



Ludwig Boltzmann Institute of Human Rights -  
Research Association (BIM-FV)

Austrian

Development Cooperation



# INTERNATIONAL AND NATIONAL LEGAL FRAMEWORK FOR HUMAN RIGHTS FOR MACEDONIA

# **International and National Legal Framework for Human Rights for Macedonia**



Ludwig Boltzmann Institute of Human Rights  
Research Association (BIM – FV)

Austrian  
Development Cooperation



The preparation of this publication is supported by UNDP and Austrian  
Development Agency through Ludwig Boltzmann Institute for Human Rights  
Publishing is supported by UNDP

*Prepared by*

Ass. prof. Jovan Ananiev, Ph.D.  
Helmut Sax, M.A, Legal Researcher

*Proof-read by*

Julian Pack

*Design and printing*

ARCUSS Fonko Design

ISBN 9989-2536-3-3

*Project*

Supporting the Elaboration of an MDG-based National Development  
Programme 2005-2015 for Macedonia

Address: Nikola Vapcarov II/4-4, 1000 Skopje

Tel: (389 2) 32 44 105

*UNDP Project Team*

Liljana Alceva  
Aneta Damjanovska

*Disclaimer*

The views expressed herein are those of the authors and do not necessarily reflect the official position of the United Nations Development Programme. The designations employed and the presentation of the material do not imply the expressions of any opinion whatsoever on the part of the United Nations Development Programme or the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authors, or concerning the delimitation of its frontiers or boundaries. Mention of firm names and commercial products does not imply the endorsement of United Nations.

The principal objective of this document aims at providing a broad and yet clear overview of the relevant norms and standards set by international and domestic law for human rights protection in Macedonia.

In light of Macedonia's efforts to implement the Millennium Development Goals (MDGs) and the Government's commitment to the EU integration process, which includes continuous review of human rights protection, this document therefore seeks to:

- Support the identification of human rights challenges, which constitute obstacles to local and national development planning and implementation processes;
- Clarify the role of rights holders and duty bearers, the responsibilities and competences of local/national government and of other local stakeholders, and at the same time to show the need for cooperation and partnerships for joint action by those stakeholders;
- Support the identification of groups of the population in particular difficult/excluded/marginalized situations;
- Promote awareness and understanding of human rights principles, show the comprehensiveness of a human rights approach based on civil, cultural, economic, political and social rights with special emphasis on women's rights and children's rights and contribute to a "culture of respect for human rights".

"The Millennium Development Goals (MDGs) are the world's time-bound and quantified targets for addressing extreme poverty in its many dimensions — income

poverty, hunger, disease, lack of adequate shelter and exclusion — while promoting gender equality, education, and environmental sustainability. In essence, they are also basic human rights — the rights of each person on the planet to health, education, shelter, and security as pledged in the Universal Declaration of Human Rights and the UN Millennium Declaration. This clear link is further exemplified by the 2002 UN Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies ("Draft Poverty Guidelines"), which are used as another reference tool in this document.

In conclusion, the human rights approach adds to development and poverty reduction efforts a binding normative framework linked to empowerment and accountability.

In more detail, it may be thus stated as an added value of the human rights-based approach:

- It starts from a normative, legal framework: claiming rights, fulfilling obligations — no charity, generosity appeals necessary;
- The international and national legal framework already exists: no matter of choice for governments or development programme — they must comply with legal obligations;
- Using the normative framework also raises legitimacy of measures, given the almost universal ratification of some of the human rights treaties (such as the Convention on the Rights of the Child);

- Making human rights visible also strengthens rule of law and helps clarify responsibilities;
- It aims at strengthening both rights holders and duty bearers;
- Continuous monitoring requires relevant data collection, development of indicators;
- It calls for comprehensive, strategic, context-oriented approaches for analysis, priority setting, policy and programme development, monitoring and evaluation; by using also a broad range of tools (public pressure, awareness-raising, advocacy, training, etc.) and partnerships with all relevant stakeholders.

# General Characteristics of Macedonia's human rights legal framework

## 1. International level

Macedonia has ratified almost all major human rights treaties on the international and European level (see ratification tables below with details on UN, ILO, UNESCO and Council of Europe conventions; all data given is valid as of 1 April 2006).

### 1.1 International human rights standards

Establishing binding legal obligations, Macedonia is a State party to the following UN human rights treaties:

Convention	Signature	Ratification/ Succession/ Accession	Entry into Force
International Covenant on Economic, Social and Cultural Rights (CESCR) 1966		18/01/1994 (Suc)	17/09/1991
International Covenant on Civil and Political Rights (CCPR) 1966 (competence for inter-state complaints (Art. 41) not accepted)		18/01/1994 (Suc)	17/09/1991
Optional Protocol to the CCPR 1966		12/12/1994 (Acc)	12/03/1995
Second Optional Protocol to ICCPR 1989		26/01/1995 (Acc)	26/04/1995
Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) 1984 (competence for inquiry procedure, individual/ inter-state complaints (Arts. 20, 21, 22) accepted)		12/12/1994 (Suc)	17/09/1991
Optional Protocol to CAT 2002	---	---	---
Convention on the Rights of the Child (CRC) 1989		2/12/1993 (Suc)	17/09/1991
Optional Protocol to the CRC on the involvement of children in armed conflict 2000	17/07/2001	12/01/2004	12/02/2004
Optional Protocol to the CRC on the sale of children child prostitution and child pornography 2000	17/07/2001	17/10/2003	17/11/2003

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979		18/01/1994 (Suc)	17/09/1991
Optional Protocol to CEDAW 1999 (no opting-out of inquiry procedure, Art.10)	03/04/2000	17/10/2003	17/1/2004
International Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1965 (competence for individual complaints (Art. 14) accepted)		18/01/1994 (Suc)	17/09/1991
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) 1990	---	---	---

Macedonia has ratified the following so-called Fundamental ILO Conventions (date of ratification given below):

Freedom of association and collective bargaining		Elimination of forced and compulsory labour	
Convention No. 87	Convention No. 98	Convention No. 29	Convention No. 105
17/11/1991	17/11/1991	17/11/1991	15/07/2003

Elimination of discrimination in respect of employment and occupation		Abolition of child labour	
Convention No. 100	Convention No. 111	Convention No. 138	Convention No. 182
17/11/1991	17/11/1991	17/11/1991	30/05/2002

Concerning relevant UNESCO Conventions, Macedonia has ratified the following treaties:

Convention against Discrimination in Education 1960	30/04/1997 (succession)
Convention on Technical and Vocational Education 1989	---
Convention on the protection and promotion of the diversity of cultural expressions 2005	---

Establishing binding legal obligations, Macedonia is a State party to the following treaties established under the auspices of the Council of Europe relevant for human rights protection:

	Signature	Ratification/ Succession/ Accession	Entry into force
European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) 1950	9/11/1995	10/4/1997	10/4/1997
Protocol to the ECHR 1952	14/6/1996	10/4/1997	10/4/1997

Protocol No. 2 to the ECHR, conferring upon the European Court of Human Rights competence to give advisory opinions 1963	9/11/1995	10/4/1997	10/4/1997
Protocol No. 3 to the ECHR, amending Articles 29, 30 and 34 of the Convention 1963	9/11/1995	10/4/1997	10/4/1997
Protocol No. 4 to the ECHR, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto 1963	14/6/1996	10/4/1997	10/4/1997
Protocol No. 5 to the ECHR, amending Articles 22 and 40 of the Convention 1966	9/11/1995	10/4/1997	10/4/1997
Protocol No. 6 to the ECHR concerning the Abolition of the Death Penalty 1983	14/6/1996	10/4/1997	1/5/1997
Protocol No. 7 to the ECHR 1984	14/6/1996	10/4/1997	1/7/1997
Protocol No. 8 to the ECHR 1985	9/11/1995	10/4/1997	10/4/1997
Protocol No. 11 to the ECHR, restructuring the control machinery established thereby 1994	9/11/1995	10/4/1997	1/11/1998
Protocol No. 12 to the ECHR 2000	4/11/2000	13/7/2004	1/4/2005
Protocol No. 13 to the ECHR, concerning the abolition of the death penalty in all circumstances 2002	3/5/2002	13/7/2004	1/11/2004
Protocol No. 14 to the ECHR, amending the control system of the Convention 2004	15/9/2004	15/6/2005	Protocol not yet in force
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1987	14/6/1996	6/6/1997	1/10/1997
Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1993	14/6/1996	6/6/1997	1/3/2002
Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1993	14/6/1996	6/6/1997	1/3/2002
European Social Charter 1961	5/5/1998	31/3/2005	30/4/2005
Additional Protocol to the European Social Charter 1988	5/5/1998	---	---
Protocol amending the European Social Charter 1991	5/5/1998	31/3/2005	Protocol not yet in force
Additional Protocol to the European Social Charter Providing for a System of Collective Complaints 1995	---	---	---
European Social Charter (revised) 1996	---	---	---
European Convention on the Adoption of Children 1967	3/4/2001	15/1/2003	16/4/2003



European Convention on the Legal Status of Children born out of Wedlock 1975	3/4/2001	29/11/2002	1/3/2003
European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children 1980	3/4/2001	29/11/2002	1/3/2003
European Convention on the Exercise of Children's Rights 1996	3/4/2001	15/1/2003	1/5/2003
Convention on Contact concerning Children 2003	---	---	---
European Charter for Regional or Minority Languages 1992	25/7/1996	---	---
Framework Convention for the Protection of National Minorities 1995	25/7/1996	10/4/1997	1/2/1998
Council of Europe Convention on Action against Trafficking in Human Beings 2005	17/11/2005	---	Convention not yet in force

## 1.2 International monitoring in relation to Macedonia

Due to the acceptance of a wide range of international responsibilities under human rights treaties, Macedonia is also subject to a corresponding variety of international monitoring mechanisms; these include state reporting obligations (e.g. under UN treaties, the European Social Charter, the Framework Convention on National Minorities), complaint mechanisms (provided for in some UN conventions and the European Convention on Human Rights) and inquiry procedures (e.g. under the regime of the European Convention for the prevention of Torture). In addition, several non-treaty-based mechanisms exist, for instance in the area of the special procedures (Working Groups, Special Rapporteurs, etc.) of the UN Commission on Human Rights or the Council of Europe's European Commission against Racism and Intolerance (ECRI); moreover, the activities of the Organization for Security and Cooperation in Europe (OSCE) may be subsumed under this category.

## 2. National level

### 2.1 Domestic standards – The Constitution of Macedonia

According to Article 118 of the Constitution the international agreements ratified in accordance with the Constitution are part of domestic legal order and cannot be changed by law. In this manner, in the hierarchical position of the legal norms, the international agreements take precedence over the domestic laws. This gives rise to the obligation to harmonize the legal order and the current practice of the courts, the public administration and other state agencies with the standards arising from the conventions and practice of their agencies and bodies. The procedure of ratification of an international document follows the examination of the compatibility of the legislation and regulations, after which the legal implications are determined.

The international agreements are sources of law in our legal system, which means that individuals-subjects in the law may automatically invoke the provisions of the international agreements, and the courts and administrative agencies are under the obligation to apply them directly. The human rights agreements have a stronger legal effect than the other international agreements. This is unambiguously inferred in Article 8 (paragraph 1, item 1) from the Constitution of the Republic of Macedonia, which stipulates the respect of the basic human and civil freedoms and rights, recognized in the international law and laid down in the Constitution, as one of the highest values of the constitutional order of the Republic of Macedonia.

The Constitution itself contains a comprehensive catalogue of fundamental rights in Articles 9 to 48, including civil, cultural, economic, political and social rights.

*(The Constitution of the Republic of Macedonia is published in the Official Gazette of the Republic of Macedonia No.52/1991; Amendments I and II is published in the Official Gazette of the Republic of Macedonia No 1/1992; Amendment III is published in the Official Gazette of the Republic of Macedonia No 31/1998; Amendments IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVII and XVIII is published in the Official Gazette of the Republic of Macedonia No 91/2003)*

## Constitution of the Republic of Macedonia – Fundamental rights

- Equality of the citizens - Article 9
- Right to life - Article 10
- Integrity of the person - Article 11
- Right to freedom - Article 12
- Presumption of innocence - Article 13
- Indictment on legal grounds - Article 14
- Right to an appeal - Article 15
- Freedom of belief, speech and access to information - Article 16
- Secrecy of correspondence - Article 17
- Security of the personal data - Article 18
- Freedom of religious confession - Article 19
- Freedom of association - Article 20
- Right to a rally - Article 21
- Right to vote - Article 22
- Right to public office - Article 23
- Right to petition - Article 24
- Right to privacy - Article 25
- Right to inviolability of the home - Article 26
- Freedom of movement - Article 27
- Right and duty to defence of the Republic - Article 28
- Aliens' rights in the Republic of Macedonia - Article 29
- Right to ownership - Article 30
- Right to work - Article 32
- Obligation to pay taxes - Article 33
- Right to social security - Articles 34, 35, 36
- Right to associate in unions - Article 37
- Right to strike - Article 38
- Right to health care - Article 39
- Protection of the family - Article 40
- Free decision for procreation of children - Article 41

- Protection of mothers and children - Article 42
- Right to a healthy living environment - Article 43
- Right to education - Articles 44, 45, 46
- Right to free scientific and artistic creation - Article 47
- Freedom to express identity of the nationalities - Article 48

## 2.2 Structures for protection and monitoring of human rights

### 2.2.1 *Protection of the freedoms and rights before the Constitutional Court of the Republic of Macedonia*

Notwithstanding basic courts, citizens may seek direct protection of their freedoms and rights before the Constitutional Court of the Republic of Macedonia as well. Namely, under Article 110 (paragraph 1, item 3) from the Constitution of the Republic of Macedonia, the Constitutional Court protects the human and civil freedoms and rights as regards the freedom of conviction, conscience, opinion and public expression of opinion, political association and action and interdiction of discrimination against citizens on grounds of gender, race, religious, national, social and political affiliation. With this instrument, named Constitutional lawsuit, the Constitutional Court has to date reviewed nearly eighty appeals concerning violation of human rights. The Constitutional Court of the Republic of Macedonia, while deciding about the extent to which laws are consistent with the Constitution and secondary legislation with the constitution and the laws, has repealed on many occasions provisions of laws and other regulations which constituted violation of civil rights and freedoms guaranteed with the Constitution.

### 2.2.2 *Judicial system for protection of human rights*

#### Some constitutional provisions for the judiciary

##### Article 98

The judicial power is exercised by the courts. Courts are autonomous and independent. Courts judge on the basis of the Constitution and laws and international agreements ratified in accordance with the Constitution.

The organization of the judiciary is unique. Extraordinary courts are prohibited.

##### Article 101

The Supreme Court of Macedonia is the highest court in the Republic and it ensures consistency of application of the laws by the courts.

##### Article 102

Court hearings and declaration of judgments are public.

The public may be excluded in cases determined by law.

#### Competence of the Supreme Court of the Republic of Macedonia

The Constitution of the Republic of Macedonia defines the Supreme Court of the Republic of Macedonia as the highest court in the state, providing consistency of application of the laws by the courts. It exercises judicial authority over the entire territory of the Republic of Macedonia, and its seat is in Skopje.

The Supreme Court has a secretary, three court departments (department for criminal law, department for civil law and department for administrative law), centre for IT, case law library and education and expert service.

The Supreme Court of the Republic of Macedonia is competent:

- to decide at second instance (degree) against the decisions brought by some of its councils when provided by law;

- to decide at third and last instance on appeals against the decisions of appellate courts and decisions of its councils reached at second instance when determined by law;
- to decide on extraordinary legal remedies against final court decisions and decisions of its council when determined by law; and
- to decide upon jurisdiction of the courts of first instance falling under the territorial jurisdiction of one of the appellate courts, of the appellate courts and courts of first instance, and to decide on the transfer of territorial jurisdiction of these courts.

The scope of issues in respect of which the Supreme Court decides at general sessions is the following:

- it determines general positions and legal opinions in principle on issues of importance to securing consistency of application of the law by the courts;
- it gives opinion on bills and other draft regulations when such acts are conceived to regulate issues of importance for the work of courts;
- it considers issues regarding the work of courts, the application of laws and jurisprudence;
- it issues a rulebook on the court operations;
- it issues the plan of operations of the court;
- it gives opinion on election of judges and grounds for dismissal of judges;
- it decides on requests for protection of the legality against decisions of its council;
- it reviews the report of its operations and the report of operations of the other courts.

### **Competence of appellate courts**

The appellate courts are courts of second instance. They are competent to decide upon appeals against decisions of the courts of

first instance. In addition, the appellate courts are also competent to decide about jurisdiction of the courts of first instance falling under their respective territorial jurisdiction and perform other matters specified in law.

### **Competence of basic courts**

All basic courts are courts at first instance and they are competent for the following:

- to bring first instance decisions in respect of criminal law, civil law or out-of-court proceedings in cases which fall under their jurisdiction;
- enforcement and security; verification of title deeds and property lists; misdemeanours (unless determined by law that other agencies should decide upon certain types of misdemeanours);
- customs, foreign currency, external-commercial, taxation related offences.

Under Article 32 of the Law on Courts, sixteen courts of first instance are competent, in addition to the above-mentioned jurisdiction over the territory of establishment for the following:

- to bring first instance judgements and perform matters in criminal procedures for criminal acts which are punishable by law with over ten years of imprisonment;
- to handle commercial offences, real-estate and other civil disputes which have as parties the municipalities, the city of Skopje and the Republic, enterprises and other legal entities, storeowners and other individuals who perform registered commercial activities, disputes between domestic legal and foreign natural entities and between foreign natural and legal entities;
- bankruptcy proceedings, mandatory settlement and liquidation and associated disputes, then disputes over status changes (demerger, merger, acquisition and organizing) and enforcement of decisions brought by these courts;

- decides upon the legality of an individual act in administrative and accounting disputes;
- for protection against illegal actions, for recognition and permission to enforce foreign judgements, as well as perform other matters concerning international legal assistance, unless another agency is competent.

### 2.2.3 Public Prosecutor's Office

The Public Prosecutor's Office is an autonomous and independent state body that prosecutes the perpetrators of criminal acts and other acts punishable by law and performs other activities laid down in the law.

The Public Prosecutor's Office performs its function on the basis and within the frames of the Constitution and law.

### Ombudsman

The Constitution of the Republic of Macedonia also includes the institution of Public Defender, commonly referred to as 'Ombudsman'. Namely, under Article 77 of the Constitution, it is foreseen that the Assembly of the Republic of Macedonia shall elect the Ombudsman with competence to protect the constitutional and legal rights of citizens when violated by the agencies of state administration and other agencies and organizations with public mandates.

Under the Ombudsman Law, the Ombudsman is defined as a body acting for the protection of the constitutional and legal rights of the citizens violated by the agencies of state administration and any other agencies and organizations with public mandates, whereby the Ombudsman pays particular attention to protection of the principle of non-discrimination, appropriate and fair representation of the members of the communities in the agencies of the state administration, the agencies of the units of local self-government and in the public institutions and services. Under the provision

of Article 29 of the Ombudsman Law, the Ombudsman may exercise this competence with on-site visits and examinations in the agencies of the state administration and the other agencies and organizations with public mandates, as well as in the agencies of the state government, the agencies of the units for local self-government and the public institutions and services.

Regarding the protection of the rights of citizens, in addition to protecting the constitutional and legal rights of citizens when violated by the agencies of the state administration and other agencies and organizations with public mandates, the Ombudsman acts upon the petitions, among other things, of the members of the communities who consider that their special rights, guaranteed by the Constitution and the laws of the Republic of Macedonia, have been violated. This means that the Ombudsman also acts in cases when the members of the communities (nationalities) deem that their rights have been violated in regard to the expression of their ethnic and religious affiliation, that there has been violation of their rights in regard to the use of language and script before the agencies of state administration and before the agencies of the local self-government, violation of their rights in the field of education (primary, secondary, higher), violation of their rights in the process of election, violation of their rights during the census in the Republic of Macedonia, violation of their rights in a police procedure (receiving citizenship, issuing an identity card, issuing passports, exceeding the competence of officials), discrimination, unequal treatment and condescension on account of belonging to whichever community and other violations of rights.

Under the Ombudsman Law, the Ombudsman is independent, autonomous, professional and expert in the performance of the function.

In the investigating procedure on the accounts given in the petition or in the procedure that has been opened at his/her own initiative, the Ombudsman is obligated to

acquire all the facts and evidence of essential meaning for reaching a decision on the petition. For successful performance of this obligation, Article 27 of the Ombudsman Law (Official Gazette of the Republic of Macedonia no.60/03) lays down that the agencies of the state administration, the other agencies and organizations with public mandates, the agencies of the units for local self-government and the public institutions or services shall secure all the evidence, data and information, regardless of the degree of confidentiality, and allow him/her to conduct the procedure without any hindrances. On the other hand, the Ombudsman is obliged to keep all state or official secrets in a manner and under conditions prescribed by law or other regulation.

The Ombudsman has a right to request the temporary delay of enforcement of an administrative act until a decision of a second instance agency has been reached and the temporary delay of enforcement of an administrative act until a decision has been

reached by a competent court, in case when he/she has determined that the administrative act will produce irretrievable damage to the right of an interested individual – Article 33 of the Ombudsman Law.

One of the more significant competences of the Ombudsman is his competence specified in Article 30 of the Ombudsman Law under which the Ombudsman may file a proposal with the Constitutional Court of the Republic of Macedonia to assess the constitutionality of the laws and the constitutionality and legality of other regulation or universal acts.

Article 44 of the Ombudsman Law (Official Gazette of the Republic of Macedonia no. 60/03) which entered into force on 1 October 2003, provides for opening of six new offices organized as local organizational units of the Ombudsman so as to ensure better performance of the matters under the competence of the Ombudsman. This law specifies that such offices shall be opened in the cities of Tetovo, Kichevo, Shtip Strumitza, Kumanovo and Bitola.



# II

## “Millennium Development Rights” – linking MDGs, Poverty Reduction Guidelines and Human Rights

### 1. *Millennium Development Goal 1: Reduce Poverty and Social Exclusion – The Human Rights to an Adequate Standard of Living, to Work, to Social Security*

#### 1.1 International Legal Framework

##### RIGHT TO AN ADEQUATE STANDARD OF LIVING

- **UN Covenant on Economic, Social and Cultural Rights 1966**
  - Right to an adequate standard of living for oneself and one’s family, including adequate food, clothing, housing, and to the continuous improvement of living conditions – Article 11/1
- **UN Convention on the Rights of the Child 1989**
  - The right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development – Article 27/1
  - Primary responsibility of parents/others responsible for the child guardians to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development – Article 27/2
  - State to assist parents/others responsible for the child and provide in case of a need for material assistance and support programmes, particularly with regard to nutrition, clothing and housing – Article 27/3
  - State to secure recovery of maintenance for the child from the parents/other persons having financial responsibility for the child – Article 27/4
  - Right to health, including access to nutritious food and clean drinking water – Article 24
  - Child’s right to rest and leisure, play and recreation, participation in cultural and artistic life – Article 31
  - Disabled child’s to enjoy full and decent life and fullest possible social integration, comprehensive access to services and state support – Article 23
  - Child protection from any form of violence, including neglect and exploitation – Article 19
  - State to promote the rehabilitation of the child victim of neglect and exploitation – Article 39
- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - Non-discrimination for women in rural areas in relation to adequate living conditions, particularly concerning housing, sanitation, electricity and water supply, transport and communications – Article 14/2



## RIGHT TO FOOD AND RIGHT TO WATER

- **UN Covenant on Economic, Social and Cultural Rights 1966**
  - Right to an adequate standard of living for oneself and one's family, including adequate food – Article 11/1
  - Right of everyone to be free from hunger, including by improved production, conservation, distribution of food, making use of technical and scientific knowledge; include public information about adequate nutrition principles and support to reforms of the agrarian system – Article 11/2
  - State to take measures to ensure equitable distribution of world food supplies – Article 11/2
- **UN Convention on the Rights of the Child 1989**
  - Primary responsibility of parents/ others responsible for the child to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development – Article 27/2
  - State to assist parents/others responsible for the child and provide in case of a need for material assistance and support programmes, particularly with regard to nutrition, clothing and housing – Article 27/3
  - Right to health, including access to nutritious food and clean drinking water – Article 24
- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**

Non-discrimination for women in rural areas in relation to land and agrarian reform as well as in land resettlement schemes – Article 14/2

  - Non-discrimination for women in rural areas in relation to adequate living conditions, particularly concerning housing, sanitation, electricity and

water supply, transport and communications – Article 14/2

## RIGHT TO HOUSING

- **UN Covenant on Economic, Social and Cultural Rights 1966**
  - Right to an adequate standard of living for oneself and one's family, including adequate housing – Article 11/1
- **UN Convention on the Rights of the Child 1989**
  - Primary responsibility of parents/ others responsible for the child to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development – Article 27/2
  - State to assist parents/others responsible for the child and provide in case of a need for material assistance and support programmes, particularly with regard to nutrition, clothing and housing – Article 27/3
  - No arbitrary or unlawful interference with the child's privacy and home – Article 16
- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - Non-discrimination for women in rural areas in relation to adequate living conditions, particularly concerning housing, sanitation, electricity and water supply, transport and communications – Article 14/2
- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - Elimination of discrimination against ethnic groups in relation to the right to housing – Article 5

## RIGHT TO APPEAR IN PUBLIC WITHOUT SHAME

- **UN Covenant on Economic, Social and Cultural Rights 1966**
  - Right to an adequate standard of living for oneself and one's family, including adequate clothing, and to the continuous improvement of living conditions – Article 11/1
  - Right to take part in cultural life – Article 15/1
- **UN International Covenant on Civil and Political Rights 1966**
  - Prohibition of torture or other cruel, inhuman or degrading treatment or punishment – Article 7
  - Person deprived of liberty to be treated with humanity and respect for the inherent dignity of the human person – Article 10/1
  - No arbitrary or unlawful interference with the person's privacy, family, home or correspondence and protection of the law against interferences – Article 17
- **UN Convention on the Rights of the Child 1989**
  - The child's right to life, survival and development – Article 6
  - The right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development – Article 27/1
  - Primary responsibility of parents/ others responsible for the child to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development – Article 27/2
  - State to assist parents/others responsible for the child and provide in case of a need for material assistance and support programmes, particularly with regard to nutrition, clothing and housing – Article 27/3
  - Child's right to rest and leisure, play and recreation, participation in cultural and artistic life – Article 31
  - No arbitrary or unlawful interference with the child's privacy, family, home or correspondence – Article 16
  - Disabled child to enjoy full and decent life and fullest possible social integration, comprehensive access to services and state support – Article 23
  - Child deprived of liberty to be treated with humanity and respect for the inherent dignity of the human person, prohibition of torture or other cruel, inhuman or degrading treatment or punishment – Article 37
  - Juvenile justice standards and alternatives to deprivation of liberty – Article 40/4
- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - Non-discrimination for women in relation to the right to participate in recreational activities, sports and all aspects of cultural life – Article 13
- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - Elimination of discrimination against ethnic groups in relation to the right to equal participation in cultural activities – Article 5
  - Elimination of discrimination against ethnic groups in relation to the right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks – Article 5
- **CoE Framework Convention for the Protection of National Minorities 1995**
  - State to create necessary conditions for the effective participation of persons belonging to national minorities

in cultural, social and economic life and in public affairs – Article 15

## RIGHT TO DECENT WORK

- **UN International Covenant on Economic, Social and Cultural Rights 1966**

- Right to work, including vocational guidance and training – Article 6
- Right to just and favourable working conditions, including fair wages and equal remuneration for work of equal value; in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; safe and healthy working conditions, equal opportunity for everyone to be promoted in his/her employment to an appropriate higher level; rest, leisure and reasonable limitation of working hours and periodic holidays with pay – Article 7
- Rights in relation to joining, formation and functioning of trade unions and the right to strike (with reference to ILO standards) – Article 8
- Special protection of children from economic and social exploitation – Article 10

- **UN International Covenant on Civil and Political Rights 1966**

- 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 – Article 22

- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**

- Elimination of discrimination against certain ethnic groups in relation to the right to work, including free choice of employment, protection against unemployment, equal pay for equal work and just and favourable

remuneration and just and favourable working conditions – Article 5

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**

- Non-discrimination for women in the field of employment/right to work, including equal employment opportunities and free choice of profession, equal remuneration in respect of work of equal value, promotion, vocational training, working conditions and specific safeguards in relation to maternity – Article 11
- Non-discrimination for women in relation to access to bank loans, mortgages and other forms of financial credit – Article 13
- Non-discrimination for women in rural areas in relation to equal access to economic opportunities through employment or self-employment, including access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes, and to organize self-help groups and cooperatives – Article 14
- Non-discrimination for women in family relations and access to property, in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property – Article 16

- **UN Convention on the Rights of the Child 1989**

- Child's right to protection from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development – Article 32/1
- State to provide minimum ages for employment, regulation of working

hours and working conditions (with reference to other international standards, including ILO) – Article 32/2

- **CoE European Social Charter 1961**  
(Based on commitments declared by the Government of Macedonia according to Art. 20 ESC)
  - Right to earn one's living in an occupation freely entered upon; the state to aim at a high and stable a level of employment, with a view to the attainment of full employment, to maintain free employment services, to promote vocational guidance and training – Article 1
  - Right to just conditions of work, including provisions for reasonable working hours, rest and paid holidays – Article 2
  - Right to organize and to bargain collectively – Articles 5 and 6
  - Child's right to protection from economic exploitation, including provision of minimum ages or wages for employment, working hours, medical control, vocational training, prohibition of night work – Article 7 (excluding Para. 5, not accepted by Macedonia)
  - Rights of employed women to protection, including provisions for leave before/after childbirth, nursing of infants, prohibition of specific forms of work – Article 8
  - Rights of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement – Article 15

#### RIGHT TO SOCIAL SECURITY AND SOCIAL ASSISTANCE

- **UN Covenant on Economic, Social and Cultural Rights 1966**
  - Right to social security, including social insurance – Article 9

- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**

- Elimination of discrimination against certain ethnic groups in relation to the right to social security and social services – Article 5

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**

- Non-discrimination for women in relation to the right to social security and access to family benefits – Articles 11 and 13
- Non-discrimination for women in rural areas in relation to benefit directly from social security programmes – Article 14

- **UN Convention on the Rights of the Child 1989.**

- Child's right to benefit from social security, including social insurance – Article 26

- **CoE European Social Charter 1961**

(Based on commitments declared by the Government of Macedonia according to Art. 20 ESC)

- Right to social security and the state to progressively raise social security standards (with reference to ILO standards) – Article 12
- Right to social and medical assistance, including access to advice and information – Article 13

#### CHILD RIGHTS PROTECTION AS A PRIMARY CONSIDERATION

- **UN Convention on the Rights of the Child 1989**

- Child's best interests as a primary consideration in all actions concerning children; ensure child impact assessment and child participation – Articles 3/1 and 12

## NON-DISCRIMINATION FOR WOMEN AND AFFIRMATIVE ACTION

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - State to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including legislation, sanctions and legal protection for women, and the state to ensure full development and advancement of women, including in the economic and social field, and to adopt temporary spe-

cial measures aimed at accelerating de facto equality between men and women – Articles 2 to 4

## NON-DISCRIMINATION FOR ETHNIC GROUPS AND AFFIRMATIVE ACTION

- **CoE Framework Convention for the Protection of National Minorities 1995**
  - Full and effective equality between national minorities and the majority, including in all areas of economic and social life – Article 4/2

### UN Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies 2002

#### Guideline 6: Right to adequate food

- **Target 1:** All people to be free from chronic hunger
- **Target 2:** Eliminate gender inequality in access to food
- **Target 3:** All people to be free from food insecurity
- **Target 4:** All people to have access to food of adequate nutritional value
- **Target 5:** All people to have access to safe food

#### Guideline 9: Right to decent work

- **Target 1:** Full employment
- **Target 2:** All workers to be able to earn a minimum necessary income
- **Target 3:** All workers to receive reasonable financial support during spells of unemployment
- **Target 4:** To eliminate gender inequality in access to work
- **Target 5:** To eliminate gender inequality in remuneration for work
- **Target 6:** To eliminate child labour
- **Target 7:** To eliminate bonded labour

#### Guideline 10: Right to adequate housing

- **Target 1:** All people to have a home
- **Target 2:** All people to enjoy security of tenure
- **Target 3:** All people to enjoy habitable housing
- **Target 4:** All people to enjoy housing situated in a safe and healthy location
- **Target 5:** All people able to afford adequate housing
- **Target 6:** Adequate housing physically accessible to all
- **Target 7:** All people to enjoy housing with access to essential services, materials, facilities and infrastructure

#### Guideline 12: Right to appear in public without shame

- **Target 1:** Ability of poor people to appear in public without shame

## 1.2 Macedonia's Domestic Legal Human Rights Framework

### 1.2.1 *The Human Rights to an Adequate Standard of Living, to Work, to Social Security*

### 1.2.2 *The Right to Work*

#### Constitution of the Republic of Macedonia 1991

##### Article 30

The right to ownership of property and the right of inheritance are guaranteed.

Ownership of property creates rights and duties and should serve the well-being of both the individual and the community.

No person may be deprived of his/her property or of the rights deriving from it, except in cases concerning the public interest determined by law.

If property is expropriated or restricted, rightful compensation not lower than its market value is guaranteed.

##### Article 32

Everyone has the right to work, to free choice of employment, protection at work and material assistance during temporary unemployment.

Every job is open to all under equal conditions.

Every employee has a right to appropriate remuneration.

Every employee has the right to paid daily, weekly and annual leave. Employees cannot waive this right.

The exercise of the rights of employees and their position are regulated by law and collective agreements.

##### Article 34

Citizens have a right to social security and social insurance, determined by law and collective agreement.

##### Article 35

The Republic provides for the social protection and social security of citizens in accordance with the principle of social justice.

The Republic guarantees the right of assistance to citizens who are infirm or unfit for work.

The Republic provides particular protection for invalid persons, as well as conditions for their involvement in the life of the society.

##### Article 37

In order to exercise their economic and social rights, citizens have the right to establish trade unions. Trade unions can constitute confederations and become members of international trade union organizations.

The law may restrict the conditions for the exercise of the right to trade union organization in the armed forces, the police and administrative bodies.

##### Article 38

The right to strike is guaranteed.

The law may restrict the conditions for the exercise of the right to strike in the armed forces, the police and administrative bodies.

### Right to Employment

Labour relation is a contractual relation between the employee and the employer, through which the employee enters on a voluntary basis into the organized working process at the employer's organization, for a salary or other income and personally and continually carries out work in ac-

cordance with the instructions and under the supervision of the employer.

### Ban on discrimination

The employer may not place an employment seeker or a worker into an unequal position on the basis of their race, complexion, gender, age, health condition,

i.e. disability, religious, political or any other beliefs, membership of trade unions, national and social origin, family status, financial status, gender orientation or any other personal matters.

Direct discrimination is any action conditioned by any of the above-mentioned bases, by which a person was placed, is placed or could be placed into a position less favourable than that of other individuals in comparable cases. Indirect discrimination, in the sense of this law, exists when a certain apparently neutral provision, criterion or practice places or would place a job seeker or an employee in a less favourable position to other individuals, on the basis of a certain feature, status, affiliation or belief.

### **Right to an employment contract**

The employer is obliged to register the employee into the mandatory social insurance scheme (pension and disability insurance and insurance during unemployment), in accordance with the special regulations. A verified copy of the registration must be handed over to the employee within three days following the start of employment. Employees may not start working before entering into an employment contract and prior to having been registered into the mandatory social insurance.

Employment contracts may be entered into by individuals who have turned 15 and have general health ability.

Any employment contract to which an individual younger than 15 is a party shall be regarded null and void.

### **Right to wages**

Payment for the work under an employment contract must always be in the form of moneys. At payment, employers must pay out at least the lowest amount as defined in the collective agreement, in accordance with the law, which directly obliges the employer.

The salary consists of a basic salary, a portion for successful performance, and additions. The basic salary is determined by taking into account the requirements of the job for which the employee has signed an employment agreement. The success of the performance of an employee is determined by taking into account the responsible attitude, quality and scope of duties on the job for which the employee has signed an employment agreement. Additions are paid for special working conditions, related to the working schedule in terms of working in shifts, working in divided working hours, night shifts, extended working hours, working on Sundays and holidays set by law and additions on years of working experience.

Salaries must be paid no longer than 15 days following the end of the payment period.

Employers shall previously notify the employees in writing of the date of payment and of any changes in the date of payment. Employers must – at each payment of salaries and by 31 January of the new calendar year – furnish the employee in writing with a statement on the salary and salary contributions for the payment period or for the last year, which also shows the calculations and payments of taxes and contributions.

Any costs relating to the payment of salaries shall be born by the employer.

### **Rights of employees towards the employer**

Employees to whom the employer has not paid salaries and contributions for three consecutive months have the right to initiate termination of the employment. Employees whose employment is terminated due to a procedure for termination by the employer have – in accordance with the law – a right to payment of:

- Salaries and contributions to the pension and disability insurance for the

period of the last three months prior to the commencement of the procedure for termination of the employer;

- Compensation for injuries at work suffered by the employee and any professional diseases; and
- Any unpaid additions to the salary for the duration of unused regular annual holiday in the current calendar year.

### **Compensation for job-related costs**

Employees have a right to compensation for job-related costs for:

- meals during working hours, if paid out in money;
- business trips;
- additions for working in the field;
- use of privately owned car for business trips;
- life separated from the family; and
- death of an employee or a member of his/her family.

### **Right to reduced working hours**

Full-time employment may not exceed 40 hours per week. Employers with 25 employees and with the process of operations taking place on one single location shall keep electronic records of the full-time working hours and any overtime. Overtime may not exceed ten hours in the course of one week and 190 hours in a year.

### **Right to breaks and holidays**

During daytime working hours, employees employed on a full-time basis have a right to a break in duration of 30 minutes. The time for a break in the working day shall be regarded as working hours and paid accordingly.

Employees have a right to a break between two consecutive working days in a continuous duration of at least 12 hours. Workers have a right to a weekly rest of at least 24 uninterrupted hours. Employees have a right to an annual holiday in duration

of 20 to 26 days. After expiration of the employment, employees have a right to compensation for the unused portion of the annual holiday.

Any agreement under which the employment waives the right to an annual holiday or compensation for the annual holiday shall be regarded void.

### **Right to form unions**

Employees have the right to form a union of their own free will and to become members of it, under the conditions prescribed by the charter or rules of such a union. Employees shall freely decide on their joining or leaving the union. The union is an independent, democratic and autonomous organization of workers, which they join on a voluntary basis for the purpose of representing, protecting and improving their economic, social and other individual and collective rights.

No one shall be placed in a less favourable position due to membership or due to not being a member of the union or for participating or not participating in the work of the union.

### **Right to go on strike**

The union and its associations at higher levels have the right to call on a strike and to lead it, for the purpose of protecting the economic and social rights of their members, in accordance with law.

The strike must be announced in writing to the employer or association of employers against whom it is organized, and solidarity strikes must be announced with the employers at whose premises they are organized.

Employees must not be placed in a less favourable position than other employees on account of organizing or participating in strikes organized in accordance with the provisions in the law or the collective agreement.



**Certain insurance rights in case of unemployment** – financial assistance: the right to financial assistance is reserved for unemployed individuals who have been employed for at least nine months without or 12 months with interruptions over the previous 18 months. The unemployed have a right to financial assistance for the period of time spent as employed for which contributions have been paid.

### 1.2.3 *Rights from the pension and disability insurance*

#### **Right to old age pension**

Insured parties acquire a right to an old age pension when they turn 64 (men) or 62 (women) and have at least 15 years of service.

The minimum amount of old age pension from the mandatory pension and disability insurance on the basis of generation solidarity and pension from the mandatory capital financed pension insurance may not be less than the calculated average salary of all employees in the Republic of Macedonia in 2000, as follows:

- for pension users who have acquired the right to a pension by having more than 35 years in service (men) and more than 30 years in service (women), to the amount of 41 percent;
- for pension users who have acquired the right to a pension by having more than 25 years in service (men) and more than 20 years in service (women), to the amount of 38 percent; and
- for pension users who have acquired the right to a pension by having up to 25 years in service (men) and up to 20 years in service (women), to the amount of 35 percent.

#### **Right to disability pension**

Insured parties who have lost their working ability, as well as insured parties with remaining working ability but – due to

their age – with no ability to obtain a different or additional qualification to aid the performance of another appropriate job acquire a right to disability pension, provided that:

- 1) The disability is caused by injury at work or professional disease, regardless of the years in service; and
- 2) The disability is caused by injury outside work or a disease, provided that they have had sufficient number of years in service prior to the occurrence of the disability and that such years in service cover at least one third of the period beginning at the date at which they turn 20 years of age or service and until the date of occurrence of the disability or the date of expiration of the insurance following the occurred disability (years in service), taking into account the full years in service.

#### **Right to family pension**

A family pension may be obtained by the following family members:

- spouse;
- children (born in marriage or outside marriage or adopted children supported by the insured party, grand children and other parentless children supported by the insured party); and
- parents (father and mother, step-father and step-mother) and the adopting parent supported by the insured party.

A family pension may also be obtained by a spouse in a divorced marriage, provided that there is a court ruling granting them the right to such support.

### 1.2.4. *Social protection*

The social protection is an activity of public interest and is organized by the state for the purpose of preventing and overcoming basic social risks to which citizens, families and groups of citizens are exposed in the course of their lives. A social risk is: health risk (illness, injury

and disability), risk of getting old (old age and survival), motherhood and family risk, risk of unemployment and professional inappropriateness, and risk of inadaptability to the social environment.

Municipalities, the city of Skopje and the municipalities within the city of Skopje organize and ensure the implementation of social protection by developing their own development programmes for the specific needs of the citizens in the area of social protection, as well as general acts in the area of social protection.

Municipalities, the city of Skopje and the municipalities within the city of Skopje may ensure the implementation of social protection of individuals with physical impediments, parentless children and children with no parental care, children with special needs, street children/children in the streets, children with educational and social problems, children from single-parent families, individuals exposed to social risk, individuals abusing drugs and alcohol, and elderly without family care, in the form of out-of-institutional and institutional types of social protection, housing for individuals exposed to risk, and awareness raising of the population regarding the need to ensure social protection.

### Rights to social assistance

- **Continuous financial assistance:** the right to continuous financial assistance is a right of individuals unable to work, socially uninsured, and in no position to secure means for their own existence. Individuals unable to work are individuals:
  - with moderate, heavy and the heaviest impediments in their psychological development, individuals with other impediments in their development who – due to the nature of their impediment may not obtain education, as well as individuals who has become disabled following the development period, as a result of which they are unable to work;
  - single mothers during pregnancy one month before delivery and single parents until the child turns three;
  - children until 15 years of age or, if attending regular education, until 26 years of age; and
  - women and men older than 65.

Socially uninsured individuals are those individuals who have no income or whose income on all bases – as income of the entire family – is lower than the continuous financial assistance defined in this law. Children without parents and parental care are those who are not protected in regard to the right to accommodation and who have no income on grounds of property and property rights and no income on grounds of any other regulations have the right to continuous financial assistance to an amount equal to the amount of the basic financial assistance until the age of 18 or until such time as they become able to live an independent life, but in any case no longer than until they turn 26.

- **Social financial benefit for individuals capable of work but socially uninsured:** individuals who are able to work but are socially uninsured and who may not secure existential means on grounds of any other regulation have a right to social financial benefit.
- **Financial benefit for assistance and care:** the right to financial aid for assistance and care by another person is a right of individuals who are not able to satisfy the basic needs (unable to get around their home even with appropriate aids, unable to maintain basic personal hygiene, to clothe themselves, to take food or carry out any other functions to satisfy the basic needs), i.e. individuals who are immovable, completely blind, suffering from dystrophy or similar muscular or neuro-muscular diseases, cerebral or childhood paralysis or paraplegia, as well as individuals

with heavy and the heaviest impediments in their psychological development and above 26 years of age.

- **One-off financial assistance and assistance in kind:** one-off financial assistance or assistance in kind is provided to individuals or families that are in a situation of social risk, as a result of going through a natural disaster or epidemic, longer period of treatment in a health institution or another social crisis. Assistance in kind includes provision of clothes, food and other means necessary for minimum existence of citizens and families.
- **Right to housing:** the right to housing is reserved for socially endangered individuals, i.e. those with no housing.

The following are regarded socially endangered individuals:

- beneficiaries of continuous financial assistance; and
- individuals with no parents or parental care until the age of 18 and also after the end of the guardianship but not longer than 26 years of age, provided that they attend regular schooling.

The criteria for and manner of exercising the right to housing are defined by an act issued by the municipality councils, the council of the city of Skopje and of the municipalities in the city of Skopje.

## 2. Millennium Development Goal 2: Achieve Universal Primary Education – The Human Right to Education

### 2.1 International Legal Framework

#### RIGHT TO EDUCATION

- **UN International Covenant on Economic, Social and Cultural Rights 1966**
  - The right of everyone to education and aims of education – Article 13/1
  - Primary education compulsory and free, secondary education (including vocational training) and higher education accessible to all – Article 13/2
  - System of schools available and qualified teaching staff – Article 13/2
  - Rights of parents regarding choice of school, religious and moral education – Article 13/3
  - Private schools and minimum educational standards – Article 13/4
  - Plan of action for progressive implementation – Article 14
- **UN Convention in the Rights of the Child 1989**
  - Child's right to education, including the state to encourage regular attendance at schools/prevent school drop-outs – Article 28/1
  - Primary education compulsory and free, secondary education (including vocational training) and higher education accessible to all, including financial assistance – Article 28/1
  - Educational and vocational information and guidance available and accessible to all children – Article 28/1
  - School discipline respects child's human dignity – Article 28/2
  - International cooperation in matters relating to education, facilitate access to scientific and technical knowledge and modern teaching methods – Article 28/3

- Aims of education, including development of the child's personality, talents and abilities; respect for human rights; respect for parents'/child's own cultural identity, language, values; preparation for responsible life in society in the spirit of peace, tolerance, equality of sexes; respect for the natural environment – Article 29/1
  - Right to establish private educational institutions, minimum educational standards – Article 29/2
  - Right of the child to rest and leisure, to engage in play and recreational activities, to participate freely in cultural life and the arts and to provide adequate and equal opportunities for cultural, artistic, recreational and leisure activity of the child – Article 31
- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
    - Elimination of discrimination against women in education, including for vocational guidance, access to studies, scholarships, curricula, qualified staff, equipment – Article 10
    - Elimination of stereotypes, including in teaching material and methods – Article 10
    - Prevention of female school drop-outs – Article 10
    - Same opportunities to participate actively in sports and physical education – Article 10
    - Educational information to help to ensure the health and well-being of families, including information and advice on family planning – Article 10
    - Same opportunities for access to adult and functional literacy programmes – Article 10
  - Access to all forms of education and training for women in rural areas – Article 14
  - **UN International Convention on the Elimination of All Forms of Racial Discrimination 1965**
    - Elimination of discrimination against certain ethnic groups in relation to the right to education and training – Article 5
    - State to combat prejudices in teaching, education, culture and information leading to racial discrimination; promote tolerance and understanding of human rights – Article 7
  - **UNESCO Convention against Discrimination in Education 1960**
    - No discrimination in the admission of pupils to educational institutions, including same access for foreign nationals resident within the territory – Article 3
    - Quality standards for education and training for the teaching profession without discrimination – Article 4
    - Aims of education and rights of parents – Article 5/1
    - Rights of members of national minorities in relation to education – Article 5/1
  - **ILO Convention No. 138 concerning Minimum Age for Admission to Employment 1973**
    - State to provide a minimum age for admission to employment or work, in line with age of completion of compulsory schooling/not less than 15 years of age – Article 2
  - **ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour 1999**
    - State to take effective and time-bound measures to prevent the engagement of children in the worst forms of child labour; identify children at special risk; ensure access

to free basic education; assist in their removal from worst forms; provide for rehabilitation and social integration; take account of the special situation of girls – Article 7/2

- Enhanced international cooperation and assistance for development, poverty eradication and universal education – Article 8
- **CoE First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms 1952**
  - No person shall be denied the right to education; the state to respect rights of parents in relation to their own religious and philosophical convictions – Article 2
- **CoE European Social Charter 1961**  
*(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)*
  - Child's right to protection from economic exploitation, including provision of minimum ages for employment, working hours, medical control, vocational training, prohibition of night work – Article 7 (excluding Para. 5, not accepted by Macedonia)
- **Coe Framework Convention for the Protection of National Minorities 1995**
  - State to encourage tolerance and intercultural dialogue and to promote mutual respect and understanding and cooperation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media – Article 6/1
  - State to protect persons from threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity – Article 6/2

- Foster knowledge in education and research of the culture, history, language and religion of their national minorities and of the majority; provide adequate teacher training, materials; equal opportunities for access to education at all levels for persons belonging to national minorities – Article 12
- Right of persons belonging to a national minority to set up/manage own private educational institution – Article 13
- Right of persons belonging to a national minority to learn his or her minority language and adequate opportunities for being taught the minority language – Article 14

#### **Child rights protection as a primary consideration**

- **UN Convention on the Rights of the Child 1989**
  - Child's best interests as a primary consideration in all actions concerning children; ensure child impact assessment and child participation – Articles 3/1 and 12

#### **Non-discrimination for women and affirmative action**

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - State to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including legislation, sanctions and legal protection for women, and the state to ensure full development and advancement of women, including in the economic and social field, and to adopt temporary special measures aimed at accelerating de facto equality between men and women – Articles 2 to 4

## UN Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies 2002

### Guideline 8: Right to education

- **Target 1:** To ensure universal primary education for boys and girls as soon as possible, but no later than 2015
- **Target 2:** To make free primary education available to all children
- **Target 3:** To implement compulsory primary education
- **Target 4:** To eradicate illiteracy
- **Target 5:** To ensure equal access for all to secondary education
- **Target 6:** To make free secondary education available to all children
- **Target 7:** To eliminate gender disparity in primary and secondary education
- **Target 8:** To improve the quality of primary and secondary education

### Non-discrimination for ethnic groups and affirmative action

- **CoE Framework Convention for the Protection of National Minorities 1995**
  - Full and effective equality between national minorities and the majority, including in all areas of economic and social life – Article 4/2

### 2.2. Macedonia's Domestic Legal Framework

#### Duration of primary education

Primary education has a duration of nine years.

#### Primary school is compulsory

Primary education is, as a rule, compulsory for all children from six to fifteen years of age. The parent, i.e. the guardian of the child is obliged to enrol the child in primary school and is responsible for its regular attendance of the primary school.

#### Primary education includes:

- introductory year;
- four years grade teaching; and
- four years subject teaching.

Grade teaching refers to grades 1-4, and subject teaching to grades 5-8 in primary education.

#### Introductory year of the primary education

In the introductory year of the compulsory primary education (hereon: introductory year) all children that until the end of the calendar year will be six years of age are enrolled. If by medical report it is determined that the child is not sufficiently physically or mentally developed, it is temporarily released from the obligation to enrol in that year. In the introductory year children that by the beginning of the school year will be five years of age may enrol on grounds of a positive opinion of a doctor specialist, psychologist and a pedagogue.

#### Free transportation, accommodation and meals in primary education

The pupil is entitled to free transportation to school if the distance between the place of living and the nearest primary school is at least 2 km. The pupils with special needs are entitled to free transportation. If transportation cannot be provided, the pupil is entitled to free accommodation and meals in a pupil dormitory or with a family.

#### The type of secondary schools

Secondary education is delivered in secondary schools. These schools are either public or private. The public secondary schools can be either established by the municipality or state (The private and state established secondary schools are not in-

volved/covered by the process of the decentralization). The state may establish a secondary school for certain categories of students or for areas of particular interest to the state (arts, music, schools for children with disabilities and similar).

#### **Non-discrimination in secondary education**

Every individual, under equal terms is entitled to secondary education. Discrimination on grounds of gender, race, colour of the skin, national and social background, political and religious beliefs, financial and social status is not allowed.

#### **Language in primary and secondary education**

Educational activity in primary and secondary schools is performed in the Mace-

donian language and its Cyrillic alphabet. For the members of the communities that attend teaching in a language different from the Macedonian language, the educational activity is carried out in the language and using the alphabet of the respective community in a manner specified by this law.

#### **Education – politics – religion**

In primary and secondary schools all types of political and religious organizing and activities are forbidden. In primary and secondary schools performance of religious education is not allowed. Display of signs of political parties and religious signs is forbidden in primary schools.

### **3. Millennium Development Goal 3: Promote Gender Equality and Empower Women – The Human Rights of Women and Gender Equality**

#### **3.1 International Legal Framework**

##### **The Human Rights of Women and Gender Equality**

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**

*Note: the full convention is relevant here; still, the following provisions and parts thereof are highlighted for their particular relevance in the Macedonian context*

- State to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including legislation, sanctions and legal protection for women – Article 2
- State to ensure full development and advancement of women, including in the economic and social field, and to adopt temporary special measures

aimed at accelerating de facto equality between men and women – Articles 3 and 4

- Modify the social and cultural patterns of conduct of men and women/prejudices/stereotypes and related practices, including through family education – Article 5
- Accord to women equality with men before the law and full legal capacity identical to men, and ensure equal rights in the field of marriage, family relations and property – Articles 15 and 16
- Elimination of discrimination against women in education, including access to adult and functional literacy programmes – Article 10
- Elimination of discrimination against women in the field of employment – Article 11

- Elimination of discrimination against women in health care – Article 12
- Elimination of discrimination against women in cultural life – Article 13
- Participation in political and public life, at national and international level – Articles 7 and 8
- Elimination of discrimination against women in relation to nationality – Article 9
- Suppress all forms of trafficking in women and exploitation of prostitution – Article 6
- Eliminate discrimination specifically in relation to women in rural areas – Article 14
- **UN Convention on the Rights of the Child 1989**
  - Ensure non-discrimination based on gender – Article 2
  - Upbringing and development of the child as a responsibility of both parents – Article 18
  - Access to specific health services for mothers; abolish traditional practices prejudicial to the health of children – Articles 24/2 and 24/3
- **UN International Covenant on Economic, Social and Cultural Rights 1966**
  - State to ensure equal rights of men and women to the enjoyment of all economic, social and cultural rights – Article 3
  - Right to work and equal pay for equal work – Articles 6 and 7
  - Access to education for all – Articles 13 and 14
- **UN Covenant on Civil and Political Rights 1966**
  - State to ensure equal rights of men and women to the enjoyment of all civil and political rights – Article 3
  - No death sentence to be carried out on pregnant women – Article 6/5
- Equality of men and women in relation to marriage and family relations – Article 23
- Equal right to vote/be elected and access to public service – Article 25
- Prohibition of discrimination based on gender – Article 26
- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - Right of everyone to equality before the law in relation to civil, political, economic, social and cultural rights – Article 5
- **UNESCO Convention against Discrimination in Education 1960**
  - Eliminate and prevent discrimination in education based on gender – Articles 3 and 1
- **CoE Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) 1950 and Protocol No. 12 2000**
  - Convention rights to be secured without discrimination based on gender – Article 14 ECHR
  - General prohibition of discrimination, including based on gender – Article 1 P12
- **CoE European Social Charter 1961**  
*(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)*
  - Rights of employed women to protection, including provisions for leave before/after childbirth, nursing of infants, prohibition of specific forms of work – Article 8
  - Right of mothers and children to specific social and economic protection – Article 17



## UN Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies 2002

### Guideline 6: Right to adequate food

- **Target 2:** Eliminate gender inequality in access to food

### Guideline 7: Right to health

- **Target 7:** To eliminate gender inequality in access to health care

### Guideline 8: Right to education

- **Target 1:** To ensure universal primary education for boys and girls as soon as possible, but no later than 2015
- **Target 5:** To ensure equal access for all to secondary education
- **Target 7:** To eliminate gender disparity in primary and secondary education

### Guideline 9: Right to decent work

- **Target 4:** To eliminate gender inequality in access to work
- **Target 5:** To eliminate gender inequality in remuneration for work

### Guideline 11: Right to personal security

- **Target 1:** To eliminate violence against the poor by state and non-state actors

### Guideline 13: Right of equal access to justice

- **Target 1:** Equal access to civil justice for poor people as victims

### Child rights protection as a primary consideration

- **UN Convention on the Rights of the Child 1989**
  - Child's best interests as a primary consideration in all actions concerning children; ensure child impact assessment and child participation – Articles 3/1 and 12

### Non-discrimination for ethnic groups and affirmative action

- **CoE Framework Convention for the Protection of National Minorities 1995**
  - Full and effective equality between national minorities and the majority, including in all areas of economic and social life – Article 4/2

### 3.2 Macedonia's Domestic Legal Framework

Concerning Rights of Women, the following issues are taken into consideration:

#### Equal opportunities of work

In accordance with the Constitution of the Republic of Macedonia (Article 32, paragraph 1) everyone has the right to work, to free choice of employment, protection at work and material assistance during temporary unemployment, and every job is open to all under equal conditions, i.e. without any discrimination, including gender-based discrimination.

#### Ban on Termination due to Pregnancy, Childbirth and Parenthood

The employer must not terminate the employment contract of female employees

## Key Legislation

- Law on Labour Relations Official Gazette of the Republic of Macedonia Nos. 50/97, 16/2000, 17/2003 and 28/04
- Law on Pension and Invalided Insurance Official Gazette of the Republic of Macedonia Nos. 80/93, 3/94, 14/95, 35/95, 40/96, 70/96, 71/96, 24/97, 25/97, 32/97, 96/00, 98/00 and 5/2001
- Law on Health Care Official Gazette of the Republic of Macedonia Nos. 17/97 and 20/04
- Law on Health Insurance Official Gazette of the Republic of Macedonia Nos. 25/2000, 34/2000, 96/2000, 50/2001, 11/2002, 31/2003 and Decision of the Constitution Court Nos. 104/2000 and 48/2001
- Law on Primary Education, Official Gazette of the Republic of Macedonia Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/2002, 40/2003, 42/2003, 63/2004, 82/2004 and 55/2005
- Law on Secondary Education Official Gazette of the Republic of Macedonia Nos. 44/95, 24/96, 34/96, 35/97, 82/99, 29/2002, 40/2003, 42/2003, 67/2004 and 55/2005
- Law on High Education, Official Gazette of the Republic of Macedonia Nos. 34/2000 and 113/05
- Law on Family, Official Gazette of the Republic of Macedonia No. 83/04
- Law on Employment and Insurance in Case of Unemployment, Official Gazette of the Republic of Macedonia Nos. 37/97, 25/2000, 101/2000, 50/01, 25/03, 37/04 and 4/05
- Law on Citizenship, Official Gazette of the Republic of Macedonia No. 45/04
- Law on Health protection, Official Gazette of the Republic of Macedonia No. 17/97
- Criminal Code Official Gazette of the Republic of Macedonia No. 37/96 with adaptation from 26.09.2005

during the period of pregnancy, childbirth and parenthood or absence for the purpose of taking care of children.

### Right of women to an equal wage

The employer shall be obliged to pay an equal salary to employees for equal work with equal responsibilities in the position, regardless of their gender.

The provisions of the employment contract, collective agreement, and/or general enactment of the employer, which are contrary to this, shall be null and void.

### Right of education

The Constitution guarantees the right to education, containing no norm prohibiting discrimination. Every individual, under equal terms is entitled to secondary

education. Discrimination on grounds of gender, race, colour of the skin, national and social background, political and religious beliefs, financial and social status is not allowed.

At the higher education level all discrimination is prohibited, i.e. all citizens of the Republic of Macedonia are entitled to a right to higher education under the same conditions.

### 3.2.1 Gender and Health

The Constitution of the Republic of Macedonia provides that each citizen is guaranteed his/her right to health care. In addition, every citizen has both the right and the duty to preserve and promote his/her own health and the health of the other people. These constitutional provisions are embedded in the Law on Health Care and in the Law on Health Insurance.

## 4. Millennium Development Goal 4: Reduce Child Mortality – The Child’s Right to Health

### 4.1 International Legal Framework

#### • UN Convention on the Rights of the Child 1989

- The right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health, including non-discriminatory access to such services – Article 24/1
- State to diminish infant and child mortality – Article 24/2
- State to provide necessary medical assistance, emphasis on primary health care, combat disease and malnutrition through access to nutritious food, clean drinking water, protection from environmental pollution – Article 24/2
- Appropriate pre-natal/post-natal health care for mothers, including teenage mothers – Article 24/2
- Health information and education on child health, nutrition, breastfeeding, hygiene, sanitation, prevention of accidents available to everyone, including children – Article 24/2
- Preventive health care, guidance for parents and family planning education and services – Article 24/2
- State to abolish traditional practices prejudicial to the health of children – Article 24/3
- International cooperation for realization of the child’s right to health – Article 24/4
- Effective access of the disabled child to health care and rehabilitation services, and international cooperation and information exchange on preventive health care and medical, psychological and functional treatment of disabled children – Article 23
- Child’s right to periodic review of any placement of children for the purposes of care, protection or treatment of his or her physical or mental health – Article 25
- The child’s right to life, survival and development – Article 6
- State to protect all children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in care of parents/other responsible persons – Article 19
- State to promote physical and psychological recovery and social reintegration of a child victim of any form of violence – Article 39
- State to protect all children from economic exploitation/any hazardous or harmful work – Article 32
- State to protect all children from the illicit use of narcotic drugs and psychotropic substances – Article 33
- State to ensure quality standards (safety, health, staff qualifications) for all institutions, services and facilities responsible for the care or protection of children – Article 3/3
- Child’s best interests as a primary consideration in all actions concerning children, child impact assessment – Article 3/1
- Child participation in all matters affecting the child – Article 12/1
- The child’s right to life, survival and development – Article 6
- Non-discrimination for children, including for grounds of social origin, property – Article 2

- State responsibility for protection and care of children and maximum resources for economic and social child rights implementation – Articles 3/2 and 4
- Both parents' primary responsibility for education and development of the child and state support to parents, including child-care services and alternative care for children outside their families – Articles 5, 18 and 20
- **UN International Covenant on Economic, Social and Cultural Rights 1966**
  - Right of everyone to the enjoyment of the highest attainable standard of physical and mental health – Article 12/1
  - Reduction of stillbirth-rate and infant mortality, support for the healthy development of the child – Article 12/2
  - Prevention, treatment and control of epidemic, endemic, occupational and other diseases – Article 12/2
  - Improvement of all aspects of environmental and industrial hygiene – Article 12/2
  - Medical service and medical attention for all in the event of sickness – Article 12/2
  - Special protection for mothers during a reasonable period before and after childbirth – Article 10/2
  - Special measures of protection and assistance for all children and young persons free from all discrimination – Article 10/3
  - Right to benefit from scientific progress and its applications – Article 15/1
- **UN Covenant on Civil and Political Rights 1966**
  - The inherent right to life for everyone – Article 6/1
  - No medical or scientific experimentation without free consent – Article 7
  - Special protection and assistance free from all discrimination against children – Article 24
- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - Elimination of discrimination against ethnic groups in relation to the right to public health, medical care – Article 5
  - Elimination of discrimination against ethnic groups in relation to the right to security of person and protection by the state against violence or bodily harm – Article 5
- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - Eliminate discrimination against women in relation to health care, including access to services related to family planning – Article 12
  - Eliminate discrimination against women in relation to education, including to participate actively in sports and physical education; and to access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning – Article 10
  - Access to adequate health care facilities, including information, counselling and services in family planning for women in rural areas – Article 14
- **CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950**
  - Everyone's right to life protected by law – Article 2/1
- **CoE European Social Charter 1961**  
*(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)*
  - The right of children and young persons to protection from work regarded as dangerous or unhealthy – Article 7

- The right to protection of health, including health education and prevention of diseases – Article 11
- The right to social and medical assistance – Article 13
- Right of mothers and children to specific social and economic protection – Article 17

#### **Non-discrimination for women and affirmative action**

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - State to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including legislation, sanctions and legal protection for women, and the state to ensure full development and advancement of women, including in the economic and social field, and to adopt temporary special measures aimed at accelerating de facto equality between men and women – Articles 2 to 4

#### **Non-discrimination for ethnic groups and affirmative action**

- **CoE Framework Convention for the Protection of National Minorities 1995**
  - Full and effective equality between national minorities and the majority,

including in all areas of economic and social life – Article 4/2

#### **4.2. Macedonia's Domestic Legal Framework**

##### **Everyone has a right to health care**

For exercising certain rights in cases of illness and injury and of other rights in health care determined by this law, on the basis of the principles of dependence and solidarity, compulsory health care insurance is established.

The exercising of certain rights in health care determined by the constitution and law, the established needs and interests of society in the field of health care and the rights deriving from health insurance, is performed in the health insurance fund which is part of the Ministry of Health, acting as a legal entity.

##### **Right to health insurance**

With compulsory health insurance based on the principles of mutuality and solidarity, the insured persons are ensured the right to basic health care.

Basic health care includes:

1. Medical examinations and other sorts of medical aid with the purpose of determining, following and checking the health condition;

### **UN Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies 2002**

#### **Guideline 7: Right to health**

- **Target 1:** All people to have access to adequate and affordable primary health care
- **Target 2:** To eliminate avoidable child mortality
- **Target 4:** All men and women of reproductive age to have access to safe and effective methods of contraception
- **Target 5:** To eliminate HIV/AIDS
- **Target 6:** To eliminate the incidence of other communicable diseases
- **Target 7:** To eliminate gender inequality in access to health care

2. Undertaking expert medical measures, measures and procedures to advance the health condition, that is, prevention, elimination and early detection of the diseases and the other health disorders;
3. Giving urgent medical aid;
4. Medical treatment in a medical office, that is in the habitat of the beneficiary;
5. Health care in regard to pregnancy and giving birth;
6. Conducting preventive, therapeutic and rehabilitation measures;
7. Prevention, treatment, and curing of the oral cavity and tooth disorders;
8. Medications, auxiliary materials serving for application of the medications and medical materials needed for treatment according to the medications list determined by the Ministry of Health;
9. Health education with a systematic work with both the healthy and unhealthy population;
10. Examining and diagnosing the illnesses, injuries and health condition of the insured persons in a specialist-consultative health care;
11. Conducting specialist diagnostic, therapeutic and rehabilitation treatments;
12. Prosthetics, orthopaedic and other aids, auxiliary and medical instruments and dentistry instruments, determined by a general act of the Ministry of Health and examining and determining the health condition, treatment, rehabilitation, accommodation and nutrition in hospital conditions.

The rights deriving from health insurance are ensured for members of the families of the insured persons. The following are considered to be members of the family: spouse and legitimate and illegitimate children, stepchildren, adopted children and foster children.

## 5. Millennium Development Goal 5: Improve Maternal Health – The Right to Health for Women

### 5.1 International Legal Framework

#### The right to health for women

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - Eliminate discrimination against women in relation to health care, including access to services related to family planning – Article 12
  - Eliminate discrimination against women in relation to employment; ensure right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction; ensure right to social security in case also of sickness – Article 11/1
  - Prohibition of dismissal on the grounds of pregnancy, maternity leave; provide for maternity leave with pay/comparable social benefits; special protection for women during pregnancy in case of harmful work – Article 11/2
  - Eliminate discrimination against women in relation to education, including participating actively in sports and physical education; and having access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning – Article 10
  - Access to adequate health care facilities, including information, counseling and services in family planning for women in rural areas – Article 14
  - State to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including legislation, sanctions and legal protection for women – Article 2
- State to ensure full development and advancement of women, including in the economic and social field, and to adopt temporary special measures aimed at accelerating de facto equality between men and women – Articles 3 and 4
- **UN Convention on the Rights of the Child 1989**
  - The right of the child/teenage mother to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health, including non-discriminatory access to such services – Article 24/1
  - State to diminish infant and child mortality – Article 24/2
  - State to provide necessary medical assistance, emphasis on primary health care, combat disease and malnutrition through access to nutritious food, clean drinking water, protection from environmental pollution – Article 24/2
  - Appropriate pre-natal/post-natal health care for mothers, including teenage mothers – Article 24/2
  - Health information and education on child health, nutrition, breastfeeding, hygiene, sanitation, prevention of accidents available to everyone, including children – Article 24/2
  - Preventive health care, guidance for parents and family planning education and services – Article 24/2
  - State to abolish traditional practices prejudicial to the health of children – Article 24/3
  - International cooperation for realization of the child's right to health – Article 24/4

- Teenage mother's right to life, survival and development – Article 6
- Child's right to periodic review of any placement of children for the purposes of care, protection or treatment of his or her physical or mental health – Article 25
- State to protect all children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in care of parents/other responsible persons – Article 19
- State to promote physical and psychological recovery and social reintegration of a child victim of any form of violence – Article 39
- State to ensure quality standards (safety, health, staff qualifications) for all institutions, services and facilities responsible for the care or protection of children – Article 3/3
- State to protect all children from economic exploitation/any hazardous or harmful work – Article 32
- State to protect all children from the illicit use of narcotic drugs and psychotropic substances – Article 33
- **UN International Covenant on Economic, Social and Cultural Rights 1966**
  - Right of everyone to the enjoyment of the highest attainable standard of physical and mental health – Article 12/1
  - Reduction of stillbirth-rate and infant mortality, support for the healthy development of the child – Article 12/2
  - Prevention, treatment and control of epidemic, endemic, occupational and other diseases – Article 12/2
  - Improvement of all aspects of environmental and industrial hygiene – Article 12/2
  - Medical service and medical attention for all in the event of sickness – Article 12/2
- Special protection for mothers during a reasonable period before and after childbirth, including paid leave or leave with adequate social security benefits – Article 10/2
- Special measures of protection and assistance for all children and young persons free from all discrimination – Article 10/3
- Right to benefit from scientific progress and its applications – Article 15/1
- **UN Covenant on Civil and Political Rights 1966**
  - The inherent right to life for everyone – Article 6/1
  - No medical or scientific experimentation without free consent – Article 7
- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - Elimination of discrimination of ethnic groups in relation to the right to public health, medical care – Article 5
  - Elimination of discrimination of ethnic groups in relation to the right to security of person and protection by the state against violence or bodily harm – Article 5
- **CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950**
  - Everyone's right to life protected by law – Article 2/1
- **CoE European Social Charter 1961**  
*(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)*
  - Rights of employed women to protection, including provisions for leave before/after childbirth, job security, nursing of infants, prohibition of specific forms of work – Article 8
  - The right to protection of health, including health education and preven-



tion of diseases – Article 11

- The right to social and medical assistance – Article 13

### **Child rights protection as a primary consideration**

- **UN Convention on the Rights of the Child 1989.**
  - Child's best interests as a primary consideration in all actions concerning children; ensure child impact assessment and child participation – Articles 3/1 and 12

### **Non-discrimination for ethnic groups and affirmative action**

- **CoE Framework Convention for the Protection of National Minorities 1995**
  - Full and effective equality between national minorities and the majority, including in all areas of economic and social life – Article 4/2

## **5.2. Macedonia's Domestic Legal Framework**

### **Protection of Employees due to Pregnancy and Parenthood**

The employees shall be entitled to special protection in labour relations due to pregnancy and parenthood. The employer shall be obliged to enable employees the easier coordination of family and professional obligations.

### **Ban on Carrying Out performing physical tasks during Pregnancy and After Childbirth**

The female employee must not carry out works during pregnancy and one year following childbirth, if the works significantly endanger her health or the health of the child.

### **Special Protection during Pregnancy**

The employer must not require any data on the pregnancy of the female employee,

unless she submits them herself for the purpose of achieving her rights during pregnancy.

If the female employee during pregnancy carries out work which can have a negative impact on her health or on the health of her child, the employer shall be obliged to assign her to another adequate position and salary, as if she were carrying out her own work, if this proves to be more favourable for her.

In any dispute between the employer and the female employee the opinion of the chosen doctor or of the medical commission should prevail.

### **Protection during Pregnancy and Parenthood Referring to Night Work and Overtime Work**

The female employee must not carry out overtime or night work during pregnancy or with a child up to the age of one.

The female employee, who takes care of a child from one to three years of age, may be ordered to work overtime or at night only by her previous written consent.

One of the employees – parents, who has a child under the age of seven, or severely ill child or physically or mentally disabled child, and who is a single parent and individually takes care of the upbringing and protection of the child, may be ordered to work overtime or at night only by his previous written consent.

### **Right of a Breastfeeding Mother**

The female employee, who continues to breastfeed her child after the expiry of maternity leave and returns to work full time, shall be entitled to a recess within the working time in duration of one and a half hours a day, including the daily break. The female employee shall enjoy this right until the child reaches one year of age.

## 6. Millennium Development Goal 6: Combat HIV/AIDS and Tuberculosis – The Right to Health

### 6.1 International Legal Framework

#### The right to health and non-discrimination

- **UN International Covenant on Economic, Social and Cultural Rights 1966**
  - Right of everyone to the enjoyment of the highest attainable standard of physical and mental health – Article 12/1
  - Reduction of stillbirth-rate and infant mortality, support for the healthy development of the child – Article 12/2
  - Prevention, treatment and control of epidemic, endemic, occupational and other diseases – Article 12/2
  - Improvement of all aspects of environmental and industrial hygiene – Article 12/2
  - Medical service and medical attention for all in the event of sickness – Article 12/2
  - Special protection for mothers during a reasonable period before and after childbirth, including paid leave or leave with adequate social security benefits – Article 10/2
  - Special measures of protection and assistance for all children and young persons free from all discrimination – Article 10/3
  - Right to benefit from scientific progress and its applications – Article 15/1
  - Protection of rights without discrimination of any kind – Article 2
- **UN Covenant on Civil and Political Rights 1966**
  - The inherent right to life for everyone – Article 6/1
- No medical or scientific experimentation without free consent – Article 7
- Equal and effective protection against discrimination on all grounds – Article 26
- **UN Convention on the Rights of the Child 1989**
  - The right of the child/teenage mother to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health, including non-discriminatory access to such services – Article 24/1
  - State to diminish infant and child mortality – Article 24/2
  - State to provide necessary medical assistance, emphasis on primary health care, combat disease and malnutrition through access to nutritious food, clean drinking water, protection from environmental pollution – Article 24/2
  - Appropriate pre-natal/post-natal health care for mothers, including teenage mothers – Article 24/2
  - Health information and education on child health, nutrition, breastfeeding, hygiene, sanitation, prevention of accidents available to everyone, including children – Article 24/2
  - Preventive health care, guidance for parents and family planning education and services – Article 24/2
  - State to abolish traditional practices prejudicial to the health of children – Article 24/3
  - International cooperation for realization of the child's right to health – Article 24/4
  - Child's right to periodic review of any placement of children for the purposes

es of care, protection or treatment of his or her physical or mental health – Article 25

- Effective access of the disabled child to health care and rehabilitation services, and international cooperation and information exchange on preventive health care and medical, psychological and functional treatment of disabled children – Article 23
- Child/teenage mother's right to life, survival and development – Article 6
- Protection of rights without discrimination of any kind – Article 2
- State to protect all children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in care of parents/other responsible persons – Article 19
- State to promote physical and psychological recovery and social reintegration of a child victim of any form of violence – Article 39
- State to ensure quality standards (safety, health, staff qualifications) for all institutions, services and facilities responsible for the care or protection of children – Article 3/3
- State to protect all children from economic exploitation/any hazardous or harmful work – Article 32
- State to protect all children from the illicit use of narcotic drugs and psychotropic substances – Article 33
- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - Eliminate discrimination against women in relation to health care, including access to services related to family planning – Article 12
  - Eliminate discrimination against women in relation to employment; ensure right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction; ensure right to social security in case also of sickness – Article 11/1
  - Prohibition of dismissal on the grounds of pregnancy, maternity leave; provide for maternity leave with pay/comparable social benefits; special protection for women during pregnancy in case of harmful work – Article 11/2
  - Eliminate discrimination against women in relation to education, including participating actively in sports and physical education; and having access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning – Article 10
  - Access to adequate health care facilities, including information, counseling and services in family planning for women in rural areas – Article 14
- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - Elimination of discrimination against ethnic groups in relation to the right to public health, medical care – Article 5
  - Elimination of discrimination against ethnic groups in relation to the right to security of person and protection by the state against violence or bodily harm – Article 5
- **CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950**
  - Everyone's right to life protected by law – Article 2/1
  - Enjoyment of rights without discrimination on all grounds – Article 14

- **Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms**

- General prohibition of discrimination on all grounds – Article 1

- **CoE European Social Charter 1961**

*(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)*

- The right to protection of health, including health education and prevention of diseases – Article 11
- The right to social and medical assistance – Article 13
- Rights of employed women to protection, including provisions for leave before/after childbirth, job security, nursing of infants, prohibition of specific forms of work – Article 8

#### **Child rights protection as a primary consideration**

- **UN Convention on the Rights of the Child 1989**

- Child's best interests as a primary consideration in all actions concerning children; ensure child impact assessment and child participation – Articles 3/1 and 12

#### **Non-discrimination for women and affirmative action**

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**

- State to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including legislation, sanctions and legal protection for women, and the state to ensure full development and advancement of women, including in the economic and social

field, and to adopt temporary special measures aimed at accelerating de facto equality between men and women – Articles 2 to 4

#### **Non-discrimination against ethnic groups and affirmative action**

- **CoE Framework Convention for the Protection of National Minorities 1995**

- Full and effective equality between national minorities and the majority, including in all areas of economic and social life – Article 4/2

### **6.2. Macedonia's Domestic Legal Framework**

#### **The National Strategy for HIV/AIDS of Macedonia 2003-2006 is focused on several priority fields and strategies, such as:**

- the youth, with the aim of preventing sexually transmitted infections (STI), to secure them access to information on STIs and HIV/AIDS, as well as to help them form social skills for application for the attained knowledge;
- the intravenous drug users (IDU), with the basic aim of helping to maintain the currently low incidence rate of HIV/AIDS among the intravenous drug users in Macedonia;
- the commercial sex workers (CSW), men who have sex with men, and serving prisoners, with the aim of preventing the spread of HIV;
- the Roma population, with the aim of creating and increasing the awareness of the Roma leaders of the factors contributing to the vulnerability of the community regarding HIV/AIDS and of the efficient methods of containing the infection.

## 7. Millennium Development Goal 7: Ensure Environmental Sustainability – The Right to a Healthy Environment

### 7.1 International Legal Framework

- **UN International Covenant on Economic, Social and Cultural Rights 1966**

- 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 – Article 11
- Right of everyone to the enjoyment of the highest attainable standard of physical and mental health – Article 12/1
- Prevention, treatment and control of epidemic, endemic, occupational and other diseases – Article 12/2
- Improvement of all aspects of environmental and industrial hygiene – Article 12/2
- Special measures of protection and assistance for all children and young persons free from all discrimination – Article 10/3
- Right to benefit from scientific progress and its applications – Article 15/1

- **UN Covenant on Civil and Political Rights 1966**

- The inherent right to life for everyone – Article 6/1

- **UN Convention on the Rights of the Child 1989**

- The right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development – Article 27/1
- State to assist parents/others responsible for the child and provide in case of a need for material assistance and support programmes,

particularly with regard to nutrition, clothing and housing – Article 27/3

- The right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health, including non-discriminatory access to such services – Article 24/1
- State to provide necessary medical assistance, emphasis on primary health care, combat disease and malnutrition through access to nutritious food, clean drinking water, protection from environmental pollution – Article 24/2
- Health information and education on child health, nutrition, breastfeeding, hygiene, sanitation, prevention of accidents available to everyone, including children – Article 24/2
- Preventive health care – Article 24/2
- International cooperation for realization of the child's right to health – Article 24/4
- Child's right to life, survival and development – Article 6
- State to protect all children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in care of parents/other responsible persons – Article 19
- Disabled child to enjoy full and decent life and fullest possible social integration, comprehensive access to services and state support – Article 23
- State to protect all children from economic exploitation/any hazardous or harmful work – Article 32

- State to protect all children from the illicit use of narcotic drugs and psychotropic substances – Article 33
  - State to promote physical and psychological recovery and social re-integration of a child victim of any form of violence – Article 39
  - State to ensure quality standards (safety, health, staff qualifications) for all institutions, services and facilities responsible for the care or protection of children – Article 3/3
  - **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
    - Eliminate discrimination against women in relation to health care – Article 12
    - Eliminate discrimination against women in relation to employment; ensure right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction – Article 11/1
    - Prohibition of dismissal on the grounds of pregnancy, maternity leave; provide for maternity leave with pay/comparable social benefits; special protection for women during pregnancy in case of harmful work – Article 11/2
    - Non-discrimination for women in rural areas in relation to adequate living conditions, particularly concerning housing, sanitation, electricity and water supply, transport and communications – Article 14/2
    - Access to adequate health care facilities, including information, counselling and services in family planning for women in rural areas – Article 14/2
  - **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
    - Elimination of discrimination against ethnic groups in relation to the right to housing – Article 5
    - Elimination of discrimination against ethnic groups in relation to the right to public health, medical care – Article 5
    - Elimination of discrimination of ethnic groups in relation to the right to security of person and protection by the state against violence or bodily harm – Article 5
  - **CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950**
    - Everyone's right to life protected by law – Article 2/1
    - Right to privacy and protection from health risks in relation to environmental causes – Article 8
  - **CoE European Social Charter 1961**  
*(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)*
    - The right to protection of health, including health education and prevention of diseases – Article 11
    - The right of children and young persons to protection from work regarded as dangerous or unhealthy – Article 7
    - Rights of employed women to protection, including provisions for leave before/after childbirth, job security, nursing of infants, prohibition of specific forms of work – Article 8
- Child rights protection as a primary consideration**
- **UN Convention on the Rights of the Child 1989**
    - Child's best interests as a primary consideration in all actions concerning children; ensure child impact assessment and child participation – Articles 3/1 and 12

### Non-discrimination for women and affirmative action

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - State to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including legislation, sanctions and legal protection for women, and the state to ensure full development and advancement of women, including in the economic and social field, and to adopt temporary special measures aimed at accelerating de facto equality between men and women – Articles 2 to 4

### Non-discrimination for ethnic groups and affirmative action

- **CoE Framework Convention for the Protection of National Minorities 1995**
  - Full and effective equality between national minorities and the majority, including in all areas of economic and social life – Article 4/2

### 7.2. Macedonia's Domestic Legal Framework

#### The polluter pays principle

The polluter shall compensate the costs associated with the elimination of the danger of the environment pollution, bear the remedial costs and pay a fair compensation for the damage caused to the environment, as well as to restore the environment to as close to the condition before the damage as possible.

#### The user pays principle

The user of natural resources shall defray the costs for ensuring sustainable development, as well as for the remedy of the degradation of environmental media and individual environmental areas caused by the use of the natural resources.

#### Principle of subsidiarity

Municipalities, the City of Skopje and the municipalities of the City of Skopje shall have, within the scope of their compe-

### UN Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies 2002

#### Guideline 7: Right to health

- **Target 1:** All people to have access to adequate and affordable primary health care
- **Target 6:** To eliminate the incidence of other communicable diseases
- **Target 7:** To eliminate gender inequality in access to health care

#### Guideline 10: Right to adequate housing

- **Target 1:** All people to have a home
- **Target 2:** All people to enjoy security of tenure
- **Target 3:** All people to enjoy habitable housing
- **Target 4:** All people to enjoy housing situated in a safe and healthy location
- **Target 5:** All people are capable to provide adequate housing
- **Target 6:** Adequate housing physically accessible to all
- **Target 7:** All people to enjoy housing with access to essential services, materials, facilities and infrastructure

tences stipulated by law, the right and the obligation to undertake on their territories all measures and activities of environmental protection and improvement which are not under the exclusive competence of state authorities.

### **Public participation and access to information principle**

The bodies of the central government and the bodies of the municipalities and of

the City of Skopje and of the municipalities of the City of Skopje shall take all the necessary measures and prescribe procedures to ensure the right of public access to information and participation in the adoption of decisions related to the state of the environment, as well as to ensure that the public expresses its opinion in decision-making processes through such decision-making procedures.

## **8. Millennium Development Goal 8: Partnership for Development – Rule of Law and Access to Justice, the Right to Development and International Cooperation**

### **8.1 International Legal Framework**

#### **Right to development and right to international cooperation**

- **UN Charter 1945**

- Achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, promote and encourage respect for human rights and for fundamental freedoms for all as a purpose of the United Nations – Article 1/3
- UN to promote higher standards of living, full employment, and conditions of economic and social progress and development; solutions for international economic, social, health, and related problems; and international cultural and educational cooperation; and universal respect for, and observance of, human rights and fundamental freedoms for all – Article 55
- UN Member States to take joint and separate action in cooperation with the UN to achieve purposes of Article 55 – Article 56

- **Universal Declaration of Human Rights 1948**

- 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 28

- **UN Covenant on Economic, Social and Cultural Rights 1966**

- State to undertake steps individually and through international assistance and cooperation to the maximum of its available resources to achieve progressively the full realization of the Covenant's rights – Article 2/1

- **UN Convention on the Rights of the Child 1989**

- Implementation of economic, social and cultural rights with maximum extent of available resources and where needed in the framework of international cooperation – Article 4
- International cooperation and assistance to child refugees – Article 22/2
- International cooperation and exchange of information on preventive health care and treatment of disabilities – Article 23/4



- International cooperation and the right to health – Article 24/4
- International cooperation and the right to education, including elimination of illiteracy and facilitation of access to scientific and technical knowledge and modern teaching methods – Article 28/3
- **Declaration on the Right to Development 1986**
  - The right to development as a “human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized” – Article 1/1
- States’ “primary responsibility for the creation of national and international conditions favourable to the realization of the right to development”, with full respect for principles of international law on cooperation among states – Article 3/1 and 3/2
- States’ “duty to cooperate with each other in ensuring development and eliminating obstacles to development” and states to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all states, as well as to encourage the observance and realization of human rights – Article 3/3

### UN Draft Guidelines on a Human Rights Approach to Poverty Reduction Strategies 2002

#### Guideline 11: Right to Personal Security

- **Target 1:** To eliminate violence against the poor by state and non-state actors
- **Target 2:** To ensure adequate police protection for poor people threatened with violence

#### Guideline 13: Right of Equal Access to Justice

- **Target 1:** Equal access to civil justice for poor people as victims
- **Target 2:** Fair trial for poor people accused of crime
- **Target 3:** As victims of crime, poor people should be able to bring the perpetrators to justice

#### Guideline 14: Political Rights and Freedoms

- **Target 1:** To ensure full and equal participation of poor people in the conduct of public affairs, by means of parliamentary, regional and local elections, referenda and similar decision-making processes
- **Target 2:** To ensure equal enjoyment by poor people of the right to freedom of association
- **Target 3:** To ensure equal enjoyment by poor people of the right to freedom of assembly
- **Target 4:** Equal enjoyment of the right to information by poor people
- **Target 5:** Full participation of the poor in the formulation, implementation and monitoring of PRS

#### Guideline 15: Right to International Assistance and Cooperation

- **Target 2:** Tariff- and quota-free access for developing states

- States' "duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development" – Article 4/1

#### **Child rights protection as a primary consideration**

- **UN Convention on the Rights of the Child 1989**
  - Child's best interests as a primary consideration in all actions concerning children; ensure child impact assessment and child participation – Articles 3/1 and 12

#### **Non-discrimination for women and affirmative action**

- **UN Convention on the Elimination of All Forms of Discrimination against Women 1979**
  - State to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, including legislation, sanctions and legal protection for women, and the state to ensure full development and advancement of women, including in the economic and social field, and to adopt temporary special measures aimed at accelerating de facto equality between men and women – Articles 2 to 4

#### **Non-discrimination for ethnic groups and affirmative action**

- **CoE Framework Convention for the Protection of National Minorities 1995**
  - Full and effective equality between national minorities and the majority, including in all areas of economic and social life – Article 4/2

## **8.2. Macedonia's Domestic Legal Framework**

### **Formulation of the economic development policy of the Republic of Macedonia**

In the process of formulation of the foundations of the economic development policy, the Government of the Republic of Macedonia provides a consensus through the special Economic-Social Council. The Economic-Social Council was formed by the Government of the Republic of Macedonia, the Labour Union of Macedonia and the Chamber of Commerce of Macedonia, with the aim of implementation of the fundamental values of the Constitution for a democratic and social state, for a more harmonious development of the social processes, for enhancing the social dialogue, three-party system and application of the international conventions and recommendations. The Council has an advisory-consultative function through which social dialogue is realized, as well as a negotiating function for the economic and social issues of interest to the Republic of Macedonia. Besides this, the Council looks into issues and gives opinions, suggestions and recommendations regarding certain matters from the fields of:

- economic policy and measures for economic and social stability and development;
- prices and salary policy;
- labour and social security;
- collective coming to and agreement and collective agreements;
- standard of living;
- employment;
- working conditions and protection at work;
- education, culture and professional training;
- financial-credit and tax policy;
- pension and disability insurance and other.

---

CIP - Каталогизација во публикација  
Национална и универзитетска библиотека „Св. Климент Охридски“,  
Скопје

342.7:340.13(497.7):341.24

INTERNATIONAL and national legal framework for human rights for  
Macedonia / [prepared by Jovan Ananiev, Helmut Sax]. - Скопје : Програма  
за развој на Обединети нации (UNDP), 2006. - 49 стр. : табели; 23 см

ISBN 9989-2536-3-3

1. Ananiev, Jovan 2. Sax, Helmut

а) Права на човекот - Законодавство - Македонија -  
Усогласување - Меѓународни договори

COBISS.MK-ID 67465482

