Improve the capacity and efficiency of the procedure for identifying, registering and providing documentation to all asylum-seekers;
- Accelerate the adjudication process of asylum claims to comply with the provisions of the *Law on Asylum and Temporary Protection* and provide efficient protection to asylum-seekers throughout the entire asylum process;
- Cease the rejection of asylum claims based merely on the “threat to national security” ground;
- Improve judicial safeguards for persons in need of international protection by providing the applicant an opportunity to be heard by the Court reviewing his or her asylum case on appeal. Ensure that Courts consider the substance of the asylum claim on appeal, rather than merely the procedural aspects of the first instance.

Issue 2: Protection of asylum-seeking children, in particular unaccompanied and separated children

The existing social protection mechanisms for asylum-seeking, refugee and other children in need of international protection are deficient, as they do not: properly monitor their security and well-being; effectively respond to challenges related to protection risks; or provide appropriate follow-up and support. Institutions generally lack the necessary administrative capacity in terms of both adequate human and financial resources. Furthermore, although the LATP provides for the consideration of child-specific forms of persecution in asylum claims, the capacity for processing such asylum claims has also yet to be established.

The best interests of the child should be the primary consideration in all decisions taken concerning the child. Currently, the FYR of Macedonia does not have a procedure in place for initiating a determination of the best interests of the child.

Furthermore, neither legislation nor standard operational procedures have been established for the rapid and appropriate assessment and provision of needs to unaccompanied and separated children, including the appointment of a temporary guardian. Appointment of guardians to unaccompanied children seeking asylum by the Center for Social Welfare is done without the necessary professional engagement. Cases in need of urgent assistance are referred in an *ad hoc* manner without a proper case follow-up mechanism. In 2012, 55 unaccompanied children (all male) were registered as new asylum-seekers. Only in 31 cases, was a temporary legal guardian appointed. According to the information available to UNHCR, the appointed guardians usually never appeared before the relevant authorities in the course of the asylum procedure. Moreover, none of the unaccompanied children have ever been informed that a guardian was appointed.

In addition, the country does not have a formal age assessment procedure in place. Where there is serious doubt about a person’s age, attempts should first be made to establish the age via interviews and the gathering and consideration of available documentary evidence. If it is still necessary to conduct an age assessment procedure, it should be undertaken by independent and appropriately skilled practitioners applying a holistic approach and taking into consideration a range of physical, psychological, developmental, environmental and cultural factors. It is important that such assessment is conducted in a safe, child- and gender-sensitive manner with due respect for human dignity.

Furthermore, the national reception centre lacks the capacity to provide proper care to unaccompanied and separated children. There is no special care given to unaccompanied children, designed to address their special protection and assistance needs. Of particular concern is that unaccompanied and separated children are accommodated with adults.

The Committee on the Rights of the Child, at its 54th session, shared UNHCR's concern that "unaccompanied and separated children are not always appointed a guardian and are not accommodated separately from adults," and recommended that the authorities "ensure that unaccompanied and separated children are appointed a guardian and are accommodated separately from adults."⁷ Additionally, the Committee recommended "that children among refugees and asylum-seekers are assured of access to education, health care, social protection and housing."⁸

Recommendations:

- Develop capacities for processing asylum claims considering child-specific forms of persecution.
- Ensure that the specific needs of unaccompanied and separated children seeking asylum are fully and adequately met by guaranteeing the appointment of a legal guardian;
- Develop appropriate procedures and mechanisms for a determination of the best interests of the child for all asylum-seeking and refugee children and ensure that the best interests of the child are a primary consideration in all decisions taken;
- Develop a safe, child- and gender-sensitive procedure for assessing a person's age.

Issue 3: Prevention and Reduction of Statelessness and Protection of Stateless Persons

The Government has played a vital role, in what are combined efforts with UNHCR, to address the issue of statelessness in the country. The Government acknowledged that a number of persons who remained in the country after the dissolution of former Yugoslavia lacked effective citizenship and between March 2004 and December 2012, after the *Law on Citizenship* was amended to include the transitional provision for facilitated access to naturalization, a total of 5,056 long-term habitual residents were naturalized. Furthermore, UNHCR welcomes the active participation of the Government delegation at the Conference on Provision of Civil Documentation and Registration in South Eastern Europe, held in Croatia in 2012. UNHCR would also like to commend the adoption of the Zagreb Declaration, which contains important recommendations both at the national and regional level to facilitate the issuance of civil documentation to persons in need.

Nonetheless, despite the efforts invested by the Government, many Roma are still trapped in a cycle in which the lack of documentation among one generation creates obstacles for the registration of the next. Lack of birth registration increases the risk of statelessness as birth registration documents are fundamental for proving acquisition of nationality, confirming where a person was born and who his or her parents are. In the FYR of Macedonia, Roma children's births often remain unregistered or they are unable to receive complete birth certificates due to a lack of: (1) a mother's identity document or birth certificate from her

⁷ Committee on the Rights of the Child CRC/C/MKD/CO/2, 54th Session 11 June 2010, para 67, available at: <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.MKD.CO.2.doc> .

⁸ Committee on the Rights of the Child CRC/C/MKD/CO/2, 54th Session 11 June 2010, para 68, available at: <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.MKD.CO.2.doc> .

country of origin; (2) the original marriage certificate of the child's parents from their country of origin or a marriage certificate of the parents in Macedonia; (3) funds; (4) awareness; (5) detailed legislative provisions defining the procedures, documentary evidence and deadlines; (6) free birth registration in all stages; and (7) implementation of the existing legal provisions, including those for exemption from payment of the administrative fee.

In this regard, the Committee on the Rights of the Child in 2010 expressed concern that “there remain[ed] a number of children who lack[ed] registration and identity documentation, many of whom are children in street situations and Roma children, and that there is no strategy for identifying children who lack birth registration and/or identity documentation. The Committee [was] further concerned that documents attesting the status of refugee children and children under subsidiary protection [we]re only issued upon request by a lawyer.”⁹ Therefore, the Committee recommended that the Government: “undertake a survey to identify children lacking birth registration and/or identity documents, and take immediate administrative and judicial measures to ensure retroactive birth registration and issuance of documents for these children; and ensure that the status of children among refugees and persons under subsidiary protection [was] documented and certified.”¹⁰

The national legislation generally complies with the *1961 Convention*, though the country has not yet acceded to it. However, there is only an incomplete safeguard in place to ensure that all children born in State territory acquire citizenship if they would otherwise be stateless. The law covers children who are born to parents who are stateless or of unknown citizenship (Article 6.1) but does not address cases of children who are born to foreign nationals who are unable to transmit their nationality to their children. A safeguard is also missing in the law to prevent statelessness of children where their parents renounce their citizenship (Article 19). A similar gap exists for Macedonian children who are adopted by foreign nationals, and who may renounce their Macedonian citizenship without possessing or acquiring a foreign nationality (Article 20). UNHCR encourages accession to the *1961 Convention* and minor amendments to the nationality law to bring it in line with international standards. The *1961 Convention* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of State parties to the two Statelessness Conventions is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

In this sense UNHCR welcomes the recommendations made by the Committee on the Rights of the Child following its review of the former Yugoslav Republic of Macedonia, in which it encouraged the country to ratify the *1961 UN Convention on the Reduction of Statelessness*.¹¹

The country succeeded to the *1954 Convention Relating to the Status of Stateless Persons* in 1994. It is an implicit obligation of the *1954 Convention* that Contracting States must identify stateless persons within their jurisdiction to provide them appropriate treatment in compliance with the Convention. Establishing a statelessness determination procedure is the

⁹ Committee on the Rights of the Child CRC/C/MKD/CO/2, 54th Session, 11 June 2010

¹⁰ Committee on the Rights of the Child CRC/C/MKD/CO/2, 54th Session, 11 June 2010, para 68.

¹¹ Committee on the Rights of the Child CRC/C/MKD/CO/2, 54th Session, 11 June 2010, para 33(e)

most efficient means for States party to the 1954 Statelessness Convention to identify the beneficiaries of that Convention with the view to providing them appropriate protection.

Recommendations:

- Accede to the *1961 Convention on the Reduction of Statelessness*;
- Establish a stateless status determination procedure at a national level in line with the *1954 Convention related to the Status of Stateless Person*;
- Exercise flexibility in the interpretation and application of legislative requirements, not only for acquiring citizenship, but also for birth registration, receiving civil registration documents, residence permits and exemption from payment of related administrative fees.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
June 2013**

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies

Universal Periodic Review:

The Former Yugoslav Republic of Macedonia

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to the Former Yugoslav Republic of Macedonia.

Committee on the Rights of the Child

CRC/C/MKD/CO/2, 54th Session

11 June 2010

Convention on the Rights of the Child

7. The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the initial report that have not yet been implemented, including those related to the review of national legislation for compliance with the Convention, birth registration, resources available to the social work centres, and the integration of children with disabilities into educational and recreational programmes, and to provide adequate follow-up to the recommendations contained in the present concluding observations.

19. The Committee encourages the State party to continue and strengthen its data collection system with the support of its partners and to use this data as a basis for assessing progress achieved in the realization of child rights and to help design policies to implement the Convention. Data should cover all children up to the age of 18 years and be disaggregated by sex, age, urban and rural area with specific emphasis on children in vulnerable situations, including child victims of abuse, neglect or ill-treatment, children with disabilities, refugee and asylum-seeking children, children in conflict with the law, working children, and children in street situations.

26. While the Committee welcomes the adoption of the Law on Prevention and Protection from Discrimination and provisions for the setting up of an anti-discrimination body, the Committee is concerned that the new law does not explicitly cover certain grounds for discrimination and that it provides a long list of "exceptions" from what constitutes discrimination, which may jeopardise the best interests of the child. The Committee is concerned about de facto discrimination of children belonging to the minorities, especially Roma, children in institutions, children in street situations, children with disabilities and children in conflict with the law.

27. The Committee recommends that the State party improve further anti-discrimination legislation to render it in compliance with international and regional standards, that it explicitly covers all grounds for discrimination and consider removing the list of "exceptions" in the current law. The State party should take all appropriate measures to prevent, redress and punish acts of discrimination against children, including through ensuring the effectiveness of the anti-discrimination body. The Committee requests that specific information be included in the next periodic report on

the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and at the Durban Review Conference in April 2009.

32. The Committee welcomes the State party's commitment to and progress achieved in the area of prevention and reduction of statelessness through improvements in civil registration and issuance of identity documents. The Committee is nevertheless concerned that there remains a number of children who lack registration and identity documentation, many of whom are children in street situations and Roma children, and that there is no strategy for identifying children who lack birth registration and/or identity documentation. The Committee is further concerned that documents attesting the status of refugee children and children under subsidiary protection are only issued upon request by a lawyer. The Committee is deeply concerned that the absence of identification documents prevents children from accessing education, health, and public services, including child allowances.

33. The Committee urges the State party to:

- a) undertake a survey to identify children lacking birth registration and/or identity documents, and take immediate administrative and judicial measures to ensure retroactive birth registration and issuance of documents for these children;**
- b) ensure that the status of children among refugees and persons under subsidiary protection is documented and certified;**
- c) take immediate measures to ensure that children lacking identity documents are not refused access to education, health, and public services, including child allowances;**
- d) continue fulfilling its international obligations and raising protection standards with regard to stateless children, in particular by establishing a specific statelessness determination procedure; and,**
- e) ratify the 1961 UN Convention on the Reduction of Statelessness and the 2009 Council of Europe Convention on the avoidance of statelessness in relation to State succession.**

42. The Committee encourages the State party to prioritize elimination of all forms of violence against children. With reference to the United Nations Study on Violence against Children (A/61/299), the Committee recommends that the State party:

...

d) Seek technical assistance from the Special Representative of the Secretary General on violence against children, UNICEF, the Office of the High Commissioner for Human Rights (OHCHR) and the World Health Organization (WHO), and other relevant agencies, inter alia, ILO, UNESCO, UNHCR, UNODC, as well as NGO partners.

54. While welcoming significant reductions of infant and under-5 mortality, of registered infectious diseases, and the elimination of iodine deficiency disorders in recent years, the Committee is concerned that infant mortality rates among Roma children remain higher than the national average, and that peri-natal mortality is the highest in the region. The Committee is further concerned about rural-urban disparities in accessing healthcare services and that refugee children and children under humanitarian protection who lack proper documentation have been refused medical treatment.

65. The Committee notes that the right to education of all nationals and resident stateless children is guaranteed by law, that efforts have been made to improve the quality of education, and that the State party plans to introduce conditional cash transfers with a view to

encouraging enrolment and attendance in secondary schools. The Committee is, nevertheless, concerned that:

- a) There exist barriers to accessing education for children lacking birth registration and identity documents, children with disabilities and children in street situations;
- b) There is an increasing trend of separation along ethnic lines in schools, which has resulted in disparities in the quality of education and limited opportunities for children belonging to the different communities to interact with one another and in the intensification of inter-ethnic violence;
- c) The primary-level enrolment and completion rates remain low for Roma children, particularly girls, and that Roma children experience segregation and discriminatory treatment in schools;
- d) Roma children are allegedly overrepresented in schools for children with special needs and that the decision to refer children to such schools is not done by interdisciplinary teams and based on objective criteria;
- e) There is low availability of holistic early childhood development and education, facilities and institutions; and
- f) Religious education may be a factor of division and conflict among children in school and does not sufficiently contribute to a spirit of understanding, tolerance and friendship among all ethnic and religious groups as stipulated in Article 29(1)(d) of the Convention.

66. The Committee recommends that the State party:

a) Undertake immediate measures to ensure that children are not denied access to education on any grounds;

...

c) Work with the communities to encourage the enrolment of children in ethnically-mixed schools and provide in practice possibilities for children from the different communities to study together in a manner that allows every-day interaction and possibilities to learn about one another. The State party should undertake immediate measures to reverse the current trend of segregation along ethnic lines at all levels – national, regional and municipal;

d) Taking into account its General Comment No. 1 (CRC/GC/2001/1) on the aims of education and Article 29(1) of the Convention, the Committee recommends that the State party invest in the training of teachers, in the development of curricula, textbooks and other aides for the active promotion of understanding, peace, tolerance and multi-cultural solidarity and cohesion among the different ethnic and religious communities;

e) Continue and strengthen the measures to promote the integration of Roma children in mainstream education, especially by sensitising teachers and other professionals and assisting families in economic hardship;

...

67. The Committee notes that the State party is taking over responsibility for the health care, social protection and housing of asylum-seekers, refugees and persons under subsidiary protection as of 1 January 2010. Notwithstanding the statement of the State party's delegation, the Committee is concerned that unaccompanied and separated children are not always appointed a guardian and are not accommodated separately from adults.

68. The Committee recommends that the State party ensure that unaccompanied and separated children are appointed a guardian and are accommodated separately from adults and that children among refugees and asylum seekers are assured of access to education, health care, social protection and housing, taking into account the Committee's General Comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6).

75. The Committee notes that the adoption of a new action plan against trafficking in children is underway, that a national referral mechanism for trafficking victims operates since 2005, and that a program for social reintegration for child victims exists since 2006. The Committee is nevertheless concerned that children are trafficked for various purposes to, from and within the borders of the State party.

76. The Committee recommends that the State party continue and increase efforts to prevent, protect children from and strengthen measures to prosecute the crimes of sale and trafficking and in particular:

- a) Fully implement national legislation against trafficking in persons;**
- b) Conduct capacity-building programmes for law-enforcement officers, judges and prosecutors;**
- c) Investigate and prosecute all cases of sale and trafficking to avoid impunity;**
- d) Strengthen measures to protect child victims and ensure access to child-sensitive social and psychological assistance for their recovery and reintegration;**
- e) Address the root causes the sale of children, child trafficking and abduction, in particular by giving special attention to families in its programmes to combat poverty, to prevent school dropout and gender-based discrimination; and**
- f) Carry out awareness-raising activities, in cooperation with NGOs and the media, in order to make both parents and children aware of the dangers and consequences of these crimes.**

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

27. Noting that the majority of reported child victims of practices under the Optional Protocol are girls, many of whom Roma, the Committee regrets the absence of measures and programmes targeting vulnerable children, in particular girls, Roma children, children in street situations, children in residential care, children among refugees and persons under subsidiary protection, and unaccompanied and separated children.

28. The Committee urges the State party to pay increased attention to children particularly at risk of becoming victims of offences under the Optional Protocol, especially Roma children, children in street situations, children in residential care, children among refugees and persons under subsidiary protection, and unaccompanied and separated children, with special attention to their birth registration, education and health care.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

13. The Committee appreciates ongoing cooperation with UNHCR and amendments to the Law on Asylum and Temporary Protection reflecting the best interests of the child as a primary consideration and child-specific and gender-specific forms of persecution as a factor in the examination of asylum applications; and the introduction of an obligation to prioritise the tracing of family members. The Committee is, nevertheless, concerned that while no child soldiers have been identified, there are a few children among refugees and asylum-seekers who come from countries where children are involved in armed conflict. Furthermore, the Committee is concerned about the absence of information on mechanisms to identify children who have been involved in armed conflict and to follow up with unaccompanied and separated children once they leave the reception centre.

14. The Committee recommends that the State party continue cooperating with partners, including UNHCR, and implement the provisions of the Law on Asylum and Temporary Protection regarding the examination of asylum applications and family tracing. In addition, the Committee recommends that the State party put mechanisms in place to identify children who have been involved in armed conflict in order to ensure adequate protection, recovery and reintegration and establish a mechanism to follow up with unaccompanied and separated children once they leave the reception centre.

Committee against Torture

CAT/C/MKD/CO/2, 40th Session
21 May 2008

8. The Committee is concerned at the inadequate functioning of the system for processing and determining asylum claims, especially with respect to those claims channeled through the so-called “accelerated procedure”.

The State party should ensure that a thorough review of each individual case is provided for asylum claims. In this respect, the State party should ensure that effective remedies are available to challenge the decision not to grant asylum, especially when the claim is channeled through an accelerated procedure. Such remedies should have in any case the effect of suspending the execution of the above decision, i.e. the expulsion or deportation.

20. The Committee notes with concern reports of intolerance and hatred towards ethnic minorities, especially Roma. In this respect, the Committee is concerned about information showing that instances of ill-treatment by law enforcement officials, especially the police, often involve persons belonging to ethnic minorities.

The Committee recalls that the protection of certain minorities or marginalized individuals or populations especially at risk of torture is a part of the obligation to prevent torture or ill-treatment. In this respect, the State party should strengthen its efforts to combat ill-treatment of and discrimination against persons belonging to ethnic minorities, in particular Roma, including by ensuring that the relevant existing legal and administrative measures are strictly observed and that training curricula and information campaign constantly communicate the message that discrimination and violence will not be tolerated and will be sanctioned accordingly.

22. The Committee recognizes the efforts undertaken to combat human trafficking, including the recent introduction of a separate offence of trafficking, but it is still concerned that trafficking in women and girls, especially for the purpose of sexual exploitation, is a serious problem in the State party, and that recovery and reintegration services are insufficient.

The State party should continue to prosecute and punish trafficking in persons, especially women and children, and intensify its efforts to provide recovery and reintegration services to victims. The State party should also conduct nationwide awareness-raising campaigns and conduct training for law enforcement officials, migration officials and border police on the causes, consequences and incidence of trafficking and other forms of exploitation.

Human Rights Committee

CCPR/C/MKD/CO/2, 92nd Session
3 April 2008

11. The Committee notes the longstanding concerns about the behaviour of certain elements of the police forces, including ill-treatment of detainees, as well as reports of deficiencies of the current police internal oversight mechanisms. It is, in particular, concerned about reports of police violence against members of minority groups, in particular against Roma, and the lack of effective investigation of such cases (arts. 2, 7, 9, 10, 26).

The State party should enhance the human rights training of its police and continue to sensitize the police forces regarding the special vulnerabilities of minority groups, such as Roma. It should also ensure that all allegations of ill-treatment are investigated and those found responsible punished. The State party should also establish an independent monitoring body for the police.

13. The Committee, albeit commending the various efforts taken by the State party to address and combat trafficking in women and children, remains concerned about this phenomenon and in particular about the low number of cases where compensation for non-pecuniary damage has been granted (arts. 3, 8, 24).

The State party should continue to implement and enforce its measures to combat trafficking in women and children and bring those responsible to justice. Training for police, border guards, judges, lawyers and other relevant personnel should be provided in order to raise awareness of the sensitivity of the issue of trafficking and the rights of victims. Measures should be taken to enhance the level of indemnification of victims of trafficking and to ensure that assistance schemes are not applied in a selective manner. The State party should also undertake to promote a change of public perception regarding the issue of trafficking, in particular with regard to the status as victims of trafficked persons.

15. The Committee, while noting the low number of internally displaced persons (IDPs) and the efforts taken by the State party to provide a solution to their plight, is concerned that many of these persons, so many years after the events leading to their displacement, still remain in collective shelters (art. 12).

The State party should find, without further delay, durable solutions for all IDPs in consultation with the remaining displaced persons and in accordance with the Guiding Principles on Internal Displacement (UN Doc. E/CN.4/1998/53/Add. 2 of 11 February 1998).

16. The Committee notes the State party's commitment not to forcibly return rejected asylum seekers to Kosovo and to fully cooperate with the Office of the UN High Commissioner for Refugees in order to ensure a return in safety and dignity, but remains concerned about the system of appeal regarding the independence of the appellate instance (arts. 7, 12, 13).

The State party should ensure that return is always fully voluntary and not enforced where return in safety and dignity cannot be assured. To this end, the State party should particularly ensure that an effective system of appeal is in place.

19. The Committee, while commending efforts taken by the State party to improve the situation of minorities, including the Roma population, remains concerned about the inadequate opportunities for members of minority groups, in particular Roma, to receive education at the primary and secondary levels in their language, as well as the high number of premature termination of schooling among Roma children. Segregationist trends and the harassment against Roma children in schools remain a source of concern to the Committee (arts. 26, 27).

The State party should continue to strengthen its efforts towards providing children of minorities with adequate opportunities to receive education in their own language and should take measures to prevent premature termination of schooling among such children. It should further undertake all possible measures to prevent segregation of Roma children in schools and build an environment of mutual respect to avoid incidents of harassment against children of minority groups. Teachers' training should include enhanced sensitization towards minority issues.