

## *Fundamental rights*

The country is already party to most of the **international human rights instruments**. Further progress was made with the ratification of the Third Additional Protocol to the European Convention on Extradition. The European Charter for Regional or Minority Languages has not yet been ratified. The UN General Assembly elected the country to be a member of the UN Human Rights Council for the period 2014-16.

During the reporting period, the **European Court of Human Rights (ECtHR)** found that the country had violated the European Convention on Human Rights (ECHR) in 6 cases, mainly concerning the right to fair trial and equality of arms, procedural rights relating to arrest and deprivation of liberty, as well as the reasonableness of pre-trial detention. In the same period, 407 new applications were allocated to a decision-making body. A draft action plan for implementation of the judgment in the *El Masri* case was submitted to the Committee of Ministers of the Council of Europe. The Bureau for Representation of the country before the ECtHR developed an action plan for execution of some 50 older judgments against the country, mainly concerning the excessive duration of court proceedings. However, a total of 92 judgments finding violations have still not been executed. The staff of the Bureau continued to provide training in the framework of the Academy for Judges and Prosecutors' training programmes. More attention needs to be paid to safeguarding procedural rights connected to arrest, detention and fair trial, in accordance with the country's obligations under the ECHR. Orders for pre-trial detention and extensions thereof need to be fully reasoned, in line with the case-law of the ECtHR. The new amendments to the Criminal Code, providing for chemical castration of repeat offenders convicted of child sex abuse, should be accompanied by appropriate safeguards ensuring that treatment is given on a purely voluntary and informed basis, in accordance with the prohibition on inhuman or degrading treatment or punishment.

The Ombudsman's Office continued to exercise its function of national prevention mechanism (NPM); playing a central role in the **prevention of torture and ill-treatment**. Although under-resourced, the NPM maintained a robust approach to identifying inhuman or degrading conditions in places of detention, and also integrated civil society organisations into its work. The NPM made 32 preventive visits in 2013 and warned against poor detention conditions in a number of facilities. However there has been limited follow-up to the recommendations made and degrading conditions persist. In 2013, there were 18 complaints filed with the Ombudsman's Office concerning ill-treatment or excessive use of force by the police, while the Ministry of Interior's SICPS received 57 complaints of excessive use of force by the police (compared with 73 in 2012). Criminal charges were raised against one policeman for ill-treatment. Concerns remain over the low number of completed investigations in ill-treatment cases. There is continued impunity relating to the actions of the security forces. As far as prisons are concerned, the number of inmates' complaints submitted to the Ombudsman Office continued to decrease with 247 complaints submitted in 2013 (278 in 2012), although 93 violations were confirmed, as compared to 84 in 2012. One prison officer was convicted of serious bodily harm and sentenced to prison, in a case initiated by the Ombudsman.

As regards the **prison system**, the Law on Execution of Sanctions was amended, introducing public-private partnerships and transforming the prison security service into a new body (the prison police). The duty to provide healthcare in penitentiary facilities was transferred from

the Directorate for Execution of Sanctions to the national health care system in line with the recommendations of the European Prison Rules. The prison system's annual budget increased by 11 % in 2014 and large-scale prison construction continued, however some prisons received reduced funding despite growing inmate populations and were unable to cover their basic maintenance costs. Staffing in the Directorate for Execution of Sanctions and in several penitentiary facilities increased slightly. Ad hoc training activities continued while initial and continuous programmes for prison staff are being prepared. The prison system remains seriously underfunded and understaffed. Despite the opening of the new Kumanovo prison, increases in the overall prison population mean that the system continues to suffer from overcrowding. Substandard conditions persist in some facilities, with juvenile facilities being of particular concern. More use needs to be made of alternative sanctions and non-custodial pre-trial measures. Limited financial and human resources are hampering the provision of healthcare and there is an urgent need to ensure proper access to psychiatric services for prisoners suffering from severe mental illness. The managerial and administrative capacity of prisons remains weak. Effective inspection procedures, which could help to address persistent violations, have not yet been established. The powers of the Directorate for Execution of Sanctions should be expanded to ensure effective management and supervision of the prison system. Adequate measures to fight corruption among prison staff and inter-prisoner violence have yet to be taken. A national strategy for the prison system is yet to be developed. The probation service still needs to be introduced.

In the area of **freedom of expression** and the media, a new Law on Media entered into force in December 2013, regulating basic obligations, protections and freedoms relating to the media. The widespread use of defamation actions continues to impinge on the freedom of expression. Since the decriminalisation of defamation in late 2012, around 580 civil defamation claims have been raised in the courts, including against journalists and by politicians against other politicians, sending a negative message to the public and media alike. Many court actions are initiated and then subsequently dropped, raising concern about defamation actions being used as a means of exerting pressure. Both the Law on Civil Damages for Insult and Defamation and the new Law on Media contain negligible provisions for non-judicial remedies such as the right of reply or correction. Alternative mechanisms for solving these kinds of disputes need to be developed and promoted, in order to improve the media culture. Labour rights are still inadequately enforced in relation to media outlets, also contributing to the continuing problem of self-censorship. As regards public advertising, the transparency provisions in the Law on Audio and Audiovisual Media Services should be respected in full and greater care needs to be taken to ensure that public funds are used to provide information of genuine public interest, rather than to promote government activities. A self-regulatory body was established in December 2013 by media actors themselves, in the form of the Media Ethics Council, run by a seven-member board with broad representation of the media, media associations and the public, but it has yet to become operational and start considering complaints from the public. Investigative reporting is still weak and needs to be fostered through continuous education and training of journalists, including exposure to best practices in other countries. There were no reported incidents of violence against journalists in the reporting period. The media currently plays a negligible role in investigating and exposing corruption and organised crime.

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

**Freedom of thought, conscience and religion** is generally guaranteed by law and enforced. The number of registered religious entities remains at 31.

In the field of **women's rights and gender equality**, progress was made on the implementation of the 2013-16 national action plan for gender equality. The staff of the unit for gender equality in the Sector for Equal Opportunities Policy in the Ministry of Labour and Social Policy was increased slightly and the capacity of the local equal opportunity commissions was strengthened. There is increasing awareness in society of the need to combat and prevent domestic violence. However, much remains to be done to ensure a long-term impact on gender equality. Discriminatory customs, traditions and stereotypes persist, and socially regressive trends in society are fuelled by some parts of the media, as well as by some national policies and initiatives.

As regards **children's rights**, the Law on Child Protection was amended, among other things introducing professional exams for kindergarten staff. The Law on Justice for Children was adopted, replacing the Law on Juvenile Justice and strengthening protection in line with international standards, especially as regards the treatment of child victims and witnesses, alternative sanctions and free legal aid for juvenile offenders. In spite of improvements in the legal framework, the poor material conditions, lack of basic education and systematic rehabilitation services for juveniles deprived of their liberty continues to be a matter of serious concern. The Centres for Social Work, working with juvenile offenders, remain seriously underfunded and understaffed. Although some training has been held for juvenile justice professionals, permanent continuous training programmes still need to be introduced. Insufficient attention is given to monitoring and to systematic data collection and analysis in the area of children's rights. Further efforts are still needed to improve children's health and nutrition, with Roma children being a particular concern. More also needs to be done to improve the inclusion of disadvantaged children, in particular children with disabilities, in the educational and social systems. Children with disabilities and children from the Roma community suffer the most from stigma, discrimination and segregation. Further efforts are needed to provide national institutions with the qualified staff and the appropriate infrastructure necessary to support the process of inclusion.

Inclusion of the **socially vulnerable and/or persons with disabilities** has not improved. Almost one third of the population are facing poverty. The national coordinating body set up to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities has not met in 2014. Communal housing units for people with disabilities, which form part of the de-institutionalisation process, currently accommodate over 70 people. Implementation of the 2010-18 national strategy on equal rights for people with disabilities remains inadequate.

In the area of **anti-discrimination policies**, a review carried out by the Ministry of Labour and Social Policy confirmed the need to amend the anti-discrimination law. The professionalisation of the Commission for protection against discrimination, including the establishment of its technical secretariat, and the shifting of the burden of proof were identified as the most pressing issues. The Commission received 84 complaints in 2013. It made findings of discrimination in 4 cases on the grounds of ethnic origin, political affiliation, personal and social status and belonging to marginalised groups. The ongoing lack of funding and staff shortages continues to hinder its effectiveness. The Commission's work on processing complaints should be complemented by awareness-raising activities aimed at

prevention and protection against discrimination and promoting better understanding of its work and of anti-discrimination policy in general.

As regards the **rights of lesbian, gay, bisexual, transgender and intersex (LGBTI)** persons, the violent incidents of the previous reporting period have not been repeated. Nevertheless, the perpetrators of these incidents are yet to be prosecuted. Continued efforts are needed to increase awareness of and respect for diversity within society and to counteract intolerance perpetuated through the media.

**Labour and trade union rights** are generally respected. Trade unions have reported difficulties in becoming established in some companies. Both trade unions and employers' organisations struggle to attract new members and increase their influence.

Over a quarter of complaints filed with the Ombudsman's Office in 2013 (70 out of 261) related to **property rights**, relating both to the actions of the administrative bodies and the Administrative Court. Breaches of property rights were confirmed in 109 cases in 2013. 7 % of the fees charged by the Cadastre Office are not in line with the legally applicable rates and greater transparency is needed as regards the charging of administrative taxes.

Progress in relation to the protection of **minorities** and cultural rights has been hampered by insufficient financial and human resources, and inadequate cooperation between the authorities concerned. The Agency for the Protection of Minorities Representing less than 20 % of the Population increased its staff numbers and continued to cooperate with the relevant state administrative bodies and civil society organisations; however, its activities remain limited due to the lack of state funding. There is also a persistent lack of funding for staff in the directorate for education in communities' languages within the Ministry of Education and Science, and for the directorate for the promotion of culture of the communities within the Ministry of Culture. Systemic measures to ensure the enjoyment of the ethnic, cultural and linguistic rights of all communities are insufficient and remain mainly donor-funded. The implementation of the Strategy on Integrated Education is also hampered by limited funding. Separation along ethnic lines in schools, and incidents of inter-ethnic violence in secondary schools, have continued. Ethnically divisive internet postings, as well as chanting at sports events and demonstrations continued, sometimes aggravated by unbalanced media reporting.

The unit for implementation of the **Roma** Strategy within the Ministry of Labour and Social Policy was reinforced with new staff; however coordination between the relevant authorities remains inadequate. Municipal action plans for the Roma are hampered by limited financial resources. Active labour market measures targeting the Roma population are ineffective due to administrative requirements that Roma cannot fulfil. Prejudice and discrimination against Roma persist, particularly in the area of employment. Curricula on Roma language and culture for elementary education were developed during the last year and textbooks were printed, however separation of Roma in schools continues and the number of Roma children in special schools is disproportionately high. Stereotyping occurs on social networks. Although projects in several priority areas are ongoing, they are driven mainly by donor funding as state budget allocations remain unchanged. In March 2014, the fourth follow-up meeting to the 2011 seminar on Roma and Roma refugees issued a comprehensive review of the policy recommendations and provided an opportunity for greater coordination of efforts and sharing of information. Little progress has been made since, to implement the meeting's operational conclusions, notably in the area of the legalisation and provision of social

housing. Legislative changes are also needed to address issues relating to civil registration and obtaining personal identity documents for those rejected in the past.

The Directorate for **Personal Data Protection** further increased the number of inspections carried out, of which 60 % were conducted in the private sector and 40 % in the health sector and judiciary. Almost half of these inspections confirmed violations. The number of complaints to the Directorate remained stable at 404 in 2013, of which 62 % related to the abuse of data on social networks. Overall, the number of detected and confirmed violations increased almost five-fold, from 56 in 2012 to 254 in 2013 as a result of the Directorate's proactive approach. Public awareness-raising activities also continued, resulting in a 30 % increase in visitors to the Directorate's website. The number of data protection controllers and officers has increased and their training has been improved, but four staff also left. The Directorate submitted its first report to Eurojust on personal data protection in the public prosecution system. Sector-specific legislation is still not harmonised with data protection legislation and far greater efforts need to be made to ensure that the Directorate is systematically consulted on any new policies and draft legislation. Some further fine-tuning of the data protection legislation is also needed to bring it fully into line with the *acquis*.

### *Conclusion*

The country has already completed the majority of reforms and has established the necessary legal and administrative structures in this area. However, there is a risk of back-sliding in some areas, including the judiciary and the fight against corruption. Further efforts are needed to safeguard the independence of judges, to improve quality of justice and to facilitate access to justice. Far more focus needs to be placed on effective implementation of the existing fundamental rights framework, notably as regards funding, staffing, awareness raising, inter-agency cooperation and strategic planning, in particular in the areas of prisons, children's rights, anti-discrimination, LGBTI rights and the Roma. The situation as regards the freedom of expression remains problematic and greater efforts are needed to improve the media culture.