



ngo group for the crc

## STATE PARTY EXAMINATION OF THE SECOND PERIODIC REPORT SUBMITTED BY THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

54<sup>TH</sup> SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

25<sup>TH</sup> MAY – 11<sup>TH</sup> JUNE 2010

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*The Former Yugoslav Republic of Macedonia ratified the Convention on the Rights of the Child (CRC) on 2<sup>nd</sup> December 1993. On 16th January 1997, the Committee on the Rights of the Child (the Committee) examined the Former Yugoslav Republic of Macedonia's initial report on the implementation of the CRC.*

### Opening Comments

The delegation was led by HE Djeljalj Bajrami, Minister of Labour and Social Policy. Included in the delegation were senior representatives from a number of Ministries, notably HE Aziz Polozhani, Ambassador and Permanent Representative and former Minister of Education.

The Minister provided opening remarks on the CRC and both Optional Protocols, stating all their activities had been guided by the Concluding Observations of the initial report, with extensive co-operation amongst government Ministries and UNICEF. The delegation stressed the constitution guarantees special care to children. This special protection was regulated by laws such as the Law on Social Protection, the Law on the Protection of Children, the Law on Secondary Education, Family law, the Criminal Code and the Law on Juvenile Justice. Indeed amendments had been made to these laws in the last couple of years to further protect children, such as the new Law on Social Protection, a new chapter on Family Law which addresses specifically the issue of trafficking. The delegation told the Committee how the National Commission for the Rights of the Child and the National Action Plan for the Rights of the Child (NPA) had sought to address a number of key issues as outlined in the State report, including special protection for children, amended laws to tackle trafficking, juvenile justice and other key issues. The delegation admitted they face many challenges in their

implementation of the CRC, not least the issues of data collection, violence in schools, tackling discrimination, protecting marginalised groups such as the Roma children and the punishment of juveniles.

Ms Al-Asmar welcomed the delegation and proceeded to acknowledge a number of positive developments concerning the rights of the child. She welcomed the entry into force of the Law on Juvenile Justice (2009) and its implementation by the State, before giving special mention to the National Commission for the Rights of the Child and the introduction of an Ombudsman for children in 2004. She praised the ratification of important international and regional instruments such as the two Optional Protocols on the CRC, the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999), and the Rome Statue of the International Criminal Court (1998). Whilst acknowledging the progress Macedonia had made in a number of areas highlighted above, she said the Committee still had some concerns and needed more clarification on a number of issues.

## **General Measures of Implementation**

### ***Legislation***

The Committee asked about the status of the CRC in domestic legislation, to which the delegation responded the CRC and the Optional Protocols were incorporated into domestic legislation. The Committee then enquired about the measures taken to upgrade and harmonise legislation with that of the CRC. The delegation responded that they were in the process of upgrading legislation and harmonising it with the CRC and Optional Protocols. The measures taken included harmonising the Law on family and the Law on Social Protection, and incorporating the basic principles of the CRC. They stated, “these legislative efforts show our commitment to continuing harmonisation with the CRC”. The delegation further outlined that in 2009 UNICEF conducted a report assessing the extent to which Macedonia was harmonising its domestic legal system with the CRC. The report listed recommendations outlining where further harmonisation was needed. This analysis was close to completion and the findings would be widely disseminated to parliament, NGOs and wider civil society. The Committee remained concerned over the difficulties the government had in passing this legislation in parliament. It also voiced concerns on whether judges had the same use of the CRC as they did of the domestic law in Macedonia, citing information they had acquired from their colleagues at CEDAW, who were concerned that whilst the laws were in place, direct judgement on CEDAW was limited.

### ***Children's Ombudsman***

The Committee asked about the Ombudsman’s office and the plans to make this department function efficiently. The delegation stated that the government had amended the Law on Ombudsman and it was envisaged to adopt four new departments at the office. The departments included the department of protection against discrimination, torture, special needs and protection of children and their rights. After last year’s amendments all secondary amendments were adopted and by laws published.

### ***Monitoring and co-ordination***

The Committee asked a number of questions on the National Commission on the Rights of the Child. It commended this unit but asked whether the Commission had the competency extending to the co-ordination of both the CRC and both Optional Protocols, and the extent to which NGOs participated in the Commission. It noted two NGOs were engaging with the

Commission but wanted to know how they were selected and how further NGOs could contribute. The delegation responded, “the Commission has competences to follow child rights in all aspects, from implementation of laws, co-ordination of actions, co-ordination of activities and initiatives related to implementation”. They had followed the Concluding Observations and recommendations from their initial report to the Committee and formed the Commission as a result. Furthermore, they had extended the Commission to involve all Ministries in the decision-making process.

The delegation stated they were currently in discussions over the participation of NGOs in the process. The Committee pursued the issue of NGO involvement and wider civil society involvement, including the participation of children. The State responded they were working on this. They said in the next session they would change the status of the Commission so that the two NGOs had equal rights to all other members. In terms of expanding the Commission for NGO involvement, they stated that two additional NGOs would be considered. Regarding child participation they insisted they were tackling the issue, stating “we would like to see them more frequently heard. We have ideas but not yet implemented. We will discuss further”.

The Committee commended the delegation on the National Action Plan on the Rights of the Child (NAP) and the achievement in ensuring 53 of the 83 regions had developed local plans of actions. It asked whether the State had annual implementation plans for each of the ten years in order to monitor progress and also enquired as to how the Plan was funded. The delegation said all plans were monitored in terms of their implementation and budget funds were allocated for implementation. However some activities were financed on various assistance programmes through funds by UN offices.

### ***Role of Civil Society and NGOs***

The Committee further questioned the relationship between the State and civil society, highlighting problems in Eastern and Central Europe in particular. In some cases, it commented, the governments in this region were reluctant to treat NGOs as equal and support them and asked about the situation in Macedonia. The State was asked to provide some good examples of trustful co-operation. The delegation said NGOs were involved in the initial report to the CRC but unfortunately were not involved in the second one. The delegation did take into account the NGO reports, but the NGOs and furthermore children had not been consulted. The delegation failed to explain why, however adding, “we must though take into considerations their opinions and we will try and improve this in the future”.

### ***Allocation of resources***

The Committee’s asked about the budget, the administrative issue of budget distribution to local authorities and the decrease in budgets for areas such as health. The delegation disputed the claim that the health budget had been reduced, stating the health department was financing two areas. They also explained the government was providing health insurance to a section of the population, which explained the change in budget figures. The delegation highlighted the increase in the education budget, outlining the programme for free text books, investments in sports halls and many other projects in the area of education.

Responding to the Committee's transparency question, the delegation explained they had a review of funds allocated from international organisations and were very transparent with these accounts.

Unfortunately, there were no members of the Ministry of Finance in attendance of the meeting, so a number of questions centred on the allocation of budgets and the administrative process behind the budgeting system were not addressed in detail.

### ***Data collection***

On the question of data collection and methodologies used, the government acknowledged that there were problems that needed to be addressed with regards to selecting methodology to assess the indicators for vulnerable groups. The delegation confirmed this would be an area of focus in coming weeks.

### **Definition of the Child**

The issue of early marriages dominated the discussions on the definition of a child. The Committee sought to understand the procedures in place and measures taken to tackle the problem. The delegation stated they were aware that the age was 18 years, however provisions existed in domestic law allowing persons over 16 years of age to enter into marriage on the condition of parental consent by both children was granted. In the case where parental consent was not granted or the children did not have parents, social workers could provide this consent. The delegation explained how this was addressed in the Law on the Family. The delegation detailed an exception to the rule, where if a child had reached a certain level of maturity as assessed by social work centres, he or she was in fact eligible for marriage. The Committee expressed great concern to this admission, asking who decided on the maturity of the child and pointing out that some parents pushed their children into marriage for financial reasons. The delegation responded this was decided by the court. The court first received a report from relevant institutions measuring maturity and the process was co-ordinated with social services. The Committee remained concerned over this process, particular for vulnerable groups such as Albanian and Roma children.

### **General Principles**

#### ***Non-discrimination***

The Committee sought details of the measures being taken to tackle discrimination. It asked whether all aspects of anti-discrimination had been covered in domestic law. The delegation stated a Law had been established on anti-discrimination. The Committee asked whether a body had been set up to monitor and assess issues of discrimination, to which the delegation responded that the Law envisages the forming of a body, which will be ready by the time the Law enters into force on January 1<sup>st</sup> 2011.

In responding to the Committee's question on whether the Law was fully in line with European anti-discrimination practice, the delegation explained the grounds for discrimination laid out in European directive had been incorporated. Indeed the anti-discrimination legislation will be part of European anti-discrimination bodies in the future and all other relevant networks.

On the issue of gender discrimination, the delegation stated it was not specifically referred to but there was a general provision which covered all grounds of discrimination. Sexual orientation likewise was covered by the general provision.

#### ***Right to be heard***

The Committee further enquired about the level of participation for children in developing national plans. It asked how aware children were of the Concluding Observations and

whether there had been any active involvement by children in the preparation of the report. The delegation stated children were involved in national decisions, citing the case of the feedback given on the poll on civic education, where children were given the chance to express their views on the education curriculum. This poll was still in progress. Children were not consulted for the preparation of this report.

## **Civil freedoms and Rights**

### ***Birth registration and identity***

The Committee said that despite the State informing them there were no children without registration, they had evidence of this where Roma children were concerned. It asked how they were addressing this issue. The delegation responded they were pursuing this. They said one of the requirements of birth registration was being born on Macedonia territory. The citizenship of these children will cease at 15 years of age if these children were found to have parents of foreign nationality. This was to avoid statelessness.

The Committee asked about the situation if only one of the parents was Macedonian, to which the delegation responded if you were born in Macedonia, you were granted birth registration. As to the question of affordability, the delegation's response was, "Everyone can afford registry of births". The Committee also pointed out that the government had not ratified the Convention on the Reduction of Statelessness (1975). The delegation said they could not respond to this right now as they were unsure on where discussions had reached on this issue.

### ***Privacy***

Answering the question concerning the media's code of conduct concerning children, the delegation mentioned a seminar which was organised by NGOs for journalists and the wider media. An Act was adopted by journalists which strictly prohibited children to be announced once they had been abused or violated. The media would be fined if they failed to abide by this Act.

## **Family Environment and Alternative Care**

### ***System of Benefits / Family allowances***

The Committee expressed concern that the family allowance systems appeared to be based on the number of children or work status of the parents. They also voiced concern over the regional disparity process of providing benefits, stating vulnerable groups would be affected. The State said they had adopted an amendment on the adoption of children which gave certain benefits to families who had more children. The law introduced benefits for the third and fourth child born. This benefit procedure was administered in regions where the birth rate was under a certain percentage. The delegation admitted this may be discriminatory and stated that they could introduce amendments to the law in which this child allowance benefit was aimed at including more children.

### ***Quality of Social Services***

The Committee enquired about the quality of social services for family at risks and about the social work centres in particular and their resources, expressing concerns that these centres were overburdened. The delegation stated there were 30 such centres, with the activities performed by professional teams made up of lawyers, social workers and psychologists. A rule book was prepared on the role of the centre and guidance to the professionals working with the children. In 2009, as a result of the increased competences of the centres, the State

have increased training to the professionals on the Law on Juvenile Justice, on the treatment of juveniles discipline measures, and run seminars providing guidance on handling children in institutions. The number of staff working in the centres had been increased, with the government funding the centres.

### ***Adoption***

The Committee sought clarification on the adoption process and the right of the child to know about his or her origins, particularly referring to cases such as secret adoptions. The delegation said the adoption process was regulated in the Law on the Family. In a six month period the process of an application was completed. If the adoption as possible, the social work centre submitted their proposal to the Commission in the Ministry of Labour and Social Policy. The law prescribed that the social services could recommend whether an adoption case should be passed to the Commission.

On the issue of Inter-country adoption, Macedonia had ratified the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption (1993). The Committee remained concerned however about the history of the adopted parents from foreign countries, with particular concern over the follow up process.

### ***Violence, abuse and neglect***

Corporal punishment was raised by the Committee, who reiterated this form of violence was “unacceptable in the Convention”. It asked whether Macedonia still had corporal punishment in schools and what punishments were issued to teachers who still use it. The delegation replied, “our law condemns this. We monitor it and follow it and local authorities and school directors have been instructed to inform the Ministry if they see such events. If it occurs, we will take immediate action. We have received two such cases and the teacher was warned”.

In answering the Committee’s question on the measures they were taking to prevent internet abuse, the delegation said they were working closely on this and currently drafting a strategy with the Ministry of Interior to protect children from this content on the internet. This will soon be completed. The Committee asked about violence in schools, to which the delegation responded that this was a sensitive issue and an area of concern. They outlined how they had carried out joint activities with several bodies within the Ministry of Education and also NGOs.

## **Basic Health and Welfare**

### ***Sexual and reproductive health***

The Committee asked about the measures being taken concerning sexual and reproductive health. The delegation outlined their National Strategy for Sexual and Reproductive Health, which focused on providing access to information, establishing community based counselling services and improving healthcare data management.

### ***Children with Disabilities***

The delegation responded to the Committee's question concerning the access to health services for children with disabilities, detailing how they had introduced and promoted an Action Plan for Promotion of Health for Children with Disabilities. The Action plan was based on equal and safe access to health services for children with disabilities, enhancing the capacities of health professionals and the development of an effective referral system. On the issue of the protection of children with development disabilities, twenty two day centres had

been opened and were visited by 348 children with mental disabilities. A further day centre was due to be opened in Skopje for children with autism and three centres for children with mental disabilities.

### ***Baby friendly hospitals***

The Committee asked why the number of certified baby friendly hospitals had decreased since the year 2000. It pointed towards the indicators which recorded 30 baby friendly hospitals in 2000, with this figure halved by 2008. The delegation provided clarity on this issue, responding this was not actually the case. They stated the reduction in figures were because these facilities were now called health centres and not hospitals.

### ***Infant mortality rate***

The delegation highlighted the decrease in infant mortality rate, from 22.7 per 1000 live births in 1995 to 9.7 per 1000 live births in 2008.

## **Education, Leisure and Cultural Activities**

### ***Quality of teaching***

The Committee voiced concerns about the quality of the education, citing tests as evidence. It commented on USAID and other donors investing in the training of teachers and asked if the government was doing enough to invest in this area. The delegation stated they had undertaken a number of measures in the area of education, including the training of teachers and they were working hard on this issue of quality.

### ***Free services in education***

The Committee applauded the government's initiative of providing free text books to children but also added concerns about the further hidden costs that fall on families with regards to sending their children to school.

### ***Attendance and drop-out rates***

In answering the Committee's concerns about enrolment and drop-out rates, the delegation confirmed the investment in education was strong. They stated the drop-out rate was decreasing and furthermore the families who could not afford to send children to school now received free text books and other measures had been introduced. They said there had been, "a dramatic improvement".

The Committee remained concerned on the enrolment issue, particularly concerned for disadvantaged groups such as disabled children who do not benefit from the opportunity to go to the same schools or if not possible special schools for the disabled. It was also concerned about other marginal groups, stating children who live in the street do not attend schools, certain minorities do not attend and furthermore family benefits were only given to families who have three or more children and only if they go to school.

### ***The issue of educating minorities and discrimination in the education system***

The delegation stated they were raising awareness on anti-discrimination and there was a project run by an NGO which they supported. They said the project was producing a positive impression with students and parents. There was also a project for inter-cultural dialogue which they continued to support financially. The Committee then pushed the issue of segregation of schools by ethnic communities, particularly drawing reference to the Roma communities, stating "it appears a trend of separate ethnic schools is developing". It asked

what efforts were being made to enhance inter-cultural co-operation and multi-cultural education. The delegation said their main priority was to harmonise a multi-cultural society, but this took time. They argued they were heading in the right direction to address this issue. They stated, “we have decentralised education to make it better, with mixed cultural effects. This will help tackle discrimination. Furthermore we have guaranteed to all communities they have a right to primary and secondary education in their own mother tongue”. They stated they did not have private education at the primary level as they wanted to create the same conditions for all children, irrespective of their background. In terms of special schools, for example for children with disabilities, they remained in all communities and fell under the government’s responsibility. The delegation confirmed children were segregated based on territorial levels. For example if the school was in a largely Albanian populated area, then the primary language would be Albanian. This they said was the fairest way to conduct matters. They did acknowledge that this process did come with its problems, for example Roma children living in Skopje as they were in the minority in the capital. The Committee was concerned this methodology could actually lead to segregation, to which the delegation responded that they were addressing this. They said, “we teach in different languages but one curriculum. We have lessons in human rights to teach diversity. We have language policies and we have extra curricula activities which are common with different ethnic groups.”

### ***Religious symbols in education***

The delegation responded to the Committee’s concerns about religious symbols being used in school stating, “we don’t have such information”. They said they were trying to introduce a new subject on religious instruction. At present this subject was being introduced and each pupil learns about his or her religion. They said they were not aware of symbols being used in schools and would react if it does become apparent.

### ***Leisure***

The Committee raised the issue of leisure time for children, enquiring about the facilities for the children. It stated the facilities outside of the capital were poor. The delegation confirmed the Prime Minister had recently opened the 51st sports hall in the country and further confirmed they were continuing to develop this programme of opening sports halls.

## **Special Protection Measures**

### ***Roma Children***

The issue of Roma children was raised by the Committee on several occasions throughout the review and responses from the delegation and the resulting dialogue had been documented throughout this report.

### ***Children living in the street***

The Committee welcomed the introduction of a Multi-disciplinary Protocol on Treating Street Children and asked whether this protocol would deal with the root causes as a preventative method and also whether there would be measures taken to obtain birth registrations of these children. The delegation gave an overview of activities addressing children living in the street. It told the Committee about two centres, one managed by an NGO in a settlement occupied by Roma children (approximately 500 children). The delegation also talked about the Multi-disciplinary Protocol, run in conjunction with UNICEF, and their campaign to promote this Protocol with local communities. The government had also equipped a daily centre in the capital with UNICEF and hope it would be opened in the next two weeks. In

addition they planned to open a counselling office for children in Skopje. This was a pilot project and if successful, would be extended. Another daily centre was going to be opened in another region.

### ***Child labour and economic exploitation***

The Committee raised the issue of whether Macedonia was considering ratifying the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (MWC). The delegation responded that they were discussing this.

### ***Juvenile Justice***

The Committee praised the new Law on Juvenile Justice, but said the problem lied in the lack of full implementation and the length of time the process took. It urged the government to set up special programmes to train judges specifically in juvenile justice. The delegation responded the courts were competent on the issue of juvenile justice and staff was trained specifically on this key issue. The delegation acknowledged a mixing of contacts between the adults and children in one of the correctional facilities (which in fact was a semi open institution), as the Committee had observed. They explained as of 2005 when this was moved to the Skopje prison, the problem surfaced. A location had been found for this correctional facility and would be completed by 2011. The State was building a new facility that would provide proper facilities, however in the meantime these minors would be placed in a social institution with better facilities for education and their other needs.

The Committee asked for clarification on the punishment given to juveniles below the age of 18, after hearing of the government's grading system. It requested information on how this grading system worked, particularly where children under 14 were concerned. The delegation explained the gradation, stating that no sanctions applied to children under 14 years of age. Those between the ages of 14 and 18 were faced with educational measures under their juvenile system. Some under the age of 18 could be sent to juvenile prison but only in exceptional cases. The delegation further elaborated on the status of children under the age of 14, stating, "children below 14 were subject to assistance and protection measures administered by social work centres. We have a separate body that monitors the work of these social work centres. The social work centre may order a decision on attendance of school or health protection and these are incorporated and implemented by social work centres and parents". The delegation responded to the question on corporal punishment, stating a minor may be subjected to solitary confinement for certain cases. This confinement however was not in a cell but in an open ward where there was supervision. So it was not classical solitary confinement, it is a re-educational measure.

The provision of sexual abuse of children in 2008 was improved, mainly in terms of making the punishment for this crime stricter in light of the trend of increasing reports of sexual abuse of children.

### **Concluding Remarks**

Ms Al-Asmar told the delegation, "you have done a lot of work, but a few gaps still needed to be filled".

The delegation expressed their appreciation for the commendable words from the Committee on the measures they had adopted to implement the CRC and hoped that the Concluding Observations would help the government. It emphasised their full commitment to implementing the recommendations of the Committee.