



EUROPEAN ROMA RIGHTS CENTRE

1386 Budapest 62, P.O. Box 906/93, Hungary
Phone: (36-1) 413-2200; Fax: (36-1) 413-2201
E-mail: office@errc.org
<http://errc.org>

**WRITTEN COMMENTS
OF THE EUROPEAN ROMA RIGHTS CENTRE
(ERRC)**

**CONCERNING THE REPUBLIC OF
MACEDONIA**

**FOR CONSIDERATION BY THE
UNITED NATIONS HUMAN RIGHTS
COMMITTEE
AT ITS 92nd SESSION**

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I. INTRODUCTION

The European Roma Rights Centre (ERRC) respectfully submits written comments concerning The Republic of Macedonia for consideration by the Human Rights Committee at its 92nd session in 2008.

The ERRC is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic litigation, international advocacy, research and policy development, and training of Romani activists. Since its establishment in 1996, the ERRC has established a reputation as the leading international non-governmental organisation engaged in human rights defence of Roma in Europe. The ERRC has undertaken extensive research, policy, law and training work in Macedonia due to the very serious issues Roma face there. ERRC publications about Macedonia and additional information about the organisation are available on the Internet at: <http://www.errc.org>.

Regular monitoring of the human rights situation of Roma in Macedonia has been undertaken by the ERRC and its partner organizations.¹ On the basis of this, it is evident that the measures adopted and undertaken by the Macedonian government to date have been insufficient to ensure the effective implementation of the International Covenant on Civil and Political Rights (ICCPR) and indeed, often have effects specifically counter to the spirit and letter of the ICCPR.

The present document does not aim to address all issues of relevance to the implementation of the Covenant or its provisions in Macedonia. Nor is this document a comprehensive summary of all human rights issues facing Roma in Macedonia. With this submission, the ERRC aims to present the results of their research in several areas of relevance to the Covenant in order to complement the information provided in the State Report.

¹ ERRC partner organisations include the National Roma Centrum, Civil Society Research Center Roma Centre of Skopje and the Open Society Institute's Network Women's Program. ERRC work in Macedonia has been funded by the Swedish International Development Agency, the Open Society Institute, the Sigrid Rausing Trust, the European Union and UNIFEM.

II. RECOMMENDATIONS

1. Without delay, adopt comprehensive anti-discrimination law securing protection against discrimination – in particular racial discrimination – in all areas relevant for realising the rights secured in the Covenant. Particular attention should be paid providing mechanisms to ensure real and effective remedy in cases of discrimination against Roma, including effective and dissuasive sanctions for perpetrators and adequate damages for victims. The minimum standards applied by the Government in adopting comprehensive law banning racial discrimination should be those established in European Council of the European Union Directive 2000/43/EC “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin”.
2. Systematically collect and make available data disaggregated by ethnicity in areas of relevance to the ICCPR.
3. Amend Article 9 of the Constitution by extending the general protection against discrimination to non-citizens and offer effective safeguards against the violations.
4. Establish an independent body supervising the police. Ensure zero tolerance of ill-treatment by the law enforcement officials at all levels and conduct effective investigations in cases of all suspected ill-treatments. Police investigation should be sensitive and adaptable to the special needs of persons, such as minorities including Roma.
5. Ensure the full implementation of the recent *Jasar v. Macedonia* judgment of the European Court of Human Rights and make all the necessary steps to avoid similar violations happening in the future, including amending the national statutes allowing the impunity of the police.
6. Amend the Law on the Public Prosecutor to include set time limits for consideration of complaints, in line with international standards in this area.
7. Ensure that measures to operationalise the recent amendments to the Family Law and Criminal Code in Macedonia (which defined and recognised domestic violence as a criminal act), and to provide protection to domestic violence victims in terms of intervention, investigation and assistance, should take into account the specific challenges and situation of Romani women. The government must ensure that Romani women are not bypassed by the application of any such measures but are allowed, encouraged, and supported to use them as a way to ensure protection of their rights;
8. Adopt and implement measures, including but not necessarily limited to anti-racism training, codes of conduct and job performance reviews for the prevention of discriminatory and degrading treatment of Roma by public officials, including teachers and other educational official, doctors, medical personnel, civil servants and law enforcement officials.
9. Proactively recruit qualified Roma for professional positions in the national and local administration, labour offices, social security offices, health care centres, and schools.
10. Ensure the full implementation of the legislation concerning the use of “non-majority” languages in civil, criminal and administrative proceedings.
11. Facilitate, as a matter of priority, for those Roma currently without access to personal documents and citizenship, effective access to citizenship. Ensure that all Roma are in possession of those documents required to realise fundamental Covenant rights.
12. Where instances of abuse in the school system are reported – abuse including exclusionary practices, physical and verbal assault, humiliating treatment, and failure by teachers and school administrators to protect Romani children from peer abuse – without delay, punish school authorities responsible, and implement measures aimed at preventing further abuse.
13. Without delay, end the practice of segregating Romani children into so-called “Roma classes”. Integrate all Romani students into mainstream classes and, where necessary, design and implement adequately funded and staffed programmes aimed at easing the transition from segregated to integrated schooling;
14. Develop and implement catch-up or adult education programmes aimed at remedying the legacies of substandard education and non-schooling of Roma;
15. Ensure the political representation and effective participation in decision-making processes of Roma at the national and local levels commensurate with the total population of Roma in Macedonia.

III. ARTICLE-BY-ARTICLE DISCUSSION

1. Article 2 and 26: Prohibition of Discrimination

In its report to the Committee, the Government stated that “in the course of the period from 1999 to 2005, the Republic of Macedonia has undertaken a significant number of measures and activities in order to upgrade and strengthen its constitutional and legislative framework with regard to nondiscrimination. To this end, the Law on Citizens’ Associations and Foundations of 1998 and the Law on Political Parties of 2004 have reaffirmed the principle of nondiscrimination in carrying out the activities and actions of citizens’ associations (i.e. NGOs), foundations and political parties.”² Furthermore, it stated that “the core focus of the Constitutional Amendments ensuing from the Framework Agreement, which was concluded in 2001, was the principle and measures of nondiscrimination. Pursuant to Amendment VI to Article 8 of the Constitution, a fundamental principle of the constitutional order of the Republic of Macedonia is the principle of adequate and equitable representation of citizens belonging to all communities in state administration bodies and other public institutions at all levels.”³

However, despite numerous international instruments to which Macedonia is a party,⁴ as well as anti-discrimination clauses in its Constitution, Macedonian legislation affords little meaningful protection from discrimination, particularly on the basis of race or ethnicity. The few declaratory anti-discrimination provisions in various domestic legal instruments are too vague to afford effective remedies against discrimination, and are even less effective as deterrents against discriminatory policies or practices.

Article 9 of the Macedonian Constitution provides a general protection against discrimination, stating, “All citizens of Macedonia are equal in their freedoms and rights, regardless of gender, race, skin color, national or social origin, political or religious beliefs, property or social status.” However, as no specific consequences are stipulated for the violation of the Constitutional provisions, it is not clear how one would make use of them in practice. In its concluding observations in June 2007 the Committee on the Elimination of Racial Discrimination expressed concern that in the referred article only citizens are equal before the law and entitled to exercise their freedoms and rights without discrimination. It drew the attention of Macedonia to its general recommendation No. 30 (2004) on discrimination against non-citizens, and recommended that “the State party review its legislation in order to guarantee equality between citizens and non-citizens in the enjoyment of the rights set forth in the Convention to the extent recognised under international law.”⁵

There also exist some provisions in criminal, civil and administrative procedures which enshrine protections related to equality, such as Article 319 of the Criminal Code, which establishes as a crime the promotion of national, racial or religious hatred, discord or intolerance. However, these provisions are rarely, if ever, invoked. More crucially, criminal code provisions banning the promotion of promoting ideologies of hatred are not designed to eliminate racial discrimination – a different form of harm – nor are they known to have this effect in practice. This is certainly the case in Macedonia, where criminal code Article 319 has had no discernable effect whatsoever in diminishing very high levels of racial discrimination against Roma in the realization of Covenant rights, as well as in the realization of other rights. The ERRC has no knowledge of cases of discrimination against Roma decided by Macedonian courts on the basis of these provisions. In addition, it is unclear whether, taken on their own, criminal sanctions constitute sufficient legal protection against discrimination, due in particular to high standards of proof required in the context of criminal proceedings which can rarely, if ever be met in cases involving racial discrimination. The absence of comprehensive civil and administrative law banning racial discrimination renders individuals vulnerable in the extreme to the frustration of Covenant rights for arbitrary reasons of racial hatred, intolerance or privilege.

Standards on anti-discrimination law in Europe are currently set primarily by the European Council of the European Union Directive 2000/43/EC “implementing the principle of equal treatment between persons

2 CCPR/C/MKD/2, paragraphs 529 and 530.

3 CCPR/C/MKD/2, paragraph 535.

4 In addition to the Covenant on Civil and Political Rights, Macedonia is a party to the International Covenant on Economic and Social Rights, the International Convention for the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, the European Convention on Human Rights and Fundamental Freedoms and the European Social Charter.

5 CERD/C/MKD/CO/7

irrespective of racial or ethnic origin” (hereafter “the Directive”). The Directive is a component of the *acquis communautaire* – the body of law governing the European Union. Macedonia must bring the substance of the Directive into its domestic law by the date of its accession to the European Union. Since early 2005, two draft laws developed by non-governmental organisations have existed in Macedonia. However, the government has failed to consider seriously either of these drafts, despite the continuous urging of civil society for more than 3 years. The failure of the Macedonian government to even consider these bills calls into question the government’s commitment to take action against racial discrimination.

2. Article 2, 7, 10, 26: Prohibition of Discrimination; Prohibition of Torture, Cruel, Inhuman or Degrading Treatment or Punishment; Humane Treatment of Persons Deprived of Liberty

2. A. Ill-Treatment of Roma by Law Enforcement Officials

In 2002 with regard to ill-treatment, the delegation European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), found evidence of recent ill-treatment in police custody⁶, including numerous allegations of beatings, some severe enough to induce loss of consciousness. Allegations of beatings including reports of punches and kicks on various parts of the body, as well as beatings with batons, metal rods, the butts of firearms, wooden sticks and/or truncheons, shovel handles and baseball bats. Some persons complained that loaded and cocked guns had been pointed at them.⁷ The CPT concluded that the situation had not improved from the last reporting period.⁸

In their report published on 13th February 2008 CPT stressed the “persistent non-implementation of its recommendations by the national authorities” and requested an interim response from the Government as regards combating impunity, the conditions of detention in prisons and the treatment and care of particularly vulnerable persons.⁹

According to the latest CPT report: “a considerable number of persons - including juveniles - interviewed by the delegation in the course of the visit alleged they had been ill-treated by law enforcement officials. The alleged ill-treatment consisted mostly of kicks, punches and blows with batons or various other objects, often inflicted prior to and during questioning; in some cases with a view to extracting a confession or obtaining information. Certain allegations also referred to the use of excessive force at the time of arrest.”¹⁰

Findings reported by the US State Department in their country reports on Macedonia also highlight excessive use of force by Macedonia law enforcement officials in a number of cases and a continued lack of improvement in this respect. The 2001 report cited accounts of police violence against Roma, including beatings during arrest and detention, stating that Roma rights organizations claim that police harassment of Roma reinforces patterns of societal discrimination.¹¹ The 2002, 2003, 2004, 2005, 2006 reports on Macedonia reported that the situation continued.

Similarly, the Skopje-based Helsinki Committee for Human Rights of the Republic of Macedonia found in 2002 that, the excessive use of force and inappropriate treatment by the police in the arrest and detention

6 Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Strasbourg, 9 September 2004. (<http://www.cpt.coe.int/documents/mkd/2004-29-inf-eng.pdf>) p. 15.

7 Ibid., p. 15.

8 Ibid., p. 19.

9 Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Strasbourg, 13 February 2008. (<http://www.cpt.coe.int/documents/mkd/2008-05-inf-eng.pdf>) p. 11.

10 Ibid. p. 14.

11 The U.S. Department of State 2001 Country Report on the former Yugoslav Republic of Macedonia, 4 March 2002, (<http://www.state.gov/g/drl/rls/hrrpt/2001/eur/8293.htm>).

of persons belonging to the Roma ethnic community is of specific concern.¹² The Committee's 2003 report states that "torture and inhuman treatment are still everyday practice in police work and are not subject to any control, prosecution or appropriate sanctioning."¹³ According to the report, the most common types of human rights violations by police include physical violence against citizens during the process of arrest, while in police custody, during investigation, and in the execution of other police duties. The Helsinki Committee report notes that in the most likely scenario, these cases are not investigated, nor are criminal charges brought against the perpetrators.

During the course of documentation in 2005-2006, the ERRC have been informed of numerous cases of ill-treatment of Romani individuals by law enforcement officials. The following is a summary of several illustrative cases documented by the ERRC, National Roma Centrum (NRC) and partner organisations recently:

- Seventeen-year-old Trajan Bekirov was last seen alive after Macedonian police "Alpha"¹⁴ units chased him and his friend, Orhan Isemi, on 11 May 2006. His body was discovered on 28 May 2006 in the Vardar river near the village of Tubarevo. On 16 June 2006, the ERRC and NRC submitted a letter of concern to the Prime Minister, Minister of Justice, Minister of Interior and the Public Prosecutor, in which they urge the respective authorities to undertake any and all measures available to ensure a swift, full, thorough and effective investigation into the death of Trajan Bekirov, and that any and all perpetrators involved in illegal actions in connection with his death be swiftly brought to justice. The organisations also urged further that authorities investigate the possibility of racial motive or animus in the circumstances leading to and/or surrounding Trajan Bekirov's death, in addition to seeking to determine whether other forms of wrongdoing have taken place.

The Institute for Judicial Medicine carried out an autopsy on Trajan Bekirov's corpse. This found that Bekirov's death was caused by drowning. The Skopje Public Prosecutor's Office decided that no indictment would be raised against the Alpha police due to lack of evidence related to the causal link between the police intervention and the death of the boy. Trajan Bekirov's parents believe that the initial police chase was influenced by racial considerations. They also allege an anti-Romani bias among Macedonian authorities. With the assistance of the Helsinki Committee for Human Rights the father filed a private criminal complaint against the Alpha unit. They believe that there was a clear reason-consequence connection between the way the police approached the children and their escape which resulted in the death of Bekirov.

- On 30 June 2005, police officers reportedly ill-treated three Romani men – Idaver Ramadanovski, Juksen Imeroski, Abdi Mamudovski – while in custody at the Kicevo police station. According to the testimonies of Mr. Idaver Ramadanovski and Mr. Mamudovski, at around 11:30 PM on the date in question, ethnic Albanians attacked their family in front of their house in the presence of two police officers, who did not intervene. One of the ethnic Albanians reportedly hit Dilaver Ramadanovski, a Romani man, on the head with a truncheon; he was taken immediately to hospital. The police officers then brought two of the Romani men, Mr. Idaver Ramadanovski and Mr. Mamudovski, to the police station to take statements. While driving to the police station, one of the officers reportedly started insulting and threatening the Romani men, saying such things as "You Gypsies will see what we are going to do to you at the station". At the police station, the Romani men were placed in separate rooms. Shortly thereafter, the detained men's cousin, Mr. Imerovski, who had heard what had happened, arrived at the police station to inquire after his cousins. According to his statement to

12 Helsinki Committee for Human Rights of the Republic of Macedonia Annual Report 2002, Para 4, (http://www.mhc.org.mk/eng/a_izveshtai/a_2002gi.htm).

13 Helsinki Committee for Human Rights of the Republic of Macedonia Annual Report 2003, Para 3.1, 6, (http://www.mhc.org.mk/eng/a_izveshtai/a_2003gi.htm).

14 The special Mobile Unit "Alpha" was established in 2005 by Ministry of Interior. According to the information provided by Ministry of Interior this special police unit has the mandate to counter the so-called "street crime" and to increase the citizens' security. The units operate in eight cities: Skopje, Stip, Kumanovo, Bitola, Prilep, Tetovo, Ohrid and Gostivar. However, data from the Ministry of Interior revealed that that the unit targets not only street crime, but also traffic violations, poaching, and other crimes (<http://www.moi.gov.mk/ShowAnnouncements.aspx?ItemID=2609&mid=1094>). Many persons have complained about instances of brutality perpetrated by this unit. The Macedonian Helsinki Committee on two occasions officially asked the Ministry of Interior about the legal basis of the mandate of "Alpha", but no reply was reportedly provided (Monthly report December 2005 – January 2006 1.1. "Accountability" of the Special Mobile Units – Alphas at http://mhc.org.mk/eng/a_izveshtai/a_2005-12-2006-01mi.htm#_ftnref3).

ERRC/NRC local monitor the officers reportedly took him into custody as well and began beating him in the hallway of the police station, where he subsequently fell unconscious. At this point, Mr. Ramadanovski was left alone in a room. When he heard the shouting and beating, he came out and saw his cousin being beaten. When they tried to help him, the officers also beat them, using rubber truncheons. After approximately one hour, the men were reportedly released. According to medical certificates issued by the JZO Medical Centre, Mr. Ramadanovski suffered injuries to his back, a 30-by-3 centimetre laceration to his right shoulder and blood loss. Mr. Imerovski sustained injury to his head and swelling, a 3-by-2 centimetre laceration on the back of his neck, and blood loss from three locations. Mr. Mamudovski sustained injuries to his back, lacerations, the largest being 10 by 2.5 centimetres, and blood loss. The victims filed a complaint against the officers responsible for maltreatment while on duty, according to Article 143 of the Criminal Code, however the police officers were declared innocent on 15 February 2007.

- At around 11:00 PM on 5 July 2004, three police officers reportedly beat Mr. Trajan Ibrahimov and Mr. Bergiun Ibrahimović, Romani men from Skopje, after approaching Mr. Ibrahimov's home in search of a fugitive, according to information provided to the ERRC by attorney Aksel Ahmedovski. Mr. Ahmedovski reported that Mr. Ibrahimov, Mr. Ibrahimović, and a young girl named Aisha Ibrahimova, also Romani, were sitting on porch of Mr. Ibrahimov's home, when the three officers approached, asking, "Are you the Gypsy who escaped from Idrizova prison?" Mr. Ibrahimov responded that he had never been in the Idrizova prison before, at which point one of the officers moved towards him holding a truncheon and stated that he would see if Mr. Ibrahimov was that person or not. The officer reportedly proceeded to beat Mr. Ibrahimov on his head and all over his body then a second officer grabbed him by the hair and also beat him with a truncheon. At this point, the third police officer reportedly told the other two officers not to beat Mr. Ibrahimovic because it was possible that he was not the man they were looking for. The third officer then left Mr. Ibrahimov's home. The two officers continued beating Mr. Ibrahimov until Mr. Ibrahimović and Aisha tried to stop the officers' assault. According to Mr. Ahmedovski, one of the officers handcuffed Mr. Ibrahimović and proceeded to beat him, also with a truncheon. When the officers finished beating the two Romani men, they placed them in their car. Aisha Ibrahimova begged the officers to let the men go, but was pushed aside roughly. Her right hand was injured as a result. The officers then took the Romani men to the police station where they were held for more than a day before being released. According to Mr. Ibrahimov's medical certificate number 1694 issued on 8 July 2004, he suffered injuries to his head, eyes and body. On behalf of Mr. Ibrahimov and Mr. Ibrahimović, the ERRC and Mr. Ahmedovski filed a criminal complaint concerning maltreatment in the execution of a public function with the Public Prosecutor's Office in connection with the incident. The victims also filed a private criminal complaint against the officers involved in the incident for inflicting bodily injuries.
- On 14 April 2004, Dehran Rusitovski, a 15-year-old Romani youth, was physically attacked by a police officer near the Sredorek Romani settlement in the Macedonian city of Kumanovo, according to the Roma Community Center DROM (DROM). DROM informed the ERRC that at around 11:45 PM on the date in question, Mr. Dehran Rusitovski was near the Sredorek Romani settlement with his sister Djulten when a police officer saw them and immediately began to brutally beat Dehran. The officer reportedly beat Dehran until he lost consciousness. After a short while, the officer brought Dehran to the police station where he continued to beat him while verbally abusing him. According to DROM, Dehran was only released from police custody when his father arrived at the police station. There was no criminal complaint filed by the family in fear of retaliation by the police.
- According to the Romani organisations Roma Rights Forum Arka (ARKA), DROM and Association for Human Rights Protection of Roma (ARRP), unidentified police officers physically abused and otherwise humiliated three Romani men at the police station in Prilep, Macedonia, on February 8, 2003. According to the information received, Mr. Jašar Ramadan, a 28-year-old Romani man from Bitola, Mr. Senad Ristemovski, a 21-year-old Romani man from Prilep, and Mr. Ejvaz Serifovski, a 19-year-old Romani man from Prilep, were walking in the centre of Prilep around noon on February 8, when they were stopped by two police officers who asked them to show their identification documents. After the Roma replied that they did not have their documents with them, the officers brought them to the Prilep police station and placed them in an office where they were joined by a second group of police officers, altogether totalling fifteen persons. Without any explanation, the officers present -- reportedly with the exception of two officers of supposed ethnic Albanian origin -- took turns beating the Romani youths. For at least five minutes, the officers beat the Roma with rubber truncheons on their hands. One of the officers occasionally also hit them on their bodies with a wooden club. After this, the officers interrogated the Roma in relation to the whereabouts of an elderly man whom the Roma had

allegedly beaten up. As the Roma denied knowing about this purported incident, the physical abuse continued. After some time, the officers questioned the Roma about an elderly woman and some money that had allegedly been stolen from her. When this crime was also denied, more violence followed. The beating reportedly made the young men feel so weak that they could no longer stand on their feet. The officers also ordered the young men, who were Muslim, to pray in the Muslim way. The Romani men refused to obey, after which the police officers reportedly physically abused them again and forced them to pray. The three men were released from the police station at around 4:30 PM, after they were forced to sign a statement that they had no complaints regarding their treatment at the police station. Following their release, they were diagnosed by medical practitioners as having sustained light bodily injuries. According to the parents of the young men, they were invited to the police station and threatened that their children would not be released before the parents signed statements that they would not press charges in relation to the case, and they eventually did so.

- On 7 February 2003, police officers physically abused two Romani men – 26-year-old Mr. Skender Sadiković and 25-year-old Mr. Memet Dalipovski – in Kumanovo, Macedonia, according to information by ARKA and DROM. In the early afternoon of February 7, two police officers reportedly arrived to the house of Mr. Dalipovski and searched his house without showing a warrant, reportedly looking for a safe stolen from a local church containing around 500,000 Macedonian denars. The officers then took Mr. Dalipovski with them and continued to the house of Mr. Sadiković in another Romani settlement. The officers searched the house of Mr. Sadiković with the same explanation, again without showing an appropriate warrant. According to the statements of the victim and eyewitnesses, the officers also beat Mr. Sadiković with their hands, in full view of his family and neighbours. After both the men were taken together to the Kumanovo police station at around 1:00 PM, they were taken to separate offices. In the course of the physical abuse that ensued, a group of five police officers, including two officers who brought Mr. Sadiković to the police station, put him in a chair and handcuffed him. The officers then beat him with instruments including the handles of axes, particularly on the lower part of his back. Under coercion, Mr. Sadiković confessed that the safe was at his home. This was not, however, true, and Mr. Sadiković later told representatives of local non-governmental organisations that the sole reason for his confession had been to secure release from the duress to which he was subjected by police officers. Separately, two police officers beat Mr. Dalipovski by punching him in the head until he fell to the floor. At that point, the officers were joined by three other colleagues and they all continued kicking Mr. Dalipovski with their feet as he lay on the floor, particularly on his ribs. In the course of the physical abuse, the officers also cursed the Romani men's ethnicity. It is reported that at a later point the police officers brought the Romani men together and forced them to fight each other, apparently to make it seem as if the injuries caused by the officers were caused by the men themselves. Mr. Sadiković was held at the police station for around six hours, after which the police officers told him that the real culprits had been identified, and they reportedly apologised to him. Mr. Dalipovski was held at the police station for approximately twenty-six hours, during which time officers physically abused him. He was then released with the same explanation. Officers reportedly warned him not to report his physical abuse. With the assistance of ARKA, both Romani men underwent medical examinations, during which their injuries were documented. The doctors emphasised the need for further hospital treatment, though Mr. Sadiković and Mr. Dalipovski did not have medical insurance and could not afford the expenses. Reportedly, several days after the abuse took place, the officers contacted the Romani men and offered to cover the medical expenses in exchange for an agreement whereby the men would not pursue complaints. When the Romani men refused the offer, the officers reportedly made unspecified threats.
- On 18 September 2002, Mr. Zija Dalipov, a 38-year-old Romani man, reportedly was beaten by three police officers in Štip, Macedonia. According to testimony provided to the ERRC/ARRP on 19 September 2002, at around 5:00 AM, Mr. Dalipov brought his wife, Ms. Amdije Vejselova, to the hospital in Štip for treatment. After Mr. Dalipov told the doctor that Ms. Vejselova, who had taken a mixture of nerve medication and alcohol, had cut him with a knife and he had grabbed the knife from her and cut her in reflex, the doctor notified the police. Mr. Dalipov stated that three officers came to the hospital -- one of whom he identified as Officer D.A. and the two unknown officers -- handcuffed him and repeatedly hit and kicked him for around fifteen minutes in the hallway of the hospital. Mr. Dalipov was then taken to the Štip Police Station. According to Mr. Dalipov, at the station, he was forced to face a wall and was tied to a radiator, at which time officers, whom he could not see, proceeded to beat him for approximately half an hour. After about two hours, the three officers took Mr. Dalipov to his home to find the knife. At his home, Mr. Dalipov testified, the officers beat him until he fell to the ground in the presence of his mother, Ms. Ramize Mustafafova, and his uncle, Mr. Bejzat Mustafafov. Mr. Dalipov was then pushed back into the police vehicle and taken back to the

police station where he was kept for three hours before being released. Ms. Mustafova notified the ERRC/ARRP of the incident. On the same day, Mr. Dalipov was treated at the Štip Medical Centre surgical division, however, he did not get a medical certificate for his injuries because he did not have medical insurance and could not afford to pay for one. The ERRC/ARRP wrote a criminal complaint at Mr. Dalipov's request, but it has not been filed because Mr. Dalipov had moved away from Štip.

- On 4 September 2002, around twenty-five police officers attacked a group of approximately one hundred and fifty Roma and ethnic Macedonians after the officers were called to the scene of a conflict between two Roma and five ethnic Macedonians in Kočani, Macedonia, according to the testimony of Mr. Erhan Hadzimintas, a 29-year-old Romani man, to the ERRC/ARRP on 5 September 2002. According to Mr. Hadzimintas, his taxi was parked in an area for taxis in front of the market in Kočani when an ethnic Macedonian man identified as "Čarli" parked his car behind his taxi. Mr. Hadzimintas reportedly told Čarli that the area was not for private cars; Čarli ignored him so he told him again. Čarli reportedly got out of his car and punched Mr. Hadzimintas. According to Mr. Hadzimintas, he hit Čarli back in self-defence and they began to fight. Four ethnic Macedonians, one of whom was later found to be a friend of Čarli's, sitting in the Stole café on the other side of the parking zone, saw the fight, left the café and began beating Mr. Hadzimintas. Mr. Hadzimintas told the ERRC/ARRP that, after a few minutes, his 21-year-old brother Mirsad arrived at the scene and was hit hard on his head when he tried to rescue him. After approximately fifteen minutes, four or five police officers arrived. Mr. Hadzimintas testified that one of the officers attacked him and Mirsad and attempted to arrest them without having first performed any investigation into the incident. However, at this time, around one hundred and fifty Roma and ethnic Macedonians had gathered at the scene and reportedly told the officers that Mr. Hadzimintas and his brother had not started the fight, but had been provoked by Čarli. The gathered people then reportedly began chanting "Where are the rights of Roma? Why don't you protect Roma?" They also reportedly threw sticks at the officers, at which point, the police officers called for backup. According to Mr. Hadzimintas, five minutes later another twenty police officers appeared. The officers began hitting people in the crowd with truncheons, causing injury to some of them. At this time, 44-year-old Mr. Veli Hadzimintas and 43-year-old Ms. Mazlimsha Hadzimintas, Mr. Hadzimintas' parents arrived at the scene. Mr. Veli Hadzimintas informed the ERRC/ARRP that he entered the Stole café to get information on the fight in which his sons had been involved, and when he came back outside, he found his wife lying on the ground. Veli stated that Mazlimsha told him that a police officer had hit and pushed her, causing her to fall to the ground. Veli witnessed the police punching, kicking and hitting people in the crowd with truncheons. Among the injured parties were 18-year-old Mr. Bajram Akiov, 30-year-old Mr. Bahirat Akiov, 15-year-old Gokman Akiov, 31-year-old Mr. Majer Gerchen, Ms. Hadzimintas and 28-year-old Mr. Ferus Jusufov, all Romani. Bajram and Bahirat Akiov obtained medical certificates of their injuries, which were listed as light injuries, including abrasions on their backs, bruises and head pain. According to the police, three officers were injured during the incident. Mr. Veli Hadzimintas, Mr. Bahirat Akiov and Mr. Jusufov were subsequently charged under Article 383(2) of the Criminal Code of the Republic of Macedonia, for attacking a law enforcement official. The ERRC is unaware of any legal actions undertaken against Čarli or the police officers involved in the incident.

2. B. Impunity for Perpetrators of Torture, Inhuman, Degrading Treatment or Punishment

In its previous review, the CPT delegation found that judges and prosecutors are not meeting their obligations regarding the prosecution of ill-treatment and other abuses of power by law enforcement officials. Even the President of the Judicial Council agreed that judges do nothing about allegations of abuse.¹⁵ The CPT recommended, as it had in previous reports, that prosecutors be told to ask for an investigation and judges to order a forensic exam when they receive any information regarding ill-treatment.

The report noted that the procedure for internal accountability did not function effectively, stating that the use of force was seldom investigated and individuals were hesitant to bring complaints out of fear of reprisals and out of a general expectation that no action would be taken. The Committee concluded that the situation had not improved, as "physical ill-treatment of persons deprived of their liberty by law enforcement agencies in the former Yugoslav Republic of Macedonia continues to be a serious problem, nearly five years after the first periodic visit when similar conclusions were reached". The Committee

¹⁵ Report to the Government of "[the former Yugoslav Republic of Macedonia](http://www.cpt.coe.int/documents/mkd/2004-29-inf-eng.pdf)" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Strasbourg, 9 September 2004, p. 20, (<http://www.cpt.coe.int/documents/mkd/2004-29-inf-eng.pdf>).

specifically pointed to the inaction of judges, public prosecutors and investigating police officers in fostering a “climate in which law enforcement officials minded to ill-treat persons believe – with very good reason – that they can do so with impunity”.¹⁶

In its latest report following its visit in 2006 CPT noted with concern that no follow-up action has been taken by the national authorities in response to the various cases involving ill-treatment and impunity that the Committee raised in its previous reports. It concluded that:

“Once a practice has been allowed to develop which permits law enforcement officials to apprehend, detain (sometimes outside the remit of the law) and ill-treat suspects without any fear of being held to account, terminating such a practice requires determined action. A first step should be to ensure a proper investigation into any allegations. In various cases examined over the past five years by the CPT it is clear that this first step has not happened and is still not happening.”¹⁷

The Committee recalled its previous assessments and declared that the situation remained unchanged over the last years. „Even when detained persons manifest visible injuries or do indicate to an investigating judge and/or prosecutor that they have been ill-treated, there is no guarantee that any effective investigation will be set into motion. Moreover, in respect of internal accountability procedures, the Committee has found that the manner in which police complaints were investigated did not meet the principles of an effective investigation as set out in previous CPT visit reports.”¹⁸

The Committee noted that in the course of their 2006 visit, many of the persons who alleged ill-treatment by law enforcement officials claimed that the judges who remanded them into custody paid no attention to such allegations, even when they made a formal statement and displayed visible injuries. Moreover, when injuries were noted following the initial medical examination of newly remanded prisoners there was no automatic process for informing the prosecutor's office and initiating proceedings.¹⁹ The Committee concluded, that „the fight against impunity ...was left to non-governmental organisations and the Ombudsman's Office, as opposed to the Ministry of Interior and the Prosecutor's Office.”²⁰

ERRC and NRC documented several cases which indicate that law enforcement officials still act with impunity in cases of abuse of Romani individuals. For instance:

- In relation to the above-noted June 2005 case in Kicevo, ERRC/NRC documentation reveals that the Kicevo Public Prosecutor declined to start a procedure against the accused officers. The Kicevo Public Prosecutor's decision stated the following:

Based on the petition itself and the stated facts and evidence, it can be inferred that the injuries of Mr. Ramadanovski, Mr. Imerovski and Mr. Mamudovski occurred in front of the Mamudovski house and in front of the Department of Interior Affairs between the ethnic Albanian and Romani families or in the legal action of the police in normalising public peace and order [...]. The Public Defender will not initiate a procedure at the request of the damaged persons and if they think that the police officers caused them bodily injuries they can initiate a private lawsuit at the Primary Court in Kicevo.

The investigative judge then issued a decision that the investigative procedure against officers Kire Bogoeski and Medin Letniku be stopped, based on the Kicevo Public Prosecutor's decision. Mr.

¹⁶ Ibid, para. 124.

¹⁷ Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Strasbourg, 13 February 2008. (<http://www.cpt.coe.int/documents/mkd/2008-05-inf-eng.pdf>) p. 20.

¹⁸ See CPT/Inf (2003) 3, paragraphs 28, 34, and 56 to 64; CPT/Inf (2003) 5, paragraphs 13 to 32; CPT/Inf (2004) 29, paragraphs 28 to 33; and CPT/Inf (2006) 36, paragraphs 17 to 37. Quoted in the Report to the Government of "the former Yugoslav Republic of Macedonia" on the visit to "the former Yugoslav Republic of Macedonia" carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Strasbourg, 13 February 2008. (<http://www.cpt.coe.int/documents/mkd/2008-05-inf-eng.pdf>) p. 23.

¹⁹ Ibid.

²⁰ Ibid.

Ramadanovski, Mr. Imerovski and Mr. Mamudovski filed a private lawsuit at the Kicevo Primary Court, with legal representation provided by the ERRC and NRC.

- Related to the aforementioned 7 February 2003 case of police abuse of Mr. Sadiković and Mr. Dalipovski from Kumanovo, the Skopje-based daily newspaper Dnevnik reported on 28 February 2003, that the officers had been disciplined with fines amounting to the Macedonian denar equivalent of a mere 15 Euro per person. The fines were not, however, levied on grounds of physical abuse, but rather reportedly for the inadequate conduct of the investigation. Officials at the Macedonian Ministry of Interior stated that the Ministry was conducting an investigation into the case. On 6 March 2003, the ERRC sent a letter of concern to the Macedonian Prime Minister Branko Crvenkovski urging his office to undertake measures to ensure that these reports of police abuse against Roma were thoroughly and impartially investigated, and that any and all persons guilty of crimes in connection with the cases are prosecuted to the fullest extent of the law. The ERRC received no response to its letter.
- A Romani man and a soldier were reportedly wounded in an incident that occurred in the training area of the Macedonian Army in the Macedonian village of Krivolak on 4 February 2002, at approximately 6:00 PM. According to an article published on 6 February 2002 in the Skopje daily *Večer*, the incident took place when an army patrol intercepted a group of Romani civilians who were driving two carts loaded with wood. According to the paper, the patrol asked the group to stop, which they failed to do. As the group continued to approach the patrol, one of the soldiers fired a warning shot in the air. After this, the cart reportedly continued moving towards the soldiers, and ran over one of them, causing him bodily injury. In response, the other soldiers fired three shots at the group, and wounded a civilian. Both wounded persons were given first aid and taken to a medical institution in the nearby town of Negotino. However, research by the ERRC and the Association for Human Rights Protection of Roma (ARRP) revealed a different account of the same incident. According to eyewitness testimony, Mr. Same Šabanovski, his son Senad Šabanovski, Mr. Memet Ametov, Mr. Beki Memkov and Mr. Sandokan Ustinov were driving two carts loaded with firewood towards the village. On their way, they were met by a group of at least five Macedonian soldiers. Reportedly, one of the soldiers immediately fired in the air. The patrol then surrounded the carts and directed the Roma to drive towards the military barracks. At a crossroad on the way, the soldiers fired in the air again and scared one of the horses, which caused it to run in the opposite direction, while the cart it dragged ran over one of the soldiers. At this point, the other soldiers from the group reportedly started firing shots, despite shouts from Mr. Šabanovski, who was in the cart, that they should not do it because it would only scare the horse even more. One of the bullets hit Same Šabanovski's right leg under the knee and he fell off the cart. As the horse continued running away, the soldiers shot it from behind. The soldiers reportedly refused to assist the wounded Mr. Šabanovski, using offensive terms against Roma, and then left. Only when another group of soldiers arrived on the spot was a car called to take Mr. Šabanovski to the Negotino medical centre, from which he was first transported to the town of Veles and later to Skopje, where he was held in a hospital in intensive care and the bullet was removed from his leg. Mr. Šabanovski remained in hospital until 4 March 2002. According to a certificate issued by the Skopje Medical Center, Mr. Šabanovski was again hospitalised from 22 March 2002, as a result of his injuries from the shooting. ARRP wrote letters to the Ministry of Interior of Negotino on 13 February 2002; the Public Prosecutor's Office in Kavadarci on 14 February 2002; and the Public Prosecutor's Office in Skopje on 18 February 2002. On 1 March 2002, the ARRP was informed by the officials of the Ministry of Interior in Negotino that they should refer to the Ministry of Interior of Skopje, while on March 6, they were told by the Public Prosecutor's Office in Skopje that the office of the Ministry of Interior in Negotino was conducting the investigation into the case. As of 27 June 2002, no official decision had been rendered in connection with the case. The ARRP has been providing legal assistance to the Romani victims of this incident.

On 15 February 2007 the European Court of Human Rights ruled that Macedonia violated Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in connection with the ill-treatment by the police of Mr Pejrusan Jasar, a Macedonian national of Romani ethnic origin. On 16 April 1998, Mr Jasar, a Romani man from Stip, Macedonia, was in a local bar where gambling took place. One of the losing gamblers complained that the dice was fixed, drew a firearm and fired several gunshots. Several police officers were called to the bar. Mr Jasar maintains that police officers grabbed him by his hair and forcibly placed him in a police van. During his detention in police custody, he was kicked in the head, punched and beaten with a truncheon by a police officer. The medical report issued immediately after Mr Jasar was released the next morning stated that he had sustained numerous injuries to his head, hand and back. In May 1998, Mr Jasar, represented by local attorney Mr Jordan Madzunarov, in cooperation with the ERRC, filed a criminal complaint with the public prosecutor against an unidentified police officer. More

than eight years later, no steps were taken to investigate the complaint. At the same time, Mr Jasar also began civil proceedings for damages against the State, which were dismissed in October 1999. Having exhausted available domestic remedies, the ERRC and Mr Jordan Madzunarov filed a claim on behalf of Mr Jasar against Macedonia on 1 February 2001 with the European Court of Human Rights. The applicant complained under Article 3 of the Convention that he had been subjected to acts of police brutality amounting to torture, inhuman and/or degrading treatment. Mr Jasar also argued that the prosecuting authority's failure to carry out any official investigation capable of leading to the identification and punishment of the police officers responsible for the ill-treatment constituted a procedural violation of Article 3. Finally, Mr Jasar argued that he did not have access to an effective remedy with respect to the prosecuting authority's failure to investigate his allegations of ill-treatment, in violation of Article 13 of the Convention, read in conjunction with Article 3.

In its ruling, the European Court of Human Rights recalled that where an individual makes a credible assertion that he has suffered treatment infringing Article 3 at the hands of the police or other agents of the State, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention", requires that there be an effective official investigation. Such an investigation should be capable of leading to the identification and punishment of those responsible. The Court emphasised that, "it is particularly striking that the public prosecutor did not undertake any investigative measures after receiving the criminal complaint." The Court also noted that "the national authorities took no steps to identify who was present when the applicant was apprehended or when his injuries were received, nor is there any indication that any witnesses, police officers concerned or the doctor, who had examined the applicant, were questioned about the applicant's injuries. Furthermore, the public prosecutor took no steps to find any evidence confirming or contradicting the account given by the applicant as to the alleged ill-treatment... In addition, the inactivity of the prosecutor prevented the applicant from taking over the investigation as a subsidiary complainant and denied him access to the subsequent proceedings before the court." Having regard to the lack of any investigation into the allegations made by Mr Jasar that he had been ill-treated by the police while in custody, the Court held that Macedonia violated Article 3 of the Convention and awarded non-pecuniary damages to the victim. Two are two other cases of similar legal nature filed by Romani victims of police abuse await decision by the European Court of Human Rights.²¹

The Stip-based NGO "Cerenje" reported that within 8 months following the judgment of the European Court Mr. Jasar was again severely beaten by the police. The incident happened on November 2, 2007 around 10.30 am, when the police detained Pejrushan as guardian of his nephew Turkmen who was allegedly involved in a theft. While he was in the police vehicle, the officers offended and threatened him for talking in Romani language with his nephew. Later on he was beaten in the police station with clubs and wooden sticks and a policeman even kicked him. The ambulance arrived around 11.00 upon the call of a representative of "Cerenje". Pejrushan Jashar was hospitalized for several days as he sustained a broken rib and contusions.

2. C. Statutes Contributing to Impunity

The Macedonian Criminal Procedure Code (CPC) states, at Article 16, that formal criminal proceedings can be instituted at the request of an authorized prosecutor who can either be a) the public prosecutor or b) the victim herself. All criminal offences provided for by law are prosecuted *ex officio* by the state, i.e. through the public prosecution service, unless the Criminal Code explicitly states otherwise. With respect to the crime at issue, i.e. the crime of Torture under Article 142 (2) of the Criminal Code, there is no such provision. Accordingly, it falls within the category of those prosecuted by the state.

Article 42 (1) of the CPC sets forth that the prosecution of criminal offences specified as crimes prosecuted *ex officio* is both a basic right and an obligation of the public prosecutor. The public prosecutor's authority to decide whether to prosecute in such cases is bound by the principle of legality set out in Article 17 of the CPC. This principle dictates that, in cases to be prosecuted by the state, the prosecutor is duly bound to prosecute when there is probable cause to believe that a criminal offence has been committed. It makes no difference whether the prosecutor initially learned of the incident from a criminal complaint filed by the victim or another person, through media reports, or indeed even if s/he had "only heard rumours" to that effect. A decision not to prosecute despite clear indication of a criminal act having been committed,

²¹ Dzeladinov and Others v. Macedonia (13252/02), Sulejmanov v. Macedonia (69875/01).

unjustified delay in reaching the decision on whether to prosecute or not, as well as selective prosecution of only certain individuals at issue and not all of those responsible, all constitute violations of this principle.²²

Provisions of Articles 42 (2) and 144 (2) of the CPC, *inter alia*, authorise the public prosecutor to undertake measures necessary for the investigation of crimes prosecuted *ex officio* and the identification of the alleged perpetrators. To that end, the public prosecutor is entrusted with coordinating the work of various law enforcement agencies, as well as of other government bodies. Furthermore, when the identity of the alleged perpetrator of a criminal offence is unknown, under Article 148 of the CPC, the public prosecutor can, through law enforcement agencies or with the assistance of the investigating judge, request the necessary information and/or take the necessary steps in order to identify the individual/s at issue. All of this precedes possible subsequent commencement of a formal judicial investigation -- one which can only be undertaken against a known, i.e. identified, individual.

If the public prosecutor finds, based on the evidence before him, that there is reasonable suspicion that a certain person has committed a criminal offence prosecuted *ex officio*, he must request the investigating judge to institute a formal judicial investigation in accordance with Articles 150 and 151 of the CPC. On the other hand, if the public prosecutor decides that there is no basis for the institution of a formal judicial investigation, under Article 144 (1) of the CPC, he must inform the complainant/victim of this decision, who can then exercise his prerogative to take over the prosecution of the case on his own behalf -- i.e. in the capacity of a "private prosecutor".

This seemingly precise legal provision contains a defect that creates a major potential for abuse. Namely, the CPC sets no time limit in which the public prosecutor, following the lodging of a criminal complaint by the victim, must decide whether or not to request a formal judicial investigation into the incident at issue. Furthermore, without the formal prosecutorial decision to dismiss the criminal complaint filed by the victim, the victim herself cannot take over the prosecution of the case on her own behalf. Prosecutorial inaction following a complaint filed by the victim therefore amounts to an insurmountable impediment in the exercise of the victim's right to act as a "subsidiary prosecutor" and to have her case heard before a court. A simple stalling tactic by the public prosecutor's office will be effective in thwarting this right.

In these circumstances, if the public prosecutor simply ignores a criminal complaint filed by the victim regarding a crime prosecuted *ex officio*, the only thing the victim can do is to wait for a prosecutorial decision or, alternatively, to urge the public prosecutor to take action as provided for by law.

Finally, even if there were a legal possibility for the victim to file for a formal judicial investigation because of the inaction of the public prosecutor, this would in effect be unfeasible where the police and the public prosecutor have failed to officially identify the alleged perpetrator or perpetrators. Article 151 (3) of the CPC provides that the person against whom a formal judicial investigation is requested must be identified by name. Such a request cannot be filed if the alleged perpetrator is unknown.

²² According to the Guidelines on the Role of Prosecutors, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990:

"Prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest." (Section 11).

"Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system." (Section 12).

"In the performance of their duties, prosecutors shall: (a) Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination" (Section 13 (a)).

"Prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognised by international law and, where authorized by law or consistent with local practice, the investigation of such offences." (Section 15).

2. D. Intimidation Preventing Victims from Reporting Abuse and Impeding the Judicial Process

With regard to intimidation and fear, the CPT noted that as a result of the use of force being seldom investigated, individuals were hesitant to bring complaints out of fear of reprisals. The ERRC and NRC documentation confirms that this continues to be the case.

Further to fear causing victims to hesitate to report cases of abuse, such intimidation colours the actions of other key players, having a heightened impact on the greater judicial process as a whole. The UN Commission on Human Rights includes in their report on their Mission to the former Yugoslav Republic of Macedonia issued in January 2004,²³ interviews indicating that “discrimination on the basis of ethnicity”, as “a fundamental characteristic of many human rights violations within the former Yugoslav Republic of Macedonia”, posed major challenges for non-governmental organisations in their work defending victims of ill-treatment and abuse by police. Specifically, the report pointed to indications that “[...] a heavy police presence has been used to intimidate witnesses, lawyers, judges and others involved in the judicial process with the intention of preventing them from taking action on human rights violations.”

The report went on to state that those who defend human rights are at risk and that the lack of domestic remedy for these human rights violations was cited as one of the reasons human rights defenders looked to international remedies. The report also cited the following as factors as further contributing to impunity: the Ombudsman’s office is not an effective remedy; lawyers defending human rights are difficult to find; the lack of accountability even when the abuses are known is a significant impediment; the complaints procedure is not transparent and encourages impunity; and the judiciary is not independent.

The findings of ERRC/NRC monitoring activities confirm that, still today, many cases of police violence are not reported at all. In general, Romani victims of police ill-treatment continue to disclose fear of filing complaints against police officers allegedly responsible for such acts. For example:

- Mr. I.S. and his son were beaten by a gas station employee and subsequently by police officers outside a border crossing in Tabanovce. In a statement to ERRC/NRC monitors, he discussed the incident and his hesitance to report it:

“I saw the man who was maintaining the WC attack my son, grabbing him by the neck and hitting him. I defended my son. The attacker was a big man, and he hit me several times, but I also hit him. The fight did not last very long because the police saw us and reacted immediately. The maintenance man cursed at us calling us all kinds of words, saying things such as, "You dirty Gypsies, people can't go to the bathroom because of your children". After this, the police brutally chased away all of the Romani families present. We often have problems with the police. That day was not the first time that they drove us away like that. They often hit us and threaten to take our children away. The worst is the border police. They chase us down for 2-3 kilometres. They insult us, but we keep quiet in order not to provoke them. We did not report the fight at the bathroom to the police [...] there were also people there who were witnesses, but they also drove us away.”²⁴

2. E. Widespread and Pervasive Anti-Romani Racism and Discrimination Providing a Climate for Covenant Abuses

The European Court of Human Rights has on a number of occasions ruled that racial discrimination may, in itself, amount to degrading treatment within the meaning of Article 3 of the European Convention for Human Rights.²⁵ In its June 2003 report, the Office of the United Nations High Commissioner for Human Rights issued a report stating that despite achievements in the implementation of the 2001

²³ “Promotion and Protection of Human Rights: Human Rights Defenders”, Report submitted by the Special Representative of the Secretary-General on the Situation of Human Rights Defenders, Hina Jilani, 15 January 2004, E/CN.4/2004/94/Add.2

<http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/6edf364688b31535c1256e4a00380110?Opendocument>

²⁴ ERRC/NRC interview with Mr I.S., Bitola, 8 August 2006.

²⁵ *East African Asians v. the United Kingdom*, Commission Report, 14 December 1973, DR 78, p. 5, at p. 62. and most recently in *Moldovan and others v. Romania*, Applications Nos. 41138/98 and 64320/01, Judgment No. 2, 12 July 2005.

Framework Peace Agreement, the level of enjoyment and respect of human rights in Macedonia has not improved significantly and allegations of racial discrimination against and police abuse of Roma continue.²⁶

Another approach developed in international human rights law has been to take into account the vulnerability of victims of ill-treatment as disclosed by their membership to groups that have been subjected to pervasive and systematic discrimination over a very long period of time. Such groups may be defined by age, sex, ethnicity, health status, liberty status, etc. A growing consensus is forming or has formed that individuals belonging to these marginal groups are entitled to a heightened level of human rights protection.²⁷ Membership in historically disadvantaged ethnic minority groups routinely appears in texts concerning the conduct of law enforcement alerting them to that group's special status and needs. Thus, the *European Code of Police Ethics* provides in its Principle 49, that "Police investigation [...] shall be sensitive and adaptable to the special needs of persons, such as [...] minorities including ethnic minorities".²⁸

Whatever the theoretical approach used, whether racial discrimination as a harm in itself or racial discrimination as a factor leading to vulnerability, a given level of physical abuse is more likely to constitute inhuman or degrading treatment or punishment when motivated by racial animus and/or coupled with racial epithets, than when racial considerations are absent.²⁹ This is particularly true when the victims are members of a group that has been subjected to pervasive and systematic discrimination over a very long period of time.

In May 2004, the Council of Europe Advisory Committee for the Framework Convention for the Protection of National Minorities issued an Opinion on the former Yugoslav Republic of Macedonia in which it found that:

"[...] discrimination suffered by persons belonging to the Roma community occurs in various fields [...]. The Roma are in a particularly vulnerable position and are often the victims of discrimination and prejudice, even being refused entry into public swimming pools. [...] Roma continue to live in settlements with no clear legal status or infrastructure, and face discrimination in access to health, social services and employment. Roma continue to find it difficult to qualify for citizenship. They face prejudice in the media and the refugees from the Kosovo war "live in precarious conditions" and do not have access to fundamental rights. The Committee remains worried about education access for Roma and employment discrimination."

Documentation by the ERRC/NRC indicates that Roma in Macedonia suffer widespread discrimination in various sectors including housing, health, social services, education and employment. The following cases are illustrative of the discrimination faced by Roma in Macedonia:

- Mr. Kamil Rustemovski, hired through the employment bureau in Bitola as a person with special needs, was working on a three-year contract with Euro Trejd when the company terminated his employment without justification. He was told he would receive a telephone call shortly but months passed and the company refused to return his calls. NRC quoted him as saying: "No one is doing anything. I do not know where else to turn or what to do. I have three children who attend school but I do not have the means to send them there and I do not receive social welfare." Mr. Rustemovski is persuaded that his ethnicity was a key factor in his treatment by the company.

26 United Nations High Commissioner for Human Rights, *Europe, Central Asia and North America Region Quarterly Reports of Field Offices*, 2 June 2003, p. 17.

27 Alexander H.E. Morawa, *Vulnerability as a Concept of International Human Rights Law*, *Journal of International Relations and Development*, (2003) 6(2), 139-155.

28 *The European Code of Police Ethics*, Recommendation Rec(2001)10 adopted by the Committee of Ministers of the Council of Europe.

29 In addition, the definition of torture used by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment includes explicit recognition that certain acts motivated by discrimination can constitute torture. "For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

- Based on the report of ERRC/NRC's local monitor from November 2005 Ms. Sevdjul Abdiev and her family have, for more than ten years, lived in social housing in a state of severe dilapidation and that in 2005 began to fall apart. Ms. Abdiev stated that her youngest child has become ill as a result. When Ms. Abdiev requested a different house from the Social Service Centre, employees refused to assist her. With the assistance of the non-governmental organisation Bairska Svetlina, Ms. Abdiev returned to the Social Services Centre and still no one would assist her. Ms. Abdiev and her family still live in the same substandard social flat. NRC believe that the treatment of Ms. Abdiev must at least partly be attributed to anti-Romani sentiment.
- In September 2005, Ms. E.D., an 18-year-old Romani student from Tetovo, testified to the ERRC/NRC that since the beginning of the school year her teacher, Ms. Elena Lentik had been subjecting her to unfair treatment and discrimination. For example, during a lesson one day while Ms. Lentik was dictating notation to the students who in turn were making notations in their notebooks, E.D. ran out of writing space in her notebook. When E.D. made Ms. Lentik aware of this, Ms. Lentik grabbed the notebook, threw it in the trash and shouted at E.D. expelling her from the class and marking her absent for the day, which amounted to a failing grade for that day's lesson.
- A tobacco company in Prilep published an advertisement for employment in local newspapers on 16 June 2006. The advertisement appeared for seven days. The information about the employment opportunity spread amongst the Romani population. On 23 June 2006, Mr. Kazimoski Bilent, a 24-year-old Romani man and his friend, Ademoski Orhan (a 35-year-old Romani man) submitted the necessary papers and inquired about the number of the Romani applicants. They were informed that from the 400 applicants about 80 were Roma. Two days later the list of employees was announced and only one Romani person was hired. Mr. Atanas Gagaleski, the manager for employment of the Tobacco factory stated to the ERRC's local monitor that the employer has the right and the freedom to employ people in his own criteria. "The employer decides whether he will take Nesime or Atanas", said the manager apparently confirming that the choice was made according to the name and the surname of the applicants, which reveal the ethnic background.

3. Article 2, 3, 7, 26: Discrimination against Women, Violence by State-Actors, Domestic Violence

During 2005, the ERRC, together with the Skopje-based Roma Centre of Skopje and the Open Society Institute's Network Women's Program, undertook documentation on Romani women's rights issues in Macedonia. Two hundred and thirty seven interviews were conducted in 11 towns around the country. In 34 cases, the woman reported the violence to law enforcement officials. In 20 (59%) of these, law enforcement officials subjected the woman to further degrading treatment on racist grounds, usually in the form of insults about the "Gypsy" origin of the victim. In only 5 out of 34 reported cases (15%) did the police actually intervene. There is thus also a gender-basis to Covenant harms against Roma in Macedonia, arising from the subordination of Romani women in Macedonia, and perpetuated by the failure by Macedonian authorities to act adequately if at all to end extreme practices such as the abuse of women – including in particular minority women – by public officials, as well as widespread practices of domestic violence, including domestic violence in the Romani community.

In addition to these, from the interviewed women:

- 143 (around 60%) have experienced discrimination and/or related harms in the educational system;
- 63 (around 25%) have experienced discrimination in access to employment; and
- 113 (around 48%) have experienced discrimination in access to health care.

Of 143 women reporting discrimination and/or related harms in education:

- 57 (around 40%) reported cases of discrimination by their teachers;
- 30 (around 21%) experienced direct acts of harassment at the hands of their classmates; and
- 15 (around 11%) reported discrimination by other school staff.

Of 63 interviewees who stated that they had experienced discrimination in access to employment:

- 27 (around 43%) were reportedly rejected by business owners because "Roma are not appropriate for the job", or for similarly explicitly racially discriminatory reasons.

- 22 (around 35%) experienced discriminatory working conditions: They reported either being forced to work longer hours than non-Roma or being transferred to other positions with lower salaries and possibilities for career development.

Out of 113 interviewees who stated that they experienced discrimination in the health system:

- 65 (around 57%) described mistreatment and/or humiliating racial epithets by doctors; and
- 48 (around 42%) reported being insulted by other medical personnel (including nurses, cleaners, etc).

4. Article 14, 27 : Equality before the Courts and Right to a Fair Trial, Rights of Persons Belonging to Minorities

As noted above in section 2. C the Macedonian statutes provide no adequate guarantees for access to court of the victim in case of the inaction of the prosecutor. This and the pervasive anti-Romani racism and discrimination in Macedonia provide a climate for further covenant abuses.

In its 2007 assessment CERD expressed concern related to Macedonia's implementation of the legislation concerning the use of "non-majority" languages in civil, criminal and administrative proceedings as they are not systematically applied by courts and other institutions. The Committee called for the effective implementation of the legislation in judicial proceedings, inter alia by ensuring that judges, lawyers and the other parties of judicial proceedings are fully aware of these provisions. The Committee also recommended that Macedonia recruit additional professional translators and interpreters in all "non-majority" languages used locally.³⁰

5. Article 12, 16: Right to Recognition as a Person before the Law and Protection from Expulsion

Access to personal documents is a particular concern for Romani individuals in Macedonia, and problems in this area impact access to all other rights. For example, according to research conducted in early 2006 by the NRC in Kumanovo's Sredorek Romani neighbourhood:

- of 2,497 Romani individuals, 164 (6.6%) did not possess birth certificates;
- and of 1,182 Romani individuals over the age of 18, 222 (18.8%) did not have official identity cards.

Primarily due to obstruction by Macedonian officials, it is estimated that approximately 2,000 Roma in Macedonia have not yet managed to acquire Macedonian citizenship, despite legal amendments specifically aimed at facilitating their access to Macedonian citizenship. These persons have been deprived of the most basic element of participation in Macedonia society since Macedonia declared independence in 1991, and, as a result of not possessing Macedonian citizenship, are excluded de jure from a number of entitlements crucial for realizing fundamental Covenant rights. These facts are noteworthy in light of the decade-long pressure the Macedonian government has been under once and for all to resolve this issue.

In its assessment last year the CERD expressed its concern about the difficulties that some Roma experience in obtaining personal documents and in the light of its general recommendation No. 27 (2000) on discrimination against Roma, urged Macedonia „to take immediate steps to remove all administrative obstacles that currently prevent Roma from obtaining personal documents that are necessary for the enjoyment of economic, social and cultural rights, such as employment, housing, health care, social security and education.”³¹

The specific situation of the approximately 2,000 Kosovar Romani, Ashkali and Egyptian (RAE) refugees living in Macedonia also deserves particular mention. Persons in this category are even more vulnerable because of their tenuous status in the country, which includes living under durable, long-term threat of forced expulsion from Macedonia. This is the result of the Macedonian government's failure to establish effectively the status of such persons living in Macedonia during the seven years following the Kosovo

³⁰ CERD/C/MKD/CO/7

³¹ CERD/C/MKD/CO/7

conflict.³² During the first years after the conflict, the Macedonian government regulated their status through a group-based temporary protection mechanism which it renewed every six months, usually at the last minute before expiry of the status, provoking repeated duress and extreme anxiety among the persons concerned. In August 2003, under international pressure, the government altered its approach and invited these persons to apply for asylum on an individual basis, following adoption of a new law on asylum.³³ Despite the elapse of over eight years since the refugees first arrived however, neither the group protection mechanism nor the offer to apply for asylum under the new law have proven effective as modes of integration for these persons, and on a number of occasions, Macedonian officials have stated that they expect most of the refugees to leave. Persons refused asylum in Macedonia have subsequently received asylum elsewhere, confirming widespread views that the Macedonian judiciary may be incapable of examining asylum applications independently. A number of the Kosovo RAE refugees currently in Macedonia are currently accommodated in private housing in the Suto Orizari municipality of the capital Skopje. Their monthly rental costs have been paid by the UNHCR as Macedonian law precludes them from working legally.

The Committee on the Elimination of Discrimination in June 2007 and recommended that “the Law on Asylum and Temporary Protection be reviewed so as to guarantee a fair and efficient application of procedures for the determination of refugee status based on the merits of the individual claims submitted.”³⁴

6. Article 24, 7, 26: Discrimination, Degarding Treatment of Romani Children

Violations of the right of Roma to education take the form of discriminatory and segregationist practices, such as the segregation of Romani children into so-called “Roma classes”, in classes for the mentally disabled or even within classrooms; racially-motivated abuse in school; and the apathy of Macedonian school authorities in combating low attendance and high drop-out rates among Romani school-age children and, in particular, Romani girls.

For instance, during the 2005-2006 school year, school authorities placed five Romani pupils were placed in segregated “Roma-only” classes in the Goce Delchev elementary school in Gostivar, Macedonia, according to the Macedonian national newspaper *Vreme* of 26 April 2006. *Vreme* quoted Mr Reis Jonuzi, the pupils’ teacher, as having stated that the classes were formed because the ethnic Macedonian and Albanian teachers in other classes will not accept the children in their classes. When classes started in September, the class reported had fifteen children. However, the 10 ethnic Macedonian children in the class were quickly transferred to other classes. According to *Vreme*, Mr Jonuzi believes that if the school was not discriminating against the Romani pupils, they would also have been transferred to other classes shortly after the school year began. The article stated that the same situation prevailed during the 2004/2005 school year.

In school, Romani children face prejudice, exclusion and abuse by school authorities, teachers and other pupils. Discrimination and prejudice influence the experiences of Romani children in the classroom and very often form the primary incentive for dropping out of school. Fifty-seven percent of Roma interviewed by the ERRC, the Roma Centre of Skopje (RSC) and the Ntework Women’s Program (NWP) in 2005 indicated that the attitude of their teachers had greatly influenced their educational careers. For example, 29-year-old N.P. from Skopje stated that her high school professors used to state: “What is this Gypsy girl doing in this school? You Gypsies do not learn properly [...]” Ninety percent of the Romani women who reported that they experienced discrimination in school stated that other children in their class called them “Gypsies” and did not want to communicate with them. Twenty-year-old F.S. from Kumanovo, the only Romani pupil in her class, was beaten and mistreated by her ethnic Macedonian classmates “every day” until she dropped out of school in the second grade.

³² Speaking on the Kosovar Romani refugee population in Macedonia at a meeting in Pristina in March 2005, Ms Cathrine Walker, a UNHCR Macedonia representative, stated that there were 719 asylum seekers, 28 recognised refugees and 1,234 persons with temporary humanitarian protection status.

³³ Although the 1951 Convention relating to the Status of Refugees has been in effect in Macedonia throughout the entire period since arrival of these refugees in 1999, the Macedonian government has rigidly maintained that, without implementing domestic legislation, it could not be applied.

³⁴ CERD/C/MKD/CO/7

The low level of educational attainment greatly impacts all other areas of life. As a result of the low levels of education held by a great number of Roma in Macedonia, many Roma who do succeed in accessing employment are engaged in only the least paid and unskilled forms of employment, usually in the form of hard physical labour.

More than 10 women reported that their teachers beat them as a method of discipline: “[...] I was in the 6th grade when my teacher hit me with a stick on my shoulder because I didn’t do my homework [...]”, said 18-year-old A.S. from Skopje, currently in high school. In several cases in which Romani parents complained about such behaviour to school directors or teachers, their remarks were not taken seriously. “When I was in the 5th grade, our classmates called us ugly names and always made fun of us. We went to the school director with our parents but he told us that he did not have time to deal with our stupid problems”, said 17-year-old D.N from Prilep, who dropped out of school in the 5th grade.

6.A Segregation as a Violation of Human Dignity

According to the jurisprudence of the European Court of Human Right, degrading treatment may, in addition to physical injury, include mental suffering³⁵ and is defined as treatment that “grossly humiliates [an individual] before others or drives him to act against his will or conscience.”³⁶ It is clear that “the humiliation or debasement involved must attain a particular level” of ill-treatment which also depends on the specific facts of each case.³⁷ In this regard, the Court has itself decided that, in considering claims of violation of Article 3, it will take into account a range of factors “such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age, and state of health of the victim, etc.”³⁸ The rationale for taking account of the victim’s sex, age and state of health in assessing whether Article 3 of the European Convention of Human Rights has been violated is clear – the level of ill-treatment required to be “degrading” depends, in part, on the vulnerability of the victim to physical or emotional suffering.

In the admissibility decision in the *D.H. and Others v. the Czech Republic* educational segregation case,³⁹ the European Court again confirmed that a treatment may qualify as degrading and thus also fall under Article 3 if it humiliates or debases a person, if it is indicative of a lack of respect for his or her personal dignity, that is, diminishes it, or if it arouses feelings of fear, anguish or inferiority in the person that are capable of breaking the victim’s moral or physical resistance.⁴⁰ Moreover, it stated that “the Court does not rule out the possibility that a treatment based on prejudice on the part of the majority population towards a national minority may fall under the scope of Article 3. In particular, the feelings of inferiority or humiliation caused by a discriminatory segregation in the area of education could, in exceptional circumstances [...] come under the effect of this provision.”⁴¹

In the landmark case of *Brown v. Board of Education*, the United States Supreme Court stressed that racial segregation in education deprived children of the minority group of equal educational opportunities, reasoning, in part, as follows: “To separate [children] from others of similar age and qualifications solely because on their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.”⁴²

The psychological research conducted among Romani children in the Medimurje region in Croatia in 2002 demonstrates the psychological effect of segregated education on the pupils.⁴³ The research revealed that: most children never experienced friendship with non-Romani children; 86,9 percent said that they wanted non-Romani friends; 84,5 percent said that they wanted to be in the same class with non-Romani children;

35 See, for example, the *Greek case*, Commission Report of 5 November 1969, Yearbook XII (1969), p. 461; *Ireland v. United Kingdom*, 2 EHRR 25 (1979-80), para. 167; or *East African Asians v. UK*, 3 EHRR 76 (1973), para. 189.

36 The *Greek case*, Yearbook XII (1969), p. 186; CM Res DH (70) 1.

37 *Tyrer v. UK*, para. 30

38 *Ireland v. United Kingdom*, 2 EHRR 25 (1979-80), para. 162.

39 Admissibility decision in *D.H. and Others v. the Czech Republic*, No. 57325/00.

40 *Valasinas v. Lithuania*, No. 44558/98, § 117, *Pretty v. United Kingdom* § 52.

41 Admissibility decision in *D.H. and Others v. the Czech Republic*, No. 57325/00.

42 347 U.S. 483 (1954).

43 The Croatian Helsinki Committee and European Roma Rights Centre hired experts to conduct a research in the Medimurje county among Romani pupils attending primary schools in Orehovica, Kuršanec, Macinec and Podturen. The research was conducted in January 2002 by two psychologist specialized in child psychology, Ms. Radojka Kraljević and Ms. Zdenka Pantić and an one expert for pedagogy.

89 percent said that they felt unaccepted in the school environment; 92 percent said that Romani and non-Romani children did not play together (every group had its own place in the corridor, schoolyard or the place where they ate). The research concluded that the children suffered emotional and psychological harm manifested in diminished self-esteem and self-respect and problems with the identity development. It showed that Romani children are motivated to have contacts with children who belong to the majority community, but that the segregated classes are an obstacle in development of a social network with non-Romani children.

Segregation resulting in psychological harm was found by a Hungarian court in the *B.N. and Others v. the Municipalities of Tiszatárján and Hejőkürt and the Elementary School of Tiszatárján* case. The case concerns the segregation of nine children who were kept in a segregated class and taught on the basis of a special (inferior) curriculum from 1994 to 1999, in the absence of any prior certification declaring them mentally deficient and unable to attend regular classes. All of the affected children, most of them Romani, came from families with low income and social standing in the community, and have accordingly had difficulties in asserting their rights and interests in the educational context. Based on the school psychologists' assessment, while the children had only learning difficulties, they were still placed in a special class for the mentally disabled, disregarding their age, pedagogical and psychological assessment, and the prescribed legal procedure. The pupils were taught on the basis of a reduced curriculum and by an unqualified student-teacher. They were bullied by their peers as "retarded", thus further adding to their stigmatization. In its judgment of 7 October 2004, the Budapest Metropolitan City Court of Appeals concluded that the segregation of the plaintiffs by the school and the local authorities was in breach of the Hungarian Public Education Act. It also pointed out that, "The unequal treatment and inferior quality education they received profoundly influence their lives, and those who continue their studies – despite having been placed in integrated classes by now – will feel inhibited by the fact that their peers know that they had earlier attended special classes, and that they are not likely to ever be able to catch up with their peers."

The ruling in the *Chance for Children Foundation v. the Municipality of Hajdúhadház, Bocskai István and Dr. Földi János Elementary Schools* case demonstrated that segregation does not require intent. The case concerns the separation of Romani pupils from their non-Romani peers within the educational units of two elementary schools maintained by the municipality of Hajdúhadház in Hungary. In its decision made on May 2, 2007, the second-instance County Court of the Hajdú-Bihar county ruled: "In relation to equal treatment – and unlawful segregation within that – not

only active conduct, but also passive conduct maintaining a previously established situation is capable of ascertaining the legal violation." Therefore, the court found that the separation of Romani pupils from their non-Romani peers within the educational units of two elementary schools was illegal, and that they were directly discriminated by being provided with lower quality educational equipment and worse access to educational facilities and equipment.

General Recommendation 19 of the United Nation's Committee on the Elimination of Racial Discrimination also "calls attention to the fact that segregation may also develop independently of the intention of the state, as a result of the actions of private persons, for example, in the area of residential conditions due to differences in income. Differences in income are frequently combined with differences of descent and colour, so that inhabitants of certain areas can be multiply stigmatized." Therefore, the UN Committee called the states to undertake action against "ad-hoc segregation".⁴⁴ "The elimination of unequal treatment based on ethnicity and treatment resulting in any disadvantage for an ethnic group, as well as the elimination of already developed unequal conditions is a fundamental legal objective,"⁴⁵ therefore, the States are obliged to take all the necessary measures to achieve this goal, and the failure to do so may also lead to a violation.⁴⁶

7. Article 25: Political Representation and Participation in Public Life

At the time of the 2002 census in Macedonia, 53,879 persons stated that they were Romani. When compared to the official total population of 2,022,547 persons, Roma comprise approximately 2.66% of the total population of Macedonia. However, there are significant disparities between official data and estimates

44 General Recommendation No. 19: Racial segregation and apartheid (Art.3.) 18/08/95 – www.unhcr.ch.

45 See the reasoning of the Hajdúhadház judgment above.

46 Ibid.

by non-governmental sources, which put the number of Roma living in Macedonia at 80,000-135,000.⁴⁷ This would place Roma at between 3.95% and 6.67% of the total population.

Since the introduction of political pluralism and first multiparty elections in Macedonia, Roma have had political representatives in the Parliament (Sobranie, the legislative body): in 1990, there were two Romani members; in 1994, 1998 and 2002, one member; and in the 2006 elections, two Romani members were elected to the 120 member Parliament. At the municipal level, in 2004/05, Roma accounted for 0.31% of all members of local council in Macedonia. In 2003/04, that figure was 0.19% and in 2002/03, 0.29%.⁴⁸ Despite the political representation of Roma at the national and local levels (representation which is, however, not numerically contiguous with the total population of Roma in Macedonia), Romani participation in decision-making processes is not effective, and most Roma regard themselves as partially or totally excluded from decision-making. In January 2007 a strategy on equitable representation of members of ethnic communities in the State administration and public enterprises was adopted. Its effects remain to be seen.

47 Lakinska, Prof Divna, Zaklina Durmis, Azbija Memedov and Ljativ Demir. Needs assessment for the Roma Education Fund, Macedonia. World Bank, November 2004, p. 5.

48 Ministry for Labour and Social Policy. January 2005. Strategy for Roma in the Republic of Macedonia. Available online at: <http://www.ecmirom.org/download/Roma%20Strategy%20English.pdf>.