

## **Fundamental rights**

The country is already a party to most **international human rights instruments**. In 2016, it ratified Protocol 15 amending the Council of Europe Convention for Protection of Human Rights and Fundamental Freedoms and also became an observer to the European Union Agency for Fundamental Rights.

Since September 2015 the **European Court of Human Rights (ECtHR)** has found violations of the European Convention on Human Rights (ECHR) in 11 cases relating mainly to prohibition of torture and degrading treatment, the right to a fair trial, respect for family life and protection of property. A total of 359 new applications were allocated to a decisionmaking body, bringing the total number of pending applications to 318. In January 2016 the ECtHR held that there had been a violation of the right to fair hearing, due to the overall unfairness of the lustration proceedings relating to the former President of the Constitutional Court.

The Bureau for Representation before the ECtHR made significant efforts to ensure the speedy execution of ECtHR judgments (an 'Urgent Reform Priority') and achieved good results. The country has reduced the number of ECtHR judgments still to be executed by more than half to 56, of which 3 are under enhanced supervision. The Bureau still remains understaffed however, and would benefit from seconding staff members to the Council of Europe to gain further expertise. As regards the *El Masri* case, the Committee of Ministers noted with profound regret that the authorities have so far provided no information on the outstanding issues and firmly urged them to accelerate the setting-up of an *ad hoc* commission to establish responsibility of the individuals involved.

On the **promotion and enforcement of human rights**, the Office of the Ombudsman remains the key oversight institution. In 2015, it received 4 403 complaints, an increase of 3.6 % from 2014. The overall level of follow-up to the Ombudsman's recommendations remains high at around 82 % (87 % the previous year), but the number of bodies which fail to respect his recommendations has increased.

The law on the Ombudsman's Office was amended in September with a view to fulfilling the Paris Principles (an 'Urgent Reform Priority') but support from the national authorities to the Ombudsman Office is still insufficient. It remains under-staffed and lacks adequate budgetary means.

There was no tangible progress on the **prevention of torture and ill-treatment**. Most of the recommendations of the 2015 Committee for the Prevention of Torture report remain unimplemented. The national preventive mechanism is understaffed and has not been fully operational. Cooperation between the Ombudsman's Office, the Public Prosecutor's Office and Ministry of the Interior was poor. Inhumane conditions persisted in penitentiary and detention facilities (in particular in Idirizivo and Skopje), police stations, social care and psychiatric facilities.

The Ombudsman's Office received 21 complaints of ill-treatment by police and the Unit for Internal Control and Professional Standards at the Ministry of the Interior received 62 complaints in 2015. In three cases, it determined that unjustified physical force had been used.

Criminal ill-treatment charges were brought against one police officer.

Some 13 complaints submitted to the Ombudsman's Office and 38 complaints to the Directorate for Execution of Sanctions related to excessive use of force by prison staff. Two prison officers were disciplined for excessive use of force. Concerns persist that disciplinary

measures in ill-treatment cases are not dissuasive and the number of criminal charges remains very low. There is continued concern over the absence of an effective external oversight mechanism for the Ministry of the Interior, which reinforces the perception of impunity and lack of accountability.

The situation in the **prison system** remains critical. There was a significant (20 %) increase in the prison budget, but it remains insufficient to cope with the needs of the prison system, which remains heavily understaffed and mismanaged. Overcrowding raises concerns and urgently calls for increased use of alternative penalties. The law on probation service was adopted, but its application was postponed to November 2016.

Inhumane physical conditions in a number of penitentiary facilities and in almost all detention facilities triggered protests and hunger strikes. There was no progress on provision of basic education to juveniles and other re-socialisation services for prisoners. Poor healthcare services, including limited access to psychiatric care, persisted. No progress was made on implementing numerous prison management rules. Inter-prisoner violence remains a serious concern.

The Directorate for **Personal Data Protection** aimed at strengthening its capacity through training, recruitment of new permanent staff and an increased budget. Some 394 inspections were carried out in 2015 in both the public and private sectors (404 in 2014). The Directorate received 393 complaints in 2015 (371 in 2014), most concerning alleged abuse of personal data on social networks. Further efforts are needed to ensure full harmonisation of legislation with the law on personal data protection. Greater use should be made of available administrative penalties.

The Directorate has still not taken any action following the scandal over illegal interception of citizens' communications and also did not react to complaints submitted by NGO members after their personal data was published in several pro-government media. Efforts are still needed as regards the Directorate's political independence and proactive approach (as per the 'Urgent Reform Priorities'). The new law on privacy needs to be aligned with the 2015 recommendations of the Venice Commission.

**Freedom of thought, conscience and religion** continued to be guaranteed and the number of religious entities rose to 32 following the registration of the religious community of Orthodox Albanians.

**Freedom of expression** continued to be seriously challenged under the current political climate. Drastic changes in policy are required beyond legislative texts. There were 10 new reported cases of intimidation of journalists and 8 court proceedings involving journalists. No legal action was taken over past physical altercations involving journalists, including a physical attack by a senior politician.

The legal framework on hate speech is generally in line with international standards but its implementation needs to be stepped up: the prosecution service did not initiate any new proceedings and there is only one ongoing. Access to information legislation follows international standards but in practice it is difficult for journalists to obtain requested information. The tendency by public authorities to over-use the 'classification' of documents persists. The law on civil liability for insult and defamation needs to be further harmonised with the case-law on Article 10 of the European Convention for Human Rights and correctly implemented by the judiciary.

The Agency for Audio and Audio-Visual Media Services was more proactive in reminding media outlets of their legal obligations. It initiated 157 measures in response to violations of

the law on media and law on audio and audio-visual Media (*see also chapter 10 — Information society and media*).

The Council of Media Ethics prepared a 'Charter on Ethical Reporting during Elections'. It was signed by most media outlets but largely ignored in practice. Since September 2015, the Council has received 86 complaints, resulting in 77 decisions. In general, media outlets were reluctant to publish its decisions, indicating a low commitment to self-regulation of ethical standards. Serious efforts are needed to develop a culture of professional ethics, both in offline and online media.

Financing of the public service broadcaster (MRT) is not independent of the government and despite attempts to improve licence fee collection, this revenue source is not sufficient. MRT adopted 'Ethical and Professional Principles of MRT for Media Coverage of the Election Process' but the MRT code of ethics still needs to be adopted. There was some improvement on professional reporting. However, MRT still does not have full editorial independence (*see also chapter 10 — Information society and media*).

The lack of transparency in the area of government advertising has still not been addressed (as per the 'Urgent Reform Priorities'). Lack of transparent financing of media and ties between officials and media owners continued to be a serious concern.

The representation of journalists continued to be polarised. The government needs to restore a fully inclusive dialogue with journalist associations without favouring any specific one.

**Freedom of association** is satisfactory, but less so **freedom of assembly**. Numerous protests continued throughout the country against the background of the continuing political crisis. There were a series of anti-government protests, dubbed the 'colourful revolution', led by the civic movement 'I protest', with demonstrators throwing paint on controversial Skopje 2014 monuments and public buildings. While there were a few violent incidents, the protests were largely peaceful. Restraint from violence should be shown by both protesters and police in the context of the exercising of freedoms of association and assembly. The Criminal Code offence of 'participating in a crowd which commits a crime' is still applicable without safeguards. This broad provision remains open to interpretations which can infringe on the freedom of assembly in practice. The Ombudsman's call for adequate human rights safeguards in connection with the use of rubber bullets or Tasers was not followed up by the authorities.

The Ombudsman's Office confirmed 160 breaches of **property rights** in 2015; most still concerned the slow process of denationalisation. The process of privatising construction land is still very slow and cumbersome and the number of resolved cases is very low. The Cadastre Office needs to follow up on the requests and recommendations of the Ombudsman and to respect relevant court decisions in order to provide legal certainty concerning property rights.

On **non-discrimination**, alignment with the *acquis* is incomplete, notably lacking the prohibition of discrimination on the grounds of sexual orientation. A national Strategy for equality and non-discrimination 2016-2020 was adopted in June. The new members of the Commission for Protection from Discrimination were appointed in a non-transparent selection process. Some members have made public statements which call into question the appropriateness of their appointment and their ability to act in an objective and professional manner. Serious concerns persist about impartiality and independence of the Commission. It still has limited financial and human resources. The number of complaints filed with the Commission decreased significantly and the number of resolved cases confirming

discrimination in 2015 is insignificant (3 out of 66).

There is no systematic data collection in place on the reporting, investigation and prosecution of hate speech and hate crime. Data collected by civil society shows such crimes are not adequately pursued by the authorities (see also *chapter 19 — Social Policy and Employment*).

On **equality between women and men**, a 2016-2020 Strategy for Equality and NonDiscrimination was adopted in June 2016 but little has been done to effectively promote gender equality. The law on termination of pregnancy still has restrictive procedural rules that could lead women to resort to illegal abortions. Domestic violence remains a concern. The law on the prevention, protection and combating of domestic violence suffers from serious gaps. There is no definition of other forms of gender-based violence or accurate data on reported cases. There is a need for more shelters for victims. There are no shelters in some regions. The limited capacity of the existing shelters for domestic violence needs to be addressed. Efforts by the Ministry of Labour and Social Policy towards a more inclusive approach are positive but not sufficient. The Gender Equality Unit of the Ministry of Labour and Social Policy remained under-resourced. Public awareness on gender equality is lacking and gender stereotyping persists (see also *chapter 19 — Social policy and employment*).

Efforts are needed to further strengthen the **rights of the child**.

Stigma and discrimination towards Roma children and children with disabilities are still widespread. A mechanism for systematically collecting data on the situation of children with disabilities, street children and Roma children needs to be put in place. In 2015, the Ombudsman's Office received 158 complaints concerning children's rights, of which he found 74 to be breaches. Measures and resources for prevention of violence against children are still insufficient.

Mediation and other alternatives to criminal procedure in respect of juveniles should be more effectively promoted. The juvenile educational-correctional facility was relocated but premises remain inadequate. No police stations have child-friendly detention facilities.

Regular training for juvenile justice professionals has yet to be introduced.

There was no improvement on strengthening **the rights of persons with disabilities**. The legal and policy frameworks are insufficiently implemented and persons with disabilities continue to experience direct and indirect discrimination. Conditions in special institutions in some cases amount to ill-treatment. Despite previous assurances, the authorities have not yet reformed the system.

Full and equal access for children and young people with disabilities to education and training has not yet been achieved. The inter-party parliamentary group for the Rights of people with disabilities actively advocated for their rights and interests. The National Coordinating Body for Implementation of the UN Convention on the Rights of Persons with Disabilities remained inactive.

As regards **lesbian, gay, bisexual, transgender and intersex (LGBTI) persons**, prejudice and stereotyping is present in society, media and online. Considerable efforts are still needed to counter intolerance towards LGBTI people. The 2012 attacks on the LGBTI support centre still have not been investigated. In December 2015, the conviction and 7-month prison sentence of the perpetrator of a violent attack against two LGBTI activists in 2012 was quashed on appeal.

No proper gender reassignment treatment is available. Transgender people can access only limited health services. The national authorities should considerably intensify efforts to raise awareness of and respect for diversity in society. The positive cooperation between civil

society and police in one municipality, to celebrate human rights day and LGBTI persons, set a positive example. The training of law enforcement bodies, prosecutors, judges, health workers and teaching staff remains important.

Issues of **labour and trade union rights** are covered in chapter 19.

On **procedural rights**, no changes were made to the applicable laws. The legal aid system suffers from inadequate funding and restrictive requirements.

While the overall framework for the protection of **minorities** is in place, the implementation, monitoring and coordination of minority-related policies remained weak. Minorities representing less than 20 % of the population are left outside the mainstream policy and decision-making process. Measures against the separation along ethnic lines in schools are insufficient and segregated education has adversely affected social cohesion and integration of communities.

The national TV broadcaster offers programmes in minority languages, as do national and regional radio. The selection of state-funded projects on culture and inter-ethnic relations lacks transparency. Equitable representation in public administration does not ensure representation of all minorities at senior level.

At the end of the **Roma** Decade 2005-2015, the country made some positive steps, but much still needs to be done to improve the social inclusion of Roma. In Skopje at least ten Roma families have been evicted from dwellings where they were living, without prior notice or sustainable solutions, in breach of basic international principles and national commitments. Implementation of official policies suffers from the lack of political support, financing and administrative capacities. The implementation of the Roma Seminar conclusions and the 2014-2020 strategy for Roma inclusion is lagging behind. National action plans were adopted in May and relevant ministries are tasked with implementing the activities under their budgets.

Overall, segregation, stereotyping and other forms of discrimination remained prevalent. Most Roma are unemployed, have no proper health coverage, live in inappropriate living conditions in segregated housing and are socially excluded. Roma health mediators work in 13 municipalities but access to health is still a widespread problem. Birth registration rates of Roma are very low (200 out of 800 were completed). The most disadvantaged Roma have problems in accessing social benefits due to lack of documents. Restrictive administrative procedures threaten to cut assistance when additional family income from other sources is registered.

Action to address the disproportionate number of Roma children placed in special needs schools is slowly being implemented and there was some improvement on general access to education, with more 35 children enrolled at all levels. However, the dropout rates remain significant and the phenomena of child begging and child marriages persist.