

### *Fundamental rights*

The country is already party to most of the **international human rights instruments** and further progress was made with the ratification of the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the signing of the Third Optional Protocol to the Convention on the Rights of the Child. The European Charter for Regional or Minority Languages, which has been signed, has yet to be ratified.

During the reporting period, the **European Court of Human Rights** (ECtHR) delivered judgements on 6 applications, finding that the country had violated rights guaranteed by the European Convention on Human Rights (ECHR). In the *El Masri* case, the Court ruled that the country had breached the applicant's rights under, among others, Article 3 (prohibition of torture and inhumane or degrading treatment). The country has been held by the ECtHR to provide an effective remedy in cases relating to unreasonably lengthy domestic court proceedings. However, it still needs to follow up on the execution of over 50 older ECtHR judgments in which it was found in the past to have violated the right to be heard within a reasonable time (Article 6). An inter-ministerial commission for the execution of ECtHR judgments was set up in November 2012 but its impact remains to be seen. Efforts should be made without delay to satisfy the Committee of Ministers of the Council of Europe that execution has been completed in all cases of violation of the ECHR, and that the necessary systemic improvements have been made. Greater efforts are also needed to ensure that any orders for pre-trial detention and extensions thereof are in line with the ECHR and the jurisprudence of the ECtHR concerning Article 5 (right to liberty and security). 511 new applications have been submitted to the ECtHR since September 2012, bringing the total number of pending applications to 593.

With regard to the **prevention of torture and ill-treatment** and the fight against impunity, the number of complaints filed with the Ombudsman's Office on excessive use of force by the police fell in 2012, although the number of overall complaints about the work of the police rose. The Ombudsman's annual report noted the persistence of such cases, particularly involving Special Units, and the need to strengthen the independence and effectiveness of the Ministry of Interior's Sector for Internal Control and Professional Standards in cases of use of force. Allegations of violence against inmates by prison officers persisted. In 2012, out of 88 complaints filed with the Directorate for Execution of Sanctions against prison staff, 12 cases related to torture or ill-treatment. One employee at Idrizovo prison was suspended and placed under house arrest for excessive use of force. Shortcomings remain as regards the implementation of formal safeguards, including the zero-tolerance strategy for ill-treatment in prisons and police stations. Weaknesses in the complaints system and the related datacollection mechanisms of police and prisons continue to be a concern. Mechanisms for detailed examination of all alleged cases of torture or ill-treatment of persons deprived of their liberty have yet to be set up. Efforts are still needed to improve the material conditions for detained persons as degrading conditions persist in a number of detention facilities.

As regards the **prison system**, a health-care strategy was adopted for penitentiary institutions, together with an action plan for 2012-2014 and practical guidelines. A treatment programme for inmates addicted to drugs and other psychotropic substances was developed. A strategy for the development of a probation service was adopted by the government. Internal control guidelines for penitentiary institutions were introduced. The annual budget for the penitentiary system was increased by 7% in 2013. A pilot education programme for juveniles was implemented in the educational-correctional facility in Veles. Inmates submitted fewer

complaints to the Ombudsman's Office in 2012 (278, compared with 352 in 2011). The problem of overcrowding in prisons is being addressed, with the construction of a new prison in Kumanovo completed in 2013 and preparations under way for construction work at Idrizovo and Skopje prisons, as well as the juvenile facility in Tetovo. However, the prison system remains seriously underfunded and understaffed, which hampers its sustainable functioning in line with international human rights standards. Overcrowding of 20 to 35% persisted during the reporting period. Treatment programmes for vulnerable groups are yet to be implemented in practice. Adequate healthcare is not systematically ensured and inhumane material conditions persist in some facilities, including all pre-trial and juvenile facilities. The right of juveniles to basic education is still not ensured. Systematic training of prison staff still needs to be set up. Allegations of corruption among prison staff and inter-prisoner violence remain to be addressed. Care needs to be taken that new facilities are not only built but also fully equipped, well managed and maintained in the long term. A national strategy for the penitentiary service has yet to be developed. Reform and development of the prison system continues to suffer from insufficient managerial and administrative capacity.

In the area of **freedom of expression** and the media, the Criminal Code was amended to decriminalise defamation and insult. A new Law on Civil Liability for Insult and Defamation was adopted, among other things setting out maximum levels of damages which could be awarded in civil cases. In 2012, over 200 judges, lawyers, journalists and other practitioners participated in training on freedom of expression and by September 2013, 161 civil court judges competent to deal with defamation had undergone a specific training programme. 70 key judgments of the European Court of Human Rights relating to Article 10 (freedom of expression) have been translated and made available on the websites of the Ministry of Justice and the Academy for Judges and Prosecutors, to act as a training tool. New draft laws on media and on audio-visual media services were prepared which also include provisions on freedom of expression and the media; however during the consultation phase these were criticised by some stakeholders as potentially open to abuse. There are continued concerns about the lack of transparency of government advertising and self-censorship due to economic pressures exerted on journalists and media owners. Polarisation of the media and poor professional standards hamper the public's right of access to diverse viewpoints and accurate information. (*see also 2.2 - Human rights and the protection of minorities*).

In the area of **freedom of assembly and association**, the overall situation is satisfactory. There were no cases of misuse of the legislation or prohibitions on registration.

**Freedom of thought, conscience and religion** is generally ensured. A further religious entity was registered, bringing the number to 31. The Constitutional Court rejected a complaint based on protection of religious freedom, made by the Bektashi community from Tetovo, concerning the courts' decision to reject their registration.

Concerning **women's rights and gender equality**, a strategy for gender equality for 2013-2020 was adopted by the parliament, together with a national action plan for gender equality for 2013-2016. Participation by women in the local elections increased. Women's participation in the labour market remains very low. The capacity of some local commissions on equal opportunity was strengthened, but their overall expertise and activities remain limited. The Sector for Equal Opportunities Policy in the Ministry of Labour and Social Policy still lacks adequate resources. Discriminatory customs, traditions and stereotypes remain significant and are open to exploitation and the fostering of regressive trends in

society. Implementation of the 2012-2015 national strategy for combating and preventing domestic violence is slow.

In the area of **children's rights**, a new Law on Child Protection was adopted, focusing the system and organisation of child protection around the rights of the child. The database on vulnerable children in the Centres for Social Work started operating and was connected to the State Statistical Office, although there is still a lack of a systematic collection and analysis of data with particular reference to children with disabilities. They remain the most vulnerable group, and their social inclusion continues to be hampered by stigma, discrimination, and a lack of appropriate infrastructure and social services. There are still only an estimated 15% of children with disabilities in the education system, mainly in specialised institutions. Street children have become less visible in the reporting period and no accurate data is currently available. The Centres for Social Work remain seriously underfunded and understaffed. A programme for the compensation of juvenile victims was established; however, its initial budget of €8150 is insufficient and needs to be substantially increased. In 2012 the members of the National Council for the prevention of juvenile delinquency started receiving remuneration for their work. Ad hoc training for juvenile justice professionals continued. However, there are still insufficient financial and administrative resources and poor coordination between the authorities involved in juvenile justice. The adoption of the new Law on Justice for Children was delayed. The conditions in the educational-correctional facility in Veles and the juvenile prison in Ohrid remain a matter of serious concern and most police stations fail to meet the legal requirements applicable to detention and interrogation of juveniles. Free legal aid is not systematically provided to juveniles and there is still no systematic education provided to juveniles deprived of their liberty.

As concerns the treatment of the **socially vulnerable and/or persons with disabilities**, a national coordinating body was set up to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities. Currently 69 people with disabilities are housed in the communal housing units set up as part of the de-institutionalisation process. Integration of people with disabilities remains very limited and their poverty rate very high. Implementation of the national strategy on equality of rights of people with disabilities 2010-2018 remains slow.

In the area of **anti-discrimination policies**, the Commission for Protection Against Discrimination became a member of the European Network of Equality Bodies. In 2012, the commission received 75 complaints and processed 43. Since its establishment in 2011, the Commission has identified discrimination in 11 cases, mainly on the grounds of ethnicity and belonging to marginalised groups. The Commission's recommendations have so far been respected in all but one case. Concerns remain about the Commission's independence, given its persistent lack of financial and human resources. There is a significant need for more awareness-raising activities and campaigns to prevent discrimination and to promote understanding of the Law on Anti-Discrimination and the work of the Commission. The Law on Anti-Discrimination is not fully aligned with the *acquis*, as it does not prohibit sexual orientation as grounds for discrimination, but in practice the Commission also handles complaints based on sexual orientation and has already issued several findings in this connection. Data on the reporting, investigation and prosecution of hate speech and hate crime is not collected systematically and training of law enforcement, prosecutors and judges needs to be stepped up.

As regards protection of the rights of **lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons, the situation has worsened. Reports of violent attacks, including against the LGBT Support Centre in Skopje, need to be fully investigated by law enforcement authorities. Further efforts, including awareness-raising and promotion of tolerance, are needed from the authorities at all levels. Homophobic media content persists and media professionals and owners need to take greater responsibility in combating ignorance and intolerance.

As regards **labour and trade union rights**, social dialogue is functioning well. The right to strike was challenged in the case of a strike by medical workers. Bipartite social dialogue has not improved. The capacity of trade unions is still weak.

In the area of **property rights**, the land register now covers 100% of the country's territory and a new Law on Cadastre was adopted, regulating its maintenance. The E-cadastre system became operational in all 29 branches of the Cadastre Office and includes web-based updating of property rights by notaries and bailiffs and electronic issuing of cadastre-related data. The Law on Expropriation was amended to limit reimbursement for expropriated property with a market value of over €5 million and €25 million to periods of five and eight years respectively. The Law on Denationalisation was amended to provide for compensation instead of restitution on certain grounds including defence and the public interest. Property which could not be returned continued to be compensated through the issue of government bonds. In 2012 the twelfth bond issue had a total value of €12 million. In 110 out of 272 property complaints lodged with the Ombudsman's Office, most of which related to denationalisation, a breach of property rights was confirmed. Some cases have remained at the first-instance stage for over a decade. There is a lack of consistency in property decisions taken at second instance and by the Administrative Court, which needs to be addressed in order to secure legal certainty.

As regards the respect for and protection of **minorities** and cultural rights, the Agency for the Protection of Minorities Representing less than 20% of the Population visibly increased its cooperation with civil society and donors. It is still hampered by limited financial resources and some of its work is mainly funded by donors. No new staff were assigned. Both the directorate for education in communities' languages, in the Ministry of Education and Science, and the directorate for the promotion of culture of the communities in the Ministry of Culture, continue to face difficulties in fulfilling their mandates due to limited resources and the lack of a stable, pre-determined budget. The number of textbooks and qualified teachers in communities' languages are limited. No state funding was allocated to the implementation of the Strategy on Integrated Education. The trend of separation along ethnic lines in schools, and incidents of inter-ethnic violence in secondary schools continued.

There was an increase in state allocations for the implementation of the **Roma** strategy, related to the construction of an educational facility in Šuto Orizari; however the overall implementation of the Roma strategy has slowed. The sustainability of ongoing projects in the area of health, education, employment, housing and social welfare is at risk, as they are mainly donor funded. Evaluation and monitoring mechanisms are weak and ineffective. The unit for implementation of the Roma strategy in the Ministry of Labour and Social Policy remains understaffed. Segregation of Roma in schools still persists. No comprehensive measures have been taken to address the overrepresentation of Roma children in special schools, nor to mainstream street children into education. Open discrimination against the

Roma continues, particularly in employment. Legislative measures still need to be taken to address civil registration and personal identity documentation. The Roma continue to live in a cycle of poverty and unemployment, and in substandard living conditions.

The Directorate for **Personal Data Protection**'s inspections more than doubled in 2012 compared with the previous year. The number of complaints rose from 319 in 2011 to 399 in 2012, while the number of cases where a violation was confirmed by the Directorate decreased from 87 in 2011 to 56 in 2012. Misdemeanour and criminal procedures were initiated as a result. Cooperation with the public and private sectors improved, and visibility at international events increased. The Directorate carried out training for different entities. However, sector-specific legislation is not harmonised with data protection legislation and the Directorate is not consulted systematically on policies and drafts. Amendments to the Law on Data Protection to further align it with the *acquis* still need to be adopted. Various media, especially internet media, do not respect the right of individuals to privacy.

### *Conclusion*

Some progress has been made in the field of the judiciary, notably with the introduction of stricter professional requirements for judges and the elimination of remaining backlogs in the courts. Further improvements are needed to ensure the independence of the judiciary in practice, notably as regards the systems for evaluation and dismissal, as well as to ensure that all judicial appointments are based on merit and to address the problem of lengthy court proceedings. In the area of corruption, the legislative framework is in place and steps have been taken to develop and consolidate the country's enforcement track record. Efforts are needed to ensure proper follow-up of cases referred to the public prosecution service and improve the effectiveness of courts both in terms of sanctioning and speed of proceedings. As regards fundamental rights, progress was made on the rights of the child, the protection of property rights and data protection. However, overall efforts in this area are hampered by a persistent lack of funding and capacity, and all relevant institutions need to become more proactive in promoting and safeguarding fundamental rights in practice. Serious efforts are needed to address concerns in the area of freedom of expression.