

## NATIONAL LEGAL MEASURES TO COMBAT RACISM AND INTOLERANCE IN THE MEMBER STATES OF THE COUNCIL OF EUROPE

### FORMER YUGOSLAV REPUBLIC OF MACEDONIA, Situation as of 31 December 2003

#### General Overview

*Preliminary Note: this table is accompanied by an explanatory note*

<b>COUNTRY: "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"</b>	<b>Constitutional provisions</b>	<b>Specific legislation</b>	<b>Criminal Law</b>	<b>Civil and Administrative Law</b>
<b>Norms concerning discrimination in general</b>	Yes.	No.	Yes.	Yes.
<b>Norms concerning racism</b>	Yes.	No.	Yes.	Yes.
<b>Relevant jurisprudence</b>	No cases were found on this subject.	No.	No cases were found on this subject.	No.

#### EXPLANATORY NOTE

##### "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" / GENERAL OVERVIEW

"The Former Yugoslav Republic of Macedonia", which became independent in 1991 following the break-up of the Socialist Federal Republic of Yugoslavia, is a parliamentary democracy. The Constitution was adopted on 17 November 1991, came into effect on 20 November 1991 and was amended on 6 January 1992 and on 16 November 2001.

The Constitution provides equal rights for all citizens regardless of sex, race, national or social origin, political or religious beliefs, property or social status.

The population of 2.2 million is composed of a variety of national and ethnic groups, mainly Macedonians, Albanians, Turks, Roma/Gypsies, Serbs and Vlachs. All citizens are equal under the law. The Constitution provides for the protection of the ethnic, cultural, linguistic, and religious identity of minorities, including state support for primary and secondary education in minority languages.

"The Former Yugoslav Republic of Macedonia" has ratified, among other international documents, both International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of all Forms of Discrimination against Women.

Furthermore, having in mind Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, "The Former Yugoslav Republic of Macedonia" in 1999, declared that it recognises the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by "The Former Yugoslav Republic of Macedonia".

### **Constitutional Law: "The former Yugoslav Republic of Macedonia"**

*Preliminary Note: this table is accompanied by an explanatory note*

<b>Constitutional provisions</b>	<b>Scope</b>	<b>Relevant jurisprudence</b>	<b>Remarks</b>
Article 7 (Official language)	<p>The Macedonian language, written using the Cyrillic alphabet, is the official language of the "Former Yugoslav Republic of Macedonia".</p> <p>Any other language spoken by at least 20% of the citizens, is also an official language, along with its alphabet, as it is determined in this article.</p> <p>Personal ID`s of citizens that speak a different official language other than Macedonian language, shall be issued in Macedonian language and its alphabet, as well as in the language that they speak, and its alphabet according to the law.</p> <p>Any citizen that lives in the units of local self-government in which at least 20% of the citizens speak a different official language other than Macedonian</p>		

language, in communication with regional units of the ministries, may use any of the official languages and its alphabet. Regional units in charge of those units of the local self-government shall respond in Macedonian language and its Cyrillic alphabet, as well as in the official language and letter that is used by the citizen. Any citizen in communication with ministries may use one of the official languages, and its alphabet, and the ministries will respond in Macedonian language, its Cyrillic alphabet, as well as in the official language and alphabet that is used by the citizen.

In the bodies of the Government of "The Former Yugoslav Republic of Macedonia", the official language different than Macedonian can be used according to the law.

In the units of the local self-government the language and the letter that is used by at least 20% of citizens is an official language, besides the Macedonian language and its Cyrillic alphabet. The decision for use of the languages and alphabets which are spoken by at least 20% of the citizens in the units of local self-government, is made by the bodies of the local self-government units.

Article 8  
(Fundamental values)

The fundamental values of the constitutional order of the "Former Yugoslav Republic of Macedonia" are among others: the basic freedoms and rights of the individual and citizen, recognised in international law and set down in the Constitution; the free expression of national identity and fair representation of the citizens that belong to all communities in the bodies of the state government and other public institutions on all levels.

Article 9  
(Equality before the Constitution and the Law)

Citizens of the "Former Yugoslav Republic of Macedonia" are equal in their freedoms and rights, regardless of sex, race, colour of skin, national or social origin, political or religious beliefs, property or social status.

	All citizens are equal before the Constitution and the law.		
Article 19 (Freedom of religious confession)	<p>The freedom of religious confession is guaranteed.</p> <p>The right to express one's faith freely and publicly, individually or collectively is guaranteed.</p> <p>The Macedonian Orthodox Church and other religious communities and groups are separated from the state and are equal before the law and are free to establish schools and other social or charitable institutions, by a procedure to be regulated by law.</p>		
Article 20 (Freedom of association)	<p>Citizens are guaranteed freedom of association to exercise and protect their political, economic, social, cultural and other rights and convictions.</p> <p>Citizens may freely establish associations of citizens and political parties, join them or resign from them. The programmes and activities of political parties and other associations of citizens may not be directed at the violent destruction of the constitutional order of the Republic, or at the encouragement of or incitement to military aggression or ethnic, racial or religious hatred or intolerance.</p> <p>Military or paramilitary associations which do not belong to the Armed Forces of the "Former Yugoslav Republic of Macedonia" are prohibited.</p>		
Article 29 (Rights of foreigners)	<p>Non-citizens shall enjoy the freedoms and rights guaranteed by the Constitution in the "Former Yugoslav Republic of Macedonia", under conditions regulated by law and international agreements.</p>		
Article 48 (National identity and attributes)	<p>The members of the communities have the right to freely express, foster and develop their identity and characteristics of their communities and to use the symbols of their communities.</p> <p>The Republic guarantees protection of the ethnical, cultural, linguistic and religious identity of all communities.</p> <p>The members of communities have the</p>		

right to establish cultural, artistic, educational as well as scientific and other associations for expressing, fostering and developing of their identity.

The members of communities have the right of education in primary and secondary school, as determined by law. In schools where education is taught in another language, the Macedonian language is taught also.

Article 54  
(Restriction of freedoms and rights)

The freedoms and rights of the individual and citizen can be restricted only in the cases permitted by the Constitution.

The freedoms and rights of the individual and citizen can be restricted during states of war or emergency, in accordance with the provisions of the Constitution.

Restriction on freedoms and rights may not discriminate on grounds of sex, race, colour of skin, language, religion, national or social origin, property or social status.

Restrictions of freedoms and rights cannot be applied to the right to life, the prohibition of torture and inhuman or humiliating conduct or punishment, the legal determination of punishable offences and sentences, nor to the freedom of personal conviction, conscience, thought and religious confession.

Article 69  
(Voting procedure in the Parliament )

The Assembly can make decisions only if a majority of the total number of representatives are present. The Assembly decides with a majority of votes of the present representatives, and with at least one-third of the total number of representatives, if a special majority is not predicted by the Constitution.

For laws that directly affect culture, use of language, education, personal ID`s and use of symbols, the Assembly decides by the majority of votes of the present representatives, within which it must have a majority of the votes from

the present representatives who belong to the communities which are not a majority in "The Former Yugoslav Republic of Macedonia". The Committee for Inter-Community Relations shall resolve disputes regarding the application of this provision.

Article 77  
(Ombudsman)

The Assembly elects the Public Attorney with a majority of votes from the total number of representatives, while there has to be a majority of votes from the total number of representatives who belong to the communities not in the majority of "The Former Yugoslav Republic of Macedonia"  
The Public Attorney protects the constitutional and legal rights of citizens when violated by bodies of state administration and by other bodies and organisations with public mandates. The Public Attorney pays particular attention to safeguarding the principles of non-discrimination and appropriate and fair representation of the representatives of the communities in the bodies of the state administration, in the bodies of the units of local self-government and in public institutions and services.

Article 78  
(Council for  
Inter-Ethnic  
Relations)

The Assembly shall establish a Council for Inter-Ethnic Relations.  
The Committee consists of 19 members out of which seven Assembly representatives, Macedonians and Albanians, and one from the Assembly representatives, Turks, Vlachs, Roman, Serbs and Bosniaks. If one of the communities has no representatives, the Public Attorney, after consultation with relevant representatives of those communities, will propose the remaining members of the Committee.  
The Assembly elects the members of the Committee.  
The Committee considers issues regarding inter-community relations in the Republic and gives opinions and proposals for their solution/resolving.

The Assembly is obliged to discuss the opinions and proposals of the Committee and to make a decision on them.

In case of dispute regarding the implementation of the voting procedure in the Assembly, the Committee decides with majority votes from the members, whether the procedure will be implemented.

Article 86  
(Security  
Council)

The President of the Republic is President of the Security Council of "The Former Yugoslav Republic of Macedonia".

The Security Council of the Republic is composed of the President of the Republic, the President of the Assembly, the Prime Minister, the Ministers heading the bodies of state administration in the fields of security, defense and foreign affairs and three members appointed by the President of the Republic. While electing the three members, the President shall ensure that the content of the Council as a whole appropriately reflects the composition of the population in "The Former Yugoslav Republic of Macedonia".

The Council considers issues relating to the security and defense of the Republic and makes policy proposals to the Assembly and the Government

Article 104  
(Judicial  
Council)

The Republican Judicial Council is composed of seven members.

The Assembly elects the members of the Council.

The members of the Council are elected from the ranks of outstanding members of the legal profession for a term of six years with the right to one re-election.

Three of the members shall be elected with the majority votes from the total number of Representatives, within which must be a majority of the votes of the total number of Representatives who belong to the communities not in the majority of "The Former Yugoslav Republic of Macedonia".

Members of the Republican Judicial

	<p>Council are granted immunity. The Assembly decides on their immunity. The office of a member of the Republican Judicial Council is incompatible with the performance of other public offices, professions or membership in political parties.</p>
<p>Article 109 (Constitutional Court)</p>	<p>The Constitutional Court of "The Former Yugoslav Republic of Macedonia" is composed of nine judges. The Assembly elects the judges to the Constitutional Court by a majority vote of the total number of Representatives. The Assembly elects three of the judges by a majority vote of the total number of Representatives who belong to the communities not in the majority of "The Former Yugoslav Republic of Macedonia".</p> <p>The Constitutional Court elects a President from its own ranks for a term of three years without the right to re-election.</p> <p>Judges of the Constitutional Court are elected from the ranks of outstanding members of the legal profession.</p>
<p>Article 110 (Constitutional Court)</p>	<p>The obligations of the Constitutional Court of "The Former Yugoslav Republic of Macedonia" include the protection of the freedoms and rights of the individual and citizen relating to the freedom of communication, conscience, thought and activity as well as to the prohibition of discrimination among citizens on grounds of sex, race, religion or national, social or political affiliation.</p>
<p>Article 114 Local self Government</p>	<p>The right of citizens to local self-government is guaranteed. Municipalities are units of local self-government. Within municipalities forms of neighbourhood self-government may be established. Municipalities are financed from their own sources of income determined by law as well as by funds from the Republic. Local self-government is regulated by</p>



law adopted by a two-thirds majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives who belong to the communities not in the majority of "The Former Yugoslav Republic of Macedonia".

## EXPLANATORY NOTE

### "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" / CONSTITUTIONAL LAW

According to the Constitution, a number of non-judicial institutions, the competencies of which might extend to issues and cases of racism, must be established. These are the office of the Ombudsman, a committee of the Legislative Assembly entitled the Standing Committee of Enquiry, *ad hoc* committees of the Assembly to deal with concrete problems and a Council for Inter-Ethnic Relations.

#### **Criminal Law: "The former Yugoslav Republic of Macedonia"**

*Preliminary Note: this table is self-sufficient and is not accompanied by an explanatory note*

Offence	Source	Scope	Sanction	Relevant jurisprudence	Remarks
Violation of the equality of citizens	Criminal Code, Art. 137	Applies to any person who, on the basis of a difference in sex, race, colour of skin, national or social origin, political or religious belief, wealth or social position, language or other personal characteristics or circumstances, purports to deny or limit the rights of any individual or citizen, as these are determined by the	Imprisonment for a period between three months and three years. If the crime is committed by an official while performing his duty, he shall be punished with imprisonment for a period between six months and five years.		

		Constitution, by law or by ratified international covenants, or who, on the basis of any of these differences, grants favours to any individual.	
Violation of the right to use any language and alphabet	Criminal Code, Art. 138	Any person who purports to deny or limit the right of citizens to use a language and alphabet, as guaranteed by the Constitution, by law or by international covenant.	Imprisonment for a period between three months and three years. If the crime is committed by an official while performing his duty, he shall be punished with imprisonment for a period between six months and five years.
Causing national, racial or religious hatred, discord or intolerance	Criminal Code, Art. 319	Any person who, by employing force, mistreatment, endangering public security, ridiculing a national, ethnic or religious symbol, damaging other people's property, desecration of monuments or graves, or in some other manner, causes	Imprisonment for a period between one and five years. Where any person commits the crime by misusing his position or authority, and where the crime causes riots or violence among people, or

		or excites national, racial or religious hatred, discord or intolerance.	widespread property damage, he shall be punished with imprisonment for a period between one and ten years.
Genocide	Criminal Code, Art. 403	Any person who, with the intention of completely or partially destroying some national, ethnic, racial or religious group, orders the murder of, or the infliction of serious bodily injuries upon, or of serious harm to the physical or mental health of members of the group, or the forced resettlement of a population, or the placement of the group under such living conditions as to bring about the complete or partial extermination of the group, or the application of measures to prevent births among the members of the group; any person who, with the same	Imprisonment for a period of at least ten years or life imprisonment

		intention, himself commits any of the above-mentioned crimes.	
Organising a group for or encouraging the commission of genocide or war crimes	Criminal Code, Art. 408	Any person who organises or belongs to a group with the aim of committing crimes of genocide or war crimes.	Organisers shall be punished with imprisonment for a period of at least ten years. Non-instigating members of the group shall be punished with imprisonment for a period of at least one year.
Racial or other discrimination	Criminal Code, Art. 417	Any person who, on the basis of a difference in race, colour of skin, nationality or ethnic appurtenance, violates any of the basic human rights and freedoms acknowledged by the international community.  Any person who spreads ideas about the superiority of one race over another, or who advocates racial hatred, or	Imprisonment for a period between six months and five years.  Imprisonment for a period between six months and three years.

instigates racial  
discrimination.

## Civil and Administrative Law: "The former Yugoslav Republic of Macedonia"

*Preliminary Note: this table is accompanied by an explanatory note*

Provision	Scope	Consequences of breach	Relevant jurisprudence	Remarks
Law on Local Self-Government (2003) Art.59	Contains provisions concerning local self-government in geographical areas inhabited by different nationalities or minorities (refer to the explanatory comments)			New law contains a provision which concerns equal employment opportunities for all ethnic communities.
Law on the Movement and Residence of Foreigners (1992) (Art. 45)	Stateless persons and foreigners who have abandoned the State of their citizenship or the State in which they were permanently resident, in order to avoid being exiled (sic.) due to their progressive democratic political convictions and actions, their cultural or scientific (intellectual) activities, or their national, racial and			

	religious affiliation, may be given the status of refugees in the "Former Yugoslav Republic of Macedonia".			
Law on Telecommunications (1996)	Transmission and transfer of messages which call for the violent destruction of the constitutional order of the "Former Yugoslav Republic of Macedonia", or which encourage or incite to military aggression or stir up ethnic, racial or religious hatred or intolerance, are forbidden. (Art. 9)	An enterprise or other legal person may be fined up to 20 salaries for the offence of transmitting or transferring messages which call for the violent destruction of the constitutional order of "the Former Yugoslav Republic of Macedonia", or encourage or incite to military aggression or ethnic, racial or religious hatred or intolerance (Art. 89).		
Law on Political Parties (1994) (Art. 4)	The programmes, statutes and activities of political parties may not be directed at the violent destruction of the constitutional order, at			The new law is in parliamentary procedure

	encouragement or incitement to military aggression or at stirring up ethnic, racial or religious hatred or intolerance.			
Law on the Legal Status of Religious Communities (1977) (Art. 7)	Inciting, stirring up and making possible religious hatred, intolerance and discord are forbidden.			The new law is in parliamentary procedure
Law on secondary education (1995) (Art. 3)	Everyone has the right to secondary education under equal conditions. Discrimination based on sex, race, colour of skin, national or social origin, political or religious belief, income level or social status is forbidden.			
Law on Courts (2003) (Art. 40)	In the process of appointing judges and juries, discrimination relating to sex, race, colour of skin, national or social origin, political or religious conviction, income level or social status must be avoided. Proper and fair			

	<p>representation of the citizens that belong to all communities of "the Former Yugoslav Republic of Macedonia" is to be provided for in the process of electing judges and juries, but without violating the criteria established by law.</p>	
<p>Law on courts Art 93</p>	<p>A fixed number of independent court advisers, court advisers, expert associates, trainees and other personnel is employed at the courts for the performance of personnel, administrative, technical and other duties depending on the extent and needs of the court.</p> <p>Proper and fair representation of the citizens that belong to all communities of "The Former Yugoslav Republic of Macedonia" is to be provided for in the process of</p>	



employment of persons from the paragraph above, but without violating the criteria established by law.

Law on courts  
Art. 104

As regards the performance of the jobs of the judicial police may be taken on persons who, besides the common conditions for employment, must meet the following terms:

- 1) not to be over 25 years of age if that is his first employment
- 2) to be physically and physiologically capable of exercising the duties of judicial police.
- 3) to have appropriate high school education and specialised course
- 4) served military service

Check on the employment conditions and the employment is exercised by the Ministry of Justice. Without violating the

	criteria established by law, proper and fair representation of the citizens that belong to all communities of "The Former Yugoslav Republic of Macedonia" is to be provided.	
Law on Ombudsman Art. 6 Paragraph 3	Proper and fair representation of the citizens that belong to all communities of "The Former Yugoslav Republic of Macedonia" is to be provided for in the process of electing deputies to the Ombudsman, but without violating the criteria established by law.	

## **EXPLANATORY NOTE**

### **"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" / CIVIL AND ADMINISTRATIVE LAW**

The Government is committed to a policy of peaceful integration of all ethnic groups into society but faces political resistance and the persistence of popular prejudices in the lower levels of administration.

The Law on Local Self-Government adopted in 1995 states that, in the Council of each unit of local self-government where the majority or a considerable number of inhabitants are members of national minorities, a Commission on Inter-Ethnic Relations shall be created, which shall include representatives of every nationality represented in that unit of local self-government.

Those units of local self-government in which the number of members of a particular nationality exceeds 50% of the total number of inhabitants, as determined by the last census of population, shall be considered as units of local self-government in which that nationality constitutes the "majority". Those units of local self-government in which the number of members of a particular nationality exceeds 20% of the total number of inhabitants, as determined by the last census of population, shall be considered as units of local self-government in which that nationality constitutes a "considerable number" of inhabitants.

At every session of the Council and other organs of a unit of local self-government in which a particular nationality constitutes the majority or a considerable number, the language and alphabet of that nationality shall be in use alongside the Macedonian language and its Cyrillic alphabet. The by-laws, decisions and other general acts passed by the organs referred to above shall be written and published in the Macedonian language and its Cyrillic alphabet as well as in the language and alphabet of the other nationality.

Public services, public institutions and public enterprises established by units of local self-government in which the inhabitants of a national minority constitute the majority shall make official use of the language and the alphabet of that nationality alongside the Macedonian language and its Cyrillic alphabet. In these units of local self-government, the names of populated places, signs posted by public services, institutions and other public enterprises, as well as signs posted by private enterprises established by the units of local self-government, shall be written in the Macedonian language and its Cyrillic alphabet, as well as in the language and alphabet of the majority nationality.

In units of local self-government in which a considerable number of members of a national minority live, the names of populated places, signs concerning public services and installations, signs posted by enterprises and other public signs may be written in the Macedonian language and its Cyrillic alphabet and in the language and alphabet of that national minority, if so decided by the Council of the particular unit of local self-government. Signs concerning cultural and educational institutions solely serving the development and promotion of the cultural and educational goals of national minorities shall be written in the Macedonian language and its Cyrillic alphabet and also in the language and the alphabet of the nationalities concerned, regardless of the number of members of each nationality who live in the relevant unit of local self-government.

Several laws have recently been adopted with the aim of strengthening tolerance in society and of assuring the equality of citizens: the Law of Inheritance (1996), the Law on Identity Cards (1995), the Law on Personal Names (1995), Laws on Primary and Secondary Education (1995).

In addition it must be noted that the new law on Local Self-Government contains a provision which deals with equal employment opportunities of all ethnic communities. Furthermore it must be added that two more laws are in the parliamentary procedure. These are the Law on Political Parties and Law on the Legal Status of Religious Communities.

