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Third report on "the Former Yugoslav Republic of Macedonia"

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Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI’s work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4/5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003.

The third round reports focus on “implementation”. They examine if ECRI’s main recommendations from previous reports have been followed and implemented, and if so, with what degree of success and effectiveness. The third round reports deal also with “specific issues”, chosen according to the different situations in the various countries, and examined in more depth in each report.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI’s reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 25 June 2004 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

Executive summary

Since the publication of ECRI’s second report on “the Former Yugoslav Republic of Macedonia” on 16 June 2000, progress has been made in a number of the fields highlighted in the report. Following upon the conclusion of the Ohrid Framework Agreement, there have been many important legal and policy developments aimed at promoting further equality among different ethnic communities, relating *inter alia* to the following areas: equitable representation in public institutions; granting official status to languages spoken by at least 20 percent of the population; education and the use of languages. A new Law on the Ombudsman gives this Office additional competence to safeguard the principles of non-discrimination and equitable representation of communities. Considerable reforms have been carried out in the area of law enforcement, including stepped up efforts to investigate complaints of ill-treatment by law enforcement officers and the recruitment and training of police from minority communities. Moreover a Law on Asylum and Temporary Protection was adopted.

A number of recommendations made in ECRI’s second report, however, have not, or not fully, been implemented, notably as concerns the area of interethnic relations, where the separation between ethnic communities has been further aggravated and there is a lack of measures aimed at fostering constructive interaction and communication between communities, particularly ethnic Albanians and ethnic Macedonians. There have been few detectable improvements in the situation of Roma, who, in large part, continue to experience particularly poor living conditions and to suffer from a cumulation of economic and social disadvantage, aggravated by changing economic conditions, discrimination and insufficient attention by the authorities. Moreover, there has been a lack of attention paid to reinforcing the legal framework aimed at addressing racism and discrimination. ECRI also raises a number of issues relating to the situation of smaller minorities, asylum seekers, and continuing problems in the area of citizenship.

ECRI recommends in this report that the authorities of “the Former Yugoslav Republic of Macedonia” take further action in a number of fields. It calls, *inter alia*, for a wide range of measures aimed at improving interethnic relations, and stresses the need for initiatives, including in implementing the different aspects of the Ohrid Framework Agreement, for persons belonging to different ethnic communities to have possibilities for constructive interaction. ECRI recommends that possibilities be created at all levels of the education system for children of different ethnicities to study together and for children to study two or three languages, including official languages. ECRI also recommends that attention be paid to the situation and needs of smaller minorities and that the necessary measures be developed to promote their equal treatment in all fields of life. ECRI highlights the urgent need for measures to be taken to improve the situation of Roma in all fields of life. Moreover ECRI stresses the need to reinforce the legal framework aimed at addressing racism and discrimination. ECRI also formulates recommendations relating to the application of legislation in the areas of citizenship and asylum as well as the need to create an independent mechanism to investigate complaints of police misbehaviour.

I. FOLLOW-UP TO ECRI’S SECOND REPORT

International legal Instruments

1. In its second report, ECRI recommended that “the Former Yugoslav Republic of Macedonia” sign and ratify the following international legal instruments: the revised European Social Charter, the European Convention on the Legal Status of Migrant Workers and the Convention on the Participation of Foreigners in Public Life at Local Level. It also recommended that it complete the ongoing process for ratifying the European Convention for Nationality as rapidly as possible, and ratify the European Social Charter and the European Charter for Regional or Minority Languages.
2. ECRI is pleased to note that, “the Former Yugoslav Republic of Macedonia”, has ratified the European Convention on Nationality. It has, however, entered a reservation to Chapter III, Article 6, item 3, dealing with the length of the period of residency necessary before an individual may lodge an application for naturalisation. Whereas this article of the European Convention on Nationality indicates that the required residency period should not exceed ten years, the reservation entered retains the right for this period to constitute fifteen years. The authorities of “the Former Yugoslav Republic of Macedonia” have informed ECRI that they intend to withdraw this reservation in the near future.
3. “The Former Yugoslav Republic of Macedonia” has not yet signed the revised European Social Charter, the European Convention on the Legal Status of Migrant Workers, the Convention on the Participation of Foreigners in Public Life at Local Level, or the International Convention on the Protection of the Rights of All Migrant Workers. In addition, it has not ratified either the European Social Charter or the European Charter for Regional or Minority Languages. ECRI notes, however, that the internal procedure for ratifying the European Social Charter is underway and steps have also been taken towards the ratification of the European Charter for Regional or Minority Languages.
4. ECRI is pleased to note that “the Former Yugoslav Republic of Macedonia” ratified Protocol 12 to the European Convention on Human Rights (ECHR) on 13 July 2004.
5. ECRI is also pleased to note that “the Former Yugoslav Republic of Macedonia” signed the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, and intends to ratify this Convention in the near future.

Recommendations:

6. ECRI recommends that the authorities of “the Former Yugoslav Republic of Macedonia” sign and ratify the revised European Social Charter, the European Convention on the Legal Status of Migrant Workers, the Convention on the Participation of Foreigners in Public Life at Local Level, and the International Convention on the Protection of the Rights of All Migrant Workers. It also recommends that the authorities of “the Former Yugoslav Republic of Macedonia” ratify the European Social Charter, the European Charter for Regional or Minority Languages and the Additional Protocol to the Convention on Cybercrime.

7. ECRI also encourages the authorities of “the Former Yugoslav Republic of Macedonia” in their intention to withdraw the reservation made to the European Convention on Nationality relating to the length of the period of residency necessary before an individual may lodge an application for naturalisation.

Constitutional provisions and other basic provisions

8. In its second report, ECRI noted that the right for members of national minorities to use their language and alphabet at the local level is set out in Article 7 of the Constitution and elaborated in the language provisions of the Law on Local Self-government. ECRI encouraged the national authorities to keep the implementation of legislation in this area under review.
9. A number of Constitutional amendments were adopted in the fall of 2001, in line with the provisions set out in the Ohrid Framework Agreement¹. These amendments cover, *inter alia*: the decentralisation of government; equitable representation in public institutions; granting official status to languages spoken by at least 20 percent of the population as set forth in the Agreement; education and the use of languages; special parliamentary procedures for issues of particular importance to minority communities; the status of religious communities; and the expression of identity. A wide range of new legislation has been adopted in the areas covered by these amendments.

Recommendations:

10. ECRI recommends that the authorities of “the Former Yugoslav Republic of Macedonia” keep under close review the implementation of legislation adopted in line with the Ohrid Framework Agreement, and monitor its impact on interethnic relations.
11. ECRI recommends that the authorities of “the Former Yugoslav Republic of Macedonia” undertake awareness raising initiatives in order to ensure that different segments of the public have a clear understanding of this new legislation and its implementation.
12. Article 9 of the Macedonian Constitution sets out the principle of equality as follows: “(1) Citizens of the Republic of Macedonia are equal in their freedoms and rights, regardless of sex, race, colour of skin, national and social origin, political and religious beliefs, property and social status. (2) All citizens are equal before the Constitution and law.” ECRI notes that the Constitutional provisions are directly applicable, however there are no examples of this Article having been successfully used in cases of discrimination.

¹ The signing of the Ohrid Framework Agreement on 13 August 2001 formally brought an end to the ongoing armed conflict in “the Former Yugoslav Republic of Macedonia”. According to its preamble, the agreement is “an agreed framework for securing the future of Macedonia’s democracy and permitting the development of closer and more integrated relations between the Republic of Macedonia and the Euro-Atlantic community. This Framework will promote the peaceful and harmonious development of civil society while respecting the ethnic identity and the interests of all Macedonian citizens.”

Recommendations:

13. ECRI recommends that the authorities of “the Former Yugoslav Republic of Macedonia”, ensure mechanisms are in place for full use to be made of Article 9, and that specific training relating to its use be provided to legal professionals and judicial authorities.

- Citizenship law

14. In its second report, ECRI recommended legislative reforms in order to facilitate the acquisition of citizenship by a certain number of ethnic Albanians and Roma who have been long-term residents on the territory of the country. In particular, ECRI urged the following amendments: reduction of the period of residency necessary to gain citizenship to bring it into line with the European Convention on Nationality; reduction of the administrative fee required for processing citizenship applications; elimination of the requirement of physical or mental health needed to gain citizenship.
15. Since ECRI’s second report, the Law on Citizenship has been amended, and in Article 14 special conditions for acquisition of citizenship have been set out for nationals of other republics of the former SFRY and nationals of the former SFRY. Under Article 14, conditions for acquisition of citizenship include: “permanently living in the territory of the Republic of Macedonia” until the date of submission of the citizenship application; residence in the country on 8 September 1991; a genuine and effective link with the country; no domestic criminal proceedings against the applicant for criminal acts which threaten the security and defence of “the Former Yugoslav Republic of Macedonia”; knowledge of the Macedonian language. In order to benefit from the provisions of this article eligible persons need to apply within two years of the entry into force (2 March 2004) of this amended Citizenship Law.
16. ECRI hopes that the special conditions set out in Article 14 will resolve the citizenship status of those ethnic Albanians and Roma who have been long-term residents on the country’s territory and still remain without citizenship. Various organisations have raised concerns that the requirement of ‘continuous living’ on the country’s territory may, however, prove an obstacle for many such persons, in particular due to difficulties of proof. This difficulty could be exacerbated by the fact that a certain number of these persons, particularly women, were not registered at birth, or lack any personal documents². The Ministry of Interior has informed ECRI that a wide variety of forms of proof will be accepted, including such items as proof of a medical visit or payment of a bill, in order to facilitate acquisition of citizenship.
17. ECRI also notes that the requirements relating to knowledge of the Macedonian language and criminal proceedings might lend themselves to arbitrary application and have a discriminatory impact upon those whose mother tongue is not the Macedonian language. The application fee has been reduced to one

² See below under ‘Situation of the Roma in various fields of life’, ‘Access to personal documents, social insurance and health’.

hundred dollars, however this still poses a significant obstacle for many of the persons remaining without citizenship who are from the poorer strata of society.

Recommendations:

18. ECRI recommends that the authorities of “the Former Yugoslav Republic of Macedonia” apply Article 14 of the amended Citizenship Law in as generous a manner as possible, in order to facilitate the acquisition of citizenship by those persons who have been long-term residents on the territory and still remain without citizenship.
19. ECRI urges the authorities to ensure that the application of Article 14 does not have a discriminatory impact upon any non-majority communities, such as ethnic Albanians and Roma.
20. In its second report, ECRI recommended that clear information about procedures for obtaining citizenship be disseminated to those individuals who would qualify, including stateless persons and Roma communities.
21. A certain amount of information has been disseminated about the new Citizenship Law, however concern was expressed to ECRI that this information has not been presented in a form that would reach many of those still lacking citizenship. ECRI became aware during its visit that many active organisations involved in this sphere were still unaware of relevant amendments to the Citizenship Law.

Recommendations:

22. ECRI recommends that the authorities of “the Former Yugoslav Republic of Macedonia” continue their efforts to disseminate information about procedures for obtaining citizenship, utilising oral as well as written means, and undertaking special targeted efforts to reach those segments of the population that could benefit from applying under Article 14, such as certain Roma and ethnic Albanian communities.
23. Amendments to the Citizenship law also brought about a change to article 8, concerning the right for emigrants and their descendants up to the first line of descent to acquire citizenship by naturalisation under facilitated conditions. A paragraph was added excluding those who have emigrated to their “mother country” from benefiting from these facilitated conditions.³ Turkish organisations have raised concerns that this provision has a discriminatory impact upon ethnic Turkish emigrants who are currently working and living in Turkey.

³ Article 5 paragraph b of the “Law for Changing and Amending the Law on Citizenship of the Republic of Macedonia”, adopted 22 January 2004.

Recommendations:

24. ECRI urges the authorities of “the Former Yugoslav Republic of Macedonia” to review the requirements for emigrants to obtain citizenship and to ensure that all emigrants are treated equally, regardless of their ethnicity.

Criminal law provisions

25. In its second report on “the Former Yugoslav Republic of Macedonia”, ECRI recommended that it be explicitly provided that racial motivation be taken into account as an aggravating factor by the courts. ECRI also recommended that ways be found to improve the implementation of criminal law provisions aimed at combating racism and discrimination. It suggested a range of measures such as improvements in the manner that racially motivated crimes are recorded and followed up; use by prosecutors of their ex officio powers in order to initiate proceedings in this area; and training aimed at those working in the criminal justice system.
26. ECRI is pleased to note that in March 2004 a number of new provisions relating to racism, discrimination and intolerance were added to the Criminal Code of “the Former Yugoslav Republic of Macedonia”. For instance, it was added that legal entities are to be responsible for violations of Article 137 relating to the equality of citizens. Another new provision sanctions the use of a computer system in order to threaten to perpetrate a crime, for which a prison sentence of five years or more is prescribed, on the grounds of a person’s religion or affiliation to a national, ethnic or racial group (Article 144(4)). Furthermore amendments to the section of the Criminal Code relating to crimes against humanity also penalise a range of acts committed on grounds of *inter alia* racial, ethnic, national, cultural or religious affiliation (Article 403 (a) and 407(a)).
27. Since ECRI’s second report, there have been no amendments that aim to specifically provide that racist motivation is to be taken into account as an aggravating factor by courts. ECRI was informed by the authorities of “the Former Yugoslav Republic of Macedonia” that it would be possible for judges to use their discretion and take such a motivation into account in assessing the punishment to be handed down. There do not, however, seem to be many, if any, examples of judges having used their discretion in this manner.
28. Nor do there seem to have been initiatives taken to improve the implementation of criminal legislation relating to crimes in the area of racism and discrimination. In fact, available data indicates a scarcity of convictions under the relevant articles, such as Article 319 relating to incitement of national, racial or religious hatred or intolerance, Article 417 relating to *inter alia* spreading racist ideas and instigating racist discrimination, and Article 137. According to information ECRI has received there is a general lack of knowledge about these provisions amongst those working within the criminal justice system. In addition, civil society organisations report that victims of discrimination, and often their lawyers, are generally unaware of relevant legislation, and, at any rate, are not very likely to lodge a complaint due to lack of confidence in the justice system.

Recommendations:

29. ECRI reiterates its recommendation to the authorities to explicitly provide in law that racist motivation constitutes a specific aggravating circumstance for all offences.
30. ECRI recommends that a wide range of measures be taken at all levels of the criminal justice system – police, prosecution and judiciary – in order to improve the implementation of criminal law provisions relating to racism and discrimination. These measures should include specific training aimed at increasing awareness about the relevant provisions in national law (such as Articles 137, 319 and 417), as well as in applicable international legal instruments, and encouraging prosecutors to use their powers to initiative ex officio investigations in this area.
31. ECRI also recommends that monitoring of criminal law provisions in this area be carried out in a more detailed manner, including qualitative information that makes it possible to assess the manner that the different levels of the criminal justice system handle complaints.

Civil and administrative law provisions

32. In its second report on “the Former Yugoslav Republic of Macedonia”, ECRI highlighted the lack of specific anti-discrimination legislation in the fields of employment, housing and the provision of goods and services. While noting that the constitutional guarantee of non-discrimination covers these fields, ECRI expressed its view that this guarantee would be strengthened by supplementary legislation in specific fields. ECRI recommended the introduction of a comprehensive body of anti-discrimination legislation covering discrimination in several fields of life and providing for effective enforcement.
33. ECRI is pleased to note that there have been many important legal developments aimed at promoting further equality of different ethnic communities in “the Former Yugoslav Republic of Macedonia”, such as legislation relating to equitable representation in the public service. However, ECRI regrets that the legislative framework for combating discrimination through civil and administrative law has not been strengthened, despite reports of continuing discrimination, direct and indirect, in a number of fields of life.
34. ECRI draws the attention of the authorities of “the Former Yugoslav Republic of Macedonia” to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, which contains detailed recommendations on the provisions which ECRI considers should feature in an effective body of civil and administrative legislation against racial discrimination.

Recommendations:

35. ECRI again stresses the importance of a comprehensive legal framework aimed at combating discrimination, and notes that civil and administrative law often provides the most accessible means of recourse for victims of discrimination. It strongly recommends that the authorities of “the Former Yugoslav Republic of Macedonia” give consideration to establishing such a framework, and in so doing take into account ECRI’s General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

Administration of justice

36. In its second report on “the Former Yugoslav Republic of Macedonia”, ECRI encouraged the authorities to ensure the full implementation of criminal legislation specifying the right for members of minority groups to use their language during all stages of the pre-trial and trial process.
37. ECRI is pleased to note that provisions concerning translation and interpretation during judicial proceedings have been extended, and cover all stages of civil and criminal proceedings. However, ECRI has received reports indicating that the implementation of these provisions is problematic. For instance, parties to a hearing are to be systematically instructed that they have a right to use their mother tongue, and, if they so wish, interpretation is to be provided. Instead, it is reportedly a common practice for judges to simply ask parties whether they speak Macedonian, and, if the answer is ‘yes’, the hearings continue. Organisations that monitor Court hearings point out that this sometimes results in judges continuing with proceedings when it is evident from the answers parties are giving that they do not, in fact, understand the proceedings.
38. A key difficulty in the effective implementation of these provisions reportedly stems from a lack of professional interpreters and translators in Albanian, Romani, Turkish, and other local languages. The Ministry of Justice has indicated that there are projects underway related to translators in Courts.

Recommendations:

39. ECRI urges the authorities of “the Former Yugoslav Republic of Macedonia” to monitor the application of provisions concerning translation and interpretation during judicial proceedings, and take the necessary steps to ensure that these rights may be effectively guaranteed in practice. In this respect, ECRI considers that it would be useful to ensure that judges are fully aware of these provisions and that additional professional translators and interpreters in all locally used languages are trained as swiftly as possible.

Specialised bodies and other institutions

- *Office of the Public Attorney*

40. In its second report, ECRI recommended the creation of an independent specialised body charged specifically with competence to deal with cases of racial discrimination and intolerance, or the creation of a special competence in this field within the existing Office of the Public Attorney (Ombudsman).
41. ECRI is pleased to note that, on 10 September 2003, a new Law on the Ombudsman was passed by Parliament giving the Ombudsman additional competence to safeguard the principles of non-discrimination and equitable representation of communities within public bodies at all levels and in other areas of public life. ECRI is also pleased to note that the new Law on the Ombudsman provides for the establishment of six regional offices of the Ombudsman in larger cities. In addition, the recent Constitutional amendments set out a special procedure for the election of the Ombudsman – a majority vote of the total number of Assembly representatives, within which there must be a majority of the votes of the total number of representatives claiming to belong to communities not in the majority in the country's population.
42. ECRI believes that these new functions grant the Ombudsman a fundamental role in identifying and addressing racial discrimination, both direct and indirect, in the country, and that it is essential that these functions are used to the fullest extent. Thus far, according to the current Ombudsman, the Office of the Public Attorney, has only received four cases of discrimination on an ethnic basis. This appears to ECRI to be a very small number considering the many reports of such discrimination in various fields of life, particularly by Roma organisations.
43. A variety of sources have indicated to ECRI that public institutions do not respond appropriately to requests from the Ombudsman. For instance, when the Office of the Public Attorney requests information from them, often public institutions do not respond at all, and, if they do, they answer in an inappropriate manner.

Recommendations:

44. ECRI recommends that the Office of the Public Attorney adopt a proactive approach, using ex officio powers available to the institution, in order to reveal and take action against occurrences of direct and indirect racial discrimination.
45. ECRI recommends that the Office of the Public Attorney accord special attention to the possible racist or discriminatory aspects of complaints and cases brought to its notice. In ECRI's opinion, such racist and discriminatory aspects are not always immediately apparent, even to the victim, and therefore particular training for staff in the Office of the Public Attorney in the different ways in which racism and discrimination may manifest themselves would be most opportune.
46. ECRI also recommends that steps be taken to ensure that requests and recommendations from the Office of the Public Attorney are appropriately followed up and respected by all public institutions.

47. In its second report, ECRI recommended that the authorities of "the Former Yugoslav Republic of Macedonia" undertake measures to raise awareness among the general population about the Office of the Public Attorney. ECRI also recommended that the Office of the Public Attorney consider recording the ethnic or national origin of complainants as part of its normal operational practice.
48. ECRI is pleased to note that, according to the Office of the Public Attorney, it has begun to document the ethnic origin of complainants. It has also undertaken various awareness raising initiatives aimed at providing the public with more information about the institution.

Recommendations:

49. ECRI encourages the Office of the Public Attorney to continue recording the ethnic or national origin of complainants in a systematic manner. ECRI believes that such data could be crucial in revealing to the Ombudsman patterns of discrimination, both direct and indirect.

- *Committee for Inter-community Relations*

50. In its second report, ECRI recommended that the Council for Interethnic Relations continue to provide a forum not only for seeking the resolution of problems arising between different communities, but also to develop long-term initiatives to foster increased communication and constructive interaction between different ethnic groups.
51. Since the publication of ECRI's second report, the Council for Interethnic Relations has ceased to exist. In its place, a new Committee for Inter-community Relations has been established through a Constitutional amendment adopted by the Assembly in 2001. This Committee, constituted on 18 September 2003, is tasked with considering issues of inter-community relations in the country and making appraisals and proposals for their solution. The composition is to include seven ethnic Macedonians, seven ethnic Albanians, and five members from among ethnic Turkish, Romani, Vlach and two other communities. The two additional members in the actual Committee are from the ethnic Serb and Bosnian minorities. Committee decisions are made by simple majority and then submitted to Parliament. The Committee has developed a work program based on the implementation of different aspects of the Ohrid Framework Agreement. In particular, it intends to focus on four themes: 1) primary and secondary education for members of non-majority communities; 2) equitable representation; 3) use of non-majority languages; 4) use of national symbols of all communities not in the majority.
52. ECRI believes that this Committee, with its focus on interethnic relations, could play a key role in ensuring that the various elements of the Ohrid Framework Agreement are implemented in a manner that fosters communication and contacts between communities. ECRI is concerned that at present, this aspect of interethnic relations is not being given a sufficient place within the Committee's work. ECRI also believes that the Committee has a crucial role to play in ensuring that the needs of smaller minority communities are duly

considered in all aspects of the implementation of the Ohrid Framework Agreement.

Recommendations:

53. ECRI strongly recommends that the Committee for Inter-community Relations devote attention to issues of interethnic contact and communication in considering the various aspects of the Ohrid Framework Agreement. In this respect, it should ensure that measures carried out do not result in increased separation and distance between communities. For instance, in the area of education, ECRI encourages the Committee to consider possibilities for students at all levels to study together as well for bilingual or trilingual education.
54. ECRI recommends that the Committee for Inter-community Relations develop special procedural mechanisms that ensure that the concerns of minority communities, represented with only one member, may consistently be heard.

Education and Awareness-raising

55. In its second report on “the Former Yugoslav Republic of Macedonia”, ECRI recommended that schools make a special effort to teach human rights, tolerance of difference and appreciation for other ethnic groups, and urged the national authorities to ensure that all subjects are taught in a manner that fosters these values. It also recommended that schools should strive to break down negative stereotypes and replace them with more impartial information about other ethnic groups and the pluralism therein. In addition ECRI encouraged the authorities to integrate the newly introduced subject ‘civil education’ into all levels of the educational system and to provide teachers with special training in this area.
56. The authorities of “the Former Yugoslav Republic of Macedonia” have informed ECRI that contents relating to human rights and democratic values are a regular part of the primary school curriculum. The authorities also point out that under the project for introducing civil education into schools the subject “Citizens for Democracy”, that focuses on the role and rights of citizens in society and the nature of democracy, has now become an obligatory subject in secondary schools. Furthermore the authorities have informed ECRI that a certain number of teachers have received training specifically directed at the teaching of human rights. The Ministry of Education has also brought to ECRI’s attention a proposal, supported by the Ministry, to develop a National Action Plan on Human Rights Education.
57. On the other hand, non-governmental sources have informed ECRI that subject matter dealing with civil education, human rights and democracy have not been introduced in a systematic manner into the education system. They note that a number of projects have been implemented by non-governmental organisations in co-operation with the Ministry of Education that include such subject matter. They point out, however, that these projects remain localised and have not been taken up and promoted on a larger scale by the Ministry of Education.

58. ECRI is pleased to learn of initiatives being taken by the authorities of “the Former Yugoslav Republic of Macedonia” to revise history textbooks for all levels of education, as well as to analyse textbooks which are reported to contain negative stereotypes about minority groups, particularly Roma, and eliminate such material. ECRI is nonetheless concerned to learn from civil society organisations that school textbooks continue to promote negative stereotypes about Roma, rather than striving to replace such negative stereotypes with more objective information about Roma communities, culture and their contribution to “the Former Yugoslav Republic of Macedonia.” ECRI is also concerned to learn about the role played by some teachers in protesting against efforts to hold classes for ethnic Macedonian and ethnic Albanian students in one school.

Recommendations:

59. ECRI recommends that efforts aimed at integrating civil education into all levels of the education system should be continued and reinforced, and that further efforts should be taken to extend projects aimed at teaching human rights, tolerance and respect for differences. Furthermore ECRI recommends that all subjects should be taught in a manner that fosters these values. Efforts to train teachers in such subject matter should also be extended.
60. ECRI recommends that textbooks and other material available in schools, particularly history teaching manuals, continue to be reviewed in order to ensure that they do not promote stereotypes, intolerance or negative attitudes towards any ethnic communities. ECRI also recommends that impartial information about the situation, culture and positive contribution of minority communities to “the Former Yugoslav Republic of Macedonia” should be included in the curriculum. The different ethnic communities should be involved in this process.

Reception and status of non-citizens

61. In its second report on “the Former Yugoslav Republic of Macedonia”, ECRI recommended that the national authorities continue to respect the principle of non-refoulement as incorporated in the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol and under no circumstances return the Roma refugees from Kosovo to a situation in which their life or freedom would be threatened. ECRI also encouraged the authorities to as rapidly as possible complete work on the draft Law on Asylum in order to clarify the legal status of non-citizens remaining on the territory of “the Former Yugoslav Republic of Macedonia”.
62. ECRI is pleased to note that “the Former Yugoslav Republic of Macedonia” adopted a Law on Asylum and Temporary Protection in July of 2003. The Law provides for an ordinary procedure and an accelerated procedure to be utilised when the application is manifestly unfounded. Through a single procedure different levels of protection may be granted to an applicant: recognised refugee status; humanitarian protection or temporary protection. While ECRI is satisfied that forms of subsidiary protection have been included in the legislation, it stresses that care should be taken to ensure that in all cases where an applicant qualifies for refugee status, this status should be granted, rather than

a lesser form of protection. ECRI notes that the principle of non refoulement is clearly stipulated in the Law.

63. As a result of the coming into effect of this Law, in September of 2003 the authorities of "the Former Yugoslav Republic of Macedonia" terminated the status as temporarily protected persons of the Roma who fled from Kosovo. The majority applied for asylum and their applications are currently being processed. According to the Ministry of Interior, there remain approximately 250 – 300 Roma who used to enjoy temporary protection who did not apply for asylum. In case such persons are found on the territory of "the Former Yugoslav Republic of Macedonia", they will be treated as illegal residents. Of those cases of Roma from Kosovo that have been heard thus far, none have been granted refugee status; applicants have been granted either humanitarian protection or rejected. As far as those whose applications have been rejected, the majority have lodged an appeal, which suspends the initial decision.

Recommendations:

64. ECRI recommends that the authorities of "the Former Yugoslav Republic of Macedonia" take steps to ensure that the new Law on Asylum and Temporary Protection is applied in such manner that applicants benefit from the highest level of protection for which they are eligible. In this connection, ECRI recommends that officials involved in the procedure of determining asylum applications be given thorough training in the new Law, as well as information about the human rights situation in the areas from which asylum seekers originate.
65. ECRI strongly recommends that the principle of non refoulement be strictly respected, and that it therefore be ensured that no Roma from Kosovo or any other asylum seekers are returned to a country where they might face a threat to their life or freedom, or risk torture or other forms of inhuman or degrading treatment or punishment.

- Trafficking in human beings

66. "The Former Yugoslav Republic of Macedonia" is at once a country of destination, source and transit for trafficking of women and children. The authorities have established a special interministerial commission to prevent and fight trafficking. Different measures taken include, two amendments were also recently made to the Criminal Code in order to more strictly sanction organised forms of the offence of trafficking, particularly as concerns women and children. A law for witness and victim protection is also being prepared. A transit centre has also been established, where victims of trafficking may stay for a number of weeks, on average 22 days, and where they receive legal and medical support from nongovernmental institutions.

Recommendations:

67. ECRI encourages the authorities of “the Former Yugoslav Republic of Macedonia” to continue their efforts to take measures to combat trafficking. ECRI recommends that *inter alia* they consider extending any programs of victim protection to cover not only those victims who co-operate with police, but all victims.

Internally displaced persons

68. According to the authorities of “the Former Yugoslav Republic of Macedonia”, there remain approximately 2000 – 3000 internally displaced persons in the country. Such persons are living either in collective centres or with host families. The majority are either ethnic Macedonians or ethnic Serbs. These persons reportedly do not wish to return to their villages primarily because of security concerns, but also due to economic reasons.

Recommendations:

69. ECRI recommends to the authorities to continue their efforts to create the conditions such that internally displaced persons may return to their homes in security. These returns should in all cases be voluntary.

Access to education

70. In its second report on “the Former Yugoslav Republic of Macedonia”, ECRI emphasised the need to increase the participation of ethnic Albanian and ethnic Turkish pupils in the secondary and higher levels of education, particularly through measures to combat the high drop-out rates of children from these groups from the school system. Noting the poor quality of education in some of the minority language schools, ECRI recommended that teacher training in Albanian and Turkish at the Pedagogical Faculty of Skopje be extended to teachers of higher school levels, including the higher primary school grades and secondary schools. ECRI also stressed the positive role that the introduction of bilingual classes incorporating relevant minority languages could play.
71. According to the Ministry of Education, teaching in Albanian and Turkish at the Pedagogical Faculty of Skopje has now been extended to teachers of grades five to eight. The Ministry of Education is aware of the problem of high drop-out rates among ethnic Albanian and ethnic Turkish children and has indicated that it occurs in rural areas where children of different age groups are taught together.
72. With respect to ethnic Turkish children, civil society organisations have reported that the quality of education in Turkish language schools continues to be a serious problem, with quality depending on initiatives of the teachers, rather than the Ministry of Education. They point to a lack of textbooks and inadequate training of teachers as important factors contributing to this problem. The authorities of “the former Yugoslav Republic of Macedonia” have informed

ECRI that they are aware of these problems and are undertaking efforts to open new classes in the Turkish language of instruction and to finance the printing of textbooks and reference literature in the Turkish language. They point out that the lack of skilled teachers, which constitutes a significant problem, will be the focus of future attention. Turkish language schooling is offered either until grade four or until grade eight, depending on the region. A serious obstacle in the way of students continuing on into other schools seems to be that they do not have adequate knowledge of the Macedonian language. It has been reported to ECRI that in recent years, influenced by the political climate, children’s skills in languages other than Turkish are, in fact, decreasing. ECRI is unaware of any further measures being taken by the authorities of “the Former Yugoslav Republic of Macedonia” to address these problems.

73. With respect to ethnic Albanian children, it has been reported to ECRI that the poor quality of teaching and facilities in some Albanian language schools continues to constitute a problem. The authorities of “the Former Yugoslav Republic of Macedonia” are, however, aware of this problem and have informed ECRI that measures are being carried out to improve the situation, including construction of new buildings, teacher training, developing more professional teaching and reference materials as well as reinforcing pedagogical support for teachers. In this respect, ECRI notes that, in some areas, such as Kumanovo, the authorities are carrying out a detailed assessment of Albanian language schools in order to be able to address any specific problems. ECRI also notes in this connection the legalisation of Tetovo University offering higher education in the Albanian language and the opening on 20 November 2001 of the private South East European University in Tetovo, with a curriculum in Macedonian, Albanian, English and other European languages.

Recommendations:

74. ECRI recommends that the authorities continue to conduct research, involving the communities concerned, into the reasons children from ethnic Turkish and ethnic Albanian communities drop out of school, taking into consideration the gender dimension, and continue to develop targeted measures to address problems.
75. ECRI recommends that continued attention be paid to problems in the quality of teaching in Turkish language schools, and that further measures be taken to ensure that all schools, regardless of the language of primary teaching offer comparable quality education.
76. ECRI recommends that steps be taken to ensure that students learning in minority language schools receive sufficient and high quality teaching in official languages so that they have equal possibilities of continuing on to higher levels of education. The authorities should also consider offering additional linguistic support to children having linguistic difficulties in secondary education.
77. ECRI believes that bilingual and trilingual education, incorporating minority languages, could play a positive role in increasing the participation and quality of schooling offered to members of all ethnic communities.

Monitoring the situation

78. In its second report, ECRI recommended the collection of comprehensive statistical information about the participation of ethnic minorities in public life and on their economic and social situation, especially with regard to access to employment, health, education and housing. ECRI noted that in gathering such information due respect should be paid to the right to privacy and to standards of data protection and free and informed consent of the persons in question.
79. In the context of current efforts to achieve equitable representation of ethnic communities in public bodies, detailed statistical information is being gathered about current employment of persons from different ethnic communities in public bodies. However, ECRI is unaware of such information being collected relating to other sectors of life, such as access to social services, health, housing and education.
80. In the autumn of 2002, a state-wide census was carried out. The results, which are viewed as particularly important given the rights granted in the Ohrid Agreement to ethnic minorities that make up more than 20 percent of the population, were announced on 1 December 2003. The government and international community found the census to be fair. However, different civil society actors, including representatives from different ethnic communities, contest the fairness of the census and the accuracy of results. ECRI has received reports of irregularities, specifically that through a variety of methods, members of smaller minority communities were assimilated to either ethnic Albanians or ethnic Macedonians. The Macedonian Helsinki Committee reported a certain amount of irregularities, such as reports by Roma communities that a large number of Roma families in several cities were not included in the census, as well as reports of manipulation whereby persons with an ethnic affiliation of Macedonian Muslims were registered as Albanians or Turks.

Recommendations:

81. ECRI recommends to the authorities of “the Former Yugoslav Republic of Macedonia” to establish a monitoring system that enables the collection of information about the situation of various minority communities, the assessment of the extent and causes of discrimination and the evaluation of actions intended to combat it. This system should pay due respect to the principles of confidentiality and the voluntary self-identification of persons belonging to a particular group. Such monitoring should also take into consideration the gender dimension, particularly from the viewpoint of possible double or multiple discrimination.

Conduct of certain institutions

82. In its second report, ECRI recommended the establishment of an independent mechanism to investigate all allegations of ill-treatment by police officers, especially of members of minority groups.

83. ECRI is pleased to note that the section for Internal control and professional standards within the Ministry of Interior has significantly stepped up its efforts to seriously investigate complaints of mistreatment on the part of police and to punish those found guilty of such behaviour. However despite these improvements ECRI notes that it has received reports from a range of sources indicating that this investigation mechanism remains unsatisfactory. Problems reportedly occur at different stages of the procedure, with the result that many cases of misbehaviour seem to go unpunished. NGOs also report that in cases where sanctions are handed down, they tend to be minimal. A further problem seems to be that many victims do not bring complaints, from fear of reprisals as well as a lack of confidence that their complaint will lead to action.
84. ECRI notes that the section for internal control and professional standards is itself aware that it is not completely independent, and has indicated that discussions are underway concerning the possibility of an independent investigation body, such as a police Ombudsman.

Recommendations:

85. ECRI urges the authorities to take further measures to put an end to incidents of police misbehaviour and mistreatment towards members of minority groups. In particular, it stresses the importance of setting up an independent investigatory mechanism, such as a police Ombudsman, whereby all phases of the investigation are conducted and overseen by a body independent of the Police and Ministry of the Interior.
86. ECRI stresses that cases of police violence which are brought to court should be dealt with as rapidly as possible and perpetrators appropriately sanctioned, in order to transmit the message to society that such behaviour on the part of the police is not tolerated and will be punished.
87. In its second report, ECRI recommended that special efforts be made to improve relations between police and minority groups, and recommended a range of measures including: special human rights training for law enforcement officials, particularly in relation to racism and intolerance; and continued efforts to recruit members of minority groups into the police force.
88. ECRI is pleased to note that following the Ohrid Framework Agreement considerable efforts are being made in this area. The Ministry of Interior has been cooperating with the OSCE in order to train and recruit a large number of officers from minority communities into the police force. Officers are being offered human rights training and a handbook on police standards has been developed. ECRI has been informed however that there remains a problem in the application of the standards set out in the handbook.

Recommendations:

89. ECRI encourages the authorities to continue efforts to improve relations between police and minority groups.
90. ECRI recommends that initial and continuing training offered to the police should include information about racism and discrimination, as well as applicable legislation relating to these issues.

Media

91. In its second report, ECRI recommended that the media profession adopt codes of self-regulation in order to address instances when media professionals exacerbate mistrust and fear, fuelling ethnic tensions.
92. ECRI is pleased to learn that a Code of Ethics has been developed. However, despite numerous incidents of hate speech over the last years, the Code has reportedly not been applied in such a manner as to sanction journalists that break with its principles.
93. As discussed below⁴, the media in the “Former Yugoslav Republic of Macedonia” reportedly pays increased attention to not stirring up ethnic tensions, however it remains divided along ethnic lines, and there are still some incidents of hate speech. ECRI is concerned that there are particular problems as concern reporting about the Roma, whereby the media is increasingly promoting harmful representations of Roma, particularly by mentioning the Romani ethnicity of alleged perpetrators in a manner that creates a link between Roma, crime and illicit activities.

Recommendations:

94. ECRI recommends that media professionals develop means to implement the Code of Ethics so that it becomes an effective means of self-regulation concerning the manner of reporting about different ethnic groups, and of sanctioning reporting that fuels discrimination, racism and interethnic tensions and hostility.
95. ECRI recommends that the authorities are vigilant in applying criminal legislation relating to hate speech, particularly Article 319 of the Criminal Code.

II. SPECIFIC ISSUES

Situation of the Roma in various fields of life

96. ECRI expresses deep concern over the deplorable living conditions of many Roma. They continue to suffer from a cumulation of economic and social disadvantage, aggravated by changing economic conditions, discrimination and insufficient attention by the authorities. There have been few detectable

⁴ See below under ‘Interethnic Relations’, ‘Public opinion leaders and the media’.

improvements in the situation of Roma since ECRI’s second report, and the problems of Roma seem to have been pushed aside, overshadowed by the conflict and questions of interethnic relations.

97. In its second report, relating to the situation of Roma in various fields of life, ECRI urged the authorities to establish a system of monitoring that would enable problems of discrimination to come to light. It also recommended that discrimination at the local level not be tolerated and that effective anti-discrimination legislation be enacted covering different fields of life.
98. ECRI has received no information indicating that the authorities have followed these recommendations or undertaken other measures to address the worrying situation of Roma in “the Former Yugoslav Republic of Macedonia”. It is pleased to note that a working group has just been established, involving representatives of different Ministries along with Roma representatives, in order to develop a strategy for improving the situation of Roma. Action plans are to be elaborated in respect of four areas that have been identified as priority areas: education, employment, health care and housing.

Recommendations:

99. ECRI recommends to the authorities of “the Former Yugoslav Republic of Macedonia” to undertake detailed research into the situation of Roma in different fields of life, in order to identify problems, including direct and indirect discrimination, and to urgently develop appropriate measures to address these problems.
100. ECRI encourages the authorities in their efforts to develop a national strategy to improve the situation of Roma, and urges them to involve Roma representatives and NGOs at all stages of work, from evaluating problems to developing and implementing measures.
101. ECRI reiterates here its recommendation to the authorities to swiftly adopt comprehensive and effective anti-discrimination legislation, covering all key fields of life (such as access to employment, housing, social services, health, education and public places and services), and draws attention to its General Policy Recommendation N°7 on national legislation to combat racism and racial discrimination.

- *Employment*

102. Roma communities continue to suffer from a particularly high rate of unemployment, which has reportedly worsened in light of the overall high unemployment rate, putting minorities at increased risk of discrimination. Following the Ohrid Framework Agreement, steps are being taken to promote equitable representation of communities in all central and local public bodies. This issue is discussed in detail below⁵, however ECRI here wishes to note that it has received reports indicating that Roma who receive employment in public bodies are relegated to menial functions.

⁵ See section on ‘Interethnic relations’.

Recommendations:

103. ECRI recommends that further efforts be made to improve the employment situation of the Roma community. It considers that, given the widespread and endemic nature of disadvantage on the labour market for Roma, special measures to place Roma in a position in which they can compete on an equal footing with members of the majority population in the employment market are necessary.

- **Housing**

104. A majority of Roma live in ramshackle shacks in unplanned communities that lack roads, sanitation, garbage collection, water, electricity or other elements of a basic infrastructure. Too often Roma settlements are separated from other communities, and located in areas others do not wish to live, such as near sewage and waste disposal sites. Those Roma communities which do benefit from electricity and water reportedly often find themselves entirely cut off from these services because certain inhabitants do not pay their bills and the community is held collectively responsible. Civil society organisations have pointed out the discriminatory and racist nature of this treatment. It has also been reported to ECRI that those families whose income is derived from social insurance may find themselves in a situation where they are unable to cover electricity and water bills after covering other needs, such as food.
105. A majority of such Roma communities fall outside of urban planning, and therefore find themselves in a situation of illegality. This condition affects even those settlements that have existed for decades, well before urban planning regulations. This adds to the precarity of life for many Roma, who are at risk of being evicted or having their homes destroyed. ECRI notes that it has been informed that to date there have been very few incidents of homes being destroyed, however civil society organisations have also reported that they are facing difficulties in efforts to regularise the legal status of Roma settlements.

Recommendations:

106. ECRI recommends that urgent measures be taken to improving the housing situation of Roma, and particularly to ensure that Roma families who are currently living in substandard conditions are provided with a decent standard of housing and infrastructure.
107. ECRI recommends that there be coordination between different public bodies in order to ensure that Roma who are beneficiaries of social insurance are able to access basic amenities, such as water and electricity.
108. ECRI recommends that the authorities take the necessary steps to regularise the legal status of Roma settlements.

- **Access to personal documents, social insurance and health**

109. ECRI is concerned about reports that a certain number of Roma lack personal documents, such as identity cards, birth certificates, medical insurance cards, and employment cards. This problem impinges upon Romanis' rights in many other sectors of life, for example the ability to exercise civil rights such as voting, and access to various services, such as social insurance and health care. According to research carried out by non governmental organisations, these problems are connected with discrimination, particularly indirect discrimination, stemming from the criteria for obtaining these documents (such as fees, or a requirement of completing primary education). In addition, problems stem from a cascade effect, where problems in obtaining citizenship, discussed earlier in this report⁶, impact upon possibilities to obtain other documents.
110. In the field of health, ECRI is deeply worried over reports that Roma are sometimes unable to access health care, as they are unable to cover the costs of the care. There are reports of persons having died or suffered serious damage as they were unable to receive treatment. Furthermore, Roma are reportedly subject to other inappropriate practices (such as newborns being kept in hospitals while the parents are sent to find money). ECRI notes that a certain number of Roma lack any form of health insurance. However, even those who have such insurance may find themselves unable to cover the complementary participation that is required.
111. As far as their access to social insurance, in addition to documentation problems, ECRI has received information indicating that negative stereotypes and prejudices of social workers as well as a lack of understanding about Romani traditions may impinge the access of certain Roma to social coverage.

Recommendations:

112. ECRI recommends that the authorities conduct research in order to identify problems Roma are experiencing in obtaining different personal documents. It recommends that measures be taken without delay to remedy discriminatory criteria and assist Roma in obtaining basic documents.
113. ECRI recommends that measures be taken to ensure that Roma communities enjoy equal access to health care. This should include special measures to ensure that financial or administrative obstacles do not prevent Roma from accessing basic care and necessary medical treatment. Immediate action is also necessary to put an end to any inappropriate practices in the provision of maternity care.
114. ECRI recommends that specific training be directed at social workers aimed at making them aware of possible racist prejudices and assumptions that might influence the manner that they deal with Roma families.

⁶ See above under 'Citizenship Law'

- **Roma children's access to education**

115. In its second report, ECRI recommended that special efforts be made to increase the levels of education of members of Roma communities. It suggested a variety of measures including: special assistance programmes for Roma and other children from extremely poor families who find the costs of textbooks, other school materials and proper school dress prohibitive; initiatives to provide Roma children with Macedonian language classes in order to prepare them for entry into the school system; training for teachers, including information about the particular needs and expectations of Roma and the ability to use this knowledge effectively; and targeted training of Roma for teaching posts and recruitment of teaching staff from Roma communities. Furthermore ECRI recommended that an investigation be carried out into the role of stereotypes and prejudices of teachers in influencing the performance of Roma children.
116. ECRI is concerned that there remains a problem of low attendance and high drop out of Roma children from primary school. In addition a very small percentage of those Roma students who complete primary school go on to secondary education (estimated at 10% by Roma organisations). ECRI notes, however, that a higher percentage of those who enter secondary education, go on to graduate. Although the number of Roma continuing on to university remains low, there has been a considerable increase in recent years.
117. ECRI regrets that few measures have been taken to improve levels of Romani education. The measures that exist have been largely developed by non-governmental organisations. Some receive support from the authorities, however, to date successful initiatives have not been taken up and reproduced on a wider scale by the Ministry of Education. Furthermore, there seems to be a tendency to readily attribute blame for problems in education to Roma communities themselves, and especially to parents not sending children to school. Instead, ECRI believes that it is the responsibility of the authorities to seek to assess the role of discrimination, and the ways in which the education system is inadequately addressing the needs of Roma students. ECRI notes, for instance, information from non-governmental organisations about the role played by factors such as: negative prejudices and stereotypes of teachers; school textbooks that portray Roma in a negative manner and do not reflect Roma culture or contribution to society; and the cost of preschool education. ECRI also notes that NGOs report that there are also regional differences affecting Roma educational achievement. For example, in the central part of the country, Roma communities tend not to speak the Macedonian language rendering it difficult for children to follow classes taught in Macedonian without receiving the necessary preparation and support. ECRI is pleased to note the recent attention being paid to this issue by the authorities, notably through a new project entitled "Increasing the Education Coverage of Roma Children" and the action plan that is to be developed in this area.

Recommendations:

118. ECRI recommends that the authorities conduct a thorough analysis of the situation of Roma in the education system, and reasons for low levels of achievement. ECRI encourages the authorities to involve Roma NGOs in this assessment and seek to understand the role of discrimination, negative stereotypes and prejudices about the Roma, and the ways in which the education system may not be responding to the needs of Roma students.
119. ECRI recommends that a range of initiatives be undertaken without delay in order to increase Romani levels of education. Such measures should include: financial provision to assist poorer families in covering the costs associated with education; preparatory and supplemental training in the official language in which instruction is offered; special training for teachers to raise their sensitivity to discrimination and the needs of Roma children; ensuring textbooks do not promote negative stereotypes about Roma and instead include information about Romani culture and the positive contribution of Romani communities to society; recruitment of Roma teachers.
120. ECRI encourages the authorities to support and extend successful initiatives, such as preparatory classes, to all communities where the need exists.

Interethnic Relations

121. In its second report, ECRI recommended measures to address the situation whereby interethnic tensions exist between different ethnic communities in “the Former Yugoslav Republic of Macedonia” in a context in which each community lives in a relatively homogenous world of its own, having limited contact with members of other communities in daily life. ECRI noted that public debate takes place within each community rather than between communities, with each receiving information about events within the community, the country and the region from media in its own language, produced by members of its own ethnic group. ECRI stressed the need for initiatives aimed at furthering interaction and communication between the various communities in all fields of life.
122. ECRI is deeply concerned that interethnic relations in “the Former Yugoslav Republic of Macedonia” have been further aggravated by the violence that occurred since the publication of ECRI’s second report. This situation increased the gap between different ethnic communities, and particularly the two largest – ethnic Albanian and ethnic Macedonian - pushing each further into its own separate world, and significantly increasing hostility and mistrust. Existing bridges of contact and communication between these communities seem largely to have broken down. Each ethnic community continues to have its own places for socialising, sources of information, public debate, schools, organisations and political parties. Reportedly there is even a recent instance of a separate road being built so that ethnic Albanians and ethnic Macedonians living in neighbouring towns take a different road to Skopje. In some circles, interactions and friendships between members of different ethnicities still exist, and some non governmental actors are trying to encourage such contacts. However, such initiatives are not being developed by the authorities nor receiving sufficient support.

123. Discussions and measures related to equality and interethnic relations in “the Former Yugoslav Republic of Macedonia” seem to focus largely upon the provisions of the Ohrid Framework Agreement, which brought an end to the recent conflict. While this agreement sets out provisions of considerable importance for increasing the recognition and promotion of minority communities’ identity and participation in society, the document is not, and was not intended to be, a comprehensive programme including all the legal and policy measures necessary to bring about equality and enduring harmonious interethnic relations in the country. Subsequent to the concluding of this agreement, the authorities have taken a wide range of legal and policy measures to give effect to its various aspects. ECRI emphasises, however, that such measures have not focused upon building constructive contacts and communication between communities, essential to moving beyond racist perceptions of members of other communities and perceiving them in their individuality. Nor have such initiatives aimed at identifying and fighting discrimination in different fields of life.

Recommendations:

124. ECRI recommends that measures aimed at improving interethnic relations and creating further equality not be limited to those aimed at implementing the Ohrid Framework Agreement.
125. ECRI recommends that without delay the authorities of “the Former Yugoslav Republic of Macedonia” undertake a wide range of measures aimed at promoting communication and constructive contacts between persons from different ethnic communities. In this connection, ECRI also recommends that the authorities lend their support, political and economic, to nongovernmental initiatives furthering these aims.
126. ECRI recommends that the authorities develop legal and policy measures aimed at identifying and addressing racial discrimination in all fields of life, such that persons belonging to different communities feel themselves to truly benefit from equal treatment in society.

- Implementation of the Ohrid Framework Agreement

127. Considerable worries have been expressed to ECRI relating to the implementation of the Ohrid Framework Agreement and the impact that it will have on interethnic relations. Smaller minorities, such as ethnic Turks, Serbs and Roma, feel that the focus on this Agreement and its overwhelming presence in discussions, measures and resources addressing interethnic relations, minority rights and equality has left their communities marginalised and their concerns neglected. They are also particularly worried that they will not be adequately taken into account and included in the range of measures being undertaken in order to implement the provisions of this Agreement, such as in equitable representation and the ability to use their languages in communication with public bodies at the local level in areas where they represent at least 20% of the population.

128. In addition, the manner that key changes following upon the Agreement, such as equitable representation, language use, and decentralisation, proceed, could have significant short and long term consequences upon the structure of relations between communities, possibilities for constructive interaction and daily life in the country. Thus various organisations have voiced concerns that both ethnic Albanian and ethnic Macedonian political leaders view an approach which would promote communication and interaction between the communities as politically dangerous, something ‘their’ electorate from ‘their’ ethnic group would not accept. Thus, in implementing the various aspects of the Agreement, political leaders are avoiding initiatives that would foster such constructive developments, for instance promoting bilingualism among civil servants and the population as a whole.

Recommendations:

129. ECRI recommends that the authorities assess the situation and needs of smaller minorities and ensure that the necessary measures are developed to promote their equal treatment in all fields of life.
130. ECRI strongly recommends to the authorities that, when implementing the various aspects of the Ohrid Framework Agreement, attention is paid to do so in a manner that fosters possibilities of communication and positive interaction between different ethnic communities.
131. ECRI also recommends that it be ensured that implementation be carried out in a manner that is equally inclusive of all ethnic communities in “the Former Yugoslav Republic of Macedonia”, including smaller minorities.

- Public opinion leaders and the media

132. In its second report, ECRI recommended that public opinion leaders avoid expressions of hostility, and strive instead to foster attitudes of appreciation and respect for other groups and to promote increased trust between ethnic communities. ECRI also recommended that the media make special efforts to contribute towards greater understanding, trust and interaction between different minority groups.
133. Unfortunately many political leaders, intellectuals, religious figures and the media continue to adopt positions that further ethnic divisions, rather than promoting increased acceptance and trust between ethnic communities. There seems to be a continuing tendency for leaders to present issues through an ‘us’ versus ‘them’ prism of ethnic belonging, and promote such a perspective, rather than considering the common interests of society as a whole.
134. The media continues to be divided along ethnic lines and still reports events in a dramatically different and ethnically tinted manner that tends to foster intolerance and mistrust between ethnic communities. ECRI is concerned at reports that a significant problem remains with some mainstream media publishing expressions of hatred toward other ethnic groups. ECRI is pleased to note, however, that journalists are, for the most part, paying attention to avoiding open expressions of hate speech towards other ethnic groups. In addition there have been some positive initiatives taken by Albanian language

journalists and Macedonian language journalists to approach subjects together, such as the project entitled “Pages for Mutual Understanding” in which a newspaper supplement is published weekly with articles on interethnic relations written by Albanian language and Macedonian language journalists.

Recommendations:

135. ECRI reiterates its recommendation to public opinion leaders to avoid expressions of chauvinism and racism and be careful not to portray events in a manner which could encourage ethnic tensions and intolerance. Instead they should take the lead in denouncing racism and discrimination, and in ensuring that members of all ethnic communities are perceived as equal and valuable citizens.
136. ECRI encourages media professionals to continue efforts to avoid expressions of mistrust and hostility toward other ethnic communities, and to further initiatives to promote collaboration between journalists of different ethnicities and languages.
137. ECRI recommends that media professionals strive to present information about daily lives of persons of different ethnic communities in the country in such a manner as to promote a multidimensional perspective of such persons in their individuality.

- Perceptions of ethnic belonging and persons with plural identities

138. A further worrisome development is that each community is viewed as homogenous, with ethnicity being the primary determining factor of belonging. This means that on an individual level, there is a tendency to view, or be pressured to view, one’s identity as singular – as having to be one ethnicity or another. As a consequence there is little or no space or acceptance for those who are of mixed ethnicity, view themselves as having multiple identities, or do not quite ‘fit’ into what are perceived to be the required characteristics for belonging to a given ethnic community. Such a reductive view of individual identity and group belonging seems to promote the persistence of a society in which communities are divided along ethnic lines, and excludes those persons who could in fact act as bridges between communities. This places such persons in a precarious position and makes them subject to particular forms of intolerance. Thus, for instance, ECRI has received reports of acts of harassment by police or fellow citizens of Muslims of Macedonian ethnicity or Catholics of Albanian ethnicity. In addition, children of ‘mixed’ marriages, particularly ethnic Macedonian and ethnic Albanian, are placed in a position of having to choose between sides of themselves, and, as they are seen not to belong fully to either ethnic community, are also vulnerable to discrimination and rejection.

Recommendations:

139. ECRI recommends that research be carried out into the particular forms of intolerance and harassment experienced by persons who do not entirely fit into the dominant categories of belonging. ECRI recommends that initiatives be undertaken to promote acceptance of multiple identities and persons with mixed allegiances. ECRI notes the important role that such persons could play in initiatives aimed at furthering contacts and communication between different ethnicities.

- Interethnic relations and education

140. In its second report, ECRI drew particular attention to the school system and strongly urged the authorities to consider ways in which children from different ethnic groups would have opportunities for positive interaction and learning about each other. In particular, ECRI urged the authorities to consider further increasing the opportunities for students to learn Albanian and other minority languages as part of the mainstream school curriculum at all levels of the education system. ECRI also recommended that special efforts be made to ensure that the educational system is structured in such a way that it does not reproduce patterns of interethnic hostility and mistrust. Furthermore, ECRI urged the authorities to further efforts to promote the participation and interaction of members of different ethnic groups in higher education. ECRI noted that this might involve the development of bilingual education within the public system.

141. ECRI regrets that in this key area, developments have moved in the direction of increased separation between children of different ethnicities, reproducing patterns of interethnic hostility and mistrust. Children of different ethnicities, and particularly Albanian and Macedonian ethnicity, tend to attend separate schools where they study in their own language. ECRI notes that in some schools in which students of Albanian and Macedonian ethnicity studied under one roof previously, now there are only children of one ethnicity. ECRI also expresses concern over instances of children and parents demonstrating, sometimes with violent incidents, against having children of different ethnicity study in the same school. ECRI regrets that the authorities of “the Former Yugoslav Republic of Macedonia”, and particularly political leaders, seem to be simply accepting, if not promoting, such developments, rather than taking a strong public stance in favour of bringing children to study together and creating possibilities for mixed schools and classes.

142. ECRI also regrets that there have not been positive developments towards promoting bilingualism at all levels of mainstream education. It seems, on the contrary, that this subject has become highly politicised and that bilingualism tends to be interpreted as a dilution of identity. ECRI has received information indicating that in some regions, where previously individuals of different ethnicity spoke each others’ language, there is now a tendency for parents to encourage children not to do so. ECRI notes that this is a particularly negative development that will evidently mean that each ethnic community is separated by a linguistic barrier and possibilities of contact and communication will only be created through interpretation. ECRI believes that, particularly in light of the provisions concerning language use in the Ohrid Framework Agreement, and

subsequent legislation, it is becoming increasingly important for children to have opportunities for bilingual, or even trilingual, education. ECRI is pleased to learn of a certain interest among some high school students of Macedonian ethnicity to learn Albanian, as well as of a number of civil society initiatives to create bilingual learning for children of Albanian ethnicity and Macedonian ethnicity. However, it seems that such possibilities are not receiving the active support of the authorities.

143. Ethnic communities represented in the society in smaller numbers, have been placed in a particularly difficult position due to the prominence of ethnic questions in the society, and have expressed to ECRI that they feel a certain pressure to in a sense choose sides, identifying either with ethnic Albanians or ethnic Macedonians. In the sphere of education, possibilities exist for children of some smaller minorities to study in their mother tongue for part of their schooling. Representatives of certain smaller communities, such as ethnic Serbs and ethnic Turks, have expressed to ECRI the desire for such possibilities to be extended to higher levels of learning. ECRI has received information indicating that the quality of Macedonian language teaching in these schools is often not adequate, a factor that can affect children’s future possibilities. In addition, there is reportedly a tendency for some parents of children of smaller ethnicities, such as Turkish, to encourage their children not to study either Albanian or Macedonian in order to preserve their identity. ECRI believes that bilingual or trilingual education possibilities are also particularly important for members of smaller minorities in order to permit them to preserve their identity, while having a strong grasp of official languages and possibilities to communicate with members of other ethnic groups.

Recommendations:

144. ECRI reiterates its recommendation to the authorities to consider ways in which children from different ethnic communities would have opportunities for positive interaction and learning about each other. In particular, ECRI recommends that possibilities be created at all levels of the education system for children of different ethnicities to study together. In this connection, ECRI recommends to political leaders to take the lead in stressing the positive value of such contact between children.
145. ECRI recommends that the authorities of “the Former Yugoslav Republic of Macedonia” develop educational possibilities for children to study two or three languages, including bilingual and trilingual education, at all levels of the education system. In this connection ECRI stresses the importance of a language in which members of different ethnic communities are able to communicate directly with each other.

- Equitable representation and language use

146. In its second report, ECRI recommended that the authorities continue efforts to recruit members of minority groups into public institutions, including the public service at the national and local level, the police and the judiciary. ECRI noted that a more reflective minority representation would not only allow members of minority groups to participate more fully in Macedonian society, but it would also provide spaces for constructive interaction between members of different ethnic

groups. ECRI also recommended that the authorities of “the Former Yugoslav Republic of Macedonia” promote the more widespread use of minority languages.

147. Since ECRI’s second report, these issues were directly addressed in the Ohrid Framework Agreement. It provides that laws and policy measures should ensure “equitable representation of communities in all central and local public bodies and at all levels of employment within such bodies, while respecting the rules concerning competence and integrity that govern public administration.” Particular attention is to be given to ensuring that the police services generally reflect the composition and distribution of the country’s population. It also provides that “the official language throughout Macedonia and in the international relations of Macedonia is the Macedonian language”, however any other language spoken by at least 20 percent of the population is also an official language, and can be used for personal documents, civil and criminal proceedings, institutions of local self-government and in communication between citizens and central government. The authorities are developing the laws and policy measures aimed at implementing these provisions.
148. ECRI is pleased to note that significant steps have been taken by the authorities to increase the participation of members of minority communities in the public service. For instance, all state bodies falling within the scope of the civil servants law are to adopt an annual plan for adequate and equitable representation. These plans are to include detailed information about current representation, measures taken and an action plan. During the course of 2004 the Agency for Civil servants provided training to 600 persons from different ethnic communities for administrative or professional auxiliary staff positions and the budget has been allocated to employ these persons by the end of the year. As discussed above⁷, significant recruitment efforts have been made within the police forces.
149. ECRI notes that policies aimed at increasing representation of minorities in the public service, as well as policies that provide for the use of different local languages in communications with public bodies, could have very different impacts upon interethnic relations and daily life in the country depending on the manner that they are conceived and carried out. In this respect, ECRI is concerned that policies currently being developed and carried out are not accompanied by measures to develop conditions that increase the possibilities that persons from different ethnic communities will be able to interact with each other in a constructive manner. For instance, speaking each other’s language is a key factor that would promote communication between civil servants of different ethnicities. However, ECRI is not aware of any plans or initiatives to foster civil servants’ knowledge of the different official languages. Furthermore, there do not seem to be plans for anti-racist training or other measures that would foster constructive interaction among civil servants of different ethnicities.
150. Smaller minorities have expressed worries that they will be left out of the process of equitable representation. These minorities have also expressed concerns that in those localities where they currently constitute over 20% of the population, their languages will still not be official languages of communication. In particular, they are concerned that the process of decentralisation and redrawing of municipal boundaries will result in diluting their numbers in those

⁷ See “Conduct of Law Enforcement Officials”

municipalities where they would otherwise have constituted 20%. Ethnic Macedonians in areas where the majority is ethnic Albanian, have also expressed concerns that they will be excluded from equitable representation at the local level.

151. There seems to be considerable fear amongst the public, particularly ethnic Macedonians, as to what the impact will be of the policy of equitable representation in conditions of economic difficulties and high unemployment. The need identified by international financial institutions for cutbacks in the number of staff in the civil service seems to have increased anxieties. Concerns have been expressed to ECRI about a possible backlash amongst certain sectors of the population, leading to a deterioration in interethnic relations. While there is evidently a strong awareness among the authorities as to the difficulties of increasing minority representation at the same time as cutting staff, not enough attention seems to have been paid to developing measures to prevent and diminish any negative side effects.

Recommendations:

152. ECRI recommends that in implementing measures to bring about equitable representation in the public service, attention be paid to doing so in a manner that fosters possibilities for direct communication and constructive interaction between persons belonging to different ethnic communities. ECRI recommends policies aimed at developing staff that speaks the Macedonian language as well as any other official language of communication with that public institution.
153. ECRI recommends that the authorities monitor the impact and possible backlash of policies to bring about equitable representation and take steps to prevent and diminish negative side effects. This could include measures such as: presenting clear information about the manner the process is being implemented and the role of merit; retraining programmes for any individuals who lose their employment due to this process.
154. ECRI recommends that smaller minorities be treated with full equality when policies relating to language use and equitable representation are implemented.
155. ECRI also recommends that members of the majority ethnic community that find themselves in a minority position in a certain area, be treated with full equality at local level in the application of policies relating to equitable representation.

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APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in “the Former Yugoslav Republic of Macedonia”

ECRI wishes to point out that the analysis contained in its third report on “the Former Yugoslav Republic of Macedonia”, is dated 25 June 2004, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on “the Former Yugoslav Republic of Macedonia” was subject to a confidential dialogue with the authorities of “the Former Yugoslav Republic of Macedonia”. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the authorities of “the Former Yugoslav Republic of Macedonia” requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

“Comments of the Government of the Republic of Macedonia on the ECRI Third Report on the Republic of Macedonia

The Government of the Republic of Macedonia highly values the contribution of ECRI to combating racism and discrimination and attaches great importance to the cooperation with the Commission. The Government will take due account of its recommendations in its ongoing and future policy setting in the spheres of ECRI mandate.

The comments on the specific parts of the report are as follows:

International legal instruments

The Ministry of Foreign Affairs drafted the Law on Ratification of the European Social Charter and the Protocol amending the European Social Charter of 21 October 1991. The Law is in the governmental procedure. Furthermore, the Ministry of Labor and Social Policy is in the process of considering the possibility of signing the European Convention on the Legal Status of Migrant Workers.

On 26 November 2004 the Minister of Foreign Affairs of the Republic of Macedonia, following the ratification by Parliament of the amendments to the Law on Citizenship, signed a letter by which the reservation to Chapter III, Article 6, item 3 of the European Convention on Nationality, dealing with the length of residency before an individual may lodge an application for naturalization, was withdrawn.

The Charter for Regional or Minority Languages will be ratified after the Parliament of the Republic of Macedonia adopts the Law on Use of Languages, which is drafted at the Ministry of Justice. Irrespective of the fact that this Convention has still not been ratified, the standards set in the Republic of Macedonia go beyond the standards on the use of minority languages guaranteed under the Charter.

Citizenship Law

The Law amending the Law on Citizenship of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 08/2004) entered into force on 2 March 2004. As noted by ECRI, the Ministry of the Interior believes that the consistent implementation of this Law will enable all persons - nationals of other republics of the former SFRY and nationals of the former SFRY, regardless of their ethnic background - who after the state succession continued to reside in the Republic of Macedonia, to regulate their citizenship status in the Republic of Macedonia i.e. will acquire citizenship of the Republic of Macedonia.

The amendments to the Law on Citizenship of the Republic of Macedonia in general, and Article 14 in particular, are compatible with the European Convention on Nationality, which has been confirmed by the expert opinion of the Council of Europe and of the UN High Commissioner for Refugees, whose experts have been directly involved in specific segments of the process of adoption of the amendments to the Law.

Article 14 of the Law amending the Law on Citizenship is in compliance with all provisions of Chapter 6 of the European Convention dealing with issues related to state succession and citizenship and with the Explanatory Report of the Council of Europe on the Convention. In this regard, it incorporates the principles of existence of genuine and effective linkage of the person seeking citizenship with the State which, inter alia, can be confirmed by sufficient Macedonian language knowledge, acceptable even at the level that the applicant can communicate with the society; another aspect in compliance with the Convention is the consideration of the place of residence at the time of the state succession, the will of the concerned person etc. The condition that there are no criminal proceedings against the person instituted in the Republic of Macedonia is not contrary to the Convention, especially in light of the fact that such a condition is limited only to crimes threatening security and defense of the Republic of Macedonia.

As to the application fee, it has been lowered upon the initiative of the Ministry of the Interior, in accordance with the Convention's provisions that State Parties should pay due attention that the citizenship fee is set reasonably high. Furthermore, under the Law on Administrative Fees of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 17/92) citizens with low income, social protection beneficiaries under the Law on Social Protection are exempt from payment of fees, and the Ministry of the Interior applies these provisions consistently.

In the course of the several month application of Article 14, the Ministry of the Interior has acted consistently and has applied this Article in a generous manner. After the entry into force of the Law amending the Law on Citizenship of the Republic of Macedonia and following the provisions set forth in the said Law, all procedures instituted prior to the adoption of the amendments and in cases in respect of which appropriate requirements were met, have been transferred for processing under Article 14. In the above stated period of application of the provisions contained in Article 14, 580 persons acquired citizenship of the Republic of Macedonia on the grounds set forth in Article 14, while the procedure for 800 person is still pending. In the same period, it has been established that 41 persons do not fulfill the conditions for acquisition of citizenship on the Article 145 grounds since most of them do not habitually reside on the territory of the Republic of Macedonia, while only in 8 cases the concerned persons did not have sufficient Macedonian language knowledge. According to the applicable legislation in the Republic of Macedonia, dissatisfied applicants can complain with the Second Instance Commission and subsequently can initiate a lawsuit before the Supreme Court of the Republic of Macedonia.

In respect of the principle of avoiding statelessness, it is necessary to refer to the legislation regulating citizenship of the former SFRY, i.e. regulations that had been applicable prior to the state succession. Namely, in accordance with the then applicable regulations, in addition to the federal citizenship, each citizen of the former SFRY obligatorily possessed citizenship of a one of the federal republics, and vice versa each citizen of a one of the federal republics obligatorily possessed federal citizenship as well. The republic citizenship was not connected to the residence of the citizen which specifically implies that a citizen of any of the republics of the former SFRY could have registered residence i.e. posses an ID issued in another republic. This is stated in order to clarify that no citizen of the former SFRY, such as the case of the persons who after the succession remained to reside on the territory of the Republic of Macedonia, are stateless persons, but after the break up of former SFRY and following the principle of legal continuity incorporated in the legislations of the new states established after the brake up, are in fact citizens of

one of the republics. In light of the above stated, even in exceptional cases, when the person that applies under Article 14 of the Law amending the Law on Citizenship of the Republic of Macedonia does not fulfill the conditions envisaged in this Article i.e. cannot acquire citizenship of the Republic of Macedonia on any of the grounds set forth in the Law and originates from the former SFRY, the person is not a stateless person.

It is again underlined as in the previous replies to the ECRI reports, i.e. that the Law on Citizenship of the Republic of Macedonia or the amendments to the said Law have no discriminating effect on any grounds - the Law does not discriminate against Albanians and Roma, or against any other ethnic group. The in-depth analysis of the Law and its long year application will show that the non-discrimination principle is integrated in the provisions regulating the conditions and in the position towards the applicants applying for citizenship of the Republic of Macedonia.

The Ministry of the Interior in cooperation with the UNHCR, the Council of Europe, the OSCE and the non-governmental organizations working on issues related to the citizenship will continue informing the public about the amendments to the Law on Citizenship in order that the transitional provisions are brought as close as possible to these that they are intended for. Therefore, there are brochures prepared, and there is relevant information at the Ministry's website, while representatives of the Ministry participate in meetings and debates organized by the NGO sector, political parties, the media etc.

In conclusion as it has already been stated, the non-discrimination principle is fully incorporated in the Law. Hence, the non-discrimination principle is also applied to the provisions for re-acquisition of citizenship of the Republic of Macedonia by emigrants and their descendants, up to the first line of descent. The amendments to the Law regarding these specific provisions are aimed at defining the term "emigrant", to be previously determined (whether the applicant is an emigrant or not) in each case individually, whereby "emigrant" as defined by this Law is a citizen of the Republic of Macedonia who has moved out of the Republic of Macedonia into another state, except to the country of origin, regardless of the gender, race, color of skin, nationality or social origin, political or religious belief, property of special status. Hence, the Law is equal for all, and it is considered, on case-by-case basis, whether the person is an emigrant as defined in the Law, and whether the person has moved to a country of origin. This provisions are not contrary to the European Convention on Nationality which sets forth that each country in cases and under conditions prescribed by law, will enable re-acquisition of nationality by former nationals who legally or habitually reside on their territories.

Criminal Law Provisions

As to the recommendations contained in paragraphs 27 and 29 of the report recommending to the authorities to explicitly provide in law that racist motivation constitutes a specific aggravating circumstance for all offences, it must be noted that the Criminal Code of the Republic of Macedonia has implicitly provided legal grounds for their application. Namely, paragraph 2, Article 39 -General rules on determination of the punishment - envisage the following: The Court shall take into consideration all circumstances that affect the punishment (facilitating or aggravating circumstances) and especially the degree of criminal liability, the motives of the offense, the intensity of the threat or violation of the protected property, the circumstances under which the offense has been perpetrated, the earlier life of the perpetrator, his/her personal circumstances, and his/her behavior

after the perpetrated offense and other circumstances related to the personality of the perpetrator.

The conclusion drawn that persons working within the criminal justice system lack knowledge of the relevant provisions of the Criminal Code presented in paragraph 28 of the draft-report has no grounds.

In addition to the amendments to the Criminal Code of the Republic of Macedonia of March 2004, advancing the criminal law protection against discrimination, mentioned in ECRI's report, paragraph 26, a reference should also be made to Article 138-criminal liability for legal entities for violation of the right to use the language and alphabets.

In respect of the crimes sanctioned in Article 144- endangering the safety, a new paragraph 4 is introduced which reads as follows: The person that by using a computer system will threaten to perpetrate a crime for which five year prison sentence or more is prescribed, against a person on grounds of his/her affiliation to a national, ethnic, or racial group or on grounds of his/her religion, shall be punished from one to up to five year imprisonment.

c) A new Article 403-a has been introduced in respect of the crimes against humanity which reads as follows: The person that with the intention of systematic destruction of civilian population, shall order murders, grievous bodily injuries, physical extermination, enslaving, deportation or forced displacement of population, imprisonment or other type of deprivation of freedom contrary to international law, torture, rape, sexual exploitation or slavery, forced prostitution, forced pregnancy, forced sterilization or another other type of grievous sexual violation, persecution of any group or community on grounds of political, racial, national, ethnic cultural, religious affiliation or on grounds of gender discrimination, forced apprehension and disappearance of persons, discrimination and division on racial, national, ethnic, political, cultural or any other grounds and other inhuman procedures by which physical or psychological suffering is intentionally caused, or the person who with the same intentions shall perpetrate some of the above referred to crimes, shall be punished from one year up to life imprisonment.

d) A new Article 407-a has been introduced in respect of the crime -approving or justifying genocide, crimes against humanity or war crimes which reads as follows: 1. The person who by use of an IT system will publicly deny, grossly minimize, approve or justify the crime sanctioned in Articles 403 to 407 shall be punished from one to five year imprisonment. 2. If the denial, minimization, approval or justification has been perpetrated with the intention of inciting hatred, discrimination or violence against certain person or group of persons on grounds of their national, ethnic or racial affiliation or religion, the perpetrator shall be punished with at least four year imprisonment.

Civil and administrative law provisions

In respect of the conclusion presented in paragraph 33 that the legislative framework for combating discrimination through civil and administrative law has not been strengthened despite reports of continuing discrimination, direct and indirect in a number of fields of life, the following should be taken into consideration:

In 2002 the amendments to the Civil Procedure Code and the Administrative Procedure Law were adopted aimed at implementing the Framework Agreement in line with the amended Constitution of the Republic of Macedonia.

Namely, Amendment V to the Constitution of the Republic of Macedonia replacing Article 7 of the Constitution envisages that the official language on entire territory of the Republic of Macedonia and the official language in international relations is the Macedonian language and its Cyrillic alphabet. Paragraph 2 stipulates that the language used by at least 20% of the citizens is also an official language and paragraph 5 sets forth that other than the Macedonian language, another official language may be used in the state authority organs in the Republic of Macedonia, in accordance with the Law.

In addition, pursuant to paragraph 6.7. of the Framework Agreement, in criminal and civil law procedures at any level, the defendant and other participants in the proceedings shall have the right to interpretation of the entire proceedings and of the documents the costs for which shall be covered by the state, in accordance with the relevant Council of Europe document.

The adopted amendments to the Civil Procedure Code and the Administrative Procedure Law which regulate the use of the language, operationalise the above stated provisions, under which the right to use of the languages of the communities in civil and administrative law procedures is advanced.

Administration of justice

Judges are fully aware of the provisions on the use of languages in the court proceedings and further measures are being taken for the employment, education and training of court typists and translators in the languages of the communities.

Specialized bodies and other institutions

The ECRI Report was forwarded to the Office of the Ombudsman of the Republic of Macedonia.

According to the Law (Official Gazette No. 60/2003) bodies and organization are obliged to inform the Ombudsman on the measures adopted based on his/her recommendations or opinions within 30 days at the latest. If the body or organization do not inform the Ombudsman or partially accept the recommendations then the Ombudsman can inform the immediately higher instance body, competent ministry at the Government of the Republic of Macedonia and he/she can also inform the Parliament of the Republic of Macedonia in a separate report or he /she can publicize the case.

In connection with the ECRI recommendations on the Committee for Inter Community Relations, the Committee believes that the concerns of minority communities represented with only one member are consistently heard. The most recent example was their discussion on the situation in elementary and secondary schools in the Republic of Macedonia, with a special emphasis on the education in languages of smaller communities. The Committee adopted the opinion and proposed adequate measures, which were supported by the Assembly. The Committee believes that it is ever more fulfilling its role as provided for by the Constitution of the Republic of Macedonia.

Education and awareness raising

As noted in paragraph 56 of the ECRI’s report, the contents relating to human rights and democratic values are a regular part of primary school and secondary schools curricula. A large number of projects have already been implemented, some still pending, all aimed at training the teachers in the subject matter.

The remaining concerns will be addressed with the development of a National Action Plan on Human Rights Education. Namely, national consultations on human rights education were carried out 2003/2004 under the auspices of the OHCHR-Government technical cooperation program in the field of human rights, led by the strategic partnership group, involving government, international organizations and civil society sector. Recommendation to which they came out was to develop a National Action Plan on Human Rights Education, which has been supported by the Ministry of Education.

As noted in the report, upon the request of the Ministry of Science and Education, an expert analysis has been made of the textbooks on civil culture for primary education in which there have been examples noticed of negative stereotypes regarding persons belonging to ethnic communities in the Republic of Macedonia, especially regarding the Roma community. The negative stereotypes have been eliminated from the textbooks and afterwards they have been redistributed to the pupils of primary schools.

Regarding the revision of text books and history teaching manuals, the Bureau for Development of Education has established respective Committees for preparation of the history curricula and for drafting history text books in primary education, general secondary education and vocational secondary schools. Experts belonging to all communities in Macedonia (Macedonians, Albanians and Turks) are obligatory members of the Committees. In preparation of the history curricula, the Committees engage experts in the field of history, and teachers from primary and secondary schools are also involved.

In drafting the new curricula and the text books and manuals, great attention is paid to apply European standards and that all stereotypes are eliminated, i.e. that positive historic development, personalities and cultural achievements of importance for the country’s history are integrated in the curricula in respect of all ethnic communities of the Republic of Macedonia.

Reception and status of non-citizens

In respect of paragraph 62 it should be noted that the level of protection of applicants is determined based on merits of every individual case and in accordance with the Law on Asylum and Temporary Protection. There is no ground for concern expressed by ECRI regarding the determination of status.

The recommendations contained in paragraphs 64 and 65 have already been implemented in practice and in the legislation.

Trafficking in human beings

The Republic of Macedonia has made great progress in this field, which has also been recognized at the international level.

The recommendation to extend assistance programs also to victims that do not cooperate with the police will be taken into consideration in the drafting of new legislation in this field.

Internally displaced persons

The return of the displaced persons to their homes in safety has been one of the priorities of the Government of the Republic of Macedonia.

The Ministry of the Interior undertakes continuous activities to improve the overall security situation in the former crisis regions and to create conditions for the return of internally displaced persons. In this context, and aimed at creating conditions for more efficient police work, there are especially intensive activities for the reconstruction and construction of police stations. In this respect, in some of the regions there are already regular police stations being constructed, and in the other regions the police stations will be constructed following the planed dynamic, i.e. when the necessary funding shall have been secured.

Furthermore, for the purpose of successful cooperation between the police and the local population there have been advisory groups established in these regions, which encompass representatives of the local self-government, local population, police and other relevant ministries and state institutions. These advisory groups review the security problems and agree on measures for their overcoming.

As a result of the comprehensive activities, there has been improvement of the security situation in the former crisis regions, which can be illustrated with the evident decrease of serious form of crimes against the security, life and body of citizens from these regions, as well as by the fact that most of the internally displaced persons have already returned to their homes.

Access to education

With the aim to address the drop-out rate of ethnic Albanian and ethnic Turkish pupils in the education system, the Ministry of Education of the Republic of Macedonia has undertaken a set of measures aimed at reducing and eventually eliminating this phenomenon and facilitating conditions for the reintegration of the pupils in the education system. Seminars were organized for the school principals, teachers and representatives of the expert services at schools (pedagogues, sociologists, psychologists) who are trained for undertaking concrete measures to decrease the dropout rate. Expert and information materials have been distributed and surveys of the school teams made in order to detect the reasons for the dropout. There has been also a strategy prepared defining future activities to prevent dropout of children from the education process. The project activities are realized in cooperation with the Skopje UNICEF Office, which financially supports the "Education for All" project.

The preliminary information point to the conclusion that the basic reasons for the dropout of pupils of the Albanian ethnic communities (as well as of the Roma community) are to be found in the tradition, lifestyle, religion, habits, the change of which require longer period. It is hoped that with the completion of the project by the end of 2005, the situation will be positively changed and that the dropout rate will be reduced.

It is worth mentioning that Governmental efforts have been focused on the alleviation of the problem of the Turkish ethnic community, especially in the East and in the Southeastern parts of Macedonia where this problem is evident due to the configuration of the terrain, i.e. the classes in the mountainous areas are distant from the central primary schools. In the attempt to secure larger coverage of pupils from these schools, the Ministry of Education opened classes from the V to VIII grade in the Turkish language of instruction.

In the last several years the Ministry of Education and Science and the Bureau for Development of Education have undertaken concrete steps to improve the situation of the Turkish ethnic minority in Macedonia in terms of education. Numerous efforts have been made to open new classes of Turkish language of instruction, and to finance printing of textbooks and reference literature in the Turkish language. Furthermore, the Bureau for Development of Education has included teachers belonging to the Turkish ethnic community in the preparation of the new curricula in Turkish language of instruction, including them in the preparation of the history curricula and textbooks as well. A special attention has been paid to the upgrading of the teachers professionals' skills, through the organization of different seminars.

Teaching staff is still a problem for the Turkish ethnic community. Recognizing this fact, the Ministry of Education and Science makes serious efforts to resolve this problem. With the opening of the new Universities in the country, as well as through studies in Turkey, the situation with respect to the necessary teaching staff regarding some of the subjects has been significantly improved lately.

Conduct of certain institutions

The Government of the Republic of Macedonia closely cooperates with the European Committee against Torture. In February 2003 the Government adopted a number of conclusions in which it reaffirmed its commitment to overcoming the identified problems what is in full compliance with its lasting commitment to the functioning of the rule of law in the Republic of Macedonia. The Government of the Republic of Macedonia underscored that ill-treatment of detained persons by law enforcement officers is an affront to the values which constitute the foundations of a democratic state, respect for human rights and the rule of law, and that such acts shall not be tolerated, as well as that the perpetrators shall be severely sanctioned, as prescribed by law. The Ministry of Internal Affairs was tasked to investigate all cases of ill-treatment or inappropriate conducts by officers of the Ministry of Internal Affairs identified in the CPT reports and to act accordingly.

One of the priorities of the Government included in the Action Plan for European Partnership is full implementation of the CPT recommendations, in particular regarding combating impunity and safeguards against ill-treatment.

Human rights education is an important segment of the professional training in the Ministry of the Interior. During 2003, in cooperation with the OSCE the total of 2953 police officers were trained in human rights, and 182 in arrest and detention. There is also a wide cooperation on this issue with the civil society sector in the country.

In January 2004 the Minister of the Interior endorsed the Code of Ethics as part of the overall police reform.

One of the strategic goals of the Ministry of the Interior is to continue to build confidence between the police and the population. The concept of community policing serves this end. The Citizen's Advisory Groups, the aim of which is to openly discuss and resolve local problems in the sphere of policing, which were first established in the former crisis regions proceed to be established throughout the country.

Specific issues

Situation of the Roma in various fields of life

The National Strategy for Advancement of the Status of Roma is being prepared and the Government is to adopt the document by the end 2004.

Furthermore, under the international initiative entitled "Decade for integration of Roma 2005-2015" the activities for improvement of the economic and social status of Roma will be strengthened, by creating a framework of action setting clear and measurable national goals.

The Action plans referred to in paragraph 98 of ECRI's report will also include the reforms and programs necessary to attain the goals of the Decade until 2015 in the four priority areas.

Roma children's access to education

Primary education is obligatory in the Republic of Macedonia. Secondary education is not obligatory, but it is free of charge and accessible for all under equal conditions. However, the state has not fulfilled its obligation to secure education for all children primarily in respect of certain vulnerable groups. Therefore, the Bureau for Development of Education, starting this 2003/2004 academic year has commenced with the implementation of the already mentioned Project "Education for All". This project is aimed at increasing the coverage of children from vulnerable groups in primary and secondary education, then at decreasing the drop-out rate, improving the conditions for education of the Roma with a special emphasis on the female population, securing and improving the conditions for education of children from rural areas etc.

The goal of decreasing the dropout rate and increasing the coverage of Roma children in the education system of the Republic of Macedonia will be accomplished through a set of measures. Namely, by improving the teaching environment in schools with large number of Roma children, focusing on the female population; by securing conditions for education of the community; by raising the awareness for responsibility of the community, of parents and other social factors; by increasing the coverage of children that continue formal education, focusing on classes with the highest dropout rate and on continuing with secondary education.

The subproject is carried out in schools and municipalities where there is high concentration of Roma population, high unemployment rate and low level of education. Large number of non-governmental and civil associations, as well as relevant institutions and stakeholders at the local level participate and contribute to the successful realization of this subproject.

Implementation of the Ohrid Framework Agreement

The implementation of the Ohrid Framework Agreement concerns all communities who are not in majority in the Republic of Macedonia. The Government of the Republic of Macedonia takes due account that the implementation is all inclusive of all ethnic communities. One of the examples was training of new police officers, conducted in cooperation with the OSCE, where strict attention was paid to equitable representation of all communities.

With a Government decision, a sector for the implementation of the Framework Agreement was established in the General Secretariat of the Government. The sector consists of five units in which members of smaller minorities are also employed. The main motivation for establishment of this sector was to support the Government in policy setting and to coordinate the implementation of the Framework Agreement.

Public opinion leaders and the media

Although there are cases of individuals supporting further ethnic division, the wording used in the ECRI report - many political leaders, intellectuals, religious figures - is too strong and without sufficient arguments and concrete indications. Thus, an impression is prompted that the majority of public opinion creators in the Republic of Macedonia hold positions favoring further deepening of the differences along ethnic lines, what is not the case. On the contrary, the situation has significantly improved.

The project “Pages for mutual understanding” is published each Thursday and it contains already published texts elaborating inter-ethnic relations in the Republic of Macedonia. The Macedonian Information Agency, and the dailies Vecer, Dnevnik, Lobi, Utrinski vesnik and Fakti participate with their articles.

As regards the ECRI concerns about the ethnic divide of the media and hate speech, the Agency for Information proposed and the Government of the Republic of Macedonia approved the Information on the need for harmonization of the national legislation with the European media standards. In the concluding part of the this Information, there is a stress on the need for informative regulation of the issue of hate speech, culture of tolerance, protection of journalists in situations of conflicts and tensions. This is also part of the commitment to consistent implementation of the recommendations of the Council of Europe regarding the media in the Republic of Macedonia.

Equitable representation and language use

According to the Ministry of Finance data of July 2004, the number of ethnic communities members employed in the public administration (budgetary users) is as follows:

	Employees		Percentage %
Macedonians	70254	or	81,4%
Albanians	9448		13,4%
Serbs	1172		1,7%
Turks	890		1,3%
Roma	357		0,5%
Vlachs	332		0,5%
Boshnjaks	180		0,3%
Other	667		0,9%

In the period January-August 2004, 152 new job opportunities have opened up for ethnic communities' members.

In 2004, most state institution adopted annual plans for appropriate and equitable representation of communities' members. The aim of these plans is to set out a long-term implementation policy for equitable representation. These plans incorporate: the actual structure of communities members, the data on the effects of the measures taken previously, the data on new employment and the measures for education and advanced training, related to the implementation of the provision. The application of this provision at the municipal level will be monitored closely in the forthcoming period.

As regards recommendation 152, one should take into account that the Macedonian language proficiency is obligatory and that policies should be aimed at developing staff that in addition to the Macedonian language speak other official languages of communication with a public institution.

As far as Recommendation 153 is concerned, one should take into account that the rationalization of the public administration and decrease in the number of employees is not owed to the equitable representation. However, retraining is indeed necessary for people who lose their job due the rationalization of the public administration.

As far as recommendation 154 is concerned, constitutional and legal provisions will be strictly implemented when it comes to the use of languages."

