

# REPUBLIC OF MACEDONIA

**NGO PROGRESS REPORT**  
**ON THE FOLLOW-UP TO THE CONCLUDING**  
**OBSERVATIONS**  
**(CCPR/C/MKD/CO/2)**

Helsinki Committee for Human Rights  
of the Republic of Macedonia

With the support of :

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## REPUBLIC OF MACEDONIA

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*Status:*

*Concluding observations adopted in April 2008*

*State replies due in April 2009*

*No information submitted by the State Party*

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### NGO PROGRESS REPORT ON THE FOLLOW-UP TO THE CONCLUDING OBSERVATIONS

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## Concluding observations selected for the follow-up procedure

12. The Committee is concerned about the scope of the Law on Amnesty and the number of persons to whom it has been applied. It observes that a political desire for an amnesty for crimes committed in periods of civil war may also lead to a form of impunity incompatible with the Covenant. The Committee reiterates the view, as expressed in its general comment No. 20 (1992) on prohibition of torture, or other cruel, inhuman or degrading treatment or punishment, that amnesty laws are generally incompatible with the duty of States parties to investigate such acts, to guarantee freedom from such acts within their jurisdiction and to ensure that they do not occur in the future. The Committee is further concerned that victim organizations were not consulted in the drafting process of this Law (arts. 2, 6, 7).

The State party should ensure that the Law on Amnesty is not applied to the most serious human rights violations or violations that amount to crimes against humanity or war crimes. It should also ensure that human rights violations are thoroughly investigated, those responsible brought to justice and that adequate reparation is made to the victims and their families.

### Measures taken by the authorities (status quo or improvement):

After the end of the 2001 conflict, the Parliament of the Republic of Macedonia adopted an Amnesty Law on March 7, 2003. Article 1, Paragraph 1 of this law states deals with the amnesty for acts perpetrated during the 2001 conflict. Paragraph 2 of the same Article states that the above mentioned provision do not apply to persons who have committed criminal acts related to the 2001 conflict, that have been under the jurisdiction of or for which the International Criminal Tribunal for the former Yugoslavia (hereinafter the ICTY) will start a procedure.

In 2007, the Parliament of the Republic of Macedonia adopted the Law on cooperation between the Republic of Macedonia and the ICTY (hereinafter the Law). Article 7 of this law states that the Republic of Macedonia recognizes the material, territorial and temporal jurisdiction of the ICTY stipulated in the ICTY's Statute. The Republic of Macedonia is obligated to prosecute the cases that the ICTY transfers back to the national jurisdiction, in accordance with Article 8, paragraph 3[4] of this law. Additionally, Article 12[5] of the Law states the situations under which the criminal procedures initiated under the ICTY's jurisdiction may resume in the Republic of Macedonia, against the same person and for the same criminal act:

1. The ICTY's Prosecutor had opened a prosecution and, afterwards, the Trial Chamber of the ICTY issued an order stating that the prosecution against the accused person(s) was being referred before the authorized courts of the Republic of Macedonia until the beginning of the procedure;
2. The ICTY's Prosecutor had launched an investigation and the Trial Chamber then issued an order stating that the investigation against the accused person(s) was being referred before the authorized courts of the Republic of Macedonia until the beginning of the procedure; or
3. The ICTY has declared itself not competent.

The Republic of Macedonia has handed over five criminal procedures to the ICTY. The case in which Ljube Boskovski and Johan Tarculoski appeared as accused came to a closure before the ICTY. The other four so-called ICTY cases have been transferred to the Republic of Macedonia in the course of 2008 for proceedings before the authorized courts of the Republic of Macedonia.

The processing of cases transferred by the ICTY to the relevant State institutions of the Republic of Macedonia is regulated in the Chapter V (Articles 25-28) of the Law. Article 25, paragraph 1 of the Law states that the ICTY or the ICTY's Prosecutor shall transfer these cases to: 1) the State institution it has taken it over from, if the ICTY has done nothing further in regard to a case; or 2) to the relevant institution authorized to act in the stage the procedure has been interrupted or terminated before the ICTY.

It is important to keep in mind that for all three above mentioned transfer situations, there must be an order from the ICTY's Trial Chamber or a decision of the ICTY's Prosecutor (or of the Tribunal itself) stating in

which stage the criminal procedure was before being transferred for ruling to the domestic courts.

The question of how and in which stage the four so-called ICTY cases have been returned remains open.

*14. The Committee notes the investigation undertaken by the State party and its denial of any involvement in the rendition of Khaled al-Masri, notwithstanding the highly detailed allegations, as well as the concerns expressed inter alia by the Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners of the European Parliament, in the report by Dick Marty on behalf of the Council of Europe and in the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/MKD/CO/7) (arts. 2, 7, 9, 10 of the Covenant).*

*The State party should consider undertaking a new and comprehensive investigation of the allegations made by Mr. al-Masri. The investigation should take CCPR/C/MKD/CO/2 account of all available evidence and seek the cooperation of Mr. al-Masri himself. If the investigation concludes that the State party did violate the Covenant-protected rights of Mr. al-Masri, it should provide him with appropriate compensation. The State party should also review its practices and procedures whereby it would never perpetrate acts such as those alleged by Mr. al-Masri.*

**Measures taken by the authorities (status quo or improvement):**

The Parliament of Macedonia should initiate an open debate about the case of Khaled El-Masri instead of obstinately defending the official version which is contrary to information gathered by the German Bundestag, the Munich Prosecutor's office, the European Parliament and the Council of Europe regarding this case, and the established facts, and if such information corroborates the version of Khaled El-Masri, the Parliament should initiate a procedure to call upon responsibility the competent authorities and individuals and at least offer official apology to the victim.

Until today, unfortunately, there has not been any kind of debate or positive reaction on this case.

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

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

**Measures taken by the authorities (status quo or improvement):**

During the past years, the authorities did not manage to appropriately resolve the problem of internally displaced persons.

The Ministry of Labor and Social Policy placed information bulletins in collective centers with lists of persons in respect of whom "the conditions for use of services in collective centers cease to exist". The Ministry of Labor and Social Policy did not undertake any measures for the social protection of these persons, but only gave the legal advice that these persons "may apply to the Social Work Centers in the place of their living for regulation of their social status."

The activities of the Ministry of Labor and Social Policy, throughout the years, were contrary to the primary duty and responsibility of the competent bodies to establish conditions and ensure funds, which would enable the internally displaced persons to return voluntarily to their homes, in safety and in dignity, with several of its actions and especially with the practice of forced deregistration, the Government opted for means of coercion, allegedly resolving the problem.

In several cases, the Ministry of Labor and Social Policy, issuing a Communication, revoked the status of

internally displaced persons, with the explanation that the status of internally displaced persons and the benefits that they had been using that far would cease and the persons would be deregistered, since the Ministry had received an official note from an “authorized” body in the country (The Public Security Bureau of the Ministry of the Interior), stating that the concerned persons had an apartment where they could live, that they had sold their property in the place of displacement or that they had other means to resolve the housing problem.

With these activities the authorities have once again confirmed the position that they are not prepared to assume full responsibility regarding the events that have led to internal displacement, and for the alleviation of the consequences, i.e. creating real conditions for voluntary return of part of the displaced persons. The latter implies not only reconstruction or construction of housing, but also of all accompanying facilities that enable business activities and life in rural areas (that were also destroyed in the conflict).

Large number of internally displaced persons contacted the Helsinki Committee expressing various, most often, social protection requests in respect of the Government and the Ministry of Labor and Social Policy, complaining that the Government has abandoned them although they are still registered as IDP-s by the International Committee of the Red Cross. Some of them filed a suit against the Republic of Macedonia because their requests for compensation of the direct and indirect damage that occurred in the course of the military conflict in 2001 are persistently ignored by the competent organs.