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Extract from the IHF report

Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 (Events of 2004)

Macedonia[1]

IHF FOCUS: national human rights protection; elections; local self-governance; freedom of expression, free media and information; independence of the judiciary and right to a fair trial; torture, ill-treatment and police misconduct; arbitrary arrest and detention; conditions in prisons and detention facilities; freedom of religion and religious tolerance; respect of private and family life; national and ethnic minorities; trafficking in human beings; social rights.

2004 was characterized by a progressively negative trend in the Macedonian economy, further deterioration in living standards, and a continued restrictive policy with respect to social and labor rights. The unemployment rate continued to increase to about 40% of the population of working age, while many of the remaining production facilities were closed following bankruptcy proceedings.

The further impoverishment of the population was also detrimental to the enjoyment of basic human rights such as equal access to courts due to high fees.

The general democratic processes in 2004 were characterized by the further transfer of power from the legal and legitimate state structures to the leadership of political parties. Democratic development was still determined by the implementation of the Ohrid Framework Agreement.[2] Three years after its signing, a large number of the envisaged legal and practical changes were made. However, some of these changes did not result in general improvements in the exercise of fundamental rights and freedoms in the country, and some of the established goals were not at all attained.

For example, in 2004 no significant disarmament of the opposing parties during the 2001 armed conflict was accomplished. The fact that so many people were in possession of illegal firearms resulted in an increased number of murders, injuries and armed robberies. In addition, conditions for the return of internally displaced persons (IDPs) to their places of residence were not created, and no alternative lasting solutions for their future were found. Further, the application of the principles of non-discrimination and

[1] Based on a report from the Helsinki Committee for Human Rights of the Republic of Macedonia to IHF, January 2005.

[2] The Ohrid Framework Agreement was signed on 13 August 2001 and was hailed as the peaceful solution to the 2001 armed conflict. It envisaged a complex system of voting in the parliament, quantitative standards for the representation of minorities in the administration and public services and changes in the use of the minority languages. Its full implementation is the precondition for integration into the EU and NATO and also for economic development and job creation.

equitable representation was limited only to persons belonging to one ethnic minority community (ethnic Albanians) and was not based on the principles of professional competence and proficiency.

Both the laws regulating the principle of non-discrimination and their implementation were inadequate. The final amendments to the Law on Civil Servants' Agency abolished much of the competency of the agency and promoted the principle of basing the staffing of the state administration on political party affiliation.

Many legal regulations that were introduced in 2004 contradicted other legislation, including the Constitution, and hence resulted in political arbitrariness in their interpretation and application. In some instances this led to new inter-ethnic tensions. For example, the newly introduced constitutional amendments dealing with so-called Badinteur majority[3] contradicted the provisions of the Constitution regarding the holding of referenda and the rights of local self-government.

The status of the Macedonian language as the language of communication between all ethnic communities was depreciated, which widened the gap between the Macedonian and Albanian communities and also resulted in the isolation of certain parts of the Albanian and Turkish communities.

National Human Rights Protection

The erosion of the mechanisms that citizens had at their disposal for the protection of their rights continued.

In the parliament, the Permanent Survey Committee for Human Rights was bypassed completely, and the ruling majority in the parliament directed its work. The Office of the National Ombudsperson did not openly confront the state bodies, and in some cases, the national ombudsperson took the side of the state authorities at the expense of the interest of the citizens. The election of the new national ombudsperson (a member of the Democratic Union for Integration, DUI) was an overt violation of articles 6 and 8 of the Law on National Ombudsperson: by law, the ombudsperson may not be a member of a political party (or a political appointee).

Elections

During the early presidential elections in April 2004 the voter turnout was very low – only 55%, according to the State Election Committee (SEC) in the first round of elections and 54% in the second round of elections.

The OSCE/ODIHR, which monitored the elections, stated that the elections were generally consistent with OSCE election-related commitments. However, it reported a number of election-day irregularities in some areas, particularly during the second round, which cast a shadow over the process as a whole. The OSCE/ODIHR Election Observation Mission observed incidents of proxy voting, ballot box stuffing and intimidation, which were much more evident in the second round than in the first.[4]

[3] The Badinteur majority means that for the adoption of a decision it is necessary to have not only a majority of the votes in parliament but also the majority of the votes of the MPs representing non-majority communities.
[4] OSCE/ODIHR, *The Former Yugoslav Republic of Macedonia, Presidential Election, 14 and 28 April 2004*, 14 July 2004, http://www.osce.org/documents/odihr/2004/07/3321_en.pdf.

Some citizens used the elections to send out the message that they were not satisfied with the continuing failure of the authorities to take efficient measures to solve their basic problems. In some cases, almost entire villages abstained from voting (e.g., the villages of Ognenci, Kazandol, Crn vrv, Trnovci, Novake, as well as other areas).

The basic deficiency of these and all other recent elections has been the lack of any appropriate reaction from the SEC and the Ministry of Justice to the irregularities that were documented. Namely, in all cases of violations of voting rights, the violations were assessed solely from the viewpoint of how they affected the final results of the election, not as serious irregularities *per se*. The Helsinki Committee of Macedonia (MHC) stated that such an approach prevented the genuine protection of the rights of citizens and, at the same time, sent the wrong message to the relevant bodies, relieving them from further dealing with the problems and seeking improvements, and, finally, encouraged a repetition of the violations on a larger scale in the future elections.

Violations of voters' rights were concentrated to a great extent in areas where the Albanian community comprises the majority. As in previous presidential elections, the infringement of the rights of voters of this community, especially when considering their number and the impact their votes have on final election results, openly undermined any form of real democracy. Additionally, the elections showed a lack of readiness of political actors of the Albanian community to actively participate in the democratization of the country.

One impediment to the insurance of voting rights was the inadequately organized voting of about 2,000 IDPs. At two polling stations where IDPs from the municipalities of Lipkovo and Aračinovo were to vote, large numbers of the IDPs were not named on the voters' lists. Allegedly, an "administrative error" obstructed these people from exercising their rights to vote, as explained by the head of the regional unit of the Ministry of Justice, who also suggested that the problem was resolved "by the international organizations arranging transportation of these persons to the polling stations in their places of residence."

In the context of all these violations, the MHC concluded that statements claiming that more than 50% voters went to the polls for the second round of elections were not credible. Therefore, the official results were also not credible.

Freedom of Expression, Free Media and Information

In early 2004, the long process of privatization of the oldest Macedonian News and Publishing House, Nova Makedonija, was brought to an end. This was preceded by bankruptcy proceedings, accompanied by large-scale controversies in the previous years, including failed privatization through buyout of shares by employees, a suspicious sale to a questionable Slovenian company, strikes, etc. The outcome was devastating for the employees, who were left jobless.

However, solutions were found for the newspapers produced by Nova Makedonija, which are the oldest newspapers in Macedonia: *Nova Makedonija*, *Flaka* (Albanian-language newspaper), *Birlik* (Turkish-language newspaper) and *Vecer*. Yet, no buyers were found for some other publications, such as the magazine *Ekran*, which was closed down.

The destiny of the newspapers remained uncertain even after the sales to new owners. Until the end of 2004, based on circulation, only the *Vecer* newspaper, having a new concept and design, and a new higher price, had managed to survive. The owner of *Birlik* gave up before the paper had really taken off, selling the paper to a new owner, who did not manage to reactivate the Turkish language newspaper that was published three times a week.

In November, the *Nova Makedonija* newspaper was faced with internal problems, including changes of personnel and dismissals from work of some of the journalists and other staff. As of the end of 2004, the survival of this oldest daily newspaper in the Macedonian language remained uncertain (the newspaper was published for the first time at the end of World War II). The future of the *Flaka* newspaper was also uncertain. After the sale of this newspaper to the new owner in March 2004, in November the publishing of the paper was temporarily delayed owing to technical, organizational and financial problems.

The reporting of the media outlets was mainly professional. However, in connection with specific problems, especially regarding inter-ethnic issues, the media outlets' reporting styles and emphases differed depending on the language of the media source. Differences were especially evident between the Macedonian-language media outlets and the Albanian-language ones in respect to the referendum against the Law on Territorial Organization of the Local Self-Government. Some newspapers and other Macedonian language anti-government oriented media outlets unconditionally supported the referendum (with the *Vreme* and TV Sitel taking the lead), while others (even though pro-government oriented) were more moderate, analysing the possible consequences on the stability of the country (e.g. the *Utrinski Vesnik* newspaper). Yet, the media in Albanian language (except the bi-weekly *Lobby*) and ethnic-Albanian journalists and commentators were completely unified in denying the referendum, believing that the Albanian community would highly profit by acquiring the majority in a few artificially created municipalities.

All Albanian-language media initially chose not to report at all about the armed group of ethnic Albanians who were active in the village of Kondovo in Suburban Skopje.[5] Almost all Albanian language media knew of the grouping, and it appeared that they did not dare to publish anything on this due to caution or fear of the possible implications. The problem was publicized by the Macedonian language media outlets but only after the referendum. After the Macedonian media outlets "disclosed" the problem, the Albanian-language media started reporting about this event as well.

Libel

In 2004, the media and the authorities held opposing views about one of the key questions in the area of freedom of expression: criminal libel and defamation. In March, there were announcements that the new Criminal Code would no longer include provisions on libel and defamation. However, when the code was adopted in March, it still contained these disputed provisions, providing for imprisonment up to six months or up to one year if the act of libel or dafamtion had "grave consequences." Journalists and editors had promoted the view that libel and defamation should be decriminalized and dealt with by the Civil Code, as provided by international human rights standards. The authorities sided with the argument that journalists could not be the exception in respect to such offences.

Some criminal libel proceedings that were initiated in previous years continued in 2004, with some of them ending with verdicts.

- In January, journalist Milan Banov appealed an October 2003 court decision handed down against him for libel. The case had been initiated by a businessman who Banov had claimed to have made money in the wars of Bosnia and Kosovo as a mercenary. On 9 June 2004, the Appellate Court upheld the lower court's sentence. As of the time of writing, the case was before the Supreme Court.

[5] The group blocked the entrance of the village for non-inhabitants. They were not explicit about their claims but according to media report, it appeared that there was dissatisfaction in the village about the position of the previous members of UCK and their families.

- In a similar manner, journalist Sonja Kramarska appealed against her conviction in a case involving Stojan Andov, the president of the parliament. Kramarska had called Andov "a liar and a man without principles" in a newspaper article and was sentenced in November 2003 for insult to pay 20,000 denars (EUR 325) in compensation. The Appellate Court in 2004 upheld the lower court ruling and, as of the time of writing, the case was before the Supreme Court.

- Mende Petkovski, a journalist at Radio Bitola and correspondent of the *Dnevnik* daily newspaper and of the TV Sitel was in the worst situation. He was on trial for libel against the deputy public prosecutor of Bitola. He received a two-year suspended prisons sentence because he had alleged in an article of 1 April 2002 that the prosecutor had confiscated a car from an appellate court judge who had committed a traffic offence. Petkovski was sentenced to four months imprisonment suspended for two years.

- Mile Bošnjakovski, a journalist of the Channel 5 TV station, also stood trial after he had alleged that two officers of the Ministry of Interior, Pavle Trajanov and Kočo Topuzovski, had taken bribes and were corrupt. The charges against Bošnjakovski were dropped in the fall of 2004.

Local Self-Government

The attitude authorities displayed toward the referendum on the Law on the Territorial Organization of the Local Self-Government clearly showed that they were not willing to genuinely protect the fundamental rights and freedoms of the people. The authorities openly threatened opponents of the law and pursued an anti-referendum campaign, and so demonstrated their lack of readiness to accept the institutional opposition of citizens to one of their decisions.

Government officials used statements such as, "Those against the law are against the Ohrid Framework Agreement and by this impede the accession of Macedonia to the EU and NATO," which distracted attention from the focus of the law. As a result, the adopted law does not serve the purpose of decentralization and is neither based on the provisions of the law on local self-government nor on the provisions of the Ohrid Framework Agreement.

Moreover, the authorities escaped the obligation to explain and justify the concrete solutions defined in the law. They prevented the definition of alternative solutions that could be more appropriate for the implementation of the law on local self-government. In practice, they identified the problem as purely inter-ethnic, thus facilitating ethnic and national intolerance among citizens.

Independence of the Judiciary

In the last 15 years, the focus in reporting on human rights violations in Macedonia by inter-governmental organizations has been mainly on police misconduct, rather than on inadequate operation of courts. For the first time in 2004, the international community (including the Council of Europe and the EU) addressed serious criticism not only to the police, but to the judiciary of the Republic of Macedonia as well: it was characterized as corrupt, dependent on political authorities, slow and inefficient.

The judiciary continued to turn a blind eye to police misconduct and so unacceptably legitimized unlawful acts of the police, while trying to defend itself against criticism by citing administrative defects (e.g. the inadequate delivery of courts' acts, lack of administrative personnel, etc.) when addressed about its inadequate operation.

Regarding courts as protectors of the basic human rights of citizens, both domestic and international monitors pointed to the large-scale influence of party politics and interference by public authorities (including the interior minister, the justice minister and the public prosecutor) in the operation of courts, lack of professionalism, and a high corruption rate. These problems resulted in inefficient work and in the abuse of court proceedings to punish political opponents.

Also, the Constitutional Court did not function properly to protect human rights and freedoms. Owing to the politically motivated appointments of judges, the Constitutional Court became a tool in the hands of the ruling parties. The cases, which were not to the liking of the ruling parties, were delayed or negatively resolved or the court pronounced itself as not competent to handle the issue.

In response to the serious criticism for the large-scale deficiencies of the justice system in the Republic of Macedonia, a national Strategy on Reform of the Justice System was adopted in November 2004. Positively, the government finally admitted the great deficiencies of the judiciary. However, instead of focusing on human rights, the proposed reforms concentrate on the formal performances of the judicial system.

In addition, the lack of independence, the most serious of the problems regarding courts, is considered only in terms of institutional independence from the executive authorities. Hence, there were proposals for changes to the election and appointment procedures of judges and prosecutors. The issue of influence exercised on the judiciary by the ruling political parties and the executive branch remained untouched.

The functional independence of courts in concrete cases was not only neglected in the context of the proposed reforms. What is more, the recent amendments to the Criminal Procedure Code were a step backward in that they virtually eliminated the possibility to dismiss a judge from a court case on grounds of partiality. To do so, the defence is required to submit solid evidence of partiality. Furthermore, the right to independent court procedure is very problematic in situations in which there are no clear and previously generally accepted rules for allocation of cases in the courts.

In addition, the government action plan on the fight against organized crime clearly ignores threats against the independence of the judiciary at the expense of the defendants since it insists on close cooperation of the prosecutors, police and the judiciary, a situation that seriously affects the independence of courts.

Right to a Fair Trial and Effective Remedies

The right to a fair trial was not respected in numerous cases, including in the composition of Court Councils and their decision making procedure, in excessively long court proceedings, routine holding in custody of suspects and inadequate avenues for legal remedies in cases concerning complaints for police misconduct.

The composition of the Court Council, i.e., whether it was composed of three or five judges, depended on the seriousness of the offence with which the person was charged. In practice, the sitting council was frequently not composed of the necessary number of judges. Also, in some instances, despite the fact that some members of the council were absent, in the minutes it was entered that all persons were present at the hearing. The role of lay judges (called "judge adjudicators") in the council was reduced to the minimum. If at all present at the trial, they neither asked questions nor participated in any other way in the work of the court council. From the legal formal view, a vote was held for each court decision, but *de facto*, the president of the council (the "sitting judge") adopted the decisions.

Of serious concern were unreasonably long court proceedings, without any sound grounds. While criminal procedures often lasted for over a year, civil cases frequently lasted over three years, in some cases even much longer. Quite often, this amounted to direct violation of human rights, especially for vulnerable groups, such as elderly citizens, low income citizens and children.

As in previous years, suspects were usually taken into custody and detained, sometimes without any apparent reason, and often for minor criminal offences. The decision to hold suspects in detention pending court rulings had an especially negative impact on the assessment of such cases by the sitting Court Council. As a result, courts appeared to hand down guilty verdicts in order to justify detentions, even without sufficient evidence needed to do so.

Instances of appeals to higher courts as regular legal remedies were of variable effectiveness. In practice, almost all appeals against negative decisions to investigate alleged misconduct by officials or illegal or unnecessary detention, were rejected. In the second instance, there seemed to be no consistent policy on how to deal with cases of varying gravity of the offence. Some appeals were examined thoroughly, while others were not, regardless of available, even overwhelming evidence. Often, deliberating on these legal remedies, the decision was not based on the assessments of evidence, but on the consequences of the perpetrated crime.

Torture, Ill-Treatment and Police Misconduct

In 2004, the MHC was involved with or received information about 18 instances of torture, inhuman or degrading treatment, concerning a total of 35 persons. The majority of the victims (26) were ethnic Macedonians, followed by three ethnic Serb victims, two ethnic Albanians, two Roma, and two foreign nationals (from Peru and from Serbia and Montenegro). Fifteen cases were related to police procedure violations, while three cases occurred in the largest prison in Macedonia, the Idrizovo Penitentiary.

The two cases that attracted most attention were the court proceedings regarding the 2002 extra-judicial executions in the area called Raštanski Lozja and the escape of one inmate from the Idrizovo Penitentiary:

- In the investigations into the killing of seven foreign nationals (six Pakistanis, and apparently one Indian) in March 2002, four Macedonian citizens were apprehended and charged. However, there were indications that the four suspects' confessions had been extracted by the police under duress. In the same case, in the course of the court proceedings it was established that a series of witnesses had been coerced by the police to witness. In all these cases, unlawful means were apparently applied, while the four defendants remained in detention as of the end of 2004. The deputy public prosecutor and the Court Council had not undertaken any measures to examine the indications of torture or ill-treatment. On the contrary, when one of the defence lawyers voiced such allegations, he was verbally attacked.

- The second case is related to the escape of a foreign prisoner from the Idrizovo Penitentiary. Allegedly "investigating" this case, three prison guards applied excessive force on eight fellow inmates because they had not informed the guards abut the escapee's plans, four others were ill-treated less seriously. Six inmates who had been targeted by the prison staff had visible marks of blows inflicted (most probably) with a rubber baton still one week after the incident. Despite clear evidence of ill-treatment, the three abusive guards were disciplined merely by cutting their monthly salaries by ten percent for six months.

Most of the reported cases of ill-treatment, 14 out of 18, occurred during the months of January to June. In the second half of the year, the MHC was informed about only three cases of alleged police abuse, plus the

already mentioned case of escape from the Idrizovo Penitentiary. As the decrease coincided with two types of anti-torture activities in the national and international non-governmental sectors in which the MHC participated, it might be possible to conclude that the decrease in the number of cases toward the end of the year was a promising result of these anti-torture activities. The anti-torture activities included observation of closed institutions, including detention facilities, penitentiaries, correctional facilities, and psychiatric institutions, as well as the publication and dissemination of the UN handbook for detection and monitoring cases of torture, known as the Istanbul Protocol.[6] Furthermore, the MHC contacted the Ministry of the Interior about each of the above-mentioned cases of alleged police abuse and reminded the ministry about other cases which were still under investigation, among which were cases not only from 2003 but also from previous years.

On the positive side, the Ministry of the Interior, which reorganized its internal control unit to include a sector headed by an assistant minister, investigated most cases pointed out by human rights NGOs and introduced a procedure for filing complaints by citizens. In a less encouraging development, the MHC experienced in two cases how police officers on duty attempted to ignore this procedure. However, in only two out of 18 cases the MHC brought to the attention of the Ministry of the Interior were disciplinary proceedings undertaken against the abusive police officers. In all other cases the ministry concluded that police had used "justified force" or "regular procedure." This was also stated about cases in which police had apprehended persons without a court warrant in order to interview them at a police station. During such interviews, they were coerced to make false statements.

However, at the time of this writing it appeared that the Internal Control Sector was taking some modest measures to deal with cases of police abuse by starting to investigate some of the old cases and punishing the abusive policemen, although leniently, by cutting their salaries. Yet, at the same time, prosecutors and judges continue to tolerate cases in which there are clear signs that confessions have been extracted by illegal means.

Arbitrary Arrest and Detention

A long-standing and central area of human rights concern, for which improvements were not yet in sight in 2004, was comprised of the problems surrounding detention.

The prosecution authorities (police, public prosecutors, courts), citing the necessity of "protecting the investigation" isolated the detained persons, a practice which amounts to inhuman treatment. The detainees were held in conditions worse than those of prison inmates. Many of them were kept in facilities that were designed to be used as places for solitary confinement to punish prisoners. Furthermore, the detainees did not have the possibility to communicate with other inmates or detainees. The cells were small and unhygienic, far below international standards. In the facilities, there were no common rooms for daily activities; no working, sport or free time activities were allowed; there were no possibilities to view or listen to TV or radio programs; and access to newspapers and magazines was restricted. Detainees did not have direct natural light or appropriate lighting to enable reading and were allowed only ten to twenty minute daily walks in a very limited area. Overall, these persons spent at least 23 and half hours daily in the same room. Detainees in such facilities had reduced or no communication with relatives and no physical contact with these.

[6] UN, *The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,* http://www.unhchr.ch/pdf/8istprot.pdf; the Macedonian version is available at www.mhc.org.mk

While such conditions perhaps could be acceptable for very short periods,[7] detainees were held in such inhuman conditions for up to four months. What is more, in one case a detainee was held in such conditions for eight months, in another case for more than 3.5 years.

- Dragi Kocevski was held in pre-trial detention on murder charges pending the whole judicial proceeding from November 2001 to November 2004, when he was declared not guilty.

Such practices suggest that detention is ordered either for purposes of extracting a confession or information about a specific case, or to punish – unofficially – a person in a situation in which there is not sufficient evidence to complete the court proceedings.

Conditions in Prisons

Despite the fact that article 79 of the Law on Execution of Sanctions explicitly envisages establishment of a state commission for monitoring prisons, which should be composed of judges, penologists, sociologists and education experts, such a commission had not been established by the end of 2004. In addition, international conventions for prevention of torture, which Macedonia has ratified, envisage an independent commission to investigate cases of torture. However, no proposals were made in this direction.

The MHC stated that as long as prosecutors and judges tolerate with full awareness cases in which there are numerous indications that police have extracted confession by illegal means, better accountability for torture and ill-treatment is impossible in the foreseeable future in the framework of the present legal structure.

Freedom of Religion and Religious Tolerance

The climate of freedom of religion and religious tolerance in 2004 was determined by fierce disagreements within the Macedonian Orthodox Church, characterized by open interference by the representatives of the neighboring countries' churches, i.e., the Serbian and the Greek Orthodox Churches, which deny the autocephalous character of the Macedonian Orthodox Church. In addition, disagreements within the Islamic Religious Community culminated by the end of the year. In this context, the MHC noted that the state authorities' position toward these issues was indeed problematic.

The manner in which the police and a court in Bitola reacted in the case of "dealing with the schismatic," i.e., Jovan Vraniškovski (a former archbishop of the Macedonian Orthodox Church who wants to create a parallel church), and his followers, was more than inappropriate in terms of human rights and freedoms. The police and, to a certain degree the courts, served the fulfillment of the decisions of the Macedonian Orthodox Church.

The reaction of the parliament to the Vraniškovski case was to adopt a declaration "in defence of the Macedonian Orthodox Church." Such a declaration was not only a gross violation of the secular character of the state, but also evaded the multicultural and multi-confessional character of the Macedonian society.

In the November-December period, the media reported on problems and disagreements in the Islamic Religious Community (IRC), concerning disputes between imams and the Skopje mufti as well as between imams and the head of the IRC. The imams protested the work of the head of the IRC, stating that he

[7] For example up to 15 days, which is the legal period for solitary confinement.

prevented normal conditions for work of the imams. For example, the imams had not received salaries for several months, nor other remuneration necessary for their religious services. Both of the parties claimed that the other one had used armed personnel to enforce their will. This was also indicated by the fact that IRC security men used force on the cameramen filming outside the IRC building, thus hindering them from doing their job. However, contrary to the prompt reaction by the police in the case of the Macedonian Orthodox Church (where they appeared to have no legal reason to intervene), in the case of the IRC, which involved violence, the police remained inactive.

Respect of Private and Family Life

The amendment XIX to the Constitution and the amendments to the Criminal Procedure Code of October 2004 introduce significant progress in the issue of interference with the right to privacy by way of phone tapping and other similar police methods. Previously, these methods were absolutely prohibited, yet they were applied without any legal control by the executive authorities.

Nevertheless, legalization of the so-called special investigative measures provide for far-reaching interference with citizens' privacy. In this respect, it is obvious that the envisaged amendments to article 17 of the Constitution do not protect citizens from all unlawful intrusions into their privacy. Overall, there was no clear and consistent constitutional concept as to how the right to privacy can be protected against undue intrusion.

Macedonian law still allows interference with privacy in an excessively large number of situations and for too many purposes and the law is vaguely formulated. It fails to see that each measure that limits the right to privacy of the correspondence and communications must be strictly proportional to its aim and so justify the limitation of privacy. It seems that the proposed provisions contain a closed list of purposes, i.e. objectives the pursuance of which could legitimize the interference, yet these objectives are worded in excessively general terms and have ideological, sociological and political connotations that may allow for too much variation in their interpretation and application. In particular, the objectives of the law are so generally worded that they seem to justify interception in nearly all cases aimed at prevention and detection of crimes. Such wide-ranging objectives are too broad under international human rights law.

In terms of the prevention and detection of crimes and protection of national security, the law does not provide for virtually any objective criteria that could prevent arbitrary interference with privacy. According to the announcements by public officials, these measures must strictly target the fight against the most serious threats of organized crime and terrorism. However, the terminological confusion, unclear formulations and numerous exceptions to the rule prescribed in the provisions open the gates to uncontrolled implementation of the law. As a result, the law does not reduce but in fact legalizes arbitrary interference in private and family life.

Another issue of great concern was the legal confusion in the context of police competencies to perform searches of persons, vehicles and facilities. While private homes enjoyed legal protection against arbitrary intrusion by law enforcement officials, vehicles, private companies and other premises, which are not "home" in the strict sense of the word, did not enjoy that right. Instead of resolving such confusion, the 2004 amendments to the Criminal Procedure Code further complicated the situation, especially in light of the controversial competence of the police to perform searches during a pre-trial police procedure.

National and Ethnic Minorities

The Roma Minority

Despite public statements by the government that members of the Roma minority would receive equal treatment, the Roma remained on the margins of society in 2004.

Roma were discriminated against in all spheres of social life. A high unemployment rate, low level of education, inequitable representation in the public administration, dependence on welfare benefits and a lack of health insurance were among the problems of the Roma community. No clear policy had been adopted to deal with these problems, despite the acceptance of the World Bank and the Open Society Institute initiative for the Decade of the Roma (2005-2015).

The Roma were underrepresented in public administration (in 2004, there was only one Rom at the governmental level, in the Ministry of Labor and Social Policy). In the framework of the courses organized to promote equitable representation of the Roma in the public administration – an EU-funded project managed by the European Agency for Reconstruction – out of a total number of 610 attendants only 18 were Roma.

The only partial implementation of the obligations based on the Ohrid Agreement was also one of the factors contributing to the disadvantaged position of Roma in the Republic of Macedonia. The asylum applications of Roma refugees from Kosovo were processed very slowly, despite the fact that Roma still faced harassment in Kosovo and needed protection. The government had defined specific safeguards for their protection, but they were not respected in 2004. As a result, Roma refugees continued to have undefined status in the country, which put them in a more vulnerable situation than recognized refugees.

Trafficking in Human Beings

Trafficking in human beings is a long-time problem that has been of serious concern for more than ten years. In 2004 there were indications that the problem was growing and the Macedonian authorities failed to take adequate steps to fight against trafficking in human beings.

Considering the fact that most cases of trafficking in human beings are connected with the crossing of several national borders, better inter-border cooperation between the law enforcement agencies and other authorities of neighbouring countries is clearly necessary.

As for formal protection, the government failed to ratify the UN Convention against Transnational Organized Crime and its Protocol against Trafficking in Persons. In addition, necessary amendments had still not been adopted or integrated into the national legislation as of the end of 2004, especially those regarding what qualifies as an offence and those regarding witness protection, especially in light of the fact that the witnesses most often are the victims of trafficking themselves. For example, the Criminal Code does not contain provisions protecting the victims of trafficking in human beings from prosecution against their illegal presence in the country.

With regard to the protection of victims and sanctioning of offenders, the Macedonian authorities failed to implement the available legal provisions to fight trafficking. However, there were certain improvements in connection with the Gazi Baba Shelter for trafficked people, the only one in Macedonia, as well as in connection with the procedures of acceptance and care for victims.

An additional problem was the arbitrary interpretation and application of the law by the justice system. While the National Commission for Fight against Trafficking in Human Beings and Illegal Migration at the Interior Ministry filed several cases against alleged traffickers under article 418-a of the Criminal Code, the Public Prosecutor's Office tended to declare many cases inadmissible due to lack of evidence or for other reasons. What is more, in some obvious cases of trafficking, the office failed to initiate cases against the perpetrators, but instead brought charges against the victims under article 191 and 192, i.e., for prostitution and sex crimes.

An important recent development is that Macedonia has been transformed from being a country of transit and/or final destination of trafficked women from Eastern Europe, into a country of origin; its own citizens increasingly became victims of human trafficking. For example, a court in Bitola convicted women of minor age, who were victims of trafficking, of prostitution.

An important feature in 2004 was the cooperation of the government of the Republic of Macedonia with the International Organization for Migration (IOM) and with the local NGOs in arranging and sponsoring several public prevention campaigns aimed at raising public awareness of this problem.

Social and Economic Rights

Social rights were restricted in 2004 as a result of a reduction in the amount of welfare assistance given. Welfare benefits were reduced especially for disabled persons, and some of the benefits for this group were completely cut. Also, the list of medicines paid for by the social insurance was reduced.

The Labor Relations Law was amended and introduced limitations to the rights of workers. Changes to the laws on employment and unemployment assistance diminished the obligations of the authorities. The changed policies mostly affected the elderly, disabled persons, children and women. In 2004, for the first time, cases of suicides occurred due to the abolishment of social assistance. The problems of being cut off from electricity for unpaid electric bills and hunger also resulted in deaths.

The restrictive policy of the Ministry of Labor and Social Policy affected IDPs, for whom assistance was reduced. IDPs remained without legal status for long periods of time but were unable to return to their original places of residence.

Workers were exposed to inappropriate working conditions, and the basic legal norms for technical protection were not met. Overtime work without observation of the legal norms on the maximum working hours and rest increased, as did the arbitrariness of employers in terms of the amount and payment of salaries and dismissals from work. This was especially characteristic of the textile industry, which primarily employs women. In many cases, workers did not receive a salary for several months, and employers did not pay their contributions toward pension and health insurance. The Confederation of Trade Unions did not show any readiness for genuine confrontation with the authorities, and by the end of the year a large part of its membership had left with the intention of establishing a new trade union structure.