NATIONAL MECHANISMS ON HUMAN RIGHTS PROTECTION

Anica Tomsik-Stojkovska
Donce Boskovski

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NATIONAL MECHANISMS ON HUMAN RIGHTS PROTECTION

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For the publisher: Petre Mrkev, president

Author: Anica Tomsik - Stojkovska
Donce Boskovski

Editor: Nikolina Tenceva, project koordinator

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Preface to the Handbook on “Strengthening the National Human Rights Protection Mechanisms in the Republic of Macedonia”

The Coalition “All For Fair Trials” is a Coalition of civil associations; it was established in May 2003 as a network of 17 civil associations who are its members on voluntary basis; the purpose of establishing the network is multifaceted and among other things it includes: to monitor the court processes at the competent courts in order to ensure the guaranteed right of a fair trial as stipulated by the Constitution, the laws and the ratified international agreements; furthermore, its role is to increase the public awareness and enhance the trust of the citizen in the institutions of the system; to identify the need for the possible reforms of the court proceedings and work on those reforms; to increase the practical knowledge of the law students; to strengthen the role and capacity of nongovernmental organizations et cetera. The Coalition also works on ensuring equal access to justice of all citizens of the Republic of Macedonia by offering legal assistance free of charge.

By issuing the handbook “Strengthening the National Human Rights Protection Mechanisms in the Republic of Macedonia”, the Coalition is performing its mission and at the same time assists the other civil associations who are actively working in the sphere of civil right. This handbook is a result of the Project on Strengthening the National Human Rights Protection Mechanisms.

The main objective of the project Strengthening the National Human Rights Protection Mechanisms is to contribute to the strengthening of the national human rights infrastructure by creating a Handbook that would display the existing national and international mechanisms on human rights protection and would offer new developmental interventions and recommendations. Direct beneficiaries of this Handbook will be civil associations, but at the same time, it would serve the nationals institutions in the Republic of Macedonia working in the sphere of human rights. This handbook is a result of the published manual on “Strengthening the National Human Rights Protection System” issued by the Ministry of Foreign Affairs of Holland for the activities of the embassies of EU member countries.

The evaluation of the content of the existing Manual and the evaluation of the national human rights instruments led to the development of the manual on national human rights that offers a comparative review of the international and national human rights protection instruments, as well as new ideas and activities to ensure better national system for human rights protection and strengthen the entire human rights infrastructure.
The realization of the projects was possible owing to the project donor, the Embassy of the Kingdom of Netherlands. With the assistance of the Dutch Embassy, the evaluation of the existing national and international bodies for human rights protection was made possible by engaging two consultants to develop the Handbook.

The Handbook will be available in Macedonian, Albanian and English and it will be promoted in several towns around the country including Skopje, Tetovo, Gostivar, Stip, Strumica and Bitola. The promotion of the Handbook needs to contribute to constructive, well-organized and permanent human rights infrastructure in the country and it will be organized in cooperation with the office of the Public Attorney.

In the end, this Handbook presents a solid basis for further development and enhancement of the human rights instruments available in the country and more specifically it will emphasize segments of the society where more work needs to be done and this offer basis for the future work and practical implementation of the innovations offered in the Handbook.

Nikolina tenceva,
Project coordinator

Nenad Zivanovski,
Executive director
List of Abbreviation

(ECHR) European Convention on Human Rights and Fundamental Freedoms

EU – European Union

PP – Public Prosecution

MFO – Ministry of Foreign Affairs

NGO – Non-Governmental Organizations

NPM – National Prevention Mechanism

NHRP – National Human Rights Protection

UN – United Nations

RM - Republic of Macedonia

UNHRC – UN Human Rights Council
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Part 1:

INTRODUCTION

A. Objectives of the Handbook

The main objective of this Handbook is to contribute to more efficient and more effective realization of the protection of the rights of the citizens and other individuals on the territory of the Republic of Macedonia, by offering a wide array of possible mechanisms of support to promote the development of the national infrastructure on protection of the human rights and freedoms.

Each society needs to make an effort to strengthen the structure for prevention, protection and improvement of the human rights situation by working on increased information distribution among the citizens on their rights and responsibilities as well as the responsibilities of the state bodies, entities and holders of mandates and functions within the society. Therefore, the strengthening of the national human rights protection system allows for interventions that presume cooperation and communication opposed to pure criticism that does not lead to a productive result based on the principle of respect of the rights and freedoms of the citizens.

B. How to use this Handbook

This Handbook is mainly intended for the civil society with the intention that citizens are informed on the possible ways and mechanisms through which they can realize their rights within the frames of the national system, as well as in front of the international bodies that have the same mandate.

A strong national system offers a conceptual frame that will further ease and coordinate the assistance directed towards the development of the rights and freedoms of the citizens. Only a strong national system for human rights protection offers a conceptual frame that would further alleviate and coordinate the assistance targeted towards the development of the rights and freedoms of the citizens. Only a strong national human rights protection system can offer enhanced cooperation and coalition with international actors from the human rights sphere, especially the universal bodies within UN and the regional ones within the Council of Europe.

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1 The Introduction is written in line with the methodology and the introduction of the publications „Strengthening the National Human Rights Protection System“, issued by the Ministry of Foreign Affairs of the Kingdom of the Netherlands, during the Czech EU Presidency in 2009.
C. What is a National Human Rights Protection System?

National Human Rights Protection System (NHRPS) presents a compilation of laws, policies and institutions working on human rights protection, or in a more wide definition, it can be presented as infrastructure of human rights within one society. It is comprised of all indicators and preconditions which enable a high degree of responsibility on the side of the state institutions mainly towards the realization of their obligation to respect, protect and develop the human rights – the civil and political as well as the economic, social and cultural rights.

The first step is the need for the universally accepted standards incorporated in the international law on human rights to be appropriately included and transposed at national level, both at level of legislation and creation of policies. Furthermore, the existing or newly established institutions need to have the capacity and possibility to implement and monitor the implementation of these laws and policies. These institutions, together with the legal frame and the policies created at national and national level comprise the NHRPS frame.

There are no perfect or flawless NHRPS in the world; on the contrary, even in the western democracies and in the EU member countries there are serious flaws and gaps in the sphere of rights protection that can result with violation of the rights. Therefore, this system is a living mechanism that needs to be constantly upgraded and changed in line with the identified flaws, problems and in line with the needs of the citizens of the society in questions.

Each country has its own specific NHRPS developed within the frames of the specific political, cultural and historic circumstance. Nonetheless, one efficient NHRPS needs to contain at least the four universal fundamental values:

- Normative standards, national legislation and rules that emphasize and point out to the obligations that result from the international legislation on human rights.
- Policies and actions aimed at protection and promotion of human rights, enabling responsibility and respecting the principle of non-discrimination.
- Institutions protecting and promoting the civil rights, and at the same time contribute to the development of the human rights by establishing a system of monitoring and ensuring accountability in the society. These institutions among others also include the jurisprudence and the independent committees.
- Existence of civil society that freely contributes to the promotion and protection of the rights and freedoms of the citizens in one society.

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2 In line with the guidelines offered in the publication „Strengthening the National Human Rights Protection System“, issued by the Ministry of Foreign Affairs of the Kingdom of the Netherlands, within the Check EU presidency in 2009
PART 2:

INCORPORATING INTERNATIONAL HUMAN RIGHTS STANDARDS WITHIN NATIONAL LEGISLATION

CONSTITUTION OF THE REPUBLIC OF MACEDONIA

The Constitution of the Republic of Macedonia is the highest legal act passed on November 17, 1991 by the Assembly of Republic of Macedonia. Since its enactment until 2011, the Constitution has been amended 31 times.

The Constitution of the Republic of Macedonia contains the international human rights standards. Article 8 of the Constitution of the Republic of Macedonia contains the fundamental human rights and freedoms as acknowledged with international law and determined with the Constitution. Among the fundamental values are also listed the freedoms of expression of the nationality, the rule of law and the respect of the generally accepted norms of international law.

Part 2 of the Constitution of the Republic of Macedonia elaborates in detail the human rights distinguished as civil and political rights, economic, social and cultural rights and guarantees of the fundamental freedoms and rights.

The human rights are regarded separately in the Constitution and the goal of the constitutional protection is the citizen and his/her dignity. The fundamental feature of the human rights concept is equality as defined in Article 9 – “Citizens of the Republic of Macedonia are equal in the freedoms and rights regardless of the sex, race, color of skin, national or social background, political and religious beliefs, economic or social position. Citizens before the Constitution and the laws are equal”.

Apart from the right to equality, the Constitution of the Republic of Macedonia incorporates a wide range of civil rights that also include the freedoms of assembly, right of association, right to vote, right to submit complaints, right to respect and protect the privacy and family life, as well as many other rights foreseen in the part elaborating on the fundamental human rights and freedoms.

The Constitution of the Republic of Macedonia completely protects the right to life. The death penalty cannot be issued under any basis, and every form of torture is prohibited as

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well as inhuman or degrading behaviors or punishment. The Constitution of the Republic of Macedonia declares the principle of presumption of innocence and states that each individual convicted of a crime will be considered as innocent until the allegation is determined with a final court decision.

A separate article in the part covering the Human Rights and Freedoms also regulates the rights of the foreigners; this article stipulates that “they enjoy freedoms and rights guaranteed with the Constitution under conditions determined by law and international agreements”. The Republic guarantees the right to asylum to the foreigners and people without citizenship, expelled due to democratic political beliefs and activities. The extradition of a foreigner can be done only based on a ratified international contract and based on reciprocity. A foreigner cannot be extradited because of political criminal offence. The terrorism is not considered a political criminal offence”.

The Constitution of the Republic of Macedonia in the sphere of economic, social and cultural rights also determined the right to work, the right of protection at work and all the rights that result from the employment. In order to realize their rights the citizens can establish unions and the right to assembly in a union can be limited in the cases of the armed forces, police and the organs of the administration. The Constitution pays special attention to the children and minors pointing out that people below 15 years of age cannot be engaged, and for the mothers and minors there is a special protection.

The Constitution of the Republic of Macedonia also lists the guarantees for protection of the fundamental freedoms and rights. Each citizen can realize the protection of his/her rights before the courts as well as the Constitutional Court. It also stipulates that the freedoms and rights of the citizens may be derogated only during a war or other emergencies along the lines of the provisions on the Constitution.

Article 54 stipulates “the limitation of the rights and freedoms cannot be done on discriminatory grounds based on sex, race, color of skin, language, religion, national or social background, economic or social position. The limitation of the rights and freedoms cannot be done in relation to the right of life, prohibition of torture, inhuman punishment and humiliating behaviors, the legal determination of the punishable felonies and penalties, as well as the freedom of belief, conscience, thought, public expression and religion.”

Further advancement and enhancement of the range of human rights and freedoms of the citizens in the Republic of Macedonia was also covered with the amendments of the

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Constitution where Amendment VIII directly enhances the rights of the ethnic communities saying that “the members of the communities have freedom of expression, freedoms to nurture and develop their identity and the features of their communities and use the symbols of their community. The Republic guarantees the protection of the ethnical, cultural, language and religions identity of all the communities. The members of the communities have the right to establish cultural, artistic, educational institutions as well as scientific and other associations tasked to express nurture and develop their identity. The members of the communities are entitled to following education in their own language in secondary and elementary school in a manner determined by law. In all schools where the education is conducted in another language, the Macedonian language is also studied.”

The Constitution also includes the legal influence of the international agreements signed by the state. With the act of ratification they automatically become part of the Macedonian legislation as stipulated with the constitutional provision in article 98 whereby the courts pass judgments based on the Constitution, the laws and international agreements ratified in line with the Constitution.

Article 118 from the Constitution stipulates that the international agreements ratified by Republic of Macedonia become a part of the internal legal order and they cannot be changed or amended by law.

The Constitution of Republic of Macedonia also establishes an organ to protect the legitimacy and the close following of the provisions from the constitution. This organ functions as a Constitutional court and among the other competencies, it is charged to protect certain freedoms and rights of the citizens in line with its constitutional authorities.

**NATIONAL LEGISLATION AND REGULATIONS**

Each modern national legislation makes efforts to fully incorporate and synchronize with the international obligations and human rights standards. The legislation needs to enable protection of the human rights of all individuals in the society; therefore appropriate national guarantees need to be designed such as division of power, independence of the judiciary, equal treatment before the law and existence of external control mechanisms.²

The fundamental human rights and freedoms guaranteed by the Constitution of Republic of Macedonia and the ratified international documents are elaborated in special laws that regulate the subject matter of protection. This part of the publication is intended to put on view the more important laws and other regulations that regulate and protect the rights guaranteed by the Constitution; the list of regulations is not all-inclusive and needs to

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² Strengthening the National Human rights Protection System, Manual for embassies of EU States (Human Rights Division, Ministry of Foreign Affairs, The Netherlands, 2009), pg.99
present just a guidance for the beneficiaries of the Handbook when informing themselves on the realization of the rights through the national mechanisms.

The Citizens of Republic of Macedonia are equal in their freedoms and the rights regardless of the sex, race, color of skin, national and social background, political or religious beliefs, economic and social position. The citizens are equal before the Constitution and the laws.

Laws that are more important and other regulations:
- Law on Protection and Prevention from Discrimination
- Law on Equal Possibilities for Men and Women
- Law on Public Attorney

The physical and moral integrity of the person are indisputable. All forms of torture, inhuman or humiliating behavior and punishment are prohibited. Forced labor is prohibited. Human life is indisputable. Death penalty cannot be sentenced in Macedonia on any basis.

Laws that are more important and other regulations:
- Criminal code
- Law on Internal Affairs
- Law on Child Protection
- Law on Execution of Sanctions
- Law on Asylum and Temporary Protection
- Law on Foreigners
- Law on Mental Health
- Law on Protection of the Rights of the Patients
- Law on family
- Police Ethics Code

The freedom of the individual is undisputable. Limitation of the freedom is not possible unless by court decision and in cases and procedures determined by law. The person that has been summoned, detained or incarcerated has to be informed about the reasons for his/her summoning, detention or incarceration; he/she also has to be informed about his/her rights as determined by law and cannot be asked for giving a statement. During the police and court procedure the individual is entitled to a defender. The person deprived from freedom has to be taken to court not later than 24 hours from his/her detention, and the court with no delay shall decide on the legal grounds for depriving the person from freedom.
The detention until bringing charges, with court decision cannot exceed the duration of 180 days from the day of detention. After the charges have been raised, the detention is continued or determined by the competent court in a procedure determined by law. The detained person under conditions determine by law can also be released to defend her/himself from freedom.

**Laws that are more important and other regulations:**
- Code on Criminal Procedure
- Criminal Code
- Law on Police
- Law on Juvenile Justice
- Law on Lawyers

The person charged for a felony will be considered innocent until his/her guilt is determined with a court decision. The person that has been deprived of freedom in an illegal way - arbitrary detention, or that has been detained or convicted contrary to the law, is entitled to compensation for the damage and other rights as determined by law.

The right to submit an appeal against a judgment passed in the first instance court procedure is guaranteed. The right to complaint or other type of legal protection against separate legal acts passed in the first instance procedure before the organ of state administration or organization and another organ that performs public competencies is stipulated by law.

**Laws that are more important and other regulations:**
- Code on Criminal Procedure
- Law on Court Procedure
- Law on General Administrative Procedure
- Law on Execution

No one can be punished for an act that before being committed was not determined by law or another regulation as a felony and for which a punishment has not been foreseen. No one can be convicted of a felony when he/she has already been convicted of it before, and for which there is a final court decision.

**Laws that are more important and other regulations:**
- Criminal Code

The freedom of belief, conscience, thought and public expression of thought is guaranteed.
The freedom of speech, public appearance, public information and the free establishment of institutions for public information is also guaranteed.
The free access to information is guaranteed as well as the freedom to receive and convey information.
The right to respond in media is guaranteed. The right of correction of the information in the public information media is guaranteed. The right to protect the source of information in the public information media is guaranteed. Censorship is prohibited.

Laws that are more important and other regulations:
- Criminal Code
- Law on Public Gatherings
- Law on Prevention and Protection from Discrimination
- Law on Free Access to Information of Public Nature
- Law on Broadcasting Activity
- Journalist Code

The safety and confidentiality of personal data is guaranteed. The citizens are guaranteed the protection from violation of personal integrity that results from the registration of the data on them through processing of the data.

Laws that are more important and other regulations:
- Law on Protection of Personal Information
- Law on Criminal Proceeding
- Law on General Administrative Proceeding

The freedom of religion is guaranteed. The free and public expression of faith is guaranteed both done on individual basis or in a community. The Macedonia Orthodox Church, the Islamic religious community, as well as the Catholic Church, the Evangelist Methodist Church, the Jewish community and the other religious communities are separated from the state and equal before the law. The Macedonia Orthodox church, the Islamic religious community in Macedonia, as well as the Catholic church, the Evangelist Methodist Church, the Jewish community and the other religious communities and religious groups, the other religious communities and religious groups are free to establish religious schools and social and charity institution according procedures foreseen by law.

Laws that are more important and other regulations:
- Law on Legal Status of the Church, the Religious Community and Religious Group

The citizens are guaranteed the freedom to associate in order to realize and safeguard their political, economic, social, cultural and other rights and beliefs. The citizens are free
to form civil associations and political parties, to be their members and to step out of the membership.
The programs and activities of the civil associations and political parties cannot be directed towards forced destruction of the constitutional order of the Republic or used as a call for military aggression or triggering of the national, race or religious hatred or abhorrence.
All military or semi military associations that are not part of the armed forces of Republic of Macedonia are prohibited.

Laws that are more important and other regulations:
- Law on Associations and Foundations
- Law on Political Parties
- Law on Labor Relations
- Criminal Code

Citizens are entitled to peacefully assemble and express public protest without prior announcement and without special permit. The use of this right can be derogated only in time of war and in time of emergency.

Laws that are more important and other regulations:
- Law on Public Assemblies
- Law on Public Peace and Order
- Law on Breaches against Public Law and Order

Each citizen above the age of 18 is entitled to the right to vote. The voting right is equal, general and direct and is realized at free elections by secret ballot. The election right is not given to the persons who have been declared as work incapable.

Laws that are more important and other regulations:
- Electoral Code
- Criminal Code
- Infringement Law

Each citizen is entitled to submit complaints to the state bodies and other public services and receive an answer. The citizen cannot be held accountable or suffer consequence from his/her positions presented in the complaints, unless he/she has committed a felony by submitting them.

Laws that are more important and other regulations:
- Law on Actions on Complaints and Suggestions
- Law on Public Attorney
The integrity of the home is guaranteed. The right to integrity of the home can be limited only by court order in cases when the detection or prevention of criminal felonies or protection of people’s health is at stake.

Code on Criminal Procedure

The foreigners in the Republic of Macedonia enjoy the freedoms and rights guaranteed by Constitution, under conditions determined by law and international agreements. The Republic guarantees the right to asylum to foreigners and persons without citizenship, expelled due to political beliefs and activities. The extradition of a foreigner can be only done based on a ratified international agreement and based on reciprocity. A foreigner cannot be extradited due to political criminal felony. The acts of terrorism are not considered political criminal felonies.

Laws that are more important and other regulations:
- Law on Foreigners
- Law on Asylum and Temporary Protection
- Code on Criminal Procedure

The right to ownership and inheritance is guaranteed. The ownership incurs rights and duties and needs to serve the welfare of the individual and the community. The ownership and the rights deriving from it cannot be taken away from anyone, nor limited except in cases of public interest as determined by law. In cases of expropriation of the ownership or in cases of limitation of the ownership, a fair contribution is guaranteed that cannot be lower than the market value.

Laws that are more important and other regulations:
- Law on Ownership and other material rights
- Law on Obligations
- Law on Inheritance
- Law on Denationalization

Everyone is entitled to the right to work, free choice of employment, and protection during employment and material provision during a temporary unemployment. Everyone, under same terms and conditions, has access to any job position. Each employee is entitled to appropriate remuneration. Each employee is entitled to paid daily, weekly and annual leave. The employees cannot renounce these rights. The realization of the rights of the employees and their position is stipulated by law and the collective agreements.

Laws that are more important and other regulations:
- Law on Labor Relations
- Law on Volunteering
- Law on Peaceful Resolution of Employment Disputes
- Law on Employment and Work of Foreigners
- General Collective Agreement for the Industry
- General Collective Agreement for the Public Sector
- Branch Collective Agreements

The state takes care of the social protection and the social security of the citizens on line with the principle of social equality. The Republic guarantees the right to help to the vulnerable and work incapable citizens. The Republic provides special assistance to the disabled people and their inclusion in the social life.

Laws that are more important and other regulations:
- Law on Social Protection
- Family Law
- Law on Child Protection
- Law on Organization for Disabled People
- Law on Usage of the Sign Language

The right to strike is guaranteed. The conditions for realization of the right to strike can be limited by law in the case of the armed forces, police and the organs of administration.

Laws that are more important and other regulations:
- Law on Employment Relations
- Criminal Code

Each citizen is guaranteed the right to health protection. The citizen has the right and duty to safeguard and promote his/her own health and the health of the others.

Laws that are more important and other regulations:
- Law on Health Protection
- Law on Health Insurance
- Law on Medicine and Medical Devices
- Law on Mental Health
- Law on Protection of the Rights of the Patients

The state provides special care and protection of the family. The legal relations in the marriage, family and out-of-wed-lock community are regulated by law. The parents have the right and duty to take care of and support their children. The children have the duty to take care of the old and incapacitated parents. The Republic provides special care to the children without parents and the children without parental care.
Laws that are more important and other regulations:
- Family Law
- Law on Child Protection
- Law on Out-of-Court Procedure
- Law on Social Protection

The State is especially protecting the motherhood, the children and the minors. A person younger than 15 cannot be employed. The minors and mothers have a right to special protection at work. The minors cannot be employed at working positions that are bad for their health and morale.

Laws that are more important and other regulations:
- Family Law
- Law on Child Protection
- Law on Juvenile Justice
- Law on Employment Relations
- Law on Safety and Health during Work

Everyone is entitled to education. The education is available to everyone under equal conditions. The primary and secondary education is obligatory and free of charge.

Laws that are more important and other regulations:
- Law on Elementary Education
- Law on Secondary Education
- Law on High Education
- Law on Adult Education

The members of the community have the right freely to express, nurture and develop their identity and the features of their community and use the symbols of their community. The Republic guarantees the protection of the ethnical, cultural, language and religions identity of all the communities. The members of the communities have the right to establish cultural, artistic, educational institutions as well as scientific and other associations tasked to express nurture and develop their identity. The members of the communities are entitled to following education in their own language in secondary and elementary school in a manner determined by law. In all schools where the education is conducted on a mother language, the Macedonian language is also studied.

Laws that are more important and other regulations:
- Law on Elementary Education
- Law on Secondary Education
- Law on Improvement and Protection of the Rights of the Members of the Communities that represent less than 20% of the population of Republic of Macedonia.
- Law on Usage of the Language Spoken by at least 20% of the Citizens in the Republic of Macedonia
- Law on Protection of the Cultural Heritage
- Law on Committee for Inter-Ethnic Relations
HUMAN RIGHT POLICIES: ACTION PLAN AND HUMAN RIGHTS EDUCATION

A. The need of national human rights plan of action

The need results directly from the recommendations contained in the Vienna Declaration and Program of Action adopted at the World Conference on Human Rights in 1993 in line with which it is desirable that each state passes a national action plan in which the steps for improvement of the status of the promotion and protection of the human rights would be defined at state level.7

The objective of the state is to ensure long-term recognition and improvement of the human rights in the country by adopting such a systematic plan. More precisely the entire compatibility of the national legal system with the obligations that the Republic of Macedonia has committed to by ratifying the international documents and conventions from the sphere of human rights protection. In order to realize this objective, the state has to implement regular analysis and checkups of the potential problems that exist in the society from the aspect of complete realization of the rights and fundamental freedoms of all citizens and persons on the territory of Republic of Macedonia; another important task is the increase of the level of awareness of the citizens about their rights and that is attainable by exercising education on human rights, as well as coordination of all activities of the state entities in order to achieve the goals set by the action plan.

B. Design of the Plan of Action 8

The preparation of a Human Rights Plan of Action is to be approached seriously, diligently and with high respect towards the result that is to be attained. The fundamental driver is the desire and obligation to achieve national imperative of complete recognition, promotion and protection of human rights.

Since most of the plan will contain obligations and efforts on the side of the Government, it is normal that the government will play a central role when developing and preparing the plan of action. The government action needs to be appropriately rewarded and the civil sector needs to also influence the process, especially the nongovernmental organization active in the sphere of human rights protection.

7 Paragraph 71, Vienna Declaration and Programme of Action, World Conference on Human Rights, Vienna June 14/15, 1993
8 The parts under B and C are in line with the recommendations from the UN Human Rights High Commissioner: Handbook on National Human Rights Plans of Action, UN publications, Professional training series No. 10, 2002 page 41-45
Depending on the size of the plan that needs to be developed, as well as the available resources and budget, the planning process can include the participation of the following stakeholders:

- Government – members of government and most concerned ministers;
- Members of parliament, especially members of the survey committee on human rights protection;
- Other relevant government agencies, representatives of the ministries of internal affairs, labor, justice, education, health etcetera;
- The public attorney and other independent institutions and bodies;
- NGO’s active in the sphere of human rights including specialized NGO’s that focus exclusively on the justice of certain target groups;
- Representatives of vulnerable groups;
- Members of the judicial system and renown lawyers;
- Independent human rights experts, etc.

C. Steps for development of the Plan of Actions

According the Office of the Human Rights High Commissioner, when the development of the Human Rights Plan of Action, the following steps are recommended:

- Initial consultation between Government and civil sector;
- Preliminary decision of the Government to start the planning process and the development of the Plan of Action;
- Identification and establishing of a government body responsible to coordinate and manage the activities;
- Reporting on all government organs and agencies of the intention to develop a Plan of Action;
- Notifying all stakeholders such as judiciary, NGO sector, the academic world etc.
- Development of proposal principles that refer to the initial phase from the development of the plan in coordination with the civil sector. There principles need to be flexible and refer to the potential participants in the process;
- Public information as part of the medium plan and strategy, on the intention to develop a national plan;
- Organization of an initial national consultation meeting or a series of meeting in order to receive input from the target groups. The concept of the Plan of action is to be discussed at these meeting as well another concrete matters regarding the preparation process. An important issue that needs to be addressed is the composition of the national coordination body, the period, available recourse potential international assistance etc.
**D. Human Rights Education**

**D.1. Formal Education on Human Rights**

Within the Macedonian education system there is not special academic curriculum that studies the system of protection and promotion of human rights and freedoms. The subjects related to this topic are incorporated in the existing law curriculum (Faculty of Law) within the state and private universities. Most of these faculties offer special subjects that address the topic of international human rights law, such as:

- Faculty of Law “Justinian I”, Skopje – subject: International Human Rights Law, that is obligatory exam within the master studies of international law and international relations
- Faculty of Law, Tetovo – no data
- South East European University – subject: International Human Rights Law, is obligatory in fifth semesters of he graduate studies at the Faculty of Law.
- FON Faculty of Legal Science – subject: International Human Rights Law studied in 4th year of studies (semester 8), department: International and EU Law.
- Faculty of Legal Science within European University – subject: International Human Rights Law, studies in 5th year (semester 9, module 3+2).
- University American College, Skopje – subject: International Human Rights Law, studied as elective at the master studies on international relations and diplomacy.

**D.2. Human Rights Training**

*Training for judges and prosecution*

The Academy for Judges and Prosecutors was established with a special law as an institution for professional development of candidates for judges and public prosecutors and continuous training and advancement of the expertise of the judges and public prosecutors in order to provide professional, independent, objective and efficient execution of the judge, and the public prosecution function.

During the initial training special attention is paid to the study of the rights and freedoms of individuals and citizens, and so within the subject of Constitutional Right the personal freedoms and rights are studies, as well as political freedoms and rights of the person and citizen and economic, social, cultural right; within the International Law the international legal protection of the individual within the system of the Council of Europe is especially studied, as well a the most important international documents on guarantees of the

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9 Article 1 from the Law on Academy for Judges and Public Prosecutors (Official Gazette of RM number 88 dated July 2, 2010)
status and the independent position of the judiciary and the prosecution (recommendations, UN resolutions etc).  

The continuous learning for the judges and public prosecutors as special target group, includes special training programs addressing the issues of protection of personal information and access to data of public nature and non-discrimination, while for the newly appointed judges there is a special module on the ECHR and fundamental freedoms as international source of law and its influence on national legal order. For all judges and public prosecutors there is a special module on training on the European Court of Justice and Human Rights and certain conventions and other documents of the Council of Europe and UN ratifies and signed by the Republic of Macedonia as well as the practice of international courts.  

*Training of Police Officers*

The continuous investment in education of police officers on human rights and standards is of critical importance for improvement of the performance of the Ministry of Interior (MoI). Therefore, in 2008 a special Training Center was established within MoI. In accordance with the planned activities and training strategies, the training center in 2010 organized 94 trainings for a total of 2258 participants.  

The education and advancement of the employees at the Ministry of Interior was realized through various forms of professional education (seminars, trainings, courses, conferences, study tours) in cooperation with several international organizations (OSCE, UNDP, ICITAP, IOM, TAIEX etc) as well as embassies and ministries of interior affairs of other countries. The trainings and seminars covered several topics all in order to enhance the efficiency of the work of the police force, and which at the same time address the sphere of human rights and freedoms (legal legislation regulating their work, the new role of the public prosecutor in line with the new LCP; prevention of conflict through improved skills of communication; corruption; human trafficking; family violence using means of forced actions; training on performing police duties etc.) apart from these, also there are continuous training on the implementation of the new laws and bylaws as well as the concrete changes and amendment of the existing regulations.

*Faculty of Defense*

The Faculty of Defense is a state educational institution focused on providing education for the needs of the national safety, and it participates by providing the following services:  

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11 General Curriculum on education of judges and public prosecutors 2011/2012

12 Report on the work of MoI in 200, submitted to the Assembly of RM, page 36
• Providing advice and suggestion on career election and career development;
• Providing high education for the police force and the other institutions that operate in the sector of safety;
• Producing adequate know how and its dissemination.

The Faculty of Defence provides high education, as well as scientific research activities and practical application of the subject. The faculty has both graduate and postgraduate studies.

The graduate studies are organised as four year studies while the post-graduate studies are organised either as master studies with duration of two years or postgraduate specialist studies that are with duration of one year.

The subject Police Force and Human Rights During is taught during the first year of the graduate studies, and in particular it studies the sources and basic principles of the current human rights system (international, regional and national documents), practices and restraints of the international system of agreements and conventions; the use of police authority and personal freedom; vulnerable groups and protection of their rights; responsibility of the police and police leaders etc.
PART 3:

THE ROLE OF THE UNIVERSAL AND REGIONAL HUMAN RIGHTS PROTECTION SYSTEM

UNIVERSAL HUMAN RIGHTS PROTECTION SYSTEM

Having in mind that one of the fundamental goals of the United Nations is to promote and strengthen the recognition of human rights and freedoms for all without making any distinction with respect to race, sex, language or religion, then it is understandable that the system for protection of the rights and freedoms of citizen within the UN is complex and comprehensive.

UN managed to create a global human rights protection structure that laid its grounds on the UN Charter, the nonbinding declarations, legally binding pacts and conventions and other activities and actions whose goal is to promote the democratic processes and improvement of the human rights conditions worldwide.

The UN system developed over a 6-decade period and was constantly expanded; it has established two fundamental mechanisms for rights protection:

- The first system of protection results from the Charter itself – the General Assembly establishes a Commission on Human Rights (today Human Rights Council) that establishes so called special procedures (Charter-based system)
- The second is based on 9 instruments (treaties and conventions) from the sphere of protection of the fundamental human rights (Treaty-based system)

A. UN Charter Based System

This system, after several decades of continuous development, today consists of several independent mechanisms and bodies; out of these the most important from the sphere of human citizen and political rights are the Human Rights Council and the special procedures and actions under the auspices of the Human Rights Council.

A.1. Human Rights Council

The Human Rights Council (HRC) was established by Resolution 60/251 of the UN General assembly and it started working in 2006. HRC replaced the ever-criticized UN Commission on Human Rights, which was considered at the time as a very inefficient and highly politicized mechanism.
A.1.1. Membership

In order for a state to become a member, it has to respect the highest human right standards and actively promote the protection of rights and freedoms as well as to have a history of full cooperation with HRC. A total of 47 countries are members of the council, and the regional presence is taken into consideration when selecting the member counties.

A.1.2. Mandate

- To promote universal respect of the protection of all human rights and fundamental freedoms for all, without making a distinction on any basis,
- To react to cases of violation of human rights, including the system-provoked violation by the states,
- To promote the education on human rights, to offer advisory services, technical assistance etc.
- To serve as a opinion exchange forum on certain topics as well as to give the General Assembly its recommendations aimed to further develop the international human rights law
- To introduce a universal periodic review (UPR) for each UN member country in order to evaluate the fulfillment of the obligations arising from the human rights principles etc.

A.1.3. Universal Periodic Review (UPR)

The objective of this mechanism is to improve the human rights globally by constant increase of the level of fulfillment of the obligations and commitments of the states with respect to the human rights and freedoms acknowledgement, by cooperating with the states, strengthening their capacities and technical assistance.

HRC achieves these goals by a constructive and interactive dialogue with each state, involving the country in the dialogue, without repeating the findings and the pending issues from the other mechanisms, thus this system represents a value added. The universal periodic review is conducted in an objective, transparent way, without inciting conflict situations and without political background.

For more information on how this mechanism works and what is the result, you can follow the link; it will offer information of the course of the procedure and the report on the Republic of Macedonia:

http://www.ohchr.org/EN/HRBodies/UPR/Pages/MKSession5.aspx
A.1.4. Human Rights Council Complaints Procedure (HRC)

In line with Council Resolution 5/1, a complaints mechanism has been established (continuation of mechanism 1503) in order to appropriately respond to the trends of more serious violations of the human rights and freedoms for which there is sure evidence, and which occur in any part of the world under any conditions. The procedure is confidential, and the focus is on the victims whose rights have been violated and it is conducted in a way to strengthen the cooperation with the indicated state.

Two special working groups act as a filter to check the credibility and legitimacy of the submitted complaints and in a report, explaining the situation and the determined continued valuation of human rights, informs the Council with recommendations on action that need to be taken in order to overcome the situation. The Council passes a decision on all special situations that have been put forward to it through this complaint mechanism.

The complaint is considered eligible, unless:

- The complaint has hidden political intentions and is in collision with the objectives determined by the UN Charter,
- does not contain explanations of the facts for the alleged human rights violations,
- the language is offensive and the complaint is not submitted by the person or group that claims to be victim of human rights violation or by other people or NGO’s that react with bona fide and in line with the principles of the international human rights law and claim to have direct and truthful insights of the done violations.
- If most of the complaints are based on reports from the media;
- If the national legal remedies were not fully used, except in cases when the same would be ineffective and would prolong the procedure for too long.

A.2. Human Rights Council Special Procedures

The special procedures are established by the HRC in order to react and monitor the situation of human rights in certain states or certain topics in all parts of the world.
The mandate holders of the special procedures have a mandate to investigate certain situations of violation of the rights, to follow and monitor the situation, to give advice and to publicly publish reports on the status of the human rights in certain countries or territories (mandates at state level) or specific spheres and topics of possible violation of human rights all over the world (thematic mandates). Today there are 33 thematic and 8 state specific mechanisms.

A lot of the activities and undertaken by the mandate holders of the special procedures (special rapporteurs, special representatives of the General Secretariat of UN, independent experts, working groups) including actions on individual complaints and complaints, conducting research, giving advice as technical assistance, etc. the mandates of the special procedures are established with special resolution, the mandate holders act on their behalf and in line with their expertise, not as representatives of the state. Their independent status is of vital meaning for unbiased realizing of the mandate entrusted to them.

Most of the mandate holders receive information for concrete leads for violation of human rights and sent urgent request or written communication to the governments of the states in question, asking them for appropriate response and explanation. In the course of 2010 a total of 604 letters have been sent to the governments of 110 states by the special procedures mandate holders. Out of these 66% were sent as joint requests signed by two or more mandate holders that point out to the interrelation and network of the human rights protection system and the close relation and interdependence of the human rights and freedoms.

The list of special procedures in contained in Annex 2.


A.2.1. How to submit a complaint to the special procedures mandate holder?

Some of the special procedures enable the citizens to directly submit information so that the government of the specific state is contacted regarding the allegations for human rights violation in the concrete case. In most cases the violations are done during the submitting of the allegations and the information to the special procedure mandate holder, and hence the necessity of urgency when acting on these allegations. These cases mainly occur when there is an arbitrary detention, missing people, fear of liquidation or other ways of depriving of life outside the appropriate procedure, deprivation to use the freedom of opinion and expression etc.

In order to alleviate the procedure, within the special procedures there is a concrete complaint form, a questioner, for the people who want to submit the information of alleged violation of human rights.

When the information or complaint is submitted, each person needs to state their name, but also it can be required that this data is not to be shared with the authorities if within the special procedure a request is submitted to the government to ask for additional data on the reported case. The entire material is submitted by the physical persons or the authorities of the state, as well as the decisions passed in different phases of the procedure, are confidential and are not readily accessible to the public.

A.3. UN High Commissioner for Human Rights

The position of the High Commissioner for Human Rights has been instituted in 1993 by the UN General Assembly. The UN High Commissioner holds a key position in human rights promotion and managing other activities from the sphere of human rights within UN, and at the same time, it maintains dialogue with all member countries regarding the condition with human rights in their appropriate states. Among others, the obligation of the High Commissioner involve: crisis management, prevention and early warning for possible violations, support of the governments in time of political transition, promotion of
the human rights agenda in front of the governments and coordination of the human rights programs.

A Deputy assists the Commissioner in the work, and there is a special office of the commissioner that deals with expert and technical issues. The office realizes its role through multiple functions such as pointing out to the meaning of human rights both on global and national level, within the communities and states, educates on human rights, supports other bodies and organs for human rights protections that work within the UN mechanism, evaluates the situation of human rights violation in certain countries and continuously report on the serious continuous violations of the human rights and freedoms.

**B. Protection System Based on Human Rights Instruments**

**B.1. Human Rights Instruments – treaties and conventions:**

Within the UN system there are nine human rights protection instruments:\(^{13}\):

- **International Covenant on Economic, Social and Cultural Rights**: this covenant was adopted within the UN frame in 1966 together with the International Covenant on Civil and Political Rights and enters into force one decade later in 1976. Each state member of this covenant, using its available resources and means, to take measures to achieve gradual full realization of the rights acknowledged by this pact, that come from the sphere of economic, social and cultural life of the human and citizens.

- **International Covenant on Civil and Political Rights**: also adopted in 1966 – political and civil rights are guaranteed and are protected from the moment of the signing and ratification of the Covenant.

- **International Convention on Elimination of All Form of Racial Discrimination** was adopted in 1965 and came into force in 1969. The objective is to fully fight all forms of racial discrimination bearing in mind that the existence of racial barriers is not in line with the ideals of the human society.

- **Convention on Elimination of All Forms of Discrimination against Women** adopted in 1979 and entered into force in 1981. This Convention has its focus on the education, employment, health and family life of the woman, and at the same time fighting the discrimination within a society mainly through adoption and implementation of the legal solution to advance the rights of the women.

\(^{13}\) Only the first six instruments (treaties and conventions) listed here are ratified by Republic of Macedonia and are hence part of our legal system.
• Convention against Torture and other forms of Cruel, Inhuman or Degrading Treatment or Punishment was adopted within UN in 1984, and enters into force in 1987. This convention prohibits torture as act with which immense physical or spiritual pain is inflicted in order to receive intelligence of confession, or punish the person for a certain act, to threat or to exert pressure on him/her, and is exerted by official representative, or another person that acts in official role.

• Convention on the Rights of the Child adopted in 1989 and enters into force in 1990. This Convention is the most widely ratified document within UN (only two countries have not ratified it. The Convention also protects children from economic and sexual exploitation and the stated are obliged to undertake appropriate legal, administrative and other measures in order to achieve full implementation of the rights protected with this convention;

• International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted in 1990 and in forces since 2003. This Convention, taking into consideration the phenomenon of migration of people and the process of globalization, that tackles millions of people from all over the world and a huge number of UN member countries. Protects the rights of all migrant workers, and their families without making a difference on any basis.

• Convention on the Rights of Persons with Disabilities adopted in 2006, in force since 2008. The Convention follows the principle of dignity of each individual and the autonomy of the person, the principle of non-discrimination, total and efficient participation in the social activities of the persons with disabilities, and enabling equal opportunities, access etc.

• International Convention for Protection of all persons from Involuntary Disappearance is adopted in 2006 and in force since 2010. No extraordinary situations, or emergency situations, nor state or threat of war, nor political instability of any other condition can represent or be used as a justification for involuntary disappearance of people.

B.1. Which are the bodies for monitoring the implementation of the conventions??

The bodies monitoring the implementation of the human rights treaties and conventions are committees consisting of independent experts that review the periodic reports submitted by the states signatories of the specific treaty; most of them are authorized to receive and decide on individual complaints, and only few of them can conduct their own investigation. Only one body, the Subcommittee on Torture, has the jurisdiction to visit the
locations of deprivation of freedom in those states that have joined the Optional Protocol to the Convention against Torture.

The following bodies are competent to conduct monitoring over the implementation of the UN human rights conventions by the Republic of Macedonia, for the conventions ratified by our state:

1. **Human Rights Council** that follows the implementation of the International Covenant on Civil and Political Rights (1966) and its Optional protocol
2. **Covenant on Economic, Social and Cultural Rights** that follows the implementation of the International Covenant on Economic, Social and Cultural Rights (1966)
3. **Committee on Elimination of Racial Discriminating** monitoring the implementation of the International Convention on the elimination of All Forms of Racial Discrimination (1965);
4. **Committee on Elimination of Discrimination against Women** monitoring the implementation of the Convention on the Elimination of all forms of Discrimination Against Women (1979) and its Optional protocol (1999)
5. **Committee against Torture** following the implementation of the Convention against torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984) and the **Subcommittee on Torture Prevention** that monitors the implementation of the Optional protocol to this Convention and visits the locations where there are cases of deprivation of freedom.
6. **Committee on the Rights of the Child** that follows the implementation of the Convention on the Rights of the Child (1989) and its Optional protocols (2000)

The following committees do not have the authority to act in line with their mandate when our state is in question, because Macedonia has still not ratified the following conventions:

1. **Committee on Migrant Workers** monitoring the implementation of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (1990)
2. **Committee on the Rights of the Persons with Disabilities** following the implementation of the International Convention on the Rights of the Persons with Disabilities (2006).
3. **Committee on Forced Disappearance** (in the phase of being introduced) and follows the implementation of the International convention on Protection of all People from Forced Disappearance (2006)
B.2. What are the competencies of these bodies?

All these committees realize different functions in order to monitor and follow the implementation of the convention in line with which they have been appointed. Although most competencies are similar, yet, their actions and practices are different. The most important role of these committees, that is common to all, is the duty of the states signatories of the conventions to submit periodical reports regarding the implementation of the obligations arising from these Conventions.

B.3. Review of the reports

Once the state ratifies the agreement, apart from the obligations to implement the material and essential provision of the convention, it also undertakes obligation to submit periodical report to the committee on the measures it undertakes in order to realize the obligations deriving from the convention. These reports contain all the legal, administrative, and court measures that the state has adopted in order to implement the provisions from the agreement and to submit information on the problems it encounter when implementing them. The reports are reviewed by the appropriate committee in the presence of a delegation from the state whose report is on the agenda of the committee’s session. After submitting the initial report, the state has an obligation to submit periodical reports each 2 to five years depending on the convention in question. At the end of each report, the committee notes down the determined conditions, positive sides and weaknesses in so-called conclusive remarks thus closely guiding the state in which direction to enhance the human rights protection system.

B.4. Individual Complaints

Several committees are authorized to act on individual complaints if certain preconditions are fulfilled, the most important one being the ratification of the appropriate convention, the Optional protocol of issuing a clear agreement that the state agrees for the committee to act on individual cases. In the case of the Republic of Macedonia the following committees can act on individual complaints of citizens and persons against the state:

- **The Human Rights Committee** acts on individual complaints against the Republic of Macedonia in line with the First Optional Protocol to the Covenant on Civil and Political Rights signed and ratified by Republic of Macedonia;
- **The Committee on the Elimination of Discrimination Against Women** acts on individual complaints in line with the Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women, ratified by the Republic of Macedonia;
- The Committee against Torture acts on the individual complaints against the Republic of Macedonia in line with the declaration under Article 22 of the Convention;
- The Committee on Elimination of Racial Discrimination acts on individual complaints against the Republic of Macedonia in line with the appropriate Declaration under article 14 from the Convention on Elimination of all forms of Racial Discrimination, except when the same situation is subject of review in front of other international bodies or procedures.

B.5. Who is eligible to submit a complaint?

Each physical person that claims that his/her rights as guaranteed by pacts and/or convention have been violated by the state signatory of the appropriate agreement (in this case the Republic of Macedonia) can submit a complaint to the appropriate committee, if the state Republic of Macedonia admits that authority of the appropriate committee to review and act on the individual complaints submitted against it (see B.4.)

B.6. How are complaints to these bodies submitted?

The human rights as guaranteed by convention really get weight and meaning through the individual complaints submitted to the committees which then solve and decide on the individual cases; it is there that the international norms that look general and abstract on paper receive practical use.

The complaint sent to the committee is also called “communication” or “complaint”, does not have to follow a certain form. Although within the frames of the procedures held in front of the committees there are appropriate complaint forms and instructions on how to fill them out, yet each communication or sharing of information supported with appropriate data will be considered as satisfactory in the sense of the complaint submitted for review to the appropriate committee. Your communication has to be in written form and signed by you and all facts need to be noted down in clear chronological order; these facts are the ones that you are familiar with in relation to the concrete
As a rule, this complaint is submitted after you have depleted all possible national legal remedies, and in the same, you state if for the same matter you have contacted another international organ.

The way in which you submit the complaints and information to the UN committees is explained in detail on the following internet page:

http://www2.ohchr.org/english/bodies/complaints/individual.htm
REGIONAL HUMAN RIGHTS PROTECTION SYSTEM

A.1 The Council of Europe

Within the regional human rights protection system of interest for our state is the European protection system that also includes the Council of Europe. The Council of Europe comprises of 47 states; at the beginning of its existence back in 1949 it counted 10 states that decided to come together in order to implement the joint principles on human rights protection, rule of law and democracy.\(^{14}\)

At the London Treaty in 1949 when the Council of Europe is established two main organs are established, one of them of parliamentarian nature (the Parliamentary Assembly) and the other one of inter-governmental nature (the Committee of Ministers)\(^{15}\).

The representatives of the Parliamentary Assembly are elected by the national parliaments that presents indirect representation of the member countries in the Council of Europe, the Assembly has consultative role and gives recommendations or opinion to the Committee of Ministers and proposes Resolution to the national governments. The Committee of Ministers is comprised of ministers of foreign affairs of the member countries, and the committee gives recommendation of internal or external nature, decides on requests form membership and other matters that fall within their scope of competencies.

The most important achievement of the Council of Europe is the European Convention on Human Rights. However, the Council of Europe played a key role in other areas of which a special place is held by the Convention on STate Immunity from 1972, environmental protection; treaties form the sphere of humanitarian law. Special place is held by the European Social Charter from 1961 as well as the European Law on Social Protection from 1964. The legal activities of the Council of Europe lead to the creating of the European Regional Law.\(^{16}\)

A.2. European Convention on Human Rights

The European Convention on Human Rights and Fundamental Freedoms was passed in Rome on November 5, 1950. This convention is the most important document put forward by the Council of Europe and all members (especially the ones that want to become members of the Council of Europe) have to ratify the European convention and respect the rights of the national minorities.

\(^{14}\) International human rights – Zvonimir Jankulovski, Skopje 2009
\(^{15}\) European law – Jean Claude Gautron, Skopje 2006
\(^{16}\) European law – Jean Claude Gautron, Skopje 2006, page 33, contribution to the international regional law.
The European Convention in Human Rights - ECHR is structured in three parts. The first part offers description and definition of the rights and freedoms, the second part regulates the procedure in front of the court while the third part are the transitory and concluding provisions including reservations, territorial complaint of the provisions and the ratification itself.

**Rights Contained in the European Convention for Protection of Human Rights:**

- Article 2 – Right to life
- Article 3 - Prohibition to torture
- Article 4 – Prohibition of slavery and forced Labor
- Article 5 – Right to freedom and security
- Article 6 – Right to a fair trial within reasonable period
- Article 7 – No punishment without law
- Article 8 – Right to respect for private and family life
- Article 9 – Freedom of thought, conscience and religion
- Article 10 – Freedom of expression
- Article 11- Freedom of assembly and association
- Article 12- Right to merry
- Article 13 – Right to an effective legal remedy
- Article 14 – Prohibition of discrimination

**Protocol number 1:**
- Article 1 – Protection of property
- Article 2 – Right to education
- Article 3 – Free elections

**Protocol number 4:**
- Article 1- Prohibition of Imprisonment due to debt
- Article 2 – Free movement
- Article 3- Prohibition of expulsion of own citizens
- Article 4- Prohibition of collective expulsion of foreigners

**Protocol number 6:**
- Article 1- Restriction of death penalty

**Protocol number 7:**
- Article 1- Expulsion of foreigners
- Article 2- Right to appeal in criminal procedures
- Article 3- Right to compensation for the victims of miscarriages of justice
- Article 4- Right not to be sentenced or penalized twice for the same felony
Article 5- Equality between spouses

Protocol number 12:
General prohibition of discrimination

Republic of Macedonia has put on hold the right guaranteed with Article 2 of the Protocol of the ECHR Convention, regulating that “in line with Article 45 from the Constitution of the Republic of Macedonia, the right of the parents to provide education and teaching of their children in line with their religious and philosophical beliefs cannot be realized through the system of private elementary education in Republic of Macedonia”. In the above stated article of the Constitution of Republic of Macedonia is determined that the citizens have right to establish private schools for all levels of education, except for primary education in line with law.

In the European Convention on Human Rights, initially there was a double surveillance on the side of the European Commission on Human Rights and the European Court on Human Rights. This system was replaced with Protocol 11 that entered into force on November 1, 1998. The total authority on actions on complaints was transferred to the European Court on Human Rights. The Committee of Ministers and the General Secretary of the Council of Europe are involved in the monitoring of the implementation of the sentences of the Court.

ECHR is applied to all territories under the jurisdiction of the signatories of the convention the territorial activity is determined in Article 56 of the European Convention on Human Rights.

A.3. European Court of Human Rights

Protocol number 11 from 1994 foresees the creation of a unique court that will act on the complaints on human rights violation determined with the European Convention on Human Rights. With this protocol, the functioning of the European Commission on human Rights was abandoned and the European Court was authorized to be the body that would exclusively act on the complaints of the states and individual, to decide on their legitimacy and would decide on the same merit based.

The court consists of 47 judges or one judge from each of the states signatories of the Convention. They are elected by the Parliamentary Assembly of the Council of Europe for a period of nine years. The court is in session in boards consisting of three judges, Chambers with seven judges per section and Grand Chambers consisting of 17 judges. The judge elected as representatives of the state that is a party in the litigation, ex officio is member of the Section and the Grand Chamber.
The procedure before the European Court is regulated with the Rules of the court that involves the appeal procedure in line with Protocol 11. The procedure starts by directing a complaint to the Court Registry. After the complaint is registered by the Secretariat, the complaint is submitted to the Court Sections among which a reporting judge is appointed. The applicant can submit the complaint him/herself without asking for assistance from a legal representatives or asking legal assistance that falls as a burden to the court based on the financial assistance of the Council of Europe.

The request for legal assistance has to be submitted to the Court who will then decide on its legitimacy based on the test if the individual qualifies for legal assistance from his/her state.\(^\text{17}\)

The complaint is revised from the aspect of legitimacy and the reporting judge can propose to the committee consisting of three judges to reject the complaint, or present the case before the Council if it is decided that the complaint is legitimate. If it is decided that the complaint is not eligible, and the Committee decides on this unanimously, the complaint is announced as not eligible and is erased from the list of cases.

**A.3.1. Eligibility of the complaint for violation of rights**

Article 35 from the Convention states the criteria of eligibility; it stipulates that the Court can look into the complaint only after all national legal remedies have been depleted and if that request is submitted within six months from passing the final decision.

The Court will not allow review of the complaint if it is submitted anonymously, is it is same a as complaint already revised by the Court or is submitted to another court instance, or if the complaint is not in line with the provisions from the Convention.

If the decision on eligibility is not reached, the case is turned over to the Chamber of seven judges that further evaluate its eligibility and ask the state to give its position as a potential friendly settlement of the dispute. The state is obliged to give an answer within 6 weeks after which the Council produces the opinion on the eligibility and foundation of the application.

\(^{17}\) International Human Rights – Zvonimir Jankulovski, Skopje 2009
If the Court accepts the complaint, there are two ways to act on it. The court can undertake an investigation on the matter of review the case in cooperation with the parties of the dispute. The Court Registrar is obliged to contact the parties and agree sessions with them. If the court approves legal assistance, the applicant and his/her lawyer will be present at the hearing.

The Court looks into the complaint and decides on the matter. The decisions of the Court are final, and the parties give a statement that they will not ask for the case to be transferred to the Grand Chamber. The Grand Chamber decides on the request for interstate cases as well as disputes for which the court councils already have issued a decision, hence, the Grand Chamber plays the role of a second instance organ within the European Court and in line with article 43 the transfer under the competency of the Grand Chamber can be required by any party in the litigation within three months from the day of reaching the judgment.

A.3.2. Submitting the complaint

The rights of submitting a complaint is given to an individual, NGO, or a group of individuals. If the complaint is submitted by a group of individuals, it has to be stated in it what kind of violation of rights is reported by each of the applicants in the complaint. The complaint is taken up for review only if it includes violations of the rights stated in the Convention; furthermore, this mechanism includes all the persons theta are under the jurisdiction of the members signatories of the Convention.

You can find the form that needs to be filled out as a complaint to the European Court on Human Rights on the following link:

http://www.echr.coe.int/ECHR/EN/Header/Applicants/Apply+to+the+Court/Complaint+pack/

A.3.3. Execution of the Judgments in the Republic of Macedonia

The authorized body to monitor the execution of the judgments of the European Court is the Committee of Ministers of the Council of Europe.

When the European Court of Human Rights determines the violation of a human right or fundamental freedoms as stipulated by the European Convention on Human Rights and in the additional Protocols of the Convention, that Republic of Macedonia as ratified, the party can submit, within 30 days from the final judgment of the European Court for Human
Rights, request to the first instance Court in Republic of Macedonia to change its initial judgment on the violation of the right or fundamental freedom\textsuperscript{18}.

The courts are obliged to obey the positions stated in the final judgment as issued by the European Court of Human Rights, determining the violation of the fundamental human rights and freedoms. If the Court decides that there is a breach of the Convention and the national law enables only partial elimination of the consequence from the breach, it may happen that the damaged party is offered a fair compensation. The court can decide on the fair compensation in cases when there is not financial loss as is the case of limited freedom, serious jeopardy of private life or other more severe violations.

Due to the large number of complaints that arrive in the court in Strasbourg, a new protocol 14 was adopted that allows for the individual judge to decide on the admissibility of the application and the decision is final. According to this protocol, the individual judge cannot review an application against the state on whose behalf he has been appointed.

Protocol 14 also introduces a new criteria defining if a case is admissible. In line with this protocol, “the court will not consider a case where the applicant has not suffered a significant disadvantage except on cases where the violation of the human rights needs to be examined and where the subject matter of the application has not been considered by a national court.”\textsuperscript{19}

A Law on Execution of the Judgments of the European Court of Human Rights was passed in Republic of Macedonia\textsuperscript{20} According to article 2 of this Law, “the execution of the judgments of the court is made by payment of the compensation to the applicants as fair compensation and adopting and undertaking individual and general measures in order to eliminate the violation and the consequences inflicted by them, as well as the reasons that led to the appeals before the court, and appropriate prevention of same or similar violations.” At the same time, article 3 says, “the execution of the judgments of the Court, in line with the European Convention on Human Rights is obligatory for the Republic of Macedonia”.

\textsuperscript{18} Article 400 Law on Court Procedure, official Gazette of Republic of Macedonia, number 7, dated 20.01.2011 (final version)
\textsuperscript{19} Practical Guide on the admissibility criteria in the European Court of Human Rights
\textsuperscript{20} Law on Execution of the Judgements of the European Court of Human Rights, official Gazette 67/2009
**B. Charter of Fundamental Rights and Freedoms of the Europe Union**

The Charter of Fundamental rights was adopted with the Nice Treaty in 2000 and the Charter is an important step forward in the protection of the human rights within EU. The Charter consists of six charters: dignity, freedoms, equality, solidarity, citizens’ rights, and justice. This Charter is a crucial document that guarantied the rights if the citizens of EU.

**C. European Ombudsman**

The Ombudsman is authorized to receive complaints from citizens of the Union, or each physical or legal entity that sojourns or has legal seat in some of the countries – EU member country regarding the inappropriate administration within the activities of the intuitions and organs of the community with exception to the Court of Justice of the European Community and the first instance court within the execution of their court function.”

Both citizens of EU member countries as well as persons dwelling in EU Member County have the right to submit an appeal. Legal entities with seat in EU can also submit an appeal to this institution.

The European Ombudsman is entitled to initiate an investigation based on a complaint for bad treatment on the side of the bodies and institutions of EU among which are the European Commission, the Council of EU, and the European Parliament. The Court of Justice does not fall within the Ombudsman’s jurisdiction as well as the first instance court and the Court for Public Services of EU. The citizens can lodge a complaint due to administrative irregularities, discrimination, abuse of official position, silence of administration, depriving from information and unnecessary procrastination.

The Ombudsman cannot undertake investigation of national, regional or local intuitions, or activities of national courts and national public attorneys.

The European Ombudsman report to the institution subject of the complaint, and needs to receive an answer within three months. This institution can send recommendations to the organs as well as to the European Parliament.

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21 European Ombudsman, International Institutions and institutions of the Community, Natalie de Grouve Valdero, Said Hamduni, Skopje 2006
PART 4: NATIONAL MECHANISMS FOR HUMAN RIGHTS PROTECTION

National Human Rights Institutions

The national human rights institutions, especially the human rights committees, play a serious role in the promotion and protection of human rights at national level. Therefore, the strong human rights protection agenda of a democratic and free county must also include the establishment of such an institution at national level, and where the institution is already established, it is necessary to undertake continuous measures and steps in order to strengthen it mandate, professional stature and capacity.

National committees on human rights or human rights institutions are established based on the standards introduced with the so called Paris Principles; in line with these the institutions need to have the mandate to actively promote and protect the human rights, specifically determined at the highest level with the Constitution of the State or with a legal act.

The fundamental obligations of the national institutions that result from the determined principles also include: submitting an opinion to the government, the parliament or other competent body, submitting recommendations and proposals, as part of its advisory role; these can be submitted to any legal or administrative provision or actions or any situation that violates human rights; furthermore, it develops reports on the situation in the states regarding the human rights and are there to indicate to the government the existence of a situation in any part of the state, where the human rights are being violated and give proposals and initiatives to overcome such conditions.

National Human Rights Institutions are also responsible to ensure harmonization of the national legislation, regulations and practices with the obligations arising from the international treaties and conventions signed by the state, as well as monitor their implementation at national level.

The procedure of appointing national human rights institution is implemented by a special Subcommittee for Accreditation within the International Coordination Committee. The subcommittee reviews the applications for a national institution to be able to obtain the

\[22\] The Paris principles are the Principles referring to the status of the national human rights institutions, adopted by UN General Assembly with Un Resolution 48/134 dated December 20, 1993
status, mainly from aspect of fulfilling the specific Paris principle on the side of the enrolled body within the national context.\(^{23}\)

Republic of Macedonia still does not have an accredited National Human Rights Institution. Once it is established along the lines of the Paris Principles. It will additionally contribute to the effective protection of the rights of the persons and citizens of the Republic of Macedonia.

**The Public Ombudsman of the Republic of Macedonia (Ombudsman)**

The Ombudsman as an institution is the last resort for citizens to look for protection in order to realize their rights when they were faced with an obstacle to do so by the state administration. The ombudsman usually ha a supervisory role that is realized through investigating the complaints submitted buy the citizens, through inspections, direct monitoring of the work of the state organs, and other forms of inspection and investigation that the Ombudsman initiates him/herself.

The Public Attorney protects the constitutional and legal rights of the citizens that have been violated by the organs of the state administration and other organs and organizations that have public competencies. The public attorney dedicates special attention the protection of the principles of non-discrimination with appropriate legal representation of the members of the communities in the state authority, organs of the units of local self-government and in the public institutions and services.\(^{24}\)

The Public Attorney is independent and sovereign in performing his/her functions, and the matters under his/her competency are performed in line with the Constitution, the Law, and the international agreements ratified in accordance with the Constitution.\(^{25}\)

**A. Intervening at a complaint lodged by a citizen**

The procedure within the Public Attorney’s office dealing with protection of the constitutional and legal rights of the citizens is free of charge and is initiated by submitting a complaint. Each person can submit a complaint to the Public Attorney when he/she deems that his/her constitutional and lawful rights have been violated or when the non-discrimination principles are violated together with the adequate and fair presentation of the members of the communities in the state organs of the central government, the local government or other organizations with public competencies.

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\(^{23}\) Guidance for accreditation and re-accreditation of the National Institution of Human rights before the International coordination committee on National Human Rights Institutions

\(^{24}\) Amendment XI, pg.2 from Republic of Macedonia Constitution from 2001

\(^{25}\) Article 3, Law on Public Attorney (Official Gazette of Republic of Macedonia, number.60/2003)
Within its competencies, the Public attorney can ask the organ and/or responsible person for explanation, information, or proof on the allegations in the complaint; summon the official for an interview, and make a direct investigation in the matters that are under the authority of the organs that are investigated.26

After conducting the procedure and investigating the allegations from the complaint, the ombudsman, if violations of the rights is identified, can give recommendations, suggestions, opinion and directions on how to eliminate the detected breach; to suggest that another procedure is to be conducted in line with law; even to initiate a discipline procedure against the responsible person and in cases of serious violation of the rights with elements of felonies, has right to submit request to the competent public prosecutor to initiate a criminal proceeding.27

The Public Attorney does not act only on complaints submitted by citizens; the public attorney can also offer initiatives to amend and change laws and other bylaws, and ask for the same to be synchronized with the international agreements ratifies in line with the Constitution of Republic of Macedonia as well as to submit proposal to the Constitutional Curt of Republic of Macedonia to asses the legitimacy of the laws and other regulations and general acts in relation to the constitution.28 This only confirms the wide spectrum of mechanisms that the Ombudsman can and should use in order to provide a comprehensive, efficient and effective protection of the rights and freedoms of the persons and citizen.

B. Submitting a Complaint to the Public Attorney

If you want to complain to the Public Attorney you need to know that your complaint submitted to the Public Attorney needs to be signed by and contain the personal data of the submitter and to contain the circumstance, facts and proof that are the subject of the complaint.

26 Article 24, Law on Public Attorney (Official Gazette of Republic of Macedonia number.60/2003)
27 Article 32, Law on Public Attorney (Official Gazette of Republic of Macedonia number.60/2003)
28 Article 30, Law on Public Attorney (Official Gazette of Republic of Macedonia number.60/2003)
In the complaint you need to state the organ, organization, institution or person to whom
the complaint refers, as well as to state if the submitter has already used legal means and
which legal means have been so far invested.

The complaint to start the procedure is submitted in writing or orally so that minutes are
taken; the complaint is submitted either to the office of the Public Attorney in Skopje or to
one of the 6 regional offices in Tetovo, Kumanovo, Stip, Strumica, Bitola and Kicevo.
Although in line with the law, when submitting the complaint no special form is needed, in
order to simplify the process of submitting complaints to the Public Attorney, an informal
form has been developed contained in Annex 3 of this document.

You can find more information on how to submit a complaint and electronic submission of
the same at the following link:


C. National Preventive Mechanism (NPM) within the Public Attorney’s Office

C.1. Establishing the National Preventive Mechanism

The National Preventive Mechanism (NPM) in the Republic of Macedonia has been
established by the Law on Ratification of the Optional Protocol to the Convention against
Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by Republic of
Macedonia (Official Gazette of Republic of Macedonia number 165/2008).

The objective of the Protocol is to establish systems of regular visits implemented by
independent international and national bodies at the places where persons have been
denied of their freedom, in order to prevent torture and other inhuman or humiliating
treatments or punishments.29

With this law, Republic of Macedonia states that the Public Attorney is appointed to act as
National Preventive Mechanism, and with the agreement of the Public Attorney, some of
the nongovernmental organization and humanitarian organization operating in Republic of
Macedonia can take over some of the NPM competencies.

29 Article 1, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment by Republic of Macedonia
C.2. The need of establishing the NPM

The member states of UN identified the need to take preventive measures in order to achieve the goals set by the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment and to strengthen the protection of the persons deprived of their freedoms from torture and other inhumane or degrading treatments or punishments.

The preventive nature of the regular visits of the places where people and imprisoned according the methodology are different than the protective visits that focus on a concrete complaint to solve a concrete problem. Preventive visits by the members of the national mechanism, who are entitled to enter in the places where people are imprisoned with or without previous announcement, and have access to all the documents and have right to talk to the person that they choose to talk to, will have a strong effect on prevention of tortures or other forms of cruel, inhuman or degrading treatment; these visits are proactive, regular and can see though the flaws directly on the spot, and identify the elements that can lead to establishment of conditions or acts that are considered as torture or another form of cruel treatment.

The objective of this prevention mechanism is through a process of continuous dialogue with the authorities that points out to the identified problems and gives directions on how to timely prevent the possible unwanted consequences.

C.3. National Preventive Mechanism of the Public Attorney

NPM functions as a separate organizational unit within the Public Attorney whose fundamental task is prevention from torture and other cruel, inhuman or degrading treatment or punishment. NPM prepares its own working program and acts in accordance with it; it has a special methodology that among other things includes regular visits of all places where persons are imprisoned that are under the jurisdiction of the state.

In line with the adopted acts, the prevention is done by establishing a system of regular visits that can be previously announced or not. The National Preventive Mechanism, based on the determined situation, develops a report with recommendations; the Public Attorney submits the report and the appropriate recommendations to the competent authorities and proposes measures that need to be undertaken in order to improve the overall conditions in the places where people are held imprisoned. The competent organ that has received the report is obliged to look at the NPM recommendation and start a dialogue with NPM discussing the possible measures that could be applied.
At the end of each year, NPM issues a special annual report, and in line with the Optional Protocol, Republic of Macedonia has a commitment to publicize the same and distribute it.

**Constitutional Court of the Republic of Macedonia**

**Article 50 from the Constitution of Republic of Macedonia**

Every citizen may invoke the protection of freedoms and rights determined by the Constitution before the regular courts, as well as before the Constitutional Court of Macedonia, through a procedure based upon the principles of priority and urgency. Judicial protection of the legality of individual acts of state administration, as well as of other institutions carrying out public mandates, is guaranteed. A citizen has the right to be informed on human rights and fundamental freedoms as well as actively to contribute, individually or jointly with others, to their promotion and protection.

Regarding the mandate of the Constitutional Court to protect these rights, article 110 from the Constitution of Republic of Macedonia stipulates: “...protects the freedoms and rights of the individual and citizen relating to the freedom of communication, conscience, thought and activity as well as to the prohibition of discrimination among citizens on the grounds of sex, race, religion or national, social or political affiliation;” while with regard to the same competencies, the Rules of Procedure of the Constitutional Court of Republic of Macedonia regulates it in Article 56 in the following manner: *With the decision for protection of freedoms and rights, the Constitutional court will define whether there is an infringement and depending on that, it will annul the individual act, prohibit the action causing the infringement or refuse the request.*

Unlike the abstract control reflected in the article from the Constitution of Republic of Macedonia, the subject of assessment within this mandate are the separate acts and actions of the organs of public administration for which the citizens believe that some of their constitutional rights are being violated.

In line with the Rules of Procedure of the Court (article 51), each citizen asks for protection from the constitutional Court if he/she believes that some of the following rights have been violated (according article 110 lie 3 from the Constitution of Republic of Macedonia):

- freedom of belief, conscience, thought and public communication of thought;
- right to political affiliation and action;
- violation of the principle of prohibition of discrimination among citizens on the grounds of sex, race, religion or national, social or political affiliation;
According the judges of the Constitutional Court, there are two main features of the Constitutional Court that can be viewed as an advantage when the citizens sent their requests for protection to the Constitutional Court: (1) the request for protection of the rights that have been violated with a separate act or actions is directly submitted to the Court, (2) the subject of the request is not only administrative act but any court decision from any court instance. The citizen can ask for protection from the Constitutional Court within 2 months from the day a final or lawful act is submitted, or from the moment there is an acknowledgement of the taken action, but not later than 5 years after the action as initiated.

In line with article 52 from the Rules of Procedure, in the request the citizen is obliged to state the reasons due which a protection is being asked, the acts or the actions with which they are infringed, facts and evidences on which the request is based, as well as other data necessary for the decision of the Constitutional court.

For the protection of freedoms and rights, the Constitutional Court decides, by rule, on the basis of a held public hearing. At the public hearing are invited the participants i.e. parties in the procedure as well as the public attorney and when needed other persons, organs or organizations can be invited.

Although annually there are at an average from 10 to 15 requests submitted to the court for review of the separate acts and actions of the organs of the public authority that the citizens believes to be infringed, most of these were rejected due to formal and legal reasons. Hence, in 2010 out of 9 requests submitted by the citizens from protection of their rights in only one case the Court decide that there is an infringement of the rights and freedoms, more precisely the court determined that the citizen J.R. from village Zajas was prevented from political actions by not being accepted as a candidate for the local election in 2009. The Court determined that rejecting the application to run for Mayor resulting from incorrect data from the penalty registry issued by an organ of state administration, in essence implies infringement of the right of political affiliation of this person, because an organized group of citizens was supporting him in his intentions to run for mayor.

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30 http://www.ustavensud.mk/domino/WEBSUD.nsf
JUDICIARY AND PUBLIC PROSECUTION

A.1 International Standards on Fair and Righteous Trials

The standards of fair and righteous trial are the basis of any legal state that guarantees to its citizens equal access to justice. They strengthen the trust of the citizens in the judiciary which on the other side is obliged to provide a processor that would completely respect the fundamental human rights and freedoms. Definition for the standards is taken from the European Convention on Human Rights that stresses the meaning of equality of the means in the procedure, the assumption of innocence and a trial in a reasonable time.

International standards on fair and righteous trial stress that each citizen is entitled to a trial within a reasonable period before an independent and objective tribunal founded by law. The Law on Courts regulates this aspect and determines the way of functioning of the courts of the Republic of Macedonia.

Article 6 from the European Convention on Human Rights clearly defines the standard and principles of fair and righteous trials, with a special pressure on the judges in the procedure, and they are the ones that have to secure their respect. Each judge needs to be reminded at the beginning of the trial about the obligations that result from this Convention and before completing the procedure to check if he/she has duly completed his/her duty. The judge is the one that has to make sure that the defendant is duly represented, especially for the cases where special conditions need to be created for the vulnerable defendants. It is the judge that has to make sure that the principle of equality of means is obeyed, meaning that each party has to have reasonable opportunity to present his/her case under conditions that will not put him/her in considerably worse position compared to the opponent. The defendant needs to be informed in details about the charges he/she is facing; the judge has to inform the defender on the conclusions that are reached by looking at the defendant’s file. Furthermore, the judge is the one that determines if appropriate treatment was offered to the defendant during his/her initial detention. The judge needs to decide the admissibility of the proofs. At the same time the judge is responsible to respect the presumption of innocence, and in cases when this is violated, the judge needs to issue an order to avoid the negative coverage of the event on the side of the media. It is the judge who needs to inform the media what they can report on and what they cannot report on. In the end, the judge is responsible to monitor the execution of the final judgment.

The guarantees stipulated in article 6 are applied during the entire court procedure, from raising the charges until the appeal, although it is not per se covered by this article. The appeal is covered with the guarantees in article 6 in cases when national law leaves space for appeal.
Article 6 covers also the procedures after the court hearing such as the execution of the judgment. Article 6 guarantees the right to public hearing as one of the civil rights and obligations for any criminal charges raised. Article 6 says that the media and the public can be eliminated from the entire procedure in the interest of the moral, public order, or national security of the democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

In line with Article 6, the Judgment shall be pronounced publicly and this provision is not subject to exemptions. The objective of this rule is to contribute to fair trial through the public judgment. Article 6 guarantees a trial in a reasonable period for each person. The time taken into consideration starts by initiating the procedure in the civil cases and the raising of the charges in the criminal cases. The time elapses when the procedure is closed before the highest possible instance i.e. when the decision is final.

The concept of fair trial includes several aspects from the court process such as the right to a court, investigation in the presence of the defendant, releasing from self-incrimination, equality of means, right to a procedure in which two parties are opposed and elaborated judgment. Article 6 requires that national courts elaborate on their judgment during civil as well as criminal procedure especially if the submitted evidence is important for the result of the case.

In the International Covenant on Civil and Political Rights ratified by our country, the rights of the defendant are clearly defined and the righteousness of the procedure before the court. Apart from the fundamental, indisputable rights of the person as guaranteed by the Covenant, the rights of the parties in a court proceeding are additionally regulated and protected especially in special circumstances such as war.

The International humanitarian legislation guarantees certain elements of fair trial in circumstances of armed conflict especially in tight connection with the fundamental rights as well as the rights guaranteed by law and by international convention, specially the inherent or so called absolute rights. Among other rights regulated with this convention is the equality if arms before court, right to an independent court established by law, exclusion of the public and media if data of special interests for the state is revealed. The right of compensation is additionally regulates in case of unrighteous conviction and the right is guarantee the same person not to be taken before a court twice for the same felony.

An important element among the standards for fair trial guaranteed with this covenant is for the trial to be in a reasonable time or that unnecessary delays need to be avoided. This is in the interest of justice, as well as the uncertainty in which the defendant finds
him/herself. The covenant guarantees the presence of the public during the hearings thus ensuring the transparency of the judiciary especially when criminal cases are concerned. Nonetheless, this Covenant also stipulates that the public and the present can be eliminated from the court room in exceptional cases when the given statements or revealed evidence can damage the privacy of the defendant or are tightly related to the interest of the state.

The presumption of innocence is especially guaranteed and it obliges the parties in the procedure to refrain from premature statements that can influence the procedure or the public opinion on the defendant. The right to information in a language understandable for the defendant i.e. the right to translator is also guaranteed with this Covenant. The defendant with this Covenant is guaranteed the right to adequate defense, right to a lawyer i.e. defender, and enough time to prepare for the defense. The defendant is entitled to appropriate access to information as well as all necessary documents to prepare for the defense. The defendant has the right to private encounters with his/her defender so that they can jointly work on the defense.

The Covenant guarantees the defendant the right to summon witnesses in his/her defense as well as to face with and interrogate the witness of the prosecution. This Covenant guarantees the right of the defendant not to be forced to give a statement or a confession of guilt with which he/she will damage his/her own defense as well as the right to a appeal to a higher instance court for the first degree judgment.

**B.1 National Standards on Fair and Righteous Trial**

Republic of Macedonia as a UN member country, member of the Council of Europe, signatory of a number of international instruments for human rights protection, has incorporated the standards on fair and righteous trials in the national legislation, most importantly in the Constitution and the Code on Criminal Procedure.

The generally accepted principles of fair trials are the following:

- Right to information
- Right to a lawyer before the trial
- Right to be taken before a judge in the shortest possible period
- Right to a trial in a reasonable period
- Right to human conditions during the detention and prohibition of torture
- Right to equality before the laws and the courts
- Right to a fair hearing
- Right to a public hearing
- Presumption of innocence
- Prohibition to use evidence exerted with torture
- Right to a trial without unnecessary delays
• Right to know the argumentation of the judgment
• Right to a complaint
• Right to fair trial during war or urgent condition

The courts draw on their fundamental competencies and mandates from the Constitution of Republic of Macedonia. The judiciary is determined as a constitutional category and the courts work in line with the Constitution, the laws and the international agreements ratified by the Constitution of Republic of Macedonia in accordance with the provisions of the Constitution, emergency courts are prohibited and the highest count in the state is the Supreme Court.

C.1 Functioning of the Judiciary in the Republic of Macedonia

The Law on Courts\textsuperscript{32} determined the functioning of the judiciary in the Republic of Macedonia. In accordance with this law, the objectives of the courts include (1) objective usage of the law regardless of the position or status of the parties; (2) protection, respect and advancement of the human rights and fundamental freedoms; (3) ensuring equality, parity, non-discrimination on any grounds and (4) ensuring legal security based on the rule of law.

The courts decide in the procedure on: rights of citizen and legally founded interest, disputes among citizens and other legal entities, felonies and misdemeanors as well as others that are under the authority of the court. The independence of the judiciary is determined in article 11 from the Law on Courts according to which “the judge decides objectively by applying law based on the free evaluation of the evidence. Every form of influence on the autonomy, objectivity and independence of the judge in the performance of the judiciary function is prohibited, under any basis and from any entity.”

In the court system the courts are divided into principal (first instance) courts, appellate courts, Administrative court, Higher Administrative Court and Supreme Court of Republic of Macedonia. The Principal courts adjudicate in first degree on the territory of the Republic of Macedonia, and in our state a total of 27 principal courts are in function. The appellate courts are second instance courts and are divided into 4 regions: Appellate Court Skopje, Appellate Court Stip, Appellate Court Bitola and Appellate Court Gostivar.

The Administrative and Supreme Court are established and perform their function on the entire territory of the Republic of Macedonia.
Article 30 from the Law on Courts determines the mandate of the principal courts.

\textsuperscript{32} Law on Courts, Official Gazette 03/2009,35/2008,150/2010
1) The courts of first instance (principal courts) with mandate in the regions for which they have been established, decide in the first degree on criminal cases and misdemeanors, as follows:

- On crimes which by law are sanctioned by a penalty of imprisonment of up to 5 years, unless the competence of another court has been provided for to decide on certain crimes;
- On crimes which by special law shall be designed to a court of basic competence,
- To carry out investigation or investigative actions on crimes falling within their competence,
- On all types of misdemeanors, unless it is provided that certain types of misdemeanors shall be decided on by a state administration authority or organization of another authority exercising public authorization; and
- On complaints and appeals to actions taken by these courts.

2) The principle Courts of first instance decide in the first degree in civil cases as follows:

- On property and other civil disputes in physical ad legal entities, which are in the amount of 50,000 Euros in denars exchange, unless it is provided by law that another court shall be competent to decide,
- On disputes related to determination and disclaiming of paternity, determination of marriage, annulment of marriage and divorce;
- On law provided alimony,
- On parenting and upbringing of children,
- On hindering possession,
- On lifelong alimony,
- On compensation that shall not exceed 50,000 Euro in Denars exchange,
- On procedure for providing the enforcement,
- On labor relations,
- On inheritance disputes,
- On extrajudicial and inheritance matters,
- To keep record of the deeds and
- Other matters specified by law.

The same law also regulates the courts of first instance with extended competence, and within Principal Court Skopje I a special department is established to deal with cases from the sphere of organized crime and corruption from the territory of all Republic of Macedonia.
The appellate courts shall be competent for:

1) deciding on appeals against the decisions of the courts of first instance in the relevant territory;
2) deciding on conflict of jurisdiction between courts of first instance in their territory; and
3) Performing other work specified by law.

The Law on Courts also regulates the functioning and competencies of the Administrative Court and Higher Administrative Court. The Administrative Court decides on the legality of individual acts adopted in the electoral procedure as well as acts of appointment, dismissal of public officials as well as state officials unless it is otherwise specified by law, as well as disputes arising from concession agreement, public procurement agreements that are of public interest, and every argument in which one of the agreeing parties is the state authority, organization of public authorization, a public enterprise, municipality and the City of Skopje, provided that the agreement is of public interest and concluded for the purpose of enactment of public service, as well as decided in individual acts of the organs of the state administration, the government and other state organs in the event when the respective act is decided on in the second degrees and no other legal protection has been provided for.

The Higher Administrative Court is competent to:

1) decide on appeals against the decisions of the Administrative Court;
2) decide on the collision of the competencies among the organs of the Republic, competencies of the municipalities and the City of Skopje, and disputes arising from collision of competencies between the municipalities and the City of Skopje and the bodies carrying the public authority, as it is regulated by law, unless the constitution or laws do not foresee another different legal protection; and 3) perform other activities as determined by law.

The Supreme Court of the Republic of Macedonia is competent for:

1) deciding on the second degree against the decisions of its council when it is stipulated by law;
2) deciding in the third and final degree on appeal against decisions of appellate courts;
3) deciding on extraordinary legal remedies against the effective decisions of courts and decisions of its councils when it is stipulated by law;
4) Deciding on conflicts of jurisdiction between courts of first instance form the territories of different appellate courts; conflict of jurisdiction between appellate courts. Conflict of jurisdiction between administrative and another court; deciding ion the transfer of jurisdiction ratione loci in these courts;
5) Deciding on the request of the parties and other participant in the proceeding who have legal interest in the violation of the right to a trial within a reasonable time, in a procedure stipulated by law before the courts of the Republic of Macedonia in line with the regulations and principle determined by the European Convention on Human Rights and Fundamental Freedoms starting from the court practices of the European Court of Human Rights.

With regard to the trial in a reasonable time, the citizens are entitled to lodge a request for protection of this right to the Supreme Court; the request can be submitted during the court procedure or within six months from the day the court judgment was passed. The Supreme Court needs to take action within 6 months and decide if the lower instance court has violated this right, having in mind the rules and principles determined by the European Convention on Human Rights and Basic Freedoms, and especially bearing in mind the complexity of the case, the behavior of the parties during the procedure and the behavior of the court in charge.

The Court Rules of Procedure\textsuperscript{33} determined the urgency of the case. Article 231 states that in criminal cases when the procedure is dealing with a felony committed during holding an official capacity, the courts act with no delay. The urgency is especially respected for case when detention is in question, as well as cases dealing with minors.

Article 13 of the European Convention on Human Rights determines the right of effective remedy. In line with the national legislation, the regular and extra-ordinary legal remedies are determined. The Code on Criminal Procedure states the following regular legal remedies: complaint to the judgment from first degree instance; complaint to the judgment form second degree instance allowed only in strictly determined cases, and complaint to a decision, while the extra-ordinary legal remedies are repetition of the procedure, extra-ordinary mitigation of the penalty, request for protection of the legitimacy and request for irregular re-examination of the legal judgment.

The civil procedure determines the following regular legal remedies: the right to complaint against a first degree judgment and complaint against decision; the extra-ordinary remedies are revision and repetition of the procedure. Special attention in the Law on Court procedure\textsuperscript{34} is placed on the repetition of the procedure based in the final judgment of the European Court for Human Rights.

\textsuperscript{34} Law on Court Procedure, final version, official Gazette 07/2011
Court Protection of Juveniles

The Law on Juvenile Justice adopted and announced in the Official Gazette number 87/07 dated 12.07.2007 separately regulates the protection of juvenile i.e. children at risk and juvenile perpetrators of actions that by law are defined as felonies and misdemeanors, and the law regulates the measures for protection of the juvenile victims of felonies and the prevention measures for juvenile delinquency.

The same law regulates the issue of court procedures involving juveniles. When during the court procedure it is determined that the juvenile was not 14 when the misdemeanor was conducted, the procedure is to be stopped and the centre for social work is to be summoned as competent authority for this category of juveniles. The procedures against juveniles are closed for the public and the court need to provide protection of the privacy of the juvenile and his/her family. The defender of the juvenile has to be present during the entire procedure, and the juvenile can not be put to trial in his/her absence.

Within the court, there is a special court department that specializes on juvenile crime i.e. these departments are established in the principal courts with wider authority. The court procedure for juveniles is led by the Juvenile Judge. If there is a Court Council, part of the judges need to be education workers, psychologists, pedagogues, sociologists and other persons that have experience with the upbringing and education of the juveniles.

Within the Supreme Court of the Republic of Macedonia a juvenile council is formed consisting of five judges. The juvenile council decides on the regular and extra-ordinary legal remedies foreseen with this law, follows the work of the improvement of the court practices in this sphere and prepares analysis.

In the court procedure against juveniles, the regular legal remedy is the appeal, and as extra-ordinary remedy are the request to protect the legitimacy and doubling of the procedure in line with the Code on Criminal Procedure. The misdemeanor proceeding can be initiated with the juvenile judge only if the case is not solved in the previous procedure of mediation with juvenile delinquents, as determined by the Law on Misdemeanors. The misdemeanor procedure is led by a juvenile judge who also passes the judgments, under the competency of the court where the juvenile is resident or is sojourning.

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35 This Law has changes in 2008 (Official Gazette number 103/08,161/2008,145/2010)
D1. Public Prosecution

The Public Prosecution is the only independent state organ whose primary goal is to prosecute perpetrators of felonies. In line with Article 19, the Public Prosecution as the only state organ is organized on three levels, principle, higher and public prosecution of the Republic of Macedonia. The public prosecution acts within the limits of its real and territorial mandate, unless differently determined with this law. The principal public prosecutor is active before the Principal Courts. The higher prosecutor acts before the second instance courts and the Public prosecutor of the republic of Macedonia acts before the Supreme Court of the republic of Macedonia. The Public Prosecutor also acts before other organs and other legal entities within his/her area, when authorized to do so by law.

The Criminal Code lists the felonies for which felons are prosecuted by the Public Prosecutor and no charges are raised by individuals.

Article 39 of the Code on criminal procedure\textsuperscript{36} states that the “fundamental right and duty of the Public Prosecutor is to prosecute the perpetrators where the prosecution is done as ex officio. In these cases the public prosecutor is entitled to:

- To guide the actions of the organs competent to detect and report criminal acts and their perpetrators;
- Proposes or issues orders for special investigation measures, under conditions determined by this Code.
- Passes orders and implements investigative procedures;
- Detects, proposes and provides proof, under conditions and in a manner as prescribed by this Code;
- Proposes temporary measures to secure property or objects obtained through criminal actions or in order to confiscate them;
- Decides on postponements of prosecution under conditions as regulated by this Code;
- Proposes issuing penalty warrant under conditions determined by this Code;
- Negotiates and makes arrangements with the defendants to admit the guilt, under conditions as stipulated by this Code.
- Submits and presents charge before the competent courts;
- Submits complaints against court decision as well as extra-ordinary legal remedies against court procedures.
- Decides on complaints of the damaged party in cases determined by this Code.
- Undertakes other actions regulated by this Code;

\textsuperscript{36} Code on Criminal Procedure, November 18, 2010, Official Gazette 150/2010
The Public Prosecutor initiates special procedures and participates in them when that is regulated with a special law.

**ASSEMBLY OF THE REPUBLIC OF MACEDONIA**

In line with the Law on the Assembly of the Republic of Macedonia\(^{37}\), the Assembly is the representative body and holder of legislative power in the state. The Members of Parliament are elected with four years mandate, at general, direct and free elections with a secret ballot. Assorting the Rules of Procedure of the Assembly, the public will be informed on the work of the Assembly and its bodies. The media has access to the acts reviewed and adopted by the Assembly, as well as the information and documents that are reviewed by the Assembly and its working bodies, the reports as well as the minutes from the sessions of the Assembly, unless the Assembly or the working body has decided an issue to be reviewed without the presence of the representatives of the media\(^{38}\).

**A.1 Standing Inquiry Committee for Protection of Civil Freedoms and Rights**

By decision for establishing standing working bodies of the Assembly of Republic of Macedonia\(^{39}\) a total 21 Committees are established. Within these the Standing Inquiry Committee for Protection of Civil Freedoms and Rights is formed, with a total of 9 members among which the president of the committee. The establishing of the Committee for Protection of Civil Freedoms and Rights is determined in the Constitution of Republic of Macedonia hence this committee is elevated to constitutional category unlike the other working bodies in the Assembly. Article 26 from the Constitution of Republic of Macedonia says: the Assembly sets up permanent and temporary working bodies. The Assembly may set up survey commissions for any domain or any matter of public interest. A proposal for setting up a survey of commission may be submitted by a minimum of 20 MPs. The Assembly sets up a permanent survey commission for the protection of the freedoms and rights of citizens. The findings of the survey commissions form the basis for the initiation of proceedings to ascertain the answerability of public office-holders.

This committee is a standing working body of the Assembly with the basic functions regarding the protection of human rights: first it reviews issues from the sphere if human

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\(^{37}\) Law on Assembly (Official Gazette 104/09 dated 20.08.2009)


\(^{39}\) Official Gazette of Republic of Macedonia. 77/2008 and 144/2008
rights protection; and secondly: if a breach is detected, a procedure can be initiated to determine the responsibility of the holders of public functions. This committee cannot perform investigative or court functions and the political character does not allow it to represent an independent body that would provide an efficient protection of the potential victims of police abuse.

The committee gives general questions, proposals and opinions regarding the implementation of the provisions of the Constitution of the Republic of Macedonia, and other regulations and acts concerning the basic civil freedoms and rights; it points to the need of adoption of laws, regulations and acts with a view to a more comprehensive protection of civil freedoms and rights; follows, reviews and analyses the implementation of the ratified international acts which regulate protection of civil freedoms and rights; reviews communications from citizens and takes a position upon them; cooperates with scientific and professional organizations in the field of protection of civil freedoms and rights; cooperates with relevant foreign and international bodies in the field of the protection of the civil freedoms and rights; and carries out other activities within its competence that are in function of respecting the freedoms and rights of the citizen.40

In 2010 the Standing Inquiry Committee held 8 sessions, and in the past year it reviewed three proposal laws among which: the Proposal Law on Prevention and Protection from Discrimination; Proposal Law on Changes and Amendment to the Law on Protection of Personal Information as well as the Proposal Code on Criminal Procedure. A total of 40 citizens sent their correspondence to the committee, and one of the complaints resulted with a special session on the topic of Sexual Harassment of Children in the Republic of Macedonia.

B.1. Committee on Equal opportunities for Women and Men

Within the Assembly of the Republic of Macedonia also functions the Committee on Equal Opportunities for Women and Men. Among the competencies of this committee are the following ones: law proposals and other regulations adopted by the Assembly in the field of labor and social policy, education and health care, as well as other proposals and regulations, from the aspect of inclusion of gender equality therein;

The committee also reviews the Draft-National Action Plan for Equal Opportunities for Women and Men, monitors the adoption and the implementation of the basic and special measures for establishment of equal opportunities of women and men in all fields of the public and private sector, through reports submitted from the Unit for promotion of gender equality in the Ministry of Labor and Social Policy; monitors the system of measures for elimination of unequal treatment of women and men, through reports submitted from the Unit for promotion of gender equality in the Ministry of Labor and Social Policy; takes initiatives for adoption and amendments to laws and other regulations in the field of equal opportunities.

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40 The competencies of the Standing Inquiry Committee for Protection of Civil Freedoms and Rights have been stated in the annual report of the Assembly for 2010.
opportunities of women and men. In 2010 this committee has held 2 sessions, one discussion and a total of 9 items were reviewed.

**C.1. Committee on inter-community relations**

A separate body working within the Assembly of Republic of Macedonia is the Committee on Inter-Community Relations. The Committee draws its authorities from Amendment XXII of the Constitution of Republic of Macedonia; it consists of 19 members, from them 7 members each are from the ranks of the Macedonians and Albanians within the Assembly, and a member each from among the Turks, Vlachs, Romas, Serbs and Bosniaks. If one of the communities does not have a representative, the Public Attorney after consultation with relevant representative of those communities shall propose remaining members of the committee.

The Assembly elects the members of the Committee. The Committee considers issues of inter-community relations on the Republic and makes appraisals and proposals for their solutions. The Assembly is obliged to take into consideration the appraisals and proposals of the Committee and to make decision regarding them.

This Amendment XII of the Constitution that forms the Committee on Inter-Community relations terminates the Council for Inter-Ethnic Relations. The annual report for 2010 states the competencies of the Committee. The Committee monitors the provision of rights to the members of the community that do not present majority in the Republic of Macedonia, considers general issues from the sphere of inter-ethnic relations, points out to the need to pass laws and other regulations that regulate the relations in the communities, reviews proposal laws, follows the realization of the right to use languages and alphabet of the languages of the communities in the sphere of educations, the relations of the right to identity and the specifics of the community in the sphere of culture, media, publishing and other areas as determined by Constitution and by laws. The committee in 2010 has held 8 sessions and 4 continuations of the sessions.

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41 Annual Report of the Assembly of Republic of Macedonia 2010
INDEPENDENT BODIES, COMMITTEES AND OTHER ORGANS

A. Committee on protection from discrimination

The Committee on Protection from Discrimination is an independent and sovereign organ working within the competencies as regulate by the Law on prevention and Protection from Discrimination.

This law prohibits every direct or indirect discrimination, support or calling upon discrimination and assisting discriminatory actions regarding sex, race, color of skin, ethnicity, language, citizenship, being member of marginalized group, political affiliation, personal or social status, mental or physical disability, age, family or civil status, economic status, health conditions or any other basis as foreseen or ratified by international agreements.

In line with the competencies determined by Law, the committee acts on complaints, offers opinion and recommendation for concrete cases of discrimination to the submitter of the complaint and gives him/her opinion and recommendation on concrete cases of discrimination; gives the submitter information on his/her rights and possibilities to initiate a court or other protection procedure, and for the damage done, initiates actions to start a procedure before a competent organ.  

The committee’s role is also to proactively and preventively act by following the implementation of the law, initiating changes to the regulations in order to implement and improve the protection from discrimination by giving recommendation to the state organ on the measures to be taken to improve equality, as well as to undertake studies, researches, and trainings related to discrimination.

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**A.1. Submitting a complaint to the Committee**

If a person believes that he/she has been subject to discrimination by a state organ, organ of the unit of self-government, legal entities with public authorization and legal and physical persons, then he/she can submit an appeal to the committee.

The person victim of discrimination, in line with the grounds as determined by law, has the right to submit the complaint in writing or orally while minutes are being taken, the entire procedure is free of charge, and the complaint can be submitted not longer that three months from the day when the violation occurred or at the latest within one year from the moment the discrimination act was revealed. Together with the complaint the person submits all the proofs and facts that he/she has at his/her disposal, and which will help the committee in its future work and proceedings.43

Article 28 from the Law stipulates that the committee issues an opinion on the alleged discrimination not later than 90 days from the day the complaint is submitted. If the opinion issued determined that there is discrimination, the Committee proposes measures to eliminate the violations of the right. The person, to whom these recommendations are directed, within 30 days from receiving the recommendations, is obligated to follow the recommendations and eliminate the violation of the right and notify the Committee on the same.

**B. Commission for protection of the right to free access to public information**

The Law on Free Access to Public Information stipulates the conditions, and the procedure to realize the right of free access to public information that the state authority organs dispose of. The Commission for protection of the right to free access to public information is an independent state body that works and passes decisions in line with the competencies determined by this law.

The commission, among others, decides on complaints against the decision and the conclusion with which the owner of the information rejected the request to access information, prepares and publishes the list of beholders of information, issues opinion on proposal laws that regulate free access to information, promotes the right of free access to public information.44

In line with article 28, the requester of the information is entitled to lodge a complaint against the holder of the information who has rejected the request; the complaint is to be

43 Article 25, Law on prevention and protection from discrimination (Official Gazette of Republic of Macedonia, number. 50/2010)
44 Article 32, Law on free access to public information (official Gazette of Republic of Macedonia no. 7/05)
submitted within 15 days from receiving the decision to the Commission for protection of the right to free access to public information. The Commission for protection of the right to free access to public information decides on the complaint within 15 days from receiving the complaint.

The Commission has the right to submit a law suit to the Administrative Court against such decision.

**C. Directorate for Personal Data Protection**

Article 18 from the Constitution of the Republic of Macedonia stipulates that "the security and confidentiality of personal information are guaranteed. Citizens are guaranteed protection from any violation of their personal integrity deriving from the registration of personal information through data processing." The right for personal data protection is one of the aspects of the privacy right.

The Law on Personal Data Protection established the Directorate for Personal Data Protection, as an independent and sovereign state organ that has the nature of legal entity; the role of the Directorate is to monitor the legitimacy of the undertaken activities when processing personal data and their protection on the territory of Republic of Macedonia.

The personal data protection is guaranteed to every physical person without discrimination based on hid/her nationality, race, color of skin, religious beliefs, ethnicity, sex, language, political or other beliefs, economic status, origin by birth, educational, social background, citizenship, place or type of dwelling or any other personal features. "Personal Data" is any information that refers to identified physical person, or physical person that can be identified, and the person that can be identified is a person whose identity can be determined directly or indirectly, specially based in the unique registration number of the citizen, or based on one or more specific features typical from his/her physical, mental, economic, cultural or social identity.

If a physical person or a civil association where the physical person is a member believes that some of his/her rights as guaranteed by this law have been breached by a controller or processor (of the personal data) can lodge a request to determine the violation of the right to the Directorate.

The Directorate can issue instructions to the media to respect the principles of protection of personal data when publishing photographs and videos of the persons victims of accidents or persons for whom there is a court procedure under way or administrative

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45 Official Gazette of the Republic of Macedonia number 7/05, dated 01.02.2005
46 Law on changes and amendments of the Law on Personal Data Protection (Official Gazette of Republic of Macedonia 124/2010)
procedure, as well as to act on request of physical persons to determine the breach of right of protection of personal data by the media.

**D. The Civil Servants Agency**

The Civil Servants Agency is an independent state organ that has the status of a legal entity. In line with Article 7 from the Law on Civil Servants, the Agency, among others, is a body competent to organize and implement the procedure for selection and employment of civil servants, as well as to decide on appeals and complaints lodged by civil servants as second instance organ.

If the civil servant’s right to servant’s status is violated with a decision issued by a first-instance organ, the civil servant is entitled to lodge a complaint to the Agency within 15 days from the day he/she received the decision of the first instance organ. The agency decides on the complaint within 30 days from receiving the complaint, unless separately regulated by Law. The agency when deciding on the complaint can reject it due to delayed submission, or reject is as incomplete or not allowed, as unfounded and confirm the first degree decision or it can accept the complaint and cancel the decision of the first degree organs and to send back the case for further review.47

The civil servant, who is not satisfied from the final decision issued by the Agency, can within 15 days to ask form protection of his/her rights to the competent court. The submission of complaint to the agency is an important moment for realization of the rights of the civil servant, because the civil servant cannot ask for further protection before a competent court if he/she has not first asked the Agency for protection.48

The civil servants employed at the Agency can lodge their complaints against a decision that decides on their rights and duties to the comptometers second degree Commission of the Government or Republic of Macedonia.49

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47 Article 82-a, Law on Civil Servants (Official Gazette of Republic of Macedonia, number 76/2010)
48 Article 82-6, Law on Civil Servants (Official Gazette of Republic of Macedonia, number 76/2010)
49 Article 82-g, Law on Civil Servants (official Gazette of Republic of Macedonia number 76/2010)
CENTRAL GOVERNMENT BODIES

A. Inter-ministerial bodies

A.1. Inter-ministerial Body on Human Rights

In 2006 the Inter-ministerial Body on Human Rights was established with a special Decision of the Government of Republic of Macedonia\(^50\); the head of the body is a representative of the Ministry of Justice; the members of the body are representatives from the Ministry of Labor and Social Policy, Ministry of Interior, Ministry of Foreign Affairs, Ministry of Education, Public Attorney, the Committee on relations with the religious communities and groups, State Statistics Office, The Sector for Implementation of the Framework Agreement and the Secretariat for European Affairs.

In line with the decision, the goals and tasks of this body is to strengthen the coordination in the sphere of human rights of all competent ministries and bodies of the Government of the Republic of Macedonia, to exchange information and facts and monitor the implementation of all recommendations coming from the United Nations, the Council of Europe and other international organizations. This body is authorized to give suggestions in order to improve the legal regulations from the sphere of human rights as well as other proposal to the Government of the Republic of Macedonia of importance for the advancement of the human rights in the Republic.

In practice, this body did not demonstrate any activity and has not achieved any results of significance.

B. Independent organs

B.1. State Committee on Administrative Procedure and Second Instance Labor Relation Procedure

The State Committee on Administrative Procedure and Second Instance Labor Relation Procedure has the authority to decide on complaints lodged against decisions resulting from first-degree administrative procedure by the Ministries, the other organs of state administration, organizations established by law and other state organs.\(^51\)

\(^{50}\) Decision for establishing an inter-ministerial body on human rights, issued in line with article 36, paragraph 3 from the Law on the Government of the Republic of Macedonia, number 59/00, 12/03 and 55/05), on the session of the Government of the Republic of Macedonia held on 29.03.2006.

\(^{51}\) Article 1, Law on State Committee on Administrative Procedure and Second Instance Labour Relation Procedure (“Official Gazette of Republic of Macedonia” no.51/11, 13.04.2011)
In line with the Law adopted in April 2011, this Committee is to be established within 6 months (when the Law enters into force) and start working in October 2011. Until then, all procedures already initiated, or procedures that will be initiated in the mean time within the government commissions on second instance administrative procedures will be completed by them within 6 months from the entry into force of this law.

The decision to form this professional body to decide on second instance administrative affairs, results from the multi annual criticism and dysfunction of the separate committees, due to which the citizens of Republic of Macedonia could not realize their civil rights in a timely manner from the various social spheres.

The State committee will be consisting of a president and six members that professionally perform their function and are with 5-year mandate with a right to re-election. Against the decision of the State Committee an administrative dispute, can be initiated before the court competent to manage administrative disputes.

**B.2. Committee on relations with the religious communities and groups**

The freedom of religion of the person and the citizen as well as the rights of religious communities and groups as subjects in the system are one of the basic values of our constitutional order and are regulated in a special article of the Constitution of Republic of Macedonia.

The Committee on relations with the religious communities and groups performs the activities that refer to the legal status of the religious communities and groups, as well as the affairs regarding the relations among the State the religious communities and religious groups.52

This Committee monitors the implementation of the provisions of the Law on Legal Status of the Church, Religious Community and Religious Group; this law does not allow religious discrimination and clearly strengthens the right to freedom of belief, thought, and consciences that includes the freedom to manifest the faith or belief, alone or together with others, publicly or privately. The state organs within their competencies and authorities need to create conditions so that the church, religious community and religious group can perform their activities without obstacles.

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52 Article 29, Law on organization and work of the organs of state administration (Official Gazette of Republic of Macedonia, no.58/2000)
B.3. Agency for realization of the rights of the communities

The agency is established with the Law on Advancement and Protection of the Rights of the Members of the Communities that participate with less than 20% in the Republic of Macedonia and supervises the implementation of the provisions from the laws that determine those rights.

The agency monitors the realization and implementation of the activities related to the position, rights, obligations and developmental possibilities of the members of the community determined with this and other law. The improvement of the rights is related before all to the rights in the sphere of employment, usage of languages, education (elementary, secondary and high), culture and other spheres where the rights of the members of the communities are regulated by law.

C. Organs within the Government of Republic of Macedonia

When talking about the organs that are part of the government and ministries, we need to mention the inspectorates, because their role is of our interest having in mind the objective of this publication; as relevant to the document are the labor inspection and the administrative inspection as well as the part for coordination of the work of the inspections services.

The inspectors perform the inspection surveillance in order to realize and protect the public interest as well as the interest and the rights of the physical and legal entities in line with the public interest. The procedure of inspection surveillance starts and is led as official duty.

The Sector for internal control and professional standards within MoI is also part of the organ within the Government together with the advocate of equal opportunities for man and women where any citizen can initiate a procedure to protect his/her rights.

C.1. State Labor Inspectorate

The Labor Inspectorate holds an important role in the sphere of realization and protection of the rights of the employees resulting from the labor relations and protection at work. The state labor inspectorate is an organ within the Ministry of Labor and Social Policy and acts on the territory of the entire country through an established network of 61 inspectors on labor relations, and 32 inspectors on safety and health at work.⁵³

⁵³ http://www.mtsp.gov.mk/?ItemID=9863721A3FFC86428BB08EA40ACF1AD4
When performing the inspection, the inspector is authorized at any time of the day and night to enter the employers' premises, without prior notice, regardless of the working hours of the employer.\(^{54}\)

In order to eliminate the determined irregularities, the inspector first points out to the irregularities and sets a time limit by which the employer needs to eliminate the irregularities; the inspector might prohibit work to be performed in the workshop, in a part of the technical and technological entity, a certain working position or tool.\(^{55}\)

If the violation of the regulations is a misdemeanor or felony, the inspectors' duty is to submit to the competent organ a request to initiate a procedure.

Can the employee submit a complaint to the inspectorate?

The employee can submit a written request in the form of complaint or can state the same orally before the inspector stating the obstacles in the realization or protection of the rights deriving from the labor relation and protection at work, and the inspector need to initiate a procedure for each request of the worker.\(^{56}\)

Once the procedure is initiated, the inspector needs inform he person who ahs submitted the request on the situation found.

C.2. State Administrative Inspectorate

The administrative inspection includes the surveillance of the implementation of the laws that contain provisions for administrative procedure in the organs of state administration, other state organs, organization, institutions and other legal entities that perform public duties given to them by law, and that decide on administrative affairs and they among others refer to:\(^{57}\):

\(^{54}\) Article 10, Law on Labour Inspection (“Official Gazette of Republic of Macedonia” number 35/1997)

\(^{55}\) Article 17, Law on Labour Inspection (“Official Gazette of Republic of Macedonia” number. 35/1997)

\(^{56}\) Article 16, Law on Labour Inspection (“Official Gazette of Republic of Macedonia”, number 35/1997)

\(^{57}\) Article 2, Law on Administrative Inspection (“Official Gazette of Republic of Macedonia”, number. 69/04)
Timely, efficiently and cost-effective realization of the rights and interest of the citizens and other participants in the administrative procedure in the resolution of the administrative affairs;
Acting within the designated timeframes of the administrative procedure including the interested parties in the administrative procedure and protection of their rights and interests;
provision of evidence per official duty from the official registry;
accepting complaints;
Usage of the languages of the parties in the administrative procedure and other matters.

In line with article 9 from the same law, when performing the inspection surveillance the inspector are authorized to realize direct investigation in the usage of the laws that contain provisions for administrative procedure, to order elimination of irregularities within certain timeframe, to initiate a legal action against the felony, to request initiation of misdemeanor procedure or intuitive to start a disciplinary procedure.

Are citizens eligible to submit a request for administrative surveillance?

In line with the Constitution of Republic of Macedonia, each citizen is entitled to submit complaints to the state organs and other public services and obtain a response from them. In line with the law on administrative inspection, the citizens and other participants in the procedure can start an initiative and give proposals for inspection surveillance when in the realization of their rights interests and obligations they detect irregularities on the side of the organs that perform the inspection surveillance.

The form that needs to be filled out to submit a complaint to the Administrative Inspectorate can be found in Annex 4.

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58 Article 24, Constitution of Republic of Macedonia
C.3. Inspection Council

Of special importance for timely and thorough realization of the rights of the citizens is good coordination and cooperation among the different inspection services that are within the various ministries.

In order to achieve better coordination and larger efficiency of the inspection services a special Inspection Council is established as permanent inter-ministerial body.60 The Inspection Council, among other things, reviews issued related to the work of the inspections revised and the professional training and professional development of the inspector as well as the enforcement of the laws and other regulations that refer to the inspection surveillance.

C.4. Sector for Internal Control and Professional Standards of the Ministry of Interior

A sector of internal control and professionals standards is established within the Ministry of Interior; the sector acts on complaints from citizens in cases when citizens believe that the member of the police force or a group of police officers have violated his/her rights.

The sector investigates the illegal actions of the police offices that are defined as “abuse or overdraft of the authorities that the workers have, when performing their working tasks and when implementing the prescribed standards procedures ion each segment of the work of the Ministry and the Police, that violates the corpus of human freedoms and rights and their corruption behaviors against the provisions of the Code of Police Ethics, the Instruction on the behaviors and relations of he police offices in the ministry of interior and the Rules on the behaviors and relations of the person with special duties and the authorities of the Ministry of interiors, as well as contrary to the provision of the law and regulations that refer to the workers51”.

The citizen can submit the complaint in written in any police station or directly to the Sector. Each orally submitted statement is then transcribed into a minutes report by the Sector or the police officer that took the complaint; then the minutes are submitted to the

61 Rule book on performing of the activities of the Sector of Internal Control and Profession Standards of MIO, 2007
Sector or the detached worked of the Sector in the Sector for Internal affair on whose territory the complaint was submitted.

**C.5. Advocate on equal opportunities for women and men**

In line with article 23 from the Law on Equal Opportunities for women and men, within the Ministry of Labor and Social Policy a procedure is led to determine the unequal treatment of women and men. The procedure is led by the Advocate for equal opportunities of women and men, a person employed as civil servant within the Ministry of Labor and Social Policy.

The Advocate for equal opportunities of women and men in the sphere of his/her competencies independently performs tasks and activities that refer to the legal protection of the persons discriminated based in the sex and initiates procedure to determine the unequal treatment of women and men in line with the Law on Equal Opportunities of Women and Men, cooperates with the competent entities (competent inspections, public attorney and other competent organs), prepares annual report and analysis and performs other things.

In line with article 13, paragraph 3 from the Law on Equal Opportunities for Women and Men (Official Gazette of Republic of Macedonia, number 66/06 dated 29.5.2006) the ministries within the Government of Republic of Macedonia are obliged to determine an official – coordinator that will coordinate the activities under the competency of the line ministry to enable equal opportunity. This legal obligation is honored by all ministries, In line with Law (article 13, paragraph 5) the coordinators for the Equal Opportunities for women and men within the ministries are obliged to submit a report to the ministry of Labor and Social Policy once a year.

The initiative form that the citizen can submit in order to initiate a procedure to determine the unequal treatment of women and men can be found in **Annex 5**.
BODIES OF THE LOCAL GOVERNMENT

A. Committee on Equal Opportunities for Women and Men

Article 16 from the Law on Equal Opportunities for Women and Men \(^{62}\) regulates the existence of committees on local level. Article 16 regulates that “the Units of Local Self Government are obliged to establish a Committee on Equal Opportunities and designate persons either from the order of employees of other persons competent to perform the obligations of the coordinator of Equal Opportunities for Women and Men, to participate in the preparation of the national action plan for equal opportunities of women and men in the part that falls under the competencies of the units of local self-government.

The Committee on Equal Opportunities is formed as a permanent body by decision of the council of the unit of local self-government, and its composition, competences, task and obligations are determined by the Statute of the Unit of Local Self-Government.

The organs and bodies of the units of self-government when adopting development plans and other acts and decisions need to take into consideration the proposed measures and actives by the committee on equal opportunities and the equal opportunities coordinators.

B. Local Prevention Councils

The purpose of the local prevention councils is: to make police forces closer to citizens; increase trust of the citizens in the police forces and enhance the cooperation of the citizens and police forces. The establishing of the local councils within the unit of local self-government is regulated by the Law on Self-Government and the Law on Police Force in line with which: in order to realize the cooperation and enhance the influence of the public in the work of the police from paragraphs 1 and 2 of this article, counseling and coordinative bodies can be established (councils and committees), in order to develop joint recommendations to enhance public security within the municipalities and the City of Skopje, to build trust and partnership in prevention of actions that influence safety.\(^{63}\)

Topic under competency of the local prevention council

- drug related issues with the objective to manage drug addiction and sale of drugs;
- Safety at roads within the municipality. Stray dogs as danger for citizens, kids, traffic and diseases.
- Alcoholism and minors;

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\(^{62}\) Official Gazette number 66/06 dated 29.05.2006
\(^{63}\) Law on Police, article 11, paragraph 3, official gazette 114/06
• Urgency plan in cases of earthquake, floods, fires, industrial accidents with risk for pollution, airplane accidents etc.
• Illegal wood cutting;
• Fight against illicit behaviors (throwing litter in the street and other environmental issues)
• To make the urban space safer;
• Fight insecure situations in problematic and specific locations such as schools, malls, busses, settlements etc.
• Other topics that the local prevention council identifies that are of concern for the community;

C. Committees on relations between the communities

The committee in interethnic relations acting locally plays an important role in the multiethnic communities in our country. These committees were established on local level in line with the Law on Local Self-Government\textsuperscript{64} in the municipalities where at least 20% of the total population of the community according the last consensus is from a specific community.

The establishment of these committees helps overcome conflicts and advances the interethnic relations in an institutional manner the committee consist of an equal number of representatives from each community present in the municipality, and the authority of the committee s to give opinions and proposals that refer to the relations among the communities present on the municipalities. The Municipal council is obliged to review the opinion and the proposals of the committee.

It is advisable that these committees have open working meetings with the citizens from their municipalities when the citizens will have an opportunity to submit their remarks and proposals on how to further advance the inter-ethnic relations within the municipality directly to the members of the committee.

\textsuperscript{64} Article 55, law on local self government, Official gazette of RM 5.2002
PART 5:

ROLE OF THE CIVIL SOCIETY IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Civil associations and human rights protection

The civil society or more importantly the civil associations are an important tool in the social and political governance of any country, especially in the sphere of human rights protection. The civil sector is a system of action where the citizens associations in order to realize concrete citizens needs and rights and are in close correlation with the public interest of the state. According the London School of Economy the civil/citizen society is defined as an as arena of collective action of common interests, goals and values.

The civil society is mainly recognized through civil association that call themselves non-governmental association in accordance with the international terminology. There are other groups within the civil society such as trade unions, professional associations, advocacy and lobbying groups etc.

There is a large number of civil associations in Republic of Macedonia that are formed due to certain interests and the objective of these associations is the promotion and protection of human rights. Apart from NGO’s in Republic of Macedonia there are trade unions, professional associations, religious groups as well as other forms of actions through which the citizens perform promotion and protection of the human rights.

In line with the Constitution of Republic of Macedonia, the freedom of associating is determined in Article 20 “Citizens are guaranteed freedom of association to exercise and protect their political, economic, social, cultural and other rights and convictions. Citizens may freely establish associations of citizens and political parties join them or resign from them. The programs and activities of political parties and other associations of citizens may not be directed at the violent destruction of the constitutional order of the Republic, or at encouragement or incitement to military aggression or ethnic, racial or religious hatred or intolerance. Military or paramilitary associations which do not belong to the Armed Forces of the Republic of Macedonia are prohibited.”

The Law on Associations and Foundations regulates the way, conditions and procedure of establishment, registration and termination of the associations, foundations, alliances, organized forms of foreign organization in Republic of Macedonia, the property they
dispose of, the surveillance, the statutory changes and the status of the organization of public interest.

In Macedonia there are associations and foundations that work on the promotion and protection of the corpus of human rights as determined by the Constitution of Republic of Macedonia. There are NGO’s that work in the sphere of civil and political rights, as well as economic, social and cultural rights. In the sphere of economic affairs and working rights the trade unions are especially active as a special form of organization, while the civil and political rights are promoted and protected through direct communication with the citizen by offering legal assistance free of charge, shelters, informing citizens about their rights; the associations also undertake monitoring of the status of the human rights by monitoring, undertaking analysis and offering recommendation. The civil organizations are directly included in the education of human rights. The education is also offered to the vulnerable groups that very often are faced with violation of their rights as well as training for the state organs that work with this category of people. The law on associations and foundations allows or alliance to be establishes and so we have alliances for protection of the right of the women, Coalition to Protect against Discrimination, Coalition All for Fair Trials, Coalition on Protection of the Rights of the Marginalized Group etc.

A special Department on cooperation with NGOs is established by the Government of Republic of Macedonia. With this the government promoted the objective of close institutional cooperation with the civil sector and encouragement for active inclusion of the civil association in the process of creating policies. A framework was created for the development of the contemporary civil society in Macedonia and at the same time it stimulates the democratization and modernization of all segments of the society.

The initiative to institutionalize the cooperation between the Government of Republic of Macedonia and the civil sector was adopted at the 28th session of the Government of Republic of Macedonia, held on November 01, 2004, with a conclusion that the General secretariat of the Government, in line with the Regulation on the Principles of Internal Organization of the organs of the administration, to undertake all necessary activities to establish a Department for cooperation of the Government with the non governmental sector in Republic of Macedonia within the General Secretariat.

The department for cooperation with the nongovernmental organization is part of the Sector for Analysis of policies and coordination with the General Secretariat of the Government of Republic of Macedonia. The main goal of the department for cooperation with the NGO’s is establishing trust and development of the institutional cooperation between the Government and civil organizations as well as development of the civil sector. The department represents a permanent coordination body as a system of good cooperation between the Government and civil sector.
A more prominent competency of the Department for Cooperation with NGO’s is the development and coordination in the implementation and coordination in the implementation of the Strategy of cooperation of the Government and civil sector with an Implementation Action Plan (2007 - 2011). The strategy is a document that is the leading framework of political cooperation, realization of joint projects, through constant communication, transparency, responsibility, trust, though creating conditions of sustainability of the association of citizens and foundations, as well as their cooperation with the Government in several levels. The department works on implementation of its competencies base on principles of mutual trust, partnership, transparency and accountability.

The civil associations are included in the segment of creating policies and were part of the development of several more important strategies such as the National Strategy in Education (2006), National strategy on HIV/AIDS, National Strategy on Youth etc. especially important is the inclusion of the association in the Law on Free Legal Assistance so that the association can give legal assistance previously approved by the Ministry of Justice, as well as the option for the Public Attorney to cooperate with them in the part touching on the functioning of the National prevention mechanism in order to prevent torture at places where persons are held prisoners.

**Civil Sector in the provision of the free legal advice**

The Law on Free Legal Advice 67 passed on December 30, 2008 covered an area of essential importance for the human rights and their protection. This Law not only guarantees the right to free access to justice, but also created an instrument on individual protection of a certain right when it has been violated or jeopardized. This law regulated that the free legal advice is used as legal assistance before all court and administrative procedures.

The preceding legal assistance includes:

- Initial legal advice on the right to use the legal assistance
- General legal information, and
- Legal assistance in the developing of the request to free legal advice;

The legal assistance in the procedure before the competent organ or organization includes:

- Representation in all instances of court and administrative procedure
- Compiling writs in court and administrative procedures

67 Official Gazette 161/2009
The law includes civil association and regional units of the Ministry of Justice as providers of preceding legal assistance and lawyers as providers of legal assistance. The law determined the existence of registries of authorized associations of citizens and registered lawyers that offer the free legal advice. Until now 211 lawyers and several civil associations have been registered.

The free legal advice regulated with this law does not refer to the cases of obligatory defense foreseen by the Code on Criminal Procedure and the Law on Juvenile Justice nor exemption from payment of expenses of the procedure regulated by the law on Court Procedure and Aw on general Administrative procedure.

The free legal advice can not be approved if the requestor or member of his/her family with whom the requestor lives has property that is over 5 gross monthly salaries in RM in the previous month. The object that are exempted from the execution in line with the Law on executions as well as motor vehicle with value below 5 average gross monthly salaries paid in RM the previous month.

**Development of the civil sector through regional instruments**

Although Macedonia has been independent for 20 years, the civil society is still faced with a number of challenges. Partly this is due to the weekly regulated legal frame, the ever decreasing availability of donor funding, low level of participation of the citizens in the decision making processes and the limited cooperation with other organizations and institutions in the Republic as well as organizations in the countries form the region.

In order to strengthen the civil sector that is focused on the human rights development and rule of law, within EU a special initiative appeared – European Instrument for Democracy and Human Rights (EIDHR) with the following main tasks:

- Enhancing respect for human rights and fundamental freedoms in countries and regions where they are most at risk;
- Strengthening the role of civil society in promoting human rights and democratic reform and respect of human rights;
- Supporting actions in areas covered by EU Guidelines: dialogue on Human rights, human rights defenders, the death penalty, torture, children and armed conflicts and violence against women;
- Supporting and strengthening the international and regional framework for the protection of human rights, justice, the rule of law and the promotion of democracy; etc.

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68 http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm
EIDHR as a special instrument has been adopted by the European Parliament and the Council of EU with a decision in December 2006, in order to provide the necessary help and measures to support the EU candidate countries in the field of human rights and democracy.

More information on the role of EIDHR and the access to funds can be found on the following link: http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

Media as protection of the right of the citizens

The freedom of the media is an undisputed rights; the fundamental task of the journalist is to honor the truth and the right of the public to be informed in line with article 16 of the Constitution of Republic of Macedonia. The role of the journalists is to convey information, idea, opinion, and right to comment.

Honoring the ethical values and professional standards in conveying the information, the journalists need to be honest, objective and precise. Following its role in the building of the democracy, journalists defend human rights, dignity, and freedom and need to honor the pluralism of ideas and positions and contribute to the strengthening of the legal state and in the control of the government in the other subjects of the public life.

The media are protectors of human rights through their stories, research, debates and raisin issues of essential meaning for a specific topic. At the same time the media need to honor human rights hence the right and duty of the media to honor human rights is regulated with national and international acts.

Hence, in the ECHR the basic principle is to guarantee the freedom of expression as precondition for each democratic society as explained in Article 10 of the ECHR: „Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

The freedom of expression is not absolute as can be seen in paragraph 2 from Article 10 of ECHR: „The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
Council of Europe – Recommendation for the mass media and human rights from 1970 if the Parliamentary Assembly

“The right to privacy consists fundamentally of the right of each individual living his/her life with minimum interference from the others. This refers to private life, family and home, the physical and moral integrity, the honor and respect, avoiding that the individual is presented in false light, not disclosing the irrelevant and unpleasant facts, unauthorized publishing of private photos, protection from unjustified and unfounded spying and surveillance, protection from abuse of private communication, protection from revealing information given or received in confidence.”

European Convention on cross border Television (Article 7):

“All parts of the programs, with respect to their presentation and content have to honor the dignity of the person and the fundamental rights of the others”.

In line with the declaration from July 10, 2003 and the Recommendation (2003)13 of the Council of Europe on providing information through the media related to criminal procedures, the media need to “respect the dignity, security, unless the information is not of public interest, the rights of privacy of the victims, the suspects, the charged and convicted and witnesses as well as their families, in a way as guaranteed by Article 8 from the Convention.“

In line with the constitution of Republic of Macedonia (article 25) the media have the duty to respect the privacy of personal and family life, dignity and respect of every citizen.

In line with the Law on broadcasting (Article 68)69 the radio and television programs need to follow these principles:

- Right to freely broadcast the information and right to freedom of expression;
- Nourishing and developing of the human and moral values of the individual and protecting of privacy and dignity of the person;
- equality of freedom and rights, regardless of the sex, race, color, national and social descent, political and religious beliefs and the material and social status of men and citizens;
- encouraging of the spirit of tolerance, mutual respect and understanding among individuals of different ethnical and cultural descent;
- encouraging of the international understanding and co-operation, the feeling of the public for fairness, defending of the democratic freedom and openly telling the truth;

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• protecting and affirmation of the Macedonian cultural tradition and the nationalities that live in Republic of Macedonia, and participation in the cultural life;
• safekeeping the national identity, language culture and national legacy;
• Openness to different political opinion and points of view.

The journalist is obliged to duly respect the privacy of the individual unless that is against the public interest. The journalist is obliged to respect the personal pain and grief. 70 Hence, in line with the Code of Journalists, the informing during incidents, family tragedies and similar is not to be sensational; In the court procedure the principle of presumption of innocence is to be followed, to report on all parties involved in the trial and not to suggest the verdict. The journalists are not allowed to interview or photograph children above 16 years without the previous approval of the parents, this is also valid for persons with special needs that cannot decide for themselves.

The journalist, having in mind the role of the media in the development of the democratic processes and advancement of the human rights in a society, would not on purpose create or process information that put human rights or freedoms in jeopardy, will not use language of hatred and will not incite violence under any ground (nationality, religion, race, sex, social status, spoken language, sexual orientation, political affiliation).

70 Code of Journalist www.znm.org.mk
PART 6:

RECOMMENDATIONS TO STRENGTHEN THE NATIONAL HUMAN RIGHTS PROTECTION MECHANISMS

1. A national human rights institution to be established in line with the Paris Principles.
2. Strengthen the capacity and role of the Public Attorney to promote human rights and freedoms and use the legal possibility of analysis and intervention in the legal acts and other by laws more frequently.
3. Strengthen the preventive role of the national mechanisms for protection and promotion of human rights.
4. Expand the array of protection of the rights before the Constitutional court determined with article 110 from the Constitution and expanding the lists of foundations for discrimination under the same article, and clearly without dubious, introduce the institute of constitutional charges (complaint in our legislation).
5. Develop and pass National Plan of Action on Human Rights of RM.
6. Reactivate and strengthen the coordinative role of the inter-ministerial body in human rights with special emphasis on the implementation of the Plan of Action on human rights (if it is passed).
7. Establishing external control mechanisms to monitor the work of the police forces and increase degree of independence and expertise of the Sector for Internal Control within the Ministry of Interior.
8. Strengthening the role of the Standing Inquiry Committee to protect the freedoms and rights of the citizen to assist the initiation of the procedure of determination of the responsibility of the mandate holders of public functions as well a the part on acting on individual complaints superposing the political position of the same in service of the human rights protection.
9. Promotion of the competencies and authorities of the Committee on Protection from Discrimination through direct meeting and representation before the citizens as well as its coordination and cooperation with the other mechanisms for protection from discrimination.
10. Establishing a professional, expert, depoliticized State Commission on second instance cases in procedure dealing with labor relation of second instance to be established by the end of the year.
11. Proactive role of the inspectorates and continuous strengthening of their capacities and competencies as support during the establishing of the inspection council in order to maintain coordination and cooperation among the various inspection services.
12. Increase the awareness of the citizens on the universal and regional mechanism on human rights protection and the access to it.
13. Respect the international standards in fair and righteous trial pointing out that each citizen has the right to a trial in reasonable time before and independent and objective tribunal established by law.

14. The state is obliged to guarantee independence of the judiciary to be protected by Constitution or the laws of the country. All governmental institutions need to honor and respect the independence if the judiciary. The judiciary is obliged to decide the cases objectively, based in facts and in line with law, without limitations, inappropriate influences, pressures, threats or interferences – direct or indirect – from any side, for any reason.

15. Special attention to be dedicated to the procedure of police, public prosecution and court when dealing with minors, in order to protect the rights of this category of persons.

16. Strengthen the role and operational capacities of the independent bodies and institutions by increasing their financial independence.

17. Larger inclusion of vulnerable and marginalized groups in the process of human rights education as well as state organs working with this category of persons.

18. Involving civil associations in the process of policy creation in the sphere of promotion and protection of human rights.

19. Honoring the truth and the right of the public to be informed by the media in line with article 16 of the Constitution of RM, and the state to guarantee the principle of freedom of expression as stipulated in article 10 from ECHR.
Annex 1:

International standards and relevant human rights documents

The following documents will be enclosed; the Macedonian translation will be official either from the Official Gazette of the Ministry of Justice:

1. Universal Declaration on Human Right
2. International Covenant on Civil and Political Rights
3. International Covenant on Economic, Social and Cultural Rights
4. European Convention on Human Rights
5. European Social Charter
UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

- Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
- Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,
- Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,
- Whereas it is essential to promote the development of friendly relations between nations,
- Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,
- Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,
- Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore, The General Assembly, Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article I

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
Article 9
No one shall be subjected to arbitrary arrest, detention or exile.

Article 10
Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11
1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12
No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13
1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14
1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.
Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.
Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.
Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
   (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
   (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
   (c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not
inconsistent with their other obligations under international law and do not involve
discrimination solely on the ground of race, colour, sex, language, religion or social origin.
2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be
made under this provision.
3. Any State Party to the present Covenant availing itself of the right of derogation shall
immediately inform the other States Parties to the present Covenant, through the
intermediary of the Secretary-General of the United Nations, of the provisions from which
it has derogated and of the reasons by which it was actuated. A further communication
shall be made, through the same intermediary, on the date on which it terminates such
derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or
person any right to engage in any activity or perform any act aimed at the destruction of
any of the rights and freedoms recognized herein or at their limitation to a greater extent
than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human
rights recognized or existing in any State Party to the present Covenant pursuant to law,
conventions, regulations or custom on the pretext that the present Covenant does not
recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law.
No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be
imposed only for the most serious crimes in accordance with the law in force at the time
of the commission of the crime and not contrary to the provisions of the present Covenant
and to the Convention on the Prevention and Punishment of the Crime of Genocide. This
penalty can only be carried out pursuant to a final judgement rendered by a competent
court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing
in this article shall authorize any State Party to the present Covenant to derogate in any
way from any obligation assumed under the provisions of the Convention on the
Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the
sentence. Amnesty, pardon or commutation of the sentence of death may be granted in
all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3. (a) No one shall be required to perform forced or compulsory labour;
   (b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
   (c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:
      (i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
      (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
      (iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
      (iv) Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to
trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

**Article 10**

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
   (b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

**Article 11**

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

**Article 12**

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.
Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
   (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
   (c) To be tried without undue delay;
   (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
   (e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
   (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
   (g) Not to be compelled to testify against himself or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
   (a) For respect of the rights or reputations of others;
   (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are
prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:
(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
(c) To have access, on general terms of equality, to public service in his country.
Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV

Article 28

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.
2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.
3. A person shall be eligible for renomination.
Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.
3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.
4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.
2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.
2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary
character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

**Article 34**

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

**Article 35**

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

**Article 36**

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

**Article 37**

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.

3. The Committee shall normally meet at the Headquarters of the United Nations or at the
Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
   (a) Twelve members shall constitute a quorum;
   (b) Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights: (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
   (b) Thereafter whenever the Committee so requests.
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.
3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.
4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.
5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations
under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph I of this article. Such
declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

**Article 42**

1. (a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.

7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;
(b) If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;
(c) If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;
(d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.
8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.
9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

**Article 43**

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

**Article 44**

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

**Article 45**

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.
PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes. 3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

1. Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:
   (a) Signatures, ratifications and accessions under article 48;
   (b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.
Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.
INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966
entry into force 3 January 1976, in accordance with article 27

Preamble

The States Parties to the present Covenant,

- Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,
- Recognizing that these rights derive from the inherent dignity of the human person,
- Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,
- Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,
- Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

**PART I**

**Article 1**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-
operation, based upon the principle of mutual benefit, and international law. In no case
may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for
the administration of Non-Self-Governing and Trust Territories, shall promote the
realization of the right of self-determination, and shall respect that right, in conformity with
the provisions of the Charter of the United Nations.
PART II

Article 2

2
1. Each State Party to the present Covenant undertakes to take steps, individually and
through international assistance and co-operation, especially economic and technical, to
the maximum of its available resources, with a view to achieving progressively the full
realization of the rights recognized in the present Covenant by all appropriate means,
including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights
enunciated in the present Covenant will be exercised without discrimination of any kind as
to race, colour, sex, language, religion, political or other opinion, national or social origin,
property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy,
may determine to what extent they would guarantee the economic rights recognized in
the present Covenant to nonnationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men
and women to the enjoyment of all economic, social and cultural rights set forth in the
present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those
rights provided by the State in conformity with the present Covenant, the State may
subject such rights only to such limitations as are determined by law only in so far as this
may be compatible with the nature of these rights and solely for the purpose of promoting
the general welfare in a democratic society.
Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:
   (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
   (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
(b) Safe and healthy working conditions; (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.
Article 8

1. The States Parties to the present Covenant undertake to ensure:
   (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
   (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
   (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
   (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.
   2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
   3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:
1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social
exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international cooperation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable
all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
   (a) Primary education shall be compulsory and available free to all;
   (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
   (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
   (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
   (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.
Article 15

1. The States Parties to the present Covenant recognize the right of everyone:
   (a) To take part in cultural life;
   (b) To enjoy the benefits of scientific progress and its applications;
   (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.
2. (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;
   (b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.
3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.
Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

**Article 27**

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

**Article 28**

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

**Article 29**

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.
Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph I of the same article of the following particulars:
(a) Signatures, ratifications and accessions under article 26;
(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.
EUROPEAN CONVENTION ON HUMAN RIGHTS

Convention for the Protection of Human Rights and Fundamental Freedoms
as amended by Protocols Nos. 11 and 14 with Protocols Nos. 1, 4, 6, 7, 12 and 13

The text of the Convention is presented as amended by the provisions of Protocol No. 14 (CETS no. 194) as from its entry into force on 1 June 2010.

The text of the Convention had previously been amended according to the provisions of Protocol No. 3 (ETS no. 45), which entered into force on 21 September 1970, of Protocol No. 5 (ETS no. 55), which entered into force on 20 December 1971, and of Protocol No. 8 (ETS no. 118), which entered into force on 1 January 1990, and comprised also the text of Protocol No. 2 (ETS no. 44) which, in accordance with Article 5 § 3 thereof, had been an integral part of the Convention since its entry into force on 21 September 1970. All provisions which had been amended or added by these Protocols were replaced by Protocol No. 11 (ETS no. 155), as from the date of its entry into force on 1 November 1998. As from that date, Protocol No. 9 (ETS no. 140), which entered into force on 1 October 1994, was repealed and Protocol No. 10 (ETS no. 146) lost its purpose.

The current state of signatures and ratifications of the Convention and its Protocols as well as the complete list of declarations and reservations are available at http://conventions.coe.int.

Registry of the European Court of Human Rights
June 2010 European Convention on Human Rights

Convention for the Protection of Human Rights and Fundamental Freedoms
Rome, 4.XI.1950

The governments signatory hereto, being members of the Council of Europe,

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10 December 1948;
Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;
Considering that the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;
Reaffirming their profound belief in those fundamental freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the human rights upon which they depend;
Being resolved, as the governments of European countries which are likeminded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration,

Have agreed as follows:

**Article 1**
**Obligation to respect human rights**

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of this Convention.

**Section I**
**Rights and freedoms**

**Article 2**
**Right to life**

1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
   (a) in defence of any person from unlawful violence;
   (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
   (c) in action lawfully taken for the purpose of quelling a riot or insurrection.

**Article 3**
**Prohibition of torture**

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

**Article 4**
**Prohibition of slavery and forced labour**

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the
4 European Convention on Human Rights
term “forced or compulsory labour” shall not include:
(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
(b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
(c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
(d) any work or service which forms part of normal civic obligations.

Article 5
Right to liberty and security

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
(a) the lawful detention of a person after conviction by a competent court;
(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of un-sound mind, alcoholics or drug addicts or vagrants;
(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.
Article 6
Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:
   (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
   (b) to have adequate time and facilities for the preparation of his defence;
   (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
   (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
   (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article 7
No punishment without law

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.

2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognised by civilised nations.
Article 8
Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 9
Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Article 10
Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
Article 11
Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the 6 European Convention on Human Rights right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 12
Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

Article 13
Right to an effective remedy

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

Article 14
Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Article 15
Derogation in time of emergency

1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its
obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2. No derogation from Article 2, except in respect of deaths resulting from lawful acts of war, or from Articles 3, 4 § 1 and 7 shall be made under this provision.

3. Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed.

Article 16
Restrictions on political activity of aliens

Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

Article 17
Prohibition of abuse of rights

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

Article 18
Limitation on use of restrictions on rights

The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed.

Section II
European Court of Human Rights

Article 19
Establishment of the Court

To ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto, there shall be set up a European
Court of Human Rights, hereinafter referred to as “the Court”. It shall function on a permanent basis.

**Article 20**
**Number of judges**

The Court shall consist of a number of judges equal to that of the High Contracting Parties.

**Article 21**
**Criteria for office**

1. The judges shall be of high moral character and must either possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence.
2. The judges shall sit on the Court in their individual capacity.
3. During their term of office the judges shall not engage in any activity which is incompatible with their independence, impartiality or with the demands of a full-time office; all questions arising from the application of this paragraph shall be decided by the Court.

**Article 22**
**Election of judges**

The judges shall be elected by the Parliamentary Assembly with respect to each High Contracting Party by a majority of votes cast from a list of three candidates nominated by the High Contracting Party.

**Article 23**
**Terms of office and dismissal**

1. The judges shall be elected for a period of nine years. They may not be re-elected.
2. The terms of office of judges shall expire when they reach the age of 70.
3. The judges shall hold office until replaced. They shall, however, continue to deal with such cases as they already have under consideration.
4. No judge may be dismissed from office unless the other judges decide by a majority of two-thirds that that judge has ceased to fulfil the required conditions.

**Article 24**
**Registry and rapporteurs**

1. The Court shall have a Registry, the functions and organisation of which shall be laid down in the rules of the Court.
2. When sitting in a single-judge formation, the Court shall be assisted by rapporteurs who shall function under the authority of the President of the Court. They shall form part of the Court’s Registry.

**Article 25**
**Plenary Court**

The plenary Court shall
(a) elect its President and one or two Vice-Presidents for a period of three years; they may be re-elected;
(b) set up Chambers, constituted for a fixed period of time;
(c) elect the Presidents of the Chambers of the Court; they may be re-elected;
(d) adopt the rules of the Court;
(e) elect the Registrar and one or more Deputy Registrars;
(f) make any request under Article 26 § 2.

**Article 26**
**Single-judge formation, Committees, Chambers and Grand Chamber**

1. To consider cases brought before it, the Court shall sit in a single-judge formation, in Committees of three judges, in Chambers of seven judges and in a Grand Chamber of seventeen judges. The Court’s Chambers shall set up Committees for a fixed period of time.
2. At the request of the plenary Court, the Committee of Ministers may, by a unanimous decision and for a fixed period, reduce to five the number of judges of the Chambers.
3. When sitting as a single judge, a judge shall not examine any application against the High Contracting Party in respect of which that judge has been elected.
4. There shall sit as an *ex officio* member of the Chamber and the Grand Chamber the judge elected in respect of the High Contracting Party concerned. If there is none or if that judge is unable to sit, a person chosen by the President of the Court from a list submitted in advance by that Party shall sit in the capacity of judge.
5. The Grand Chamber shall also include the President of the Court, the Vice-Presidents, the Presidents of the Chambers and other judges chosen in accordance with the rules of the Court. When a case is referred to the Grand Chamber under Article 43, no judge from the Chamber which rendered the judgment shall sit in the Grand Chamber, with the exception of the President of the Chamber and the judge who sat in respect of the High Contracting Party concerned.
Article 27
Competence of single judges

1. A single judge may declare inadmissible or strike out of the Court’s list of cases an application submitted under Article 34, where such a decision can be taken without further examination.
2. The decision shall be final.
3. If the single judge does not declare an application inadmissible or strike it out, that judge shall forward it to a Committee or to a Chamber for further examination.

Article 28
Competence of Committees

1. In respect of an application submitted under Article 34, a Committee may, by a unanimous vote, (a) declare it inadmissible or strike it out of its list of cases, where such decision can be taken without further examination; or (b) declare it admissible and render at the same time a judgment on the merits, if the underlying question in the case, concerning the interpretation or the application of the Convention or the Protocols thereto, is already the subject of well-established case-law of the Court.
2. Decisions and judgments under paragraph 1 shall be final.
3. If the judge elected in respect of the High Contracting Party concerned is not a member of the Committee, the Committee may at any stage of the proceedings invite that judge to take the place of one of the members of the Committee, having regard to all relevant factors, including whether that Party has contested the application of the procedure under paragraph 1 (b).

Article 29
Decisions by Chambers on admissibility and merits

1. If no decision is taken under Article 27 or 28, or no judgment rendered under Article 28, a Chamber shall decide on the admissibility and merits of individual applications submitted under Article 34. The decision on admissibility may be taken separately.
2. A Chamber shall decide on the admissibility and merits of inter-State applications submitted under Article 33. The decision on admissibility shall be taken separately unless the Court, in exceptional cases, decides otherwise.
Article 30
Relinquishment of jurisdiction to the Grand Chamber

Where a case pending before a Chamber 9 European Convention on Human Rights raises a serious question affecting the interpretation of the Convention or the Protocols thereto, or where the resolution of a question before the Chamber might have a result inconsistent with a judgment previously delivered by the Court, the Chamber may, at any time before it has rendered its judgment, relinquish jurisdiction in favour of the Grand Chamber, unless one of the parties to the case objects.

Article 31
Powers of the Grand Chamber

The Grand Chamber shall
(a) determine applications submitted either under Article 33 or Article 34 when a Chamber has relinquished jurisdiction under Article 30 or when the case has been referred to it under Article 43;
(b) decide on issues referred to the Court by the Committee of Ministers in accordance with Article 46 § 4; and
(c) consider requests for advisory opinions submitted under Article 47.

Article 32
Jurisdiction of the Court

1. The jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the Protocols thereto which are referred to it as provided in Articles 33, 34, 46 and 47.
2. In the event of dispute as to whether the Court has jurisdiction, the Court shall decide.

Article 33
Inter-State cases

Any High Contracting Party may refer to the Court any alleged breach of the provisions of the Convention and the Protocols thereto by another High Contracting Party.

Article 34
Individual applications

The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting
Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.

Article 35
Admissibility criteria

1. The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken.
2. The Court shall not deal with any application submitted under Article 34 that
(a) is anonymous; or
(b) is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.
3. The Court shall declare inadmissible any individual application submitted under Article 34 if it considers that:
(a) the application is incompatible with the provisions of the Convention or the Protocols thereto, manifestly ill-founded, or an abuse of the right of individual application; or
(b) the applicant has not suffered a significant disadvantage, unless respect for human rights as defined in the Convention and the Protocols thereto requires an examination of the application on the merits and provided that no case may be rejected on this ground which has not been duly considered by a domestic tribunal.
4. The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings.

Article 36
Third party intervention

1. In all cases before a Chamber or the Grand Chamber, a High Contracting Party one of whose nationals is an applicant shall have the right to submit written comments and to take part in hearings.
2. The President of the Court may, in
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the interest of the proper administration of justice, invite any High Contracting Party which is not a party to the proceedings or any person concerned who is not the applicant to submit written comments or take part in hearings.
3. In all cases before a Chamber or the Grand Chamber, the Council of Europe Commissioner for Human Rights may submit written comments and take part in hearings.
Article 37
Striking out applications

1. The Court may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that
   (a) the applicant does not intend to pursue his application; or
   (b) the matter has been resolved; or
   (c) for any other reason established by the Court, it is no longer justified to continue the examination of the application.

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.

2. The Court may decide to restore an application to its list of cases if it considers that the circumstances justify such a course.

Article 38
Examination of the case

The Court shall examine the case together with the representatives of the parties and, if need be, undertake an investigation, for the effective conduct of which the High Contracting Parties concerned shall furnish all necessary facilities.

Article 39
Friendly settlements

1. At any stage of the proceedings, the Court may place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for human rights as defined in the Convention and the Protocols thereto.

2. Proceedings conducted under paragraph 1 shall be confidential.

3. If a friendly settlement is effected, the Court shall strike the case out of its list by means of a decision which shall be confined to a brief statement of the facts and of the solution reached.

4. This decision shall be transmitted to the Committee of Ministers, which shall supervise the execution of the terms of the friendly settlement as set out in the decision.

Article 40
Public hearings and access to documents

1. Hearings shall be in public unless the Court in exceptional circumstances decides otherwise.

2. Documents deposited with the Registrar shall be accessible to the public unless the President of the Court decides otherwise.
Article 41
Just satisfaction

If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.

Article 42
Judgments of Chambers

Judgments of Chambers shall become final in accordance with the provisions of Article 44 § 2.

Article 43
Referral to the Grand Chamber

1. Within a period of three months from the date of the judgment of the Chamber, any party to the case may, in exceptional cases, request that the case be referred to the Grand Chamber.
2. A panel of five judges of the Grand Chamber shall accept the request if the case raises a serious question affecting the interpretation or application of the Convention or the Protocols thereto, or a serious issue of general importance.
3. If the panel accepts the request, the Grand Chamber shall decide the case by means of a judgment.

Article 44
Final judgments

1. The judgment of the Grand Chamber shall be final.
2. The judgment of a Chamber shall become final
   (a) when the parties declare that they will not request that the case be referred to the Grand Chamber; or
   (b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or
   (c) when the panel of the Grand Chamber rejects the request to refer under Article 43.
3. The final judgment shall be published.
Article 45

Reasons for judgments and decisions

1. Reasons shall be given for judgments as well as for decisions declaring applications admissible or inadmissible.
2. If a judgment does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 46

Binding force and execution of judgments

1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.
3. If the Committee of Ministers considers that the supervision of the execution of a final judgment is hindered by a problem of interpretation of the judgment, it may refer the matter to the Court for a ruling on the question of interpretation. A referral decision shall require a majority vote of two thirds of the representatives entitled to sit on the Committee.
4. If the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of the representatives entitled to sit on the Committee, refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph 1.
5. If the Court finds a violation of paragraph 1, it shall refer the case to the Committee of Ministers for consideration of the measures to be taken. If the Court finds no violation of paragraph 1, it shall refer the case to the Committee of Ministers, which shall close its examination of the case.

Article 47

Advisory opinions

1. The Court may, at the request of the Committee of Ministers, give advisory opinions on legal questions concerning the interpretation of the Convention and the Protocols thereto.
2. Such opinions shall not deal with any question relating to the content or scope of the rights or freedoms defined in Section I of the Convention and the Protocols thereto, or with any other question which the Court or the Committee of Ministers might have to consider in consequence of any such proceedings as could be instituted in accordance with the Convention.
3. Decisions of the Committee of Ministers to request an advisory opinion of the Court shall require a majority vote of the representatives entitled to sit on the Committee.
Article 48
Advisory jurisdiction of the Court
The Court shall decide whether a request for an advisory opinion submitted by the Committee of Ministers is within its competence as defined in Article 47.
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Article 49
Reasons for advisory opinions

1. Reasons shall be given for advisory opinions of the Court.
2. If the advisory opinion does not represent, in whole or in part, the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.
3. Advisory opinions of the Court shall be communicated to the Committee of Ministers.

Article 50
Expenditure on the Court
The expenditure on the Court shall be borne by the Council of Europe.

Article 51
Privileges and immunities of judges
The judges shall be entitled, during the exercise of their functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder.

Section III
Miscellaneous provisions

Article 52
Inquiries by the Secretary General
On receipt of a request from the Secretary General of the Council of Europe any High Contracting Party shall furnish an explanation of the manner in which its internal law ensures the effective implementation of any of the provisions of the Convention.
Article 53
Safeguard for existing human rights

Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a party.

Article 54
Powers of the Committee of Ministers

Nothing in this Convention shall prejudice the powers conferred on the Committee of Ministers by the Statute of the Council of Europe.

Article 55
Exclusion of other means of dispute settlement

The High Contracting Parties agree that, except by special agreement, they will not avail themselves of treaties, conventions or declarations in force between them for the purpose of submitting, by way of petition, a dispute arising out of the interpretation or application of this Convention to a means of settlement other than those provided for in this Convention.

Article 56
Territorial application

1. Any State may at the time of its ratification or at any time thereafter declare by notification addressed to the Secretary General of the Council of Europe that the present Convention shall, subject to paragraph 4 of this Article, extend to all or any of the territories for whose international relations it is responsible.
2. The Convention shall extend to the territory or territories named in the 13 European Convention on Human Rights notification as from the thirtieth day after the receipt of this notification by the Secretary General of the Council of Europe.
3. The provisions of this Convention shall be applied in such territories with due regard, however, to local requirements.
4. Any State which has made a declaration in accordance with para-paragraph 1 of this Article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention.
Article 57
Reservations

1. Any State may, when signing this Convention or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Convention to the extent that any law then in force in its territory is not in conformity with the provision. Reservations of a general character shall not be permitted under this Article.
2. Any reservation made under this Article shall contain a brief statement of the law concerned.

Article 58
Denunciation

1. A High Contracting Party may denounce the present Convention only after the expiry of five years from the date on which it became a party to it and after six months’ notice contained in a notification addressed to the Secretary General of the Council of Europe, who shall inform the other High Contracting Parties.
2. Such a denunciation shall not have the effect of releasing the High Contracting Party concerned from its obligations under this Convention in respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective.
3. Any High Contracting Party which shall cease to be a member of the Council of Europe shall cease to be a party to this Convention under the same conditions.
4. The Convention may be denounced in accordance with the provisions of the preceding paragraphs in respect of any territory to which it has been declared to extend under the terms of Article 56.

Article 59
Signature and ratification

1. This Convention shall be open to the signature of the members of the Council of Europe. It shall be ratified. Ratifications shall be deposited with the Secretary General of the Council of Europe.
2. The European Union may accede to this Convention.
3. The present Convention shall come into force after the deposit of ten instruments of ratification.
4. As regards any signatory ratifying subsequently, the Convention shall come into force at the date of the deposit of its instrument of ratification.
5. The Secretary General of the Council of Europe shall notify all the members of the Council of Europe of the entry into force of the Convention, the names of the High Contracting Parties who have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.
Done at Rome this 4th day of November 1950, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatories.

Protocol to the convention for the protection of human rights and fundamental freedoms
Paris, 20.III.1952

The governments signatory hereto, being members of the Council of Europe,
Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section I of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”),

Have agreed as follows:

Article 1
Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Article 2
Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.
Article 3
Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

Article 4
Territorial application

Any High Contracting Party may at the time of signature or ratification or at any time thereafter communicate to the Secretary General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of the present Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.

Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may from time to time communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this Protocol in respect of any territory.

A declaration made in accordance with this Article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.

Article 5
Relationship to the Convention

As between the High Contracting Parties the provisions of Articles 1, 2, 3 and 4 of this Protocol shall be regarded as additional Articles to the Convention and all the provisions of the Convention shall apply accordingly.

Article 6
Signature and ratification

This Protocol shall be open for signature by the members of the Council of Europe, who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of ten instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the 15 European Convention on Human Rights deposit of its instrument of ratification.

The instruments of ratification shall be deposited with the Secretary General of the Council of Europe, who will notify all members of the names of those who have ratified.
Done at Paris on the 20th day of March 1952, in English and French, both texts being equally authentic, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory governments.

Protocol no. 4 to the convention for the protection of human rights and fundamental freedoms securing certain rights and freedoms other than those already included in the convention and in the first protocol thereto
Strasbourg, 16.IX.1963

The governments signatory hereto, being members of the Council of Europe,
Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section I of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as the “Convention”) and in Articles 1 to 3 of the First Protocol to the Convention, signed at Paris on 20 March 1952,

Have agreed as follows:

**Article 1**  
**Prohibition of imprisonment for debt**

No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation.

**Article 2**  
**Freedom of movement**

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.
Article 3
Prohibition of expulsion of nationals

1. No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national.
2. No one shall be deprived of the right to enter the territory of the State of which he is a national.

Article 4
Prohibition of collective expulsion of aliens

Collective expulsion of aliens is prohibited.

Article 5
Territorial application

1. Any High Contracting Party may, at the time of signature or ratification of this Protocol, or at any time thereafter, communicate to the Secretary General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of this Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.
2. Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may, from time to time, communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this Protocol in respect of any territory.
3. A declaration made in accordance with this Article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.
4. The territory of any State to which this Protocol applies by virtue of ratification or acceptance by that State, and each territory to which this Protocol is applied by virtue of a declaration by that State under this Article, shall be treated as separate territories for the purpose of the references in Articles 2 and 3 to the territory of a State.
5. Any State which has made a declaration in accordance with paragraph 1 or 2 of this Article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided in Article 34 of the Convention in respect of all or any of Articles 1 to 4 of this Protocol.
Article 6
Relationship to the Convention

As between the High Contracting Parties the provisions of Articles 1 to 5 of this Protocol shall be regarded as additional Articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Article 7
Signature and ratification

1. This Protocol shall be open for signature by the members of the Council of Europe who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of five instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.

2. The instruments of ratification shall be deposited with the Secretary General of the Council of Europe, who will notify all members of the names of those who have ratified. In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 16th day of September 1963, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory States.
Protocol no. 6 to the convention for the protection of human rights and fundamental freedoms concerning the abolition of the death penalty
Strasbourg, 28.IV.1983

The member States of the Council of Europe, signatory to this Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”), Considering that the evolution that has occurred in several member States of the Council of Europe expresses a general tendency in favour of abolition of the death penalty;

Have agreed as follows:

**Article 1**
Abolition of the death penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

**Article 2**
Death penalty in time of war

A State may make provision in its law for the death penalty in respect of acts committed in time of war or of imminent threat of war; such penalty shall be applied only in the instances laid down in the law and in accordance with its provisions. The State shall communicate to the Secretary General of the Council of Europe the relevant provisions of that law.

**Article 3**
Prohibition of derogations

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

**Article 4**
Prohibition of reservations

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.
Article 5
Territorial application

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the date of receipt of such notification by the Secretary General.

Article 6
Relationship to the Convention

As between the States Parties the provisions of Articles 1 and 5 of this Protocol shall be regarded as additional Articles to the Convention and all the provisions of the Convention shall apply accordingly.

Article 7
Signature and ratification

The Protocol shall be open for signature by the member States of the Council of Europe, signatories to the Convention. It shall be subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol unless it has, simultaneously or previously, ratified the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 8
Entry into force

1. This Protocol shall enter into force on the first day of the month following the date on which five member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 7.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the date of the deposit of the instrument of ratification, acceptance or approval.
Article 9
Depositary functions

The Secretary General of the Council of Europe shall notify the member States of the Council of:
(a) any signature;
(b) the deposit of any instrument of
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ratification, acceptance or approval;
(c) any date of entry into force of this Protocol in accordance with Articles 5 and 8;
(d) any other act, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 28th day of April 1983, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.
Protocol no. 7 to the convention for the protection of human rights and fundamental freedoms
Strasbourg, 22.XI.1984

The member States of the Council of Europe signatory hereto,
Being resolved to take further steps to ensure the collective enforcement of certain rights and freedoms by means of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”),

Have agreed as follows:

**Article 1**
*Procedural safeguards relating to expulsion of aliens*

1. An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with law and shall be allowed:
   (a) to submit reasons against his expulsion,
   (b) to have his case reviewed, and
   (c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.

2. An alien may be expelled before the exercise of his rights under paragraph 1 (a), (b) and (c) of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security.

**Article 2**
*Right of appeal in criminal matters*

1. Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law.

2. This right may be subject to exceptions in regard to offences of a minor character, as prescribed by law, or in cases in which the person concerned was tried in the first instance by the highest tribunal or was convicted following an appeal against acquittal.

**Article 3**
*Compensation for wrongful conviction*

When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed, or he has been pardoned, on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be
compensated according to the law or the practice of the State concerned, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

**Article 4**
**Right not to be tried or punished twice**

1. No one shall be liable to be tried or punished again in criminal proceedings under the jurisdiction of the same State for an offence for which he has already been finally acquitted or convicted in accordance with the law and penal procedure of that State.
2. The provisions of the preceding paragraph shall not prevent the reopening of the case in accordance with the law and penal procedure of the State concerned, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.
3. No derogation from this Article shall be made under Article 15 of the Convention.

**Article 5**
**Equality between spouses**

Spouses shall enjoy equality of rights and responsibilities of a private law character between them, and in their relations with their children, as to marriage, during marriage and in the event of its dissolution. This Article shall not prevent States from taking such measures as are necessary in the interests of the children.

**Article 6**
**Territorial application**

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which the Protocol shall apply and state the extent to which it undertakes that the provisions of this Protocol shall apply to such territory or territories.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date of receipt by the Secretary General of such declaration.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become
effective on the first day of the month following the expiration of a period of two months after the date of receipt of such notification by the Secretary General.

4. A declaration made in accordance with this Article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.

5. The territory of any State to which this Protocol applies by virtue of ratification, acceptance or approval by that State, and each territory to which this Protocol is applied by virtue of a declaration by that State under this Article, may be treated as separate territories for the purpose of the reference in Article 1 to the territory of a State.

6. Any State which has made a declaration in accordance with paragraph 1 or 2 of this Article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided in Article 34 of the Convention in respect of Articles 1 to 5 of this Protocol.

**Article 7**

**Relationship to the Convention**

As between the States Parties, the provisions of Article 1 to 6 of this Protocol shall be regarded as additional Articles to the Convention, and all the provisions of the Convention shall apply accordingly.

**Article 8**

**Signature and ratification**

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

**Article 9**

**Entry into force**

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date on which seven member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 8.

2. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the
expiration of a period of two months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 10
Depositary functions

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:
(a) any signature;
(b) the deposit of any instrument of ratification, acceptance or approval;
(c) any date of entry into force of this Protocol in accordance with Articles 6 and 9;
(d) any other act, notification or declaration relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.
Done at Strasbourg, this 22nd day of November 1984, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.
The member States of the Council of Europe signatory hereto, 
Having regard to the fundamental principle according to which all persons are equal 
before the law and are entitled to the equal protection of the law; 
Being resolved to take further steps to promote the equality of all persons through the 
collective enforcement of a general prohibition of discrimination by means of the 
Convention for the Protection of Human Rights and Fundamental Freedoms signed at 
Rome on 4 November 1950 (hereinafter referred to as “the Convention”); 
Reaffirming that the principle of non-discrimination does not prevent States Parties from 
taking measures in order to promote full and effective equality, provided that there is an 
ojective and reasonable justification for those measures, 

Have agreed as follows:

**Article 1**
**General prohibition of discrimination**

1. The enjoyment of any right set forth by law shall be secured without discrimination on 
any ground such as sex, race, colour, language, religion, political or other opinion, 
national or social origin, association with a national minority, property, birth or other 
status.
2. No one shall be discriminated against by any public authority on any ground such as 
those mentioned in paragraph 1.

21 European Convention on Human Rights

**Article 2**
**Territorial application**

1. Any State may, at the time of signature or when depositing its instrument of ratification, 
acceptance or approval, specify the territory or territories to which this Protocol shall 
apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General 
of the Council of Europe, extend the application of this Protocol to any other territory 
specified in the declaration. In respect of such territory the Protocol shall enter into force 
on the first day of the month following the expiration of a period of three months after the 
date of receipt by the Secretary General of such declaration.
3. Any declaration made under the two preceding paragraphs may, in respect of any 
territory specified in such declaration, be withdrawn or modified by a notification 
addressed to the Secretary General of the Council of Europe. The withdrawal or
modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

4. A declaration made in accordance with this Article shall be deemed to have been made in accordance with paragraph 1 of Article 56 of the Convention.

5. Any State which has made a declaration in accordance with paragraph 1 or 2 of this Article may at any time thereafter declare on behalf of one or more of the territories to which the declaration relates that it accepts the competence of the Court to receive applications from individuals, non-governmental organisations or groups of individuals as provided by Article 34 of the Convention in respect of Article 1 of this Protocol.

**Article 3**

**Relationship to the Convention**

As between the States Parties, the provisions of Articles 1 and 2 of this Protocol shall be regarded as additional Articles to the Convention, and all the provisions of the Convention shall apply accordingly.

**Article 4**

**Signature and ratification**

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

**Article 5**

**Entry into force**

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 4.

2. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.
Article 6
Depositary functions

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:
(a) any signature;
(b) the deposit of any instrument of ratification, acceptance or approval;
(c) any date of entry into force of this Protocol in accordance with Articles 2 and 5;
(d) any other act, notification or communication relating to this Protocol.
In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.
Done at Rome, this 4th day of November 2000, in English and in French, both 22 European Convention on Human Rights texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.
Protocol no. 13 to the convention for the protection of human rights and fundamental freedoms concerning the abolition of the death penalty in all circumstances
Vilnius, 3.V.2002

The member States of the Council of Europe signatory hereto,
Convinced that everyone’s right to life is a basic value in a democratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings;
Wishing to strengthen the protection of the right to life guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”);
Noting that Protocol No. 6 to the Convention concerning the abolition of the death penalty, signed at Strasbourg on 28 April 1983, does not exclude the death penalty in respect of acts committed in time of war or of imminent threat of war;
Being resolved to take the final step in order to abolish the death penalty in all circumstances,

Have agreed as follows:

Article 1
Abolition of the death penalty

The death penalty shall be abolished. No one shall be condemned to such penalty or executed.

Article 2
Prohibitions of derogations

No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

Article 3
Prohibitions of reservations

No reservation may be made under Article 57 of the Convention in respect of the provisions of this Protocol.
Article 4
Territorial application

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Protocol shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt by the Secretary General of such declaration.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

Article 5
Relationship to the Convention

As between the States Parties the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional Articles to the Convention, and all the provisions of the Convention shall apply accordingly.

Article 6
Signature and ratification

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 7
Entry into force

1. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 6.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

**Article 8**

**Depositary functions**

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:
(a) any signature;
(b) the deposit of any instrument of ratification, acceptance or approval;
(c) any date of entry into force of this Protocol in accordance with Articles 4 and 7;
(d) any other act, notification or communication relating to this Protocol;

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Vilnius, this 3rd day of May 2002, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.
EUROPEAN SOCIAL CHARTER

Strasbourg, 3.V.1996

Preamble

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;

Considering that in the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950, and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified;

Considering that in the European Social Charter opened for signature in Turin on 18 October 1961 and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the social rights specified therein in order to improve their standard of living and their social well-being;

Recalling that the Ministerial Conference on Human Rights held in Rome on 5 November 1990 stressed the need, on the one hand, to preserve the indivisible nature of all human rights, be they civil, political, economic, social or cultural and, on the other hand, to give the European Social Charter fresh impetus;

Resolved, as was decided during the Ministerial Conference held in Turin on 21 and 22 October 1991, to update and adapt the substantive contents of the Charter in order to take account in particular of the fundamental social changes which have occurred since the text was adopted;

Recognising the advantage of embodying in a Revised Charter, designed progressively to take the place of the European Social Charter, the rights guaranteed by the Charter as amended, the rights guaranteed by the Additional Protocol of 1988 and to add new rights,
Have agreed as follows:

**Part I**

The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

1. Everyone shall have the opportunity to earn his living in an occupation freely entered upon.
2. All workers have the right to just conditions of work.
3. All workers have the right to safe and healthy working conditions.
4. All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.
5. All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.
6. All workers and employers have the right to bargain collectively.
7. Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.
8. Employed women, in case of maternity, have the right to a special protection.
9. Everyone has the right to appropriate facilities for vocational guidance with a view to helping him choose an occupation suited to his personal aptitude and interests.
10. Everyone has the right to appropriate facilities for vocational training.
11. Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.
12. All workers and their dependents have the right to social security.
13. Anyone without adequate resources has the right to social and medical assistance.
14. Everyone has the right to benefit from social welfare services.
15. Disabled persons have the right to independence, social integration and participation in the life of the community.
16. The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.
17. Children and young persons have the right to appropriate social, legal and economic protection.
18. The nationals of any one of the Parties have the right to engage in any gainful occupation in the territory of any one of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.
Migrant workers who are nationals of a Party and their families have the right to protection and assistance in the territory of any other Party.

All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.

Workers have the right to be informed and to be consulted within the undertaking.

Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking.

Every elderly person has the right to social protection.

All workers have the right to protection in cases of termination of employment.

All workers have the right to protection of their claims in the event of the insolvency of their employer.

All workers have the right to dignity at work.

All persons with family responsibilities and who are engaged or wish to engage in employment have a right to do so without being subject to discrimination and as far as possible without conflict between their employment and family responsibilities.

Workers' representatives in undertakings have the right to protection against acts prejudicial to them and should be afforded appropriate facilities to carry out their functions.

All workers have the right to be informed and consulted in collective redundancy procedures.

Everyone has the right to protection against poverty and social exclusion.

Everyone has the right to housing.

Part II

The Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles and paragraphs.

Article 1 – The right to work

With a view to ensuring the effective exercise of the right to work, the Parties undertake:

1 to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;

2 to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3 to establish or maintain free employment services for all workers;
4 to provide or promote appropriate vocational guidance, training and rehabilitation.

**Article 2 – The right to just conditions of work**

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

1 to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
2 to provide for public holidays with pay;
3 to provide for a minimum of four weeks’ annual holiday with pay;
4 to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;
5 to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;
6 to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;
7 to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

**Article 3 – The right to safe and healthy working conditions**

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers’ and workers’ organisations:

1 to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment;
2 to issue safety and health regulations;
3 to provide for the enforcement of such regulations by measures of supervision;
4 to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.

Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

1 to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
2 to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
3 to recognise the right of men and women workers to equal pay for work of equal value;
4 to recognise the right of all workers to a reasonable period of notice for termination of employment;
5 to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Article 5 – The right to organise

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.
Article 6 – The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers’ organisations and workers’ organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;
4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Article 7 – The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;
2. to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;
3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;
4. to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;
6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;
7. to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks’ annual holiday with pay;
to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;

to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;

to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

Article 8 – The right of employed women to protection of maternity

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:

1 to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks;

2 to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;

3 to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;

4 to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;

5 to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women.

Article 9 – The right to vocational guidance

With a view to ensuring the effective exercise of the right to vocational guidance, the Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including schoolchildren, and to adults.
Article 10 – The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

1 to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;

2 to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;

3 to provide or promote, as necessary:
   a adequate and readily available training facilities for adult workers;
   b special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;

4 to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;

5 to encourage the full utilisation of the facilities provided by appropriate measures such as:
   a reducing or abolishing any fees or charges;
   b granting financial assistance in appropriate cases;
   c including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
   d ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

Article 11 – The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed inter alia:

1 to remove as far as possible the causes of ill-health;

2 to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3 to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

Article 12 – The right to social security

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

1 to establish or maintain a system of social security;
2 to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security;
3 to endeavour to raise progressively the system of social security to a higher level;
4 to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure:

a equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties;
b the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.

Article 13 – The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

1 to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
2 to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
3 to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
4 to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.
Article 14 – The right to benefit from social welfare services

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

1 to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;
2 to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

Article 15 – The right of persons with disabilities to independence, social integration and participation in the life of the community

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

1 to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;
2 to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;
3 to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

Article 16 – The right of the family to social, legal and economic protection

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social
and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

**Article 17 – The right of children and young persons to social, legal and economic protection**

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

1. a) to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;
   
   b) to protect children and young persons against negligence, violence or exploitation;
   
   c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family’s support;

2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

**Article 18 – The right to engage in a gainful occupation in the territory of other Parties**

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

1. to apply existing regulations in a spirit of liberality;

2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;

3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;

4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties.
Article 19 – The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

1 to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

2 to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

3 to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;

4 to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

   a remuneration and other employment and working conditions;
   b membership of trade unions and enjoyment of the benefits of collective bargaining;
   c accommodation;

5 to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

6 to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

7 to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;

8 to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

9 to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;
to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply;

11 to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;

12 to promote and facilitate, as far as practicable, the teaching of the migrant worker’s mother tongue to the children of the migrant worker.

**Article 20 – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

a access to employment, protection against dismissal and occupational reintegration;
b vocational guidance, training, retraining and rehabilitation;
c terms of employment and working conditions, including remuneration;
d career development, including promotion.

**Article 21 – The right to information and consultation**

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and

b to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.
Article 22 – The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

a to the determination and the improvement of the working conditions, work organisation and working environment;
b to the protection of health and safety within the undertaking;
c to the organisation of social and socio-cultural services and facilities within the undertaking;
d to the supervision of the observance of regulations on these matters.

Article 23 – The right of elderly persons to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society for as long as possible, by means of:
  a adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
  b provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
- to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:
  a provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
  b the health care and the services necessitated by their state;
- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.
Article 24 – The right to protection in cases of termination of employment

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

a the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;

b the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.

Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer

With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers’ claims arising from contracts of employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection.

Article 26 – The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers’ and workers’ organisations:

1 to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;

2 to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.
Article 27 – The right of workers with family responsibilities to equal opportunities and equal treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

1 to take appropriate measures:
   a to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;
   b to take account of their needs in terms of conditions of employment and social security;
   c to develop or promote services, public or private, in particular child daycare services and other childcare arrangements;

2 to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;

3 to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Article 28 – The right of workers’ representatives to protection in the undertaking and facilities to be accorded to them

With a view to ensuring the effective exercise of the right of workers’ representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

a they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers’ representatives within the undertaking;

b they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.
Article 29 – The right to information and consultation in collective redundancy procedures

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers’ representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

Article 30 – The right to protection against poverty and social exclusion

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

a to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;

b to review these measures with a view to their adaptation if necessary.

Article 31 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1 to promote access to housing of an adequate standard;
2 to prevent and reduce homelessness with a view to its gradual elimination;
3 to make the price of housing accessible to those without adequate resources.

Part III

Article A – Undertakings

1 Subject to the provisions of Article B below, each of the Parties undertakes:
a to consider Part I of this Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;
b to consider itself bound by at least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20;
c to consider itself bound by an additional number of articles or numbered paragraphs of Part II of the Charter which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs.

2 The articles or paragraphs selected in accordance with sub-paragraphs b and c of paragraph 1 of this article shall be notified to the Secretary General of the Council of Europe at the time when the instrument of ratification, acceptance or approval is deposited.

3 Any Party may, at a later date, declare by notification addressed to the Secretary General that it considers itself bound by any articles or any numbered paragraphs of Part II of the Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval and shall have the same effect as from the first day of the month following the expiration of a period of one month after the date of the notification.

4 Each Party shall maintain a system of labour inspection appropriate to national conditions.

Article B – Links with the European Social Charter and the 1988 Additional Protocol

1 No Contracting Party to the European Social Charter or Party to the Additional Protocol of 5 May 1988 may ratify, accept or approve this Charter without considering itself bound by at least the provisions corresponding to the provisions of the European Social Charter and, where appropriate, of the Additional Protocol, to which it was bound.

2 Acceptance of the obligations of any provision of this Charter shall, from the date of entry into force of those obligations for the Party concerned, result in the corresponding provision of the European Social Charter and, where appropriate, of its Additional Protocol of 1988 ceasing to apply to the Party concerned in the event of that Party being bound by the first of those instruments or by both instruments.
Part IV

Article C – Supervision of the implementation of the undertakings contained in this Charter

The implementation of the legal obligations contained in this Charter shall be submitted to the same supervision as the European Social Charter.

Article D – Collective complaints

1 The provisions of the Additional Protocol to the European Social Charter providing for a system of collective complaints shall apply to the undertakings given in this Charter for the States which have ratified the said Protocol.

2 Any State which is not bound by the Additional Protocol to the European Social Charter providing for a system of collective complaints may when depositing its instrument of ratification, acceptance or approval of this Charter or at any time thereafter, declare by notification addressed to the Secretary General of the Council of Europe, that it accepts the supervision of its obligations under this Charter following the procedure provided for in the said Protocol.

Part V

Article E – Non-discrimination

The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.

Article F – Derogations in time of war or public emergency

1 In time of war or other public emergency threatening the life of the nation any Party may take measures derogating from its obligations under this Charter to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2 Any Party which has availed itself of this right of derogation shall, within a reasonable lapse of time, keep the Secretary General of the Council of Europe fully informed of the measures taken and of the reasons therefor. It shall likewise inform the Secretary General when such measures have ceased to operate and the provisions of the Charter which it has accepted are again being fully executed.
Article G – Restrictions

1 The rights and principles set forth in Part I when effectively realised, and their effective exercise as provided for in Part II, shall not be subject to any restrictions or limitations not specified in those parts, except such as are prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.

2 The restrictions permitted under this Charter to the rights and obligations set forth herein shall not be applied for any purpose other than that for which they have been prescribed.

Article H – Relations between the Charter and domestic law or international agreements

The provisions of this Charter shall not prejudice the provisions of domestic law or of any bilateral or multilateral treaties, conventions or agreements which are already in force, or may come into force, under which more favourable treatment would be accorded to the persons protected.

Article I – Implementation of the undertakings given

1 Without prejudice to the methods of implementation foreseen in these articles the relevant provisions of Articles 1 to 31 of Part II of this Charter shall be implemented by:

a laws or regulations;

b agreements between employers or employers’ organisations and workers’ organisations;

c a combination of those two methods;

d other appropriate means.

2 Compliance with the undertakings deriving from the provisions of paragraphs 1, 2, 3, 4, 5 and 7 of Article 2, paragraphs 4, 6 and 7 of Article 7, paragraphs 1, 2, 3 and 5 of Article 10 and Articles 21 and 22 of Part II of this Charter shall be regarded as effective if the provisions are applied, in accordance with paragraph 1 of this article, to the great majority of the workers concerned.
Article J – Amendments

1 Any amendment to Parts I and II of this Charter with the purpose of extending the rights guaranteed in this Charter as well as any amendment to Parts III to VI, proposed by a Party or by the Governmental Committee, shall be communicated to the Secretary General of the Council of Europe and forwarded by the Secretary General to the Parties to this Charter.

2 Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined by the Governmental Committee which shall submit the text adopted to the Committee of Ministers for approval after consultation with the Parliamentary Assembly. After its approval by the Committee of Ministers this text shall be forwarded to the Parties for acceptance.

3 Any amendment to Part I and to Part II of this Charter shall enter into force, in respect of those Parties which have accepted it, on the first day of the month following the expiration of a period of one month after the date on which three Parties have informed the Secretary General that they have accepted it. In respect of any Party which subsequently accepts it, the amendment shall enter into force on the first day of the month following the expiration of a period of one month after the date on which that Party has informed the Secretary General of its acceptance.

4 Any amendment to Parts III to VI of this Charter shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

Part VI

Article K – Signature, ratification and entry into force

1 This Charter shall be open for signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2 This Charter shall enter into force on the first day of the month following the expiration of a period of one month after the date on which three member States of the Council of Europe have expressed their consent to be bound by this Charter in accordance with the preceding paragraph.

3 In respect of any member State which subsequently expresses its consent to be bound by this Charter, it shall enter into force on the first day of the month following the expiration of a period of one month after the date of the deposit of the instrument of ratification, acceptance or approval.
**Article L – Territorial application**

1. This Charter shall apply to the metropolitan territory of each Party. Each signatory may, at the time of signature or of the deposit of its instrument of ratification, acceptance or approval, specify, by declaration addressed to the Secretary General of the Council of Europe, the territory which shall be considered to be its metropolitan territory for this purpose.

2. Any signatory may, at the time of signature or of the deposit of its instrument of ratification, acceptance or approval, or at any time thereafter, declare by notification addressed to the Secretary General of the Council of Europe, that the Charter shall extend in whole or in part to a non-metropolitan territory or territories specified in the said declaration for whose international relations it is responsible or for which it assumes international responsibility. It shall specify in the declaration the articles or paragraphs of Part II of the Charter which it accepts as binding in respect of the territories named in the declaration.

3. The Charter shall extend its application to the territory or territories named in the aforesaid declaration as from the first day of the month following the expiration of a period of one month after the date of receipt of the notification of such declaration by the Secretary General.

4. Any Party may declare at a later date by notification addressed to the Secretary General of the Council of Europe that, in respect of one or more of the territories to which the Charter has been applied in accordance with paragraph 2 of this article, it accepts as binding any articles or any numbered paragraphs which it has not already accepted in respect of that territory or territories. Such undertakings subsequently given shall be deemed to be an integral part of the original declaration in respect of the territory concerned, and shall have the same effect as from the first day of the month following the expiration of a period of one month after the date of receipt of such notification by the Secretary General.

**Article M – Denunciation**

1. Any Party may denounce this Charter only at the end of a period of five years from the date on which the Charter entered into force for it, or at the end of any subsequent period of two years, and in either case after giving six months’ notice to the Secretary General of the Council of Europe who shall inform the other Parties accordingly.

2. Any Party may, in accordance with the provisions set out in the preceding paragraph, denounce any article or paragraph of Part II of the Charter accepted by it provided that the number of articles or paragraphs by which this Party is bound shall never be less than sixteen in the former case and sixty-three in the latter and that this number of articles or paragraphs shall continue to include the
articles selected by the Party among those to which special reference is made in Article A, paragraph 1, sub-paragraph b.

3. Any Party may denounce the present Charter or any of the articles or paragraphs of Part II of the Charter under the conditions specified in paragraph 1 of this article in respect of any territory to which the said Charter is applicable, by virtue of a declaration made in accordance with paragraph 2 of Article L.

Article N – Appendix

The appendix to this Charter shall form an integral part of it.

Article O – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council and the Director General of the International Labour Office of:

a. any signature;
b. the deposit of any instrument of ratification, acceptance or approval;
c. any date of entry into force of this Charter in accordance with Article K;
d. any declaration made in application of Articles A, paragraphs 2 and 3, D, paragraphs 1 and 2, F, paragraph 2, L, paragraphs 1, 2, 3 and 4;
e. any amendment in accordance with Article J;
f. any denunciation in accordance with Article M;
g. any other act, notification or communication relating to this Charter.

In witness whereof, the undersigned, being duly authorised thereto, have signed this revised Charter.

Done at Strasbourg, this 3rd day of May 1996, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to the Director General of the International Labour Office.

Appendix to the Revised European Social Charter

Scope of the Revised European Social Charter in terms of persons protected
1 Without prejudice to Article 12, paragraph 4, and Article 13, paragraph 4, the persons covered by Articles 1 to 17 and 20 to 31 include foreigners only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned, subject to the understanding that these articles are to be interpreted in the light of the provisions of Articles 18 and 19. This interpretation would not prejudice the extension of similar facilities to other persons by any of the Parties.

2 Each Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 and in the Protocol of 31 January 1967, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the Party under the said convention and under any other existing international instruments applicable to those refugees.

3 Each Party will grant to stateless persons as defined in the Convention on the Status of Stateless Persons done in New York on 28 September 1954 and lawfully staying in its territory, treatment as favourable as possible and in any case not less favourable than under the obligations accepted by the Party under the said instrument and under any other existing international instruments applicable to those stateless persons.

Part I, paragraph 18, and Part II, Article 18, paragraph 1

It is understood that these provisions are not concerned with the question of entry into the territories of the Parties and do not prejudice the provisions of the European Convention on Establishment, signed in Paris on 13 December 1955.

Part II

Article 1, paragraph 2

This provision shall not be interpreted as prohibiting or authorising any union security clause or practice.

Article 2, paragraph 6

Parties may provide that this provision shall not apply:
a to workers having a contract or employment relationship with a total duration not exceeding one month and/or with a working week not exceeding eight hours;
b where the contract or employment relationship is of a casual and/or specific nature, provided, in these cases, that its non-application is justified by objective considerations.

Article 3, paragraph 4

It is understood that for the purposes of this provision the functions, organisation and conditions of operation of these services shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

Article 4, paragraph 4

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

Article 4, paragraph 5

It is understood that a Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.

Article 6, paragraph 4

It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

Article 7, paragraph 2

This provision does not prevent Parties from providing in their legislation that young persons not having reached the minimum age laid down may perform work in so far as it is absolutely necessary for their vocational training where such work is carried out in accordance with conditions prescribed by the competent authority and measures are taken to protect the health and safety of these young persons.
Article 7, paragraph 8

It is understood that a Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under eighteen years of age shall not be employed in night work.

Article 8, paragraph 2

This provision shall not be interpreted as laying down an absolute prohibition. Exceptions could be made, for instance, in the following cases:

a if an employed woman has been guilty of misconduct which justifies breaking off the employment relationship;
b if the undertaking concerned ceases to operate;
c if the period prescribed in the employment contract has expired.

Article 12, paragraph 4

The words “and subject to the conditions laid down in such agreements” in the introduction to this paragraph are taken to imply inter alia that with regard to benefits which are available independently of any insurance contribution, a Party may require the completion of a prescribed period of residence before granting such benefits to nationals of other Parties.

Article 13, paragraph 4

Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention.

Article 16

It is understood that the protection afforded in this provision covers single-parent families.

Article 17

It is understood that this provision covers all persons below the age of 18 years, unless under the law applicable to the child majority is attained earlier, without prejudice to the other specific provisions provided by the Charter, particularly Article 7.
This does not imply an obligation to provide compulsory education up to the above-mentioned age.

**Article 19, paragraph 6**

For the purpose of applying this provision, the term “family of a foreign worker” is understood to mean at least the worker’s spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker.

**Article 20**

1. It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor’s benefit, may be excluded from the scope of this article.
2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in this article.
3. This article shall not prevent the adoption of specific measures aimed at removing *de facto* inequalities.
4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this article or some of its provisions. This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

**Articles 21 and 22**

1. For the purpose of the application of these articles, the term “workers’ representatives” means persons who are recognised as such under national legislation or practice.
2. The terms “national legislation and practice” embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers’ representatives, customs as well as relevant case law.
3. For the purpose of the application of these articles, the term “undertaking” is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.
It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are “undertakings” within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.

The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

**Article 22**

1. This provision affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of the bodies in charge of monitoring their application.

2. The terms “social and socio-cultural services and facilities” are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children’s holiday camps, etc.

**Article 23, paragraph 1**

For the purpose of the application of this paragraph, the term “for as long as possible” refers to the elderly person’s physical, psychological and intellectual capacities.

**Article 24**

1. It is understood that for the purposes of this article the terms “termination of employment” and “terminated” mean termination of employment at the initiative of the employer.

2. It is understood that this article covers all workers but that a Party may exclude from some or all of its protection the following categories of employed persons:

   a. workers engaged under a contract of employment for a specified period of time or a specified task;
b workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration;
c workers engaged on a casual basis for a short period.

3 For the purpose of this article the following, in particular, shall not constitute valid reasons for termination of employment:

a trade union membership or participation in union activities outside working hours, or, with the consent of the employer, within working hours;
b seeking office as, acting or having acted in the capacity of a workers’ representative;
c the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
d race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
e maternity or parental leave;
f temporary absence from work due to illness or injury.

4 It is understood that compensation or other appropriate relief in case of termination of employment without valid reasons shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

**Article 25**

1 It is understood that the competent national authority may, by way of exemption and after consulting organisations of employers and workers, exclude certain categories of workers from the protection provided in this provision by reason of the special nature of their employment relationship.

2 It is understood that the definition of the term “insolvency” must be determined by national law and practice.

3 The workers’ claims covered by this provision shall include at least:

a the workers’ claims for wages relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or to the termination of employment;
b the workers’ claims for holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred;
the workers’ claims for amounts due in respect of other types of paid absence relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or the termination of the employment.

4 National laws or regulations may limit the protection of workers’ claims to a prescribed amount, which shall be of a socially acceptable level.

Article 26

It is understood that this article does not require that legislation be enacted by the Parties.

It is understood that paragraph 2 does not cover sexual harassment.

Article 27

It is understood that this article applies to men and women workers with family responsibilities in relation to their dependent children as well as in relation to other members of their immediate family who clearly need their care or support where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. The terms “dependent children” and “other members of their immediate family who clearly need their care and support” mean persons defined as such by the national legislation of the Party concerned.

Articles 28 and 29

For the purpose of the application of this article, the term “workers’ representatives” means persons who are recognised as such under national legislation or practice.

Part III

It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in Part IV thereof.

Article A, paragraph 1
It is understood that the numbered paragraphs may include articles consisting of only one paragraph.

**Article B, paragraph 2**

For the purpose of paragraph 2 of Article B, the provisions of the revised Charter correspond to the provisions of the Charter with the same article or paragraph number with the exception of:

a. Article 3, paragraph 2, of the revised Charter which corresponds to Article 3, paragraphs 1 and 3, of the Charter;  
b. Article 3, paragraph 3, of the revised Charter which corresponds to Article 3, paragraphs 2 and 3, of the Charter;  
c. Article 10, paragraph 5, of the revised Charter which corresponds to Article 10, paragraph 4, of the Charter;  
d. Article 17, paragraph 1, of the revised Charter which corresponds to Article 17 of the Charter.

**Part V**

**Article E**

A differential treatment based on an objective and reasonable justification shall not be deemed discriminatory.

**Article F**

The terms “in time of war or other public emergency” shall be so understood as to cover also the threat of war.

**Article I**

It is understood that workers excluded in accordance with the appendix to Articles 21 and 22 are not taken into account in establishing the number of workers concerned.

**Article J**

The term “amendment” shall be extended so as to cover also the addition of new articles to the Charter.
Annex 2:
List of Special UN Procedures and Mandated for human rights protection:

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<th>Thematic mandates</th>
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<td>Working Group on people of African descent</td>
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<td>2</td>
<td>Working Group on Arbitrary Detention</td>
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<td>3</td>
<td>Special Rapporteur on the sale of children, child prostitution and child pornography</td>
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<td>4</td>
<td>Independent Expert in the field of cultural rights</td>
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<td>Special Rapporteur on extrajudicial, summary or arbitrary executions</td>
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<td>8</td>
<td>Independent expert on the question of human rights and extreme poverty</td>
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<td>9</td>
<td>Special Rapporteur on the right to food</td>
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<td>10</td>
<td>Independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights</td>
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<td>Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression</td>
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<td>22</td>
<td>Independent Expert on minority issues</td>
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<td>23</td>
<td>Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance</td>
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<td>Special Rapporteur on contemporary forms of slavery, including its causes and consequences</td>
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<td>Independent expert on human rights and international solidarity</td>
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<tr>
<td>28</td>
<td>Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights</td>
</tr>
<tr>
<td>29</td>
<td>Special Rapporteur on trafficking in persons, especially women and children</td>
</tr>
<tr>
<td>30</td>
<td>Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises</td>
</tr>
<tr>
<td>31</td>
<td>Special Rapporteur on violence against women, its causes and consequences</td>
</tr>
<tr>
<td>32</td>
<td>Special Rapporteur on the human right to safe drinking water and sanitation</td>
</tr>
<tr>
<td>33</td>
<td>Special Rapporteur on adequate housing as a component of the right to an adequate standard of living</td>
</tr>
<tr>
<td>34</td>
<td>Mandates for specific states</td>
</tr>
<tr>
<td>35</td>
<td>Independent Expert on situation of human rights in Burundi</td>
</tr>
<tr>
<td>36</td>
<td>Special Rapporteur on the situation of human rights in Cambodia</td>
</tr>
<tr>
<td>37</td>
<td>Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea</td>
</tr>
<tr>
<td>38</td>
<td>Independent Expert on the situation of human rights in Haiti</td>
</tr>
<tr>
<td>39</td>
<td>Special Rapporteur on the situation of human rights in Myanmar</td>
</tr>
<tr>
<td>40</td>
<td>Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967</td>
</tr>
<tr>
<td>41</td>
<td>Independent Expert on the situation of human rights in Somalia</td>
</tr>
<tr>
<td>42</td>
<td>Independent Expert on the situation of human rights in the Sudan</td>
</tr>
</tbody>
</table>
Annex 3:
Complaint form of the Public Attorney

To: Public Attorney
Dimitrie Cuposki St, no.2
1000 Skopje

COMPLAINT

1. Data of the submitter
   Name and surname  domicile address

   Address  telephone

   Member of community

2. sex  M  F  3. age

4. profession  5. citizenship

Body or organization for which the complaint is lodged

6. name, surname, function of the official that violated the right of the submitter

7. state the data on the act, decision, conclusion with which your right was violated or describe the activities with which your rights were violated

8. state the legal means that you have used (to which body and when)

9. annex (evidence):

10. accepted by (name and surname) in the office of the Public Attorney

Date when the complaint is submitted  signature of the submitter
Annex 4: Complaint form to the Administrative inspectorate

Ministry of Justice
State Administrative Inspectorate

<table>
<thead>
<tr>
<th>COMPLAINT</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>PERPETRATOR (AGAINST)</td>
<td></td>
</tr>
<tr>
<td>Name and surname/title</td>
<td></td>
</tr>
<tr>
<td>Organ</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td></td>
</tr>
<tr>
<td>Place</td>
<td></td>
</tr>
<tr>
<td>Description of the violation</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Submitter</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Name and surname</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td></td>
</tr>
<tr>
<td>e-mail</td>
<td></td>
</tr>
<tr>
<td>The answer should be?</td>
<td></td>
</tr>
<tr>
<td>1) electronic</td>
<td>a) yes</td>
</tr>
<tr>
<td>2) in written</td>
<td>a) yes</td>
</tr>
</tbody>
</table>

Date of submission

| annex |  |
Annex 5:
Form to initiate the determination of unequal treatment of women and men

SAMPLE PROPOSAL INITIATIVE

To:  
the Ministry of Labor and Social Policy  
of the Republic of Macedonia  
Equal Opportunities Advocate

Based on article 24, paragraph 1 from the Law on equal opportunities for women and man (Official Gazette of RM number 66/06 dated 29.05.2006), I submit the following:

INITIATIVE

To start the procedure to determine the unequal treatment of women and men

1.Submitter of the initiative:

Name and surname________________________from________, with domicile address on St._________________no. ________, age __________, sex __________, profession/vocation______________________, member of the __________________________ ethnic community, through proxy __________________________ from________ (if there is a proxy).

2. Institution or body in public or private sector for which the initiative is taken  
(state all data available on the entity from the private or public sector against which the initiative is submitted, name of the legal entity, name and surname of the responsible person, data on the working positions and other relevant information).

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

72 The proposal initiative can be found on the web site of the Ministry of Labor and Social Policy
Data on the unequal treatment:
(Description of the violation of the right to equal treatment, facts at disposal and/or individual ac/decision, conclusion.

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

State the name of the institution that you have contacted about this initiative (including date/dates and place, if any activities have been already undertaken)

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

I also enclose the following documents:

_____________________

_____________________

Date and place Submitter of the initiative:

_____________________

_____________________

______________________________________________________________________

INSTRUCTION/CLARIFICATION

Individuals, associations, unions and other legal entities are entitled to submit written initiative to start a procedure before the advocate; the initiative should be based on activities or passed acts by entities in the private or public sector that discriminate based on the sex in the private or public sector in the sphere of employment and labor, education social security, culture, sport i.e. the violation of right in the sphere of employment and labor, education social security, culture, sport.
Article 3

Discrimination based in the sex is prohibited in public and private sector in the sphere of employment and labor, education social security, culture, port, in line with this and other law.

Article 24

The procedure is free of charge.
The regulations of confidentiality of personal data are applied during the procedure.

Article 25

Initiative from article 24 of this law is submitted in written, as soon as possible and not later than years after the violation has been done.

The advocate can initiate the procedure after the deadline in paragraph 1 of this article if he/she assesses that the case in question is of important and it would be necessary to lead a procedure.