



National Roma Centrum  
Adress:" Done Bozinov" 11/5, 1300 Kumanovo, Macedonia  
Phone/fax: + 389 31 427 558  
web: <http://www.nationalromacentrum.org>  
e-mail: [info@nationalromacentrum.org](mailto:info@nationalromacentrum.org)

# National roma centrum

To

The Committee on Economic, Social and Cultural Rights (CESCR)

CESCR Secretariat

8-14 Avenue de la Paix

CH 1211 Geneva 10

Switzerland

E-mail: [cescr@ohchr.org](mailto:cescr@ohchr.org)

Здружение  
НАЦИОНАЛЕН РОМСКИ ЦЕНТАР  
НРЦ  
Бр. 03-230/1  
17.05 2016 год.  
КУМАНОВО

Submission from the National Roma Centrum (NRC) to the Committee on Economic, Social and Cultural Rights (CESCR) for the 58th session of the CESCR concerning Macedonia

## 1. Introduction

National Roma Centrum (NRC)<sup>1</sup> is a civil society organization that highly appreciates the role of the Committee on Economic, Social and Cultural Rights in advancing the progressive realization of economic, social and cultural rights in Macedonia. The present list of issues is composed of NRC's professional expertise and field experience across the country, with strategic priority action areas in the field of decent home and living conditions; equal access to justice and rule of law; access to high quality health care services and information.

<sup>1</sup>The National Roma Centrum (NRC) was established in 2005, creating an opportunity as a civil society organisation to look specifically at what extent the national and local policy addresses the inclusion and equal opportunities regarding Roma, and how social, economic and political needs and aspirations of the Roma community are addressed. NRC mission is through people mobilization and empowerment, using rights based advocacy and participatory approach to support its constituents (Roma and other people living at social risk) to fulfil their fundamental rights and enjoy their freedoms as equal in the society. For more information visit: [www.nationalromacentrum.org](http://www.nationalromacentrum.org) and <http://ednomagazine.com>

## 2. This submission covers the following issues

### 2.1. Domestic application of the Covenant and maximum use of available resources (Article 2.1 and General Comment No.9)

National Roma Centrum regrets the absence of administrative and court decisions directly applying the rights recognized in the Covenant.

There are evident disparities that Roma sometimes experience difficulties in obtaining citizenship, and that a certain number of Roma lack personal documents, such as identity cards, birth certificates and medical insurance or employment cards, which are necessary for them to access social insurance, health care and other benefits. "In the field of civil matters the most filed complaints remain to be concerning the regulation of citizenship and the collaboration of the citizenship body within the Ministry of Interior.... Also, according to the case work was determined that there is still a significant number of so-called "Foreigners on the spot" in the country with unresolved citizenship status, although most of them were born in the country and have effective links with it (family, property, work, etc.). Although the Law of citizenship of the Republic of Macedonia has been amended several times in order to be harmonized with international standards and speed up the procedure of legal remedies it has been concluded that the citizenship body still doesn't directly apply the European Convention on Citizenship which is entered into force since 2003 in Republic of Macedonia. Under this Convention, the country has undertaken the following obligations: to allow spouses of Macedonian citizens to acquire a citizenship of Republic of Macedonia, the requirements for obtaining citizenship to be dealt with in a reasonable time, its nationals to possess another nationality when citizenship is acquired automatically with marriage, and principles of effective link of the person to the country, the habitual residence of the person at the time of succession of the state and the will of the person concerned"<sup>1</sup>.

Roma without personal documents are facing high level of exclusion to enjoy their rights before the law and appropriately seek protection of guaranteed rights within the system as foundation of justice and access to fundamental rights. The procedure for registration of permanent and temporary residence of citizens, as well as when applying for an ID Card or changing an address, ownership and lease of the place of residence with property deed are the legal grounds to prove that you have property where to live or stay. Roma live in houses and settlements established without legal status of their dwelling, although the Law on treatment of illegal constructed buildings

---

<sup>1</sup>Annual Report for the level of ensuring Respect, Promotion and Protection of Human rights and freedoms 2015, Ombudsman, Skopje, March 2016. Available at: [http://ombudsman.mk/upload/Godisni%20izvestaj/GI-2015/GI\\_2015-za\\_pecat.pdf](http://ombudsman.mk/upload/Godisni%20izvestaj/GI-2015/GI_2015-za_pecat.pdf)

is in power. A large number of Roma families live in illegal buildings in suburban settlements, so these legal grounds show insufficient to regulate one of the most important rights of citizens. This directly influences the determination of the residence status, access to an ownership document with which a person later can ask for an identification document. In everyday life citizens have application for establishing legal status of their house, and insisting only on the ownership of the place or the lease did not make citizens to comply with legal obligations, having impact in the delivery of correspondence and communication with these people. This directly influences the determination of the residency status, access to an ownership document with which a person later can ask for an identification document. Insisting only on the property deed or lease document for the place did not make citizens to comply with legal obligations, and not recognizing other documents as official application for legalization submitted to the local self-government unit, or certificate from the Local self-government unit that the house is in the process of legalization.

NRC proposes introduction and recognition of other facts and evidence provided for residence in the case of buildings with no legal status and homeless in the Law on Registration of Residence and Domicile and the Law on Identity Card, such as written confirmation issued by the municipality, which confirms the existence of illegal built facility for a living, which is not legalized and is located on an existing street, application for legalization submitted to the municipality and/ decision on property tax for the residential facility in some cases paid by owners of illegal objects to the municipality.

Individuals, who are not citizens of the Republic of Macedonia, should regulate their legal stay in the country and consequently get a temporary residence permit in the country. Citizenship is an important element that can substantially influence participation in public affairs and experience has shown that citizenship requirements can hamper effective participation in certain fields of public affairs. The situation of the so called foreigners, who were born in the country, who do not hold the citizenship of the Republic of Macedonia and the citizenship of any other country because in fact they were always residing in Macedonia, is difficult. In order to apply for Macedonian citizenship, according to the Law on Citizenship a person can apply for citizenship on the basis of naturalization, it is necessary to have a legal and permanent residence but one of the conditions stipulated in the Law on foreigners is that they have a valid foreign passport and to have legal entry in Macedonia (the paradox is that they have never left Macedonia, nor have a citizenship of another state or passport). If these people seek issuance of a travel document for a stateless person, when submitting their application for an ID or other personal document they couldn't confirm their identity and it is impossible for the travel document to be issued. The alternative for them is to start

proceedings in foreign countries for the establishment of a citizenship on the basis of origin, blood relationship from their parents if possible is causing great financial costs, and if their presence is necessary, it is impossible for them to leave Macedonia, and to enter again. The provision of the Law on foreigners makes this group of people have no opportunities to start a procedure to regulate their residence and citizenship status.

Regarding the issuing of ID Cards, particularly when issuing the first identity card for persons under 18 years of age by the Ministry of Interior, applicants are required to have ID Cards of one of their parents for checking and insight when applying<sup>2</sup>, while there are people whose parents left them or passed away, and they are unable to provide an identity card of a parent. Additionally, as an alternative solution such persons cannot be placed under guardianship in a separate case for issuing an identity card because those people are already adults, a scenario would be possible only if the person is under 18 years and is treated as juvenile not an adult.

## **2.2 The right to social security (Article 7 and Article 9)**

"The most vulnerable Roma still have problems with access to social benefits due to their lack of administrative documentation"<sup>3</sup>. The right to social assistance as part of the social protection, is hampered by received money via fast money transfer from abroad and mandatory enforcement by enforcement agents, many Roma were affected as social welfare users. The mandatory enforcement was carried out on the income acquired from social assistance, minimum pension, legal support or temporary unemployment as opposed to the Law on Enforcement. The Ministry of Labour and Social Policy put an end to social benefits of large number of social welfare users because they receive funds using the "fast money transfer" service before the relevant bylaw come into force with which this income started to be part of the property that will be taken into account for assessment for material aspects eligibility when applying for social welfare. Namely the bylaw was adopted in 2015 and was applied to decisions in 2015 for received "fast money transfer" in 2014. In 2015 "number of complaints is increased from citizens relating to social protection, with most of the submissions for the establishment of the right to one-time write-off of debt, late decisions on appeals, the abolition of the right to financial assistance because of funds obtained through fast transfer of money, the non-realization of decisions recognizing a right to social protection, non-compliance of the first and second instance body after judgments in the Administrative Court and so on"<sup>4</sup>. In the 2015 report the Ombudsman "found that the centers for social work as first instance authorities retroactively

---

<sup>2</sup>Ministry of Interior, Available at: <http://www.mvr.gov.mk/upravni-rab/10>

<sup>3</sup>Progress report of the former Yugoslav Republic of Macedonia for 2015, European Commission, Brussels, 10.11.2015 Available at: [http://ombudsman.mk/upload/Godisni%20izvestai/GI-2015/GI\\_2015-za\\_pecat.pdf](http://ombudsman.mk/upload/Godisni%20izvestai/GI-2015/GI_2015-za_pecat.pdf)

<sup>4</sup>Progress report of the former Yugoslav Republic of Macedonia for 2015, European Commission, Brussels, 10.11.2015 Available at: [http://ombudsman.mk/upload/Godisni%20izvestai/GI-2015/GI\\_2015-za\\_pecat.pdf](http://ombudsman.mk/upload/Godisni%20izvestai/GI-2015/GI_2015-za_pecat.pdf)

abolished the right to social welfare or financial assistance of many citizens established during 2014 and the appellate authority upon deciding on appeals despite adopting the decisions lately, and did not consider the constitutional guarantee of banning on retroactive effect of regulations, although the Ombudsman timely pointed it out with an appropriate correspondence"<sup>5</sup>.

"The Ombudsman during the work on cases ascertained violation of the rights of citizens with mandatory enforcement by enforcement agents on their income acquired from social assistance, minimum pension, legal support or temporary unemployment, which by law are exempt from mandatory enforcement, as well as cases where even though citizens submitted evidence to the enforcement agents that they are recipients of social assistance, the enforcement of these funds still continued<sup>6</sup>.

We welcome the adopted Law on minimum wage in Republic of Macedonia, but the minimum wage set in 2015 set was 9,590 denars<sup>7</sup> far from the average monthly net wage paid per employee in June 2015 that was 22 025 denars<sup>8</sup>. State Statistical Office (SSO) Review<sup>9</sup> published in May 2015 gave opinion that with the monthly incomes 57,5% of the respondents in households more or less are not satisfied or are not satisfied at all according to the subjective opinion about the ability to make ends meet.<sup>10</sup> According to the SSO Review used assets in 2014 according to the purpose of consumption – annual average per household member is 96,405 denars, 8033 denars per household member for month<sup>11</sup>. The social security for household composed of one person is 1,200 denars, for household composed of three members is 4,200 denars, far below the minimum wage and average consumption for member of the household. The need for regular adjustment of the minimum wage and social security according to the household consumption providing recipients and their families with a decent standard of living is necessary.

---

<sup>5</sup>Annual Report for the level of ensuring Respect, Promotion and Protection of Human rights and freedoms 2015, Ombudsman, Skopje, March 2016. Available at: [http://ombudsman.mk/upload/Godisni%20izvestaj/GI-2015/GI\\_2015-za\\_pecat.pdf](http://ombudsman.mk/upload/Godisni%20izvestaj/GI-2015/GI_2015-za_pecat.pdf)

<sup>6</sup>Annual Report for the level of ensuring Respect, Promotion and Protection of Human rights and freedoms 2015, Ombudsman, Skopje, March 2016. Available at: [http://ombudsman.mk/upload/Godisni%20izvestaj/GI-2015/GI\\_2015-za\\_pecat.pdf](http://ombudsman.mk/upload/Godisni%20izvestaj/GI-2015/GI_2015-za_pecat.pdf)

<sup>7</sup> Ministry of Labour and Social Policy, Law on minimum wage  
<http://www.mtsp.gov.mk/content/pdf/zakoni/Zakon%20za%20minimalna%20plata%20precisten.pdf>

<sup>8</sup> State Statistical Office, 27 August 2015, [http://www.stat.gov.mk/PrikaziSoopstvenie\\_en.aspx?rbrtxt=40](http://www.stat.gov.mk/PrikaziSoopstvenie_en.aspx?rbrtxt=40)

<sup>9</sup>The survey is conducted on a sample of 5040 households on the whole territory of the country, which is about 1% of the total number of households in the country.

<sup>10</sup>State Statistical Office, Household consumption in the Republic of Macedonia, 2014, Statistical review: Incomes, expenditures and prices -2014, p.20 , <http://www.stat.gov.mk/Publikacii/4.4.15.01.pdf>

<sup>11</sup> P.48, State Statistical Office, <http://www.stat.gov.mk/Publikacii/4.4.15.01.pdf>

### **2.3 The right to the adequate standard of living (Article 11, General Comment No. 7, General Comment No.4)**

NRC<sup>12</sup> is concerned that the majority of Roma continue to live in substandard housing conditions, without safe drinking water or sanitation facilities, electricity, heating, sewage, waste disposal or, legal security of tenure which exposes them to the risk of eviction and discrimination. We welcome the policy and legislative measures for legalization of illegal objects taken by the State which followed after the adoption of the Law for treating the illegally built objects in 2011, and related bylaws adopted afterwards. The Law is valid until beginning of March 2021, and all illegal objects that are not going to be legalized should be pull down according to the Law on Construction. The majority of the administrative cases for legalization are not finished yet, the latest performance audit made by the "State Audit Office for the period 2011-2014"<sup>13</sup> regarding the efficiency of the legalization process in Macedonia clearly stated that the procedures for issuing conclusion for adjourn of the legalization, the procedures for issuing urban planning consent and decision for legalization are not abide by the rules stipulated in the Law. Furthermore, the Ministry for Transport and Communications as competent body to supervise and control the implementation of the Law has not supervised the implementation of the Law by the local self-governments units regarding their work and their competences referring to the legalization proceedings and procedures. The State Audit Office is recommending the proceedings for urban planning consent in legalization to be accelerated and decisions for legalization to be timely issued. So far according to the data given to the audit from 66 municipalities 25% of legalization cases have finished".<sup>14</sup>

It is known fact that Roma in Macedonia live in urban areas in cities, but still their housing areas are not part of urban planning processes, as it is the case with Kumanovo's biggest Roma settlement Srederek, 6 ha of land inhabited decades ago where now 400-600 Roma families live with nearly

---

<sup>12</sup>NRC in partnership with Habitat for Humanity Macedonia and FOSM, from 2011 to 2015 is working on 1,519 administrative procedures for legalization of Roma houses in 6 municipalities in Macedonia. Furthermore NRC works on privatization of land owned by Roma in Kumanovo and Shtip, and NRC was implementing activities in 9 municipalities in Macedonia urging for citizens involvement in urban planning processes and the right to adequate housing.

<sup>13</sup>Audit of the success on the theme "Efficiency of process of legalization of illegally constructed buildings in Republic of Macedonia in period of 2011-2014 year" was performed in order to assess the discovered risks and to offer opportunities to improve policies for legalization of illegally constructed buildings and answer the question "whether the process of legalization / actions on illegal buildings is conducted in an appropriate pace and what are the effects of it in terms of gaining legal status of these objects."

<sup>14</sup>Final Report of the State Authorized Auditor, Efficiency of the Legalization Process in Macedonia according to the Law on for Treating Illegal Objects, State Audit Office, 20 November 2015. Available at: [http://www.dzr.mk/Uploads/1\\_48\\_RU\\_Proces\\_legalizacija\\_divogradbi\\_period\\_2001\\_2014\\_GP2015\\_KOMPLET.pdf](http://www.dzr.mk/Uploads/1_48_RU_Proces_legalizacija_divogradbi_period_2001_2014_GP2015_KOMPLET.pdf)

2,500 residents, the land according to urban planning documents is protected green area incompatible with individual housing and according to urban planning bylaws therefore needs special decision to be adopted at the municipal Council session in order to be legalized, which is not the case so far since 2011. NRC is unaware of single case for legalization from Sredorek, and also unaware that case for legalization from Sredorek was on the agenda of the municipal Council session to receive urban planning consent, although there are cases which are fully completed with all supportive documents and evidence, but still the decision is somehow missing. The municipal Councils should adopt special decision if the intent of the illegal object (house) is not in accordance with the intent of the land on which the object is built, determined in accordance with the valid urban planning documentation, then, a decision from the Council of the authorized municipality is necessary for carrying of urban planning documentation with which the intent will be determined in the future, but there is no strict legal term when the competent body for legalization should submit the claim for compatibility of land in front of the municipal Council, which influence the dynamics of the procedure itself.

The State Audit Office has several remarks on the implementation of the "Law on treatment of illegally constructed buildings", one of them is that the "communication between the Agency for Real estate as the relevant authority for registration of illegal buildings in the public records for registration the rights to real estate and the Ministry of Transport and Communications and the municipalities in the area of delivering solutions for legalization ex officio is not established... Furthermore, the use of the funds collected from the fees for determining the legal status of illegal buildings part of the municipalities didn't submit annual report to the Ministry of Transport and Communications, which is not in accordance with Article 20, of the Law on treatment of illegally constructed buildings."<sup>15</sup>

The State Audit found "that the Department for administrative and supervisory affairs within the Ministry for Transport and Communications, Unit for Supervision over the legality of the operation of the municipal bodies, municipal bodies in the City of Skopje and the bodies of the City of Skopje, made no supervision over the legality of the operation of the municipalities work from their competence relating to illegal constructions, which is not in accordance with the article 27 of the Law on treatment of illegally constructed buildings. Oversight was conducted after several complaints of people from separate municipalities. .... Not conducting supervision over legality of

---

<sup>15</sup>Final Report of the State Authorized Auditor, Efficiency of the Legalization Process in Macedonia according to the Law on for Treating Illegal Objects, State Audit Office, 20 November 2015. Available at: [http://www.dzr.mk/Uploads/1\\_48\\_RU\\_Proces\\_legalizacija\\_divogradbi\\_period\\_2001\\_2014\\_GP2015\\_KOMPLET.pdf](http://www.dzr.mk/Uploads/1_48_RU_Proces_legalizacija_divogradbi_period_2001_2014_GP2015_KOMPLET.pdf)

work of municipal bodies on matters relating to illegally builded facilities contributes to the lack of knowledge on how to conduct the procedures, the risk of acts that are not in accordance with the law and what kinds of measures and actions should be taken to improve the efficiency of the legalization.

Participation of citizens in urban planning processes is issue closely linked to housing, particularly for Roma living in urban areas but still outside urban planning processes, lack of appropriate measures to stimulate citizen's participation and to ensure adequate allocation of resources for public utilities and infrastructure are missing".

Another important aspect of housing is implementation of the Law on Privatization and Lease of StateOwned Construction Land, adopted in 2005, after the introduction of private property in Macedonia. Responsible for implementation is the Property and Legal Affairs Office, a body within the Ministry of Finance. All natural and legal persons possessing land should brought claim for privatization conducting first-instance administrative procedure in the field of privatization of state-owned construction land. When finished the final decision is legal valid document to be entitled as private owner/co-owner of land in the Cadastre Agency and in the property deed. Roma are encountering great obstacles and barriers in the administrative procedures for privatization, although living with decades on the land, in some cases they are entitled as land users in the property deed in some are not, but the procedures for privatization of land are having very limited progress. "From the huge number of cases received for privatization of construction land, a small number are positively resolved or are not resolved at all. The administrative procedures for the completion of cases and proper delivery of decisions and other submissions to the parties in the procedure sometimes last for years"<sup>16</sup>.

Access to land and property is a condition for participation in socio-economic life. Obstacles to obtaining access to property can have a disproportionate effect on persons aggravating their economic difficulties and unemployment. The authorities, particularly the Ministry for Transport and Communication and local self-government units, should provide adequate participation of the persons concerned in decision-making on housing and related programmes designed to improve their socio-economic situation, in order to ensure that the needs of these persons are adequately addressed.

---

<sup>16</sup>Annual Report for the level of ensuring Respect, Promotion and Protection of Human rights and freedoms 2015, Ombudsman, Skopje, March 2016. Available at: [http://ombudsman.mk/upload/Godisni%20izvestaj/GI-2015/GI\\_2015-za\\_pecat.pdf](http://ombudsman.mk/upload/Godisni%20izvestaj/GI-2015/GI_2015-za_pecat.pdf)



## 2.4 The right to education (Article 13)

Data analysis from February 2015 received from inter municipal social welfare centers show that most children of the streets are members of the Roma community, and fewer members of the Macedonian and Turkish community. In total, 233 street children were recorded and 113 of them were Roma. There are children who are not in education, due to lack of birth certificate or exceeded the age for enrollment in regular education<sup>17</sup>. The low coverage of children from the Roma community, lack of early socialization and educational experiences of Roma children who are out of any form of preschool education, lack of Roma teachers for preschool education and insufficiently trained staff in pre-school education, which is not sensitive for the diversity and is unable to fully meet the different needs of the children, are part of the detected problems<sup>18</sup>.

Children without a birth certificate cannot enroll in school. In some schools they are allowed provisional enrolment but then they are evicted if they cannot provide the birth certificate after a period of time. The procedure for obtaining a birth certificate in the country remains complex and makes it near impossible for children to parents without birth certificates to obtain one. This automatically and permanently excludes them from the social mainstream. NRC is advocating for a progressive approach to economic, social and cultural rights for all persons in the country, including those without documents, for all rights provided by the International Covenant on Economic, Social and Cultural Rights. Belonging to a country should not be an obstacle to the enjoyment of the rights enshrined in the Covenant, as all children in the territory of the country, including those without documents, are entitled to receive education and access to adequate food and health protection at an affordable price. Covenant rights apply to all, and to non-nationals, such as refugees, asylum seekers, stateless persons, irrespective of their legal status and documentation<sup>19</sup>.

Large number of Roma juveniles are illiterate and above the age for primary school enrolment, there are no official measures countrywide to eliminate Roma illiteracy, the Ministry briefed in document that "six programs for functional literacy of the excluded are developed and implemented on the basis of needs assessment of the adults for such programs. Suto Orizare for the Roma population;

---

<sup>17</sup>Information on the situation of street children in the Republic of Macedonia, the Ombudsman Skopje, February 2015, Available at: <http://ombudsman.mk/upload/documents/2015/Predmetno%20rabotenje- Informacij/Informacija-Deca%20na%20ulica.pdf>

<sup>18</sup>Ministry of Education and Science of Republic of Macedonia, National Report -- Education for All, 2014, Available at: <http://unesdoc.unesco.org/images/0023/002317/231750e.pdf>

<sup>19</sup>General Comment 20, Non-discrimination on Economic, Social and Cultural Rights, the International Covenant on Economic, Social and Cultural Rights, the Committee for Economic, Social and Cultural Rights, E/C.12/GC/20, 2 July 2009, Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1a0Szab0oXTdImn sJZZVQdqeXgncKnylFC%2blzJlZGhsosnD23NsgR1Q1NNNgs2Qgv64k2vYou4POAC1yRpwBNq9vvAi%2ftE5XET1 wJohest>

Topansko Pole – Skopje, for the Roma population; Bitola, for the Roma population"<sup>20</sup>. Having in mind that illiteracy rate is particularly high for the Roma community we lack official numbers of enrolled people and obtained degrees in the process of adult education.

### **2.5 Right to take part in cultural life (Article 15 and General Comment 21)**

Roma culture, composed of intangible cultural goods and essential components of Roma identity, should be promoted in the public domain. And culture as a social product must be brought within the reach of all, on the basis of equality, non-discrimination and participation thus for persons living in poverty as well. This includes the right to be taught about one's own culture as well as those of others.

The language policies should ensure that all languages that exist in the society are audibly and visibly present in the public domain so that every person is aware of the multilingual character of society and recognises him- or herself as an integral part of society. And it is important to ensure adequate participation of persons belonging to national minorities in various media-related bodies, such as supervisory boards and independent regulatory bodies, public service broadcast committees and auditors' councils. Roma have the right to seek, receive and impart information and ideas of all kinds and forms therefore the public television (MTV) and radio extensively should broadcast programmes in the Romani language, the MTV broadcasts the programme in Romani language 30 minutes weekly and additionally one hour per month.

---

<sup>20</sup>Ministry of Education and Science of Republic of Macedonia, National Report – Education for All, 2014, Available at: <http://unesdoc.unesco.org/images/0023/002317/231750e.pdf>