

# International and National Legal Framework for Human Rights for Macedonia

A Human Rights-Based Approach  
to MDG-based Development Planning  
and Poverty Reduction

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# CONTENTS

<b>I INTRODUCTION</b> .....	<b>5</b>
I.1 How to use the Legal Framework Document .....	5
I.2 Human Rights Legal Framework Document - Linking Table .....	8
<b>II. MDGS AND HUMAN RIGHTS UNITED</b> .....	<b>9</b>
II.1 MDGs – Human Rights – Poverty and Development .....	9
II.2 Key human rights concepts and principles .....	10
II.2.1 Defining the human rights framework .....	10
II.2.2 Using the human rights framework: implementation .....	13
II.3 Added value of a human rights-based approach .....	14
<b>III. GENERAL CHARACTERISTICS OF MACEDONIA’S HUMAN RIGHTS LEGAL FRAMEWORK</b> .....	<b>15</b>
III.1 International level.....	15
III.1.1 Ratification of human rights treaties .....	15
III.1.2 International monitoring in relation to Macedonia .....	19
III.2 National level .....	25
III.2.1 Overview of Constitutional provisions on human rights .....	25
III.2.2 Incorporation of international law into Macedonian domestic law.....	25
III.2.3 Structures for protection and monitoring of human rights .....	25
III.3 Checklist of general key questions.....	30
<b>IV. ‘MILLENNIUM DEVELOPMENT RIGHTS’</b> .....	<b>31</b>
IV.1 Millennium Development Goal 1: Reduce Poverty and Social Exclusion – The Human Rights to an Adequate Standard of Living, to Work, to Social Security.....	31
IV.1.1 Overview .....	31
IV.1.2 International Legal Framework.....	34
IV.1.3 Macedonia Domestic Legal Human Rights Framework.....	38
IV.1.4 Checklist of MDG/rights-related key questions .....	47
IV.2 Millennium Development Goal 2: Achieve Universal Primary Education – The Human Right to Education.....	48
IV.2.1 Overview .....	48
IV.2.2 International Legal Framework .....	49
IV.2.3 Macedonia’s Domestic Legal Framework .....	54
IV.2.4 Checklist of MDG/rights-related key questions.....	57
IV.3 Millennium Development Goal 3: Promote Gender Equality and Empower Women – Human Rights of Women and Gender Equality.....	58
IV.3.1 Overview .....	58
IV.3.2 International Legal Framework.....	59
IV.3.3 Macedonia’s Domestic Legal Framework.....	61
IV.3.4 Checklist of MDG/rights-related key questions .....	65
IV.4 Millennium Development Goal 4: Reduce Child Mortality – The Child’s Right to Health .....	66
IV.4.1 Overview .....	66
IV.4.2 International Legal Framework .....	67
IV.4.2.1 <i>Relevant Human Rights Treaty Provisions</i> .....	67
IV.4.2.2 <i>Rights in context and international monitoring</i> .....	68
IV.4.3 Macedonia’s Domestic Legal Framework .....	70
IV.4.3.1 <i>Overview</i> .....	70
IV.4.3.2 <i>Child’s Right to Health Care</i> .....	72
IV.4.3.3 <i>Parental and social care for children</i> .....	73
IV.4.4 Checklist of MDG/rights-related key questions.....	74

IV.5 Millennium Development Goal 5: Improve Maternal Health – The Right to Health of Women .....	76
IV.5.1 Overview .....	76
IV.5.2 International Legal Framework.....	76
IV.5.2.1 <i>Relevant Human Rights Treaty Provisions</i> .....	76
IV.5.2.2 <i>Rights in context and international monitoring</i> .....	78
IV.5.3 Macedonia’s Domestic Legal Framework.....	79
IV.5.3.1 <i>Overview</i> .....	79
IV.5.3.2 <i>Women’s Right to Health Care</i> .....	80
IV.5.3.3 <i>Maternal health and labour relations</i> .....	81
IV.5.4 Checklist of MDG/rights-related key questions .....	82
IV.6 Millennium Development Goal 6: Combat HIV/AIDS and Tuberculosis – The Right to Health .....	83
IV.6.1 Overview.....	83
IV.6.2 International Legal Framework .....	84
IV.6.2.1 <i>Relevant Human Rights Treaty Provisions</i> .....	84
IV.6.2.2 <i>Rights in context and international monitoring</i> .....	87
IV.6.3 Macedonia’s Domestic Legal Framework .....	88
IV.6.3.1 <i>Overview</i> .....	88
IV.6.4 Checklist of MDG/rights-related key questions.....	91
IV.7 Millennium Development Goal 7: Ensure Environmental Sustainability – The Right to a Healthy Environment .....	92
IV.7.1 Overview .....	92
IV.7.2 International Legal Framework .....	94
IV.7.2.1 <i>Relevant Human Rights Treaty Provisions</i> .....	94
IV.7.2.2 <i>Rights in context and international monitoring</i> .....	96
IV.7.2.3 <i>MDG 7 and international human rights monitoring in relation to Macedonia</i> .....	96
IV.7.3 Macedonia’s Domestic Legal Framework .....	97
IV.7.3.1 <i>Overview</i> .....	97
IV.7.3.2 <i>The legal framework</i> .....	97
IV.7.3.3 <i>Air quality</i> .....	98
IV.7.3.4 <i>Waste management</i> .....	98
IV.7.3.5 <i>Nature protection</i> .....	99
IV.7.4 Checklist of MDG/rights-related key questions .....	100
IV.8 Millennium Development Goal 8: Partnership for Development – Rule of Law and Access to Justice, the Right to Development and International Cooperation.....	101
IV.8.1 Overview.....	101
IV.8.2 International Legal Framework .....	103
IV.8.2.1 <i>Relevant Human Rights Treaty Provisions</i> .....	103
IV.8.2.2 <i>Rights in context and international monitoring</i> .....	105
IV.8.3 Macedonia’s Domestic Legal Framework .....	106
IV.8.3.1 <i>Overview</i> .....	106
IV.8.3.2 <i>Equality before the Law</i> .....	107
IV.8.3.3 <i>Principles of economic development</i> .....	107
IV.8.4 Checklist of MDG/rights-related key questions.....	108
LIST OF ABBREVIATIONS.....	111
BIBLIOGRAPHY .....	113
RELATED WEBSITES.....	114
ANNEXES.....	115
Annex 1 Macedonia Millennium Development Goals .....	115
Annex 2 Macedonia Constitutional Rights .....	117
Annex 3 International Millennium Development Goals .....	121

# I. INTRODUCTION

Macedonia was granted EU candidate status by the Council Decision of 17 December 2005, following its application for membership of the European Union in 2004. The process involves extensive assessment of compliance with the criteria set for EU membership, and human rights protection, democracy and rule of law constitute key elements in this review. And in its Opinion on Macedonia's application for membership the EU Commission also called for a "strategic multidimensional approach to social exclusion and poverty in Macedonian society ... as a basis for future programmes for vulnerable groups" (ch. 19).

The Macedonian Government has already stated in its Report on the Millennium Development Goals (MDGs) of June 2005 that "the integration in the European Union is the basic driving force behind the reforms in the state institutions and the promotion of a modern, democratic and market-oriented society in which the principles for basic human freedoms and ethnic diversity are respected" (p. 3). Furthermore, and following its commitment "to achieving the MDGs as well as pursuing the anti-poverty and social inclusion strategies in the context of accession to the European Union", the Government recognizes how important it is "to harmonize these two processes" (p. 11). The ongoing decentralization process in Macedonia should further strengthen these efforts by ensuring participatory and non-discriminatory approaches in development planning and implementation.

Against this background the UN Development Programme (UNDP) has been assisting the Government in relation to the elaboration of an MDG framework for the national development process; and the Boltzmann Institute of Human Rights (BIM), Vienna, has been asked to provide additional human rights-related expertise. As a result, BIM has prepared a set of four tools on human rights-based local as well as regional development planning, on identification of particularly vulnerable social groups and 'the poor', and finally – this document – on the applicable human rights legal framework as a guidance to this process.

This Human Rights Legal Framework Document actually consists of two parts, one on the international legal obligations of Macedonia (prepared by BIM), and a second part on the domestic legal order relevant for human rights protection in the country (prepared by a Macedonian consultant to UNDP). For conceptual reasons explained below, both parts have been integrated into one International and National Legal Framework Document for the human rights-based approach to MDG-related national development planning in Macedonia.

## I.1 How to use the Legal Framework Document

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

It further 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 and contribute to a "culture of respect for human rights".

As shown in tables later on in the document, Macedonia has ratified almost all the relevant human rights treaties; so, as with many other countries in the world, the key challenge lies again with implementation and operationalization of these standards, to make them work in practice. This is particularly true for a country still undergoing a complex internal transformation process in social, economic and political terms since its independence one and a half decades ago, complemented by regional and international integration efforts, be it the European Union or NATO membership. The scores of National Actions Plans, Strategies and Programmes listed on the Government's internet website just go to show the manifold driving forces and parameters, influencing also the comprehensive National Development Plan for 2006-2015. And within such a context to make human rights not just visible, but to establish them as the overarching legal framework based on Macedonia's binding international obligations is certainly an ambitious task; the Legal Framework Document hopefully may contribute to these efforts.

The document complements other tools prepared by the Ludwig Boltzmann Institute of Human Rights for the national development planning process, in cooperation with UNDP, namely Tools on implementing a human rights-

based approach to local as well as regional development and a survey Tool on identification of the poor and vulnerable groups.

Initially mandated as two separate documents focusing on the international legal framework at one hand and on the domestic context at the other hand it was then decided to merge these two into one single, comprehensive Legal Framework Document. This is based on the understanding that in fact, neither can conceptually exist separately from the other – international law requires domestic implementation and domestic laws should comply with international obligations – and also for convenience to the target groups to be provided with one combined paper. Still, in terms of authorship BIM bears responsibility for chapters II and III (international part) and chapter IV, in relation to the international legal framework, whereas UNDP/Jovan Ananiev has established the national legal framework in chapters II and IV.

Despite its name the Legal Framework Document is directed not only at legal experts; basically its target group consists of all stakeholders involved in the national development process at the local level. This includes local government authorities, the private sector, social institutions and civil society groups alike, in addition to staff of international institutions supporting the process, such as UNDP or UNICEF.

Conceptually, the document tries to combine the human rights approach with poverty reduction strategies and the Millennium Development Agenda. Following the process of localizing the Millennium Development Goals for the Macedonian context (including also an EU integration perspective), with the Macedonian MDG Report already prepared in June 2005, the Human Rights Legal Framework Document takes the MDG approach also as its own starting point. This is reflected in this document by establishing the relevant human rights framework (both internationally and nationally) along the eight Millennium Development Goals, each treated separately in eight sub-chapters.

Furthermore, the cooperation of BIM in this process, with support from the Austrian Development Agency (ADA), is also related to another international discussion on a human rights approach to poverty reduction strategies. For this purpose the UN High Commissioner for Human Rights mandated three international human rights experts – Professors Paul Hunt, Manfred Nowak and Siddiq Osmani – to prepare Draft Guidelines for such efforts. Submitted and published in 2002 they aim to “provide practitioners involved in the design and implementation of poverty reduction strategies (PRS) with operational guidelines for the adoption of a human rights approach to poverty reduction” (Para. 1). With the MDG process in Macedonia having a particularly strong focus on reducing poverty and social exclusion (MDG 1) Macedonia was selected also as a ‘test country’ for applying the 2002 UN Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies (hereon called: ‘Draft Poverty Guidelines’) to these activities.

As a result the basic structure of the Human Rights Legal Framework Document is as follows:

Chapter II will provide a brief overview of basic human rights concepts and principles, while highlighting in

particular the added value of applying that framework. The principles-related Draft Poverty Guidelines (Guidelines 1-5, 16-18) have been integrated into this section.

Chapter III offers general information on Macedonia’s human rights framework, including ratification status, State party reporting under major UN and European human rights treaties, incorporation of international law into Macedonian domestic law and the catalogue of fundamental rights in Macedonia’s 1991 Constitution. As with all the other chapters, and in order to make it more user-friendly, the document takes in a lot of tables, charts and boxes for a quick overview of information.

The main part of the document consists of chapter IV; here, eight sub-chapters – corresponding to the eight MDGs – follow a coherent structure that aims to represent the link between MDGs and human rights. Just as, for instance, MDG 2 on universal primary education is connected to the human right to education, all other MDGs can be associated with related rights quite obviously – with the exception perhaps of MDG 8. The latter combines both thematic issues (e.g. employment for youth) with the overall development framework of a country both on its domestic and international level. As a result, it has been linked here in human rights terms with corresponding general aspects of rule of law, access to justice, the right to development and to international assistance.

Each of chapter IV’s sub-chapters includes: text boxes with overviews of key human rights and instruments in the context of that MDG, references to important sources of interpretation and with excerpts of the relevant content-oriented Draft Poverty Guidelines (Guidelines 6-15); this is, then, followed on the international level by a comprehensive compilation of human rights treaty provisions; a brief explanatory section on the linkages between those rights with the Macedonian MDG process and the Draft Poverty Guidelines; and a brief summary of the outcomes and recommendations from international and European treaty monitoring bodies in relation to Macedonia. On the national level, each MDG sub-chapter continues with relevant constitutional provisions and key legislation; this is followed by references to relevant implementation bodies and monitoring mechanisms, with particular emphasis on the local level. At the end of the sub-chapter, key questions in relation to applying the legal framework to the Macedonian national development process have been formulated.

Concerning the compilation of relevant treaty provisions it should be noted that the selection of provisions has been based on the following considerations: rights have to be seen always in their interrelatedness with other rights; so, in the case of MDG 4 (reducing child mortality), for instance, not only provisions of the Convention on the Rights of the Child in relation to health have been selected, but also of a broader context, including protection from violence and exploitation. On the other hand, of course, a balance had to be found in order not to lose focus by retreating to a simple ‘all human rights relevant for all’ approach. As a tribute also to the readers, not to be required to read pages of endless legal texts the treaty provisions have been summarized and the full text of the provisions have been put into an Annex.

Moreover, the selection of treaty provisions takes into account three particular perspectives: a child rights

perspective, a women's rights perspective and a national minorities' perspective. Thus, certain crosscutting human rights obligations, such as primary consideration of the child's best interest, of affirmative action in relation to gender equality or non-discrimination for minorities, including in the Macedonian context, e.g. the Roma, have been mainstreamed into all eight sections dealing with the treaty provisions. By adopting such an approach a limited focus on the substantive aspects only of, e.g. the right to education, should be avoided by recalling also

the specific requirements deriving from rights of specific groups of beneficiaries/right-holders.

A basic overview of the linkages between human rights, MDGs and the poverty guidelines employed in this Human Rights Legal Framework Document can be found at the next page.

One final note: this document is a Tool, and it should be applied as generously as possible. The authors are grateful for any comments and suggestions for improvement!

## I.2 Human Rights Legal Framework Document - Linking Table

The Relationship between Human Rights, the Millennium Development Goals and the Draft Poverty Guidelines

MDG Goal	MDG 1	MDG 2	MDG 3	MDG 4	MDG 5	MDG 6	MDG 7	MDG 8
	Poverty	Education	Gender	Child Health	Women Health	HIV/AIDS, Tuberculosis	Environment	Development Framework
Human rights	<ul style="list-style-type: none"> <li>- Right to adequate standard of living, incl.</li> <li>- Right to food, water, clothing, housing</li> <li>- Right to decent work</li> <li>- Right to social security</li> </ul>	<ul style="list-style-type: none"> <li>- Right to education</li> </ul>	<ul style="list-style-type: none"> <li>- Human Rights of Women and Gender Equality</li> </ul>	<ul style="list-style-type: none"> <li>- Child rights and right to health</li> </ul>	<ul style="list-style-type: none"> <li>- Women's rights and right to health</li> </ul>	<ul style="list-style-type: none"> <li>- Human Right to Health</li> </ul>	<ul style="list-style-type: none"> <li>- Right to healthy environment</li> </ul>	<ul style="list-style-type: none"> <li>- Rule of law and access to justice</li> <li>- Civil and political rights</li> <li>- Right to development</li> <li>- Right to international cooperation</li> </ul>
Specific rights perspectives	Gender	Gender		Gender		Gender	Gender	Gender
	Child	Child	Child	Child	Child	Child	Child	Child
	Minorities	Minorities	Minorities	Minorities	Minorities	Minorities	Minorities	Minorities
Poverty Guidelines (6-15)	PG 6: food PG 9: work PG 10: housing PG: in public without shame	PG 8: education	PG 6: food PG 7: health PG 8: education PG 9: work PG 11: security PG 13: justice	PG 7: health	PG 7: health	PG 7: health	PG 7: health PG 10: housing	PG 11: security PG 13: justice PG 14: political rights PG 15: international cooperation



## II. MDGs AND HUMAN RIGHTS UNITED

### II.1 MDGs – Human Rights – Poverty and Development

Poverty has been widely identified as an obstacle to development, both in relation to the individual and society as a collective; so, is poverty also the cause of underdevelopment? From a human rights perspective, the answer is a clear ‘no’: poverty should be seen rather as a consequence of underlying, primarily structural problems, such as inadequate means of and support to income generation, power imbalances and discriminatory access to land and other resources, lack of a functioning social security system and weak educational structures. And they may be regarded as (unjustified) limitations to a human being’s capabilities and their full development. According to the Draft Poverty Guidelines, “poverty consists in the non-fulfilment of a person’s human rights to a range of basic capabilities – to do and be the things he or she has reasons to value” (**Draft Poverty Guideline 1: Identification of the Poor**, Para. 45). So, any of the situations mentioned above give rise to human rights considerations, and all of them, in the end, could be linked to respective international and domestic standards and lack of implementation thereof.

Decentralization processes can play an important role in strengthening development through human rights protection. A major recent comparative study by the International Council on Human Rights Policy found several decentralization benefits, such as potential for improved service delivery as well as accountability; at the same time some caveats became evident; for instance, the risk of costly competences in the social services field being delegated away from central government; moreover, delegation can make standard-setting more difficult (*Local Government and Human Rights: Doing Good Service*, 2005, pp. 81-87). As a result, one could list as key factors for assessing local government performance: a clear legal framework, strong political leadership and a commitment to decentralization, separation of power/checks and balances, adequate resources and revenues, a functioning election process, local participatory mechanisms and a general commitment to human rights in society (p. 41).

The UN Millennium Development Project similarly highlighted the strong link between the various development

and human rights concepts and strategies, from an MDGs’ perspective: “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. 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” (*Investing in Development: A Practical Plan to Achieve the Millennium Development Goals*, 2005, p. 1). And Key Recommendation 2 of the Project calls on MDG-based poverty reduction strategies to “provide a framework for strengthening governance, promoting human rights, engaging civil society, and promoting the private sector” and as a consequence they should, amongst others, “focus on women’s and girls’ health (including reproductive health) and education outcomes, access to economic and political opportunities, right to control assets, and freedom from violence”. As already explained in the Introduction this Legal Framework Document is also based on this link between MDGs and human rights, as presented in particular in chapter IV.

In relation to Macedonia, finally, the 2005 MDG Report of the Macedonian Government refers to the various EU initiatives in eradicating poverty and promoting social inclusion. And, as mentioned in the Introduction above, “EU accession as well as the commitment to achieving the MDGs are both priority objectives for the Republic of Macedonia” (p. 12). An apparent example of how to harmonize these processes is already given in the MDG report: for the purposes of the MDG implementation strategy, the indicators for progress listed in the MDGs and those developed by the EU Social Protection Committee (endorsed by the 2001 Laeken European Council – ‘Laeken indicators’) have been combined (see also chapter IV in this Legal Framework Document).

In an unprecedented way the Millennium Development Goals have acted as a catalyst for global political commitment and action against poverty and for social development, and human rights provide the normative framework for this mobilization, internationally and at the national level.

## II.2 Key human rights concepts and principles

### II.2.1 Defining the human rights framework

An essential precondition for any human rights based-approach to development efforts is the identification of the applicable human rights framework – which is also the primary objective of this document. **Draft Poverty Guideline 2: National and International Human Rights Framework** thus adds to the reasons for this need (Para. 52): to enhance any development strategy’s effectiveness and to prevent that some of the actions taken may be unlawful – both in violating international obligations or domestic law.

The Universal Declaration of Human Rights 1948 starts with the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family” (‘Preamble, 1<sup>st</sup>’), thus the starting point of protection of human rights is unconditional respect of the person’s human dignity. All international human rights treaties and declarations and other standard-setting documents as well as domestic Constitutional Catalogues of basic rights can be reduced to this one fundamental assertion of human dignity, or – at the same time they all may be regarded as just more detailed, specific elaborations and expressions of it.

Following the adoption of the Universal Declaration, several international human rights treaties and other documents have been developed by the international community. Today we have seven “core human rights treaties”, ratified by an ever-growing number of states (with the exception of the MWC, Macedonia has ratified them all: for a more detailed overview of Macedonia’s ratification status please refer to chapter III):

- International Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1965
- International Covenant on Civil and Political Rights (CCPR) 1966
- International Covenant on Economic, Social and Cultural Rights (CESCR) 1966
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1984
- Convention on the Rights of the Child (CRC) 1989
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC) 1990

These international conventions prepared by the United Nations are further complemented by a large number of treaties relevant for human rights protection established by other international organizations (like the International Labour Organization, UNESCO) and regional organizations, such as the Council of Europe; the most relevant documents in the latter context (also ratified by Macedonia) are:

- European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) 1950
- European Social Charter 1961 (revised 1996)

On an even more detailed level of regulation, one finds, then, virtually hundreds of political declarations and commitments by states through the outcome documents of major international conferences – ranging from the 2000 Millennium Development Declaration to the 1993 Vienna Declaration and Programme of Action. These documents are often referred to as ‘soft-law’ standards, as they are not treaties and therefore do not create the same legal obligations. Still, as statements of political will of the adopting states they bear relevance both for political accountability and legal interpretation. Finally, another essential source of legal interpretation results from the practice of the international expert bodies, which have been established by all of the international and regional conventions listed above. Those “treaty monitoring bodies” assess compliance of the treaty’s States parties’ obligations through a variety of means, including individual or inter-State complaints, state reporting procedures, inquiries and also through issuing authoritative statements, usually called ‘General Comments’ or ‘General Recommendations’ (this Legal Framework Document regularly refers to those instruments in chapter IV). The Strasbourg-based European Court of Human Rights of the Council of Europe takes a distinct position among those bodies as it is the only true tribunal with the competence to issue legally binding judgements on individual complaints against alleged violations of the European Convention on Human Rights.

Claiming a right, however, forms only half of the human rights model, as it necessarily also requires a counterpart responsible for the right’s protection – so we have right holder and duty bearers (see graphic representation below). The duty bearer’s responsibility may be carried out through refraining from certain actions likely to interfere with a person’s rights or to providing access to services, etc., and although responsibility for human rights protection is regularly associated with the state, represented through its government, this does not mean an exclusive state responsibility. The UN Convention on the Rights of the Child, for instance, establishes also responsibilities for parents vis-à-vis their child; and freedom of speech does not include freedom to insult another person. Still, as parties to the international agreements it is still states that bear primary responsibility for compliance with the standards set, with specific obligations accordingly.

In this regard, human rights law distinguishes between three major categories of state obligations corresponding to the rights of the right holders:

- Obligations to respect: the state has to refrain from interference with human rights, e.g. refrain from arbitrary arrest, intimidation of political parties during elections or arbitrary removal of a child from school;
- Obligations to protect: the state has also to ensure protection from interference with rights through other private actors, e.g. by adopting legislation prohibiting discrimination against women or by forbidding corporal punishment of children by their parents or at school; and
- Obligation to fulfil: here, the state has to use its entire means to ensure realization of a right through providing access to educational institutions, to health services, to establish and maintain an independent judiciary for protecting fair trial standards in court, etc.

Theis, J., Promoting Rights-Based Approaches, *Save the Children, 2004*



These examples show, in addition, that one human right, be it the right to education, for instance, requires different actions according to all three categories of state obligations (no interference with access to education, protection from violence, provision of a school infrastructure). Thus, because of this multidimensional nature of human rights it is no longer appropriate to maintain that, e.g. ‘classical’ civil and political rights can be linked to state non-interference and economic, social and cultural rights can be linked to positive state action; nor is it justified to claim that only the latter create huge amounts of costs (see the example of maintaining a justice system). As a consequence, when applying the human rights framework it is necessary to clarify the scope of obligations and the necessary means and instruments to realizing the corresponding right.

Economic, social and cultural rights, such as the right to work, to health and to education, bear particular relevance in the context of the MDGs, as they actually lie at the heart of MDG implementation. Still, economic, social and cultural rights have long been regarded as a rather neglected, less conceptualized group of rights, with some states still claiming that these are general economic and social policy goals rather than ‘real’ rights capable of being judicially enforced. Today, such an understanding is outdated and has been refuted both by commitment of states (see already the 1993 World Conference on Human Rights’ Vienna Declaration and Programme of Action) and by interpretation of human rights law through treaty bodies, which have asserted the equal value, indivisibility and justiciability of economic, social and cultural rights. The 1991 Constitution of Macedonia can be seen as an apparent example of this comprehensive understanding, as its chapter II (Basic Freedoms and Rights of the Individual and Citizen) contains both civil and political rights and economic, social and cultural rights.

Human rights protection contains obligations of result and obligations of conduct. A flawed election process will require immediate review and most probably a re-run of the election, but what about a poor country – is this continuously violating human rights to food, adequate living standards, etc., on a massive scale? Here, the answer depends on that country’s conduct, its approach to poverty. Human rights monitoring bodies are well aware that no country in the world may justifiably claim to protect all human rights for all and immediately. There

are always time constraints and limited resource available, so the real question is actually prioritization. In human rights law the concept of progressive realization of human rights provides guidance for assessing those priorities. As the **Draft Poverty Guideline 4: Progressive Realization of Human Rights – Indicators and Benchmarks** explains, the “recognition of a time dimension and the need for prioritization are common features of all approaches to policy-making. The distinctiveness of the human rights approach is that it imposes certain conditions on these features, so that the pursuit of human rights is not reduced to mere rhetoric in the name of progressive realization” (Para. 64). Based on the interpretation by the Committee on Economic, Social and Cultural Rights (see in particular its General Comment No. 3 (1990) on the nature of States parties’ obligations) it is acknowledged that full implementation of a human right will not be possible in short time, but that nevertheless, and even in situations of scarce resources states have taken over some immediate obligations:

- Take steps towards progressive realization: at least, a process for addressing the most pressing needs, e.g. in the health sector must be initiated – this requires identification and analysis of the problem, political will to resolve it and “to move as expeditiously and effectively as possible towards that goal” (GC 3, Para. 9), i.e. the development of a strategy for this purpose, including indicators for monitoring progress;
- Non-discrimination and participation: these general human rights principles (see below) must be upheld also and in particular in difficult situations;
- Non-retrogression of rights: certain already reached quality standards of rights implementation, e.g. in relation to health care provision should be maintained, and not cut down at first signs of budgetary difficulties; retrogressive measures could be only considered after “the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant [on Economic, Social and Cultural Rights] and in the context of the full use of the maximum available resources” (GC 3, Para. 10);
- Non-infringement of enjoyment of rights: even in the most difficult situations, “the obligation remains for a State party to strive to ensure the widest possible

enjoyment of the relevant rights under the prevailing circumstances” (GC 3, Para. 11);

- Meet core obligations: finally, an obligation of immediate effect is the requirement that at least a certain minimum/core level of rights protection has to be ensured: thus, for example, “a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, failing to discharge its obligations under the Covenant” (GC 3, Para. 10).

Furthermore, the Committee on Economic, Social and Cultural Rights has developed a set of criteria for identifying main features of States parties obligations; those include availability, accessibility, acceptability and quality of services. Taking the example of the right to health, State obligations include (see the Committee’s General Comment No. 14 (2000) on the right to the highest attainable standard of health):

- Availability of health care services: States have to ensure that such services are available in sufficient quantity, including hospitals and health centres, doctors and other trained staff, essential drugs, etc.;
- Accessibility of health services: this category may be further divided into criteria of:
  - Non-discrimination: access to services has to be guaranteed to all, with particular emphasis on socially excluded, marginalized, vulnerable groups
  - Physical accessibility: access to services must be in safe physical reach for all, including people living in remote, rural areas or accessibility of buildings for people with disabilities
  - Economic accessibility/affordability: financial burdens must limit access to services particularly for poor people and other socially disadvantaged groups
  - Informational accessibility: everyone should be aware of available health services and have access to such information;
- Acceptability of health services: all services should be sensitive to cultural backgrounds, gender aspects, adequacy for children;
- Quality of health services: States have to provide such services of appropriate quality, with qualified staff, taking into account progress of research.

These criteria provide general guidance for determining the requirements in implementing human rights and are similarly applicable also, for instance, in relation to the rights to food, water, housing and education (see also chapter IV on the MDG context).

As already mentioned above the human rights legal framework with its set of rights and corresponding obligations is based on some key underlying principles:

- Universality, interdependence and indivisibility of all human rights: the 1993 Vienna Declaration and Programme of Action declared “all human rights are universal, indivisible and interdependent and

interrelated”, and “the promotion and protection of all human rights is a legitimate concern of the international community” (Paras. 1/5, 4). In this regard the comprehensiveness of the human rights approach should be stressed: assessment of a situation should include the full range of rights, including civil, cultural, economic, political and social rights. The Macedonian MDG 5 (reducing maternal mortality) should not be seen exclusively as a health issue, but also related to education, access to work, the impact of traditional role models and empowerment of women in general. Moreover, the universal and comprehensive nature of human rights makes it clear that the full set of rights belongs to each individual person, not just to certain groups. In particular, human rights are neither ‘ethnic rights’ nor rights of only some specific ethnic groups, as it has been sometimes perceived in the Macedonian context.

- Equality and non-discrimination: the right to equality encompasses several different aspects, such as equality of all persons before the law and equal protection by the law from all forms of discrimination. Not every distinction made between different groups of people necessarily constitutes discrimination; the crucial question is only what criteria have been used for drawing this distinction. And all major human rights treaties contain a broad list of prohibited criteria, including: race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. **Draft Poverty Guideline 3: Equality and Non-Discrimination** explicitly refers in this context to being poor as one specific criteria linked to discriminatory attitudes (Para. 61). One distinctive element of a human rights approach is thus its focus on the excluded/ marginalized/most vulnerable groups of a society, be it women living in remote Macedonian areas, children in conflict with the law or the Roma.
- Empowerment and participation: the right holder – duty bearer model referred to above correlates also to the empowerment – accountability (see also below) concept. Right holders shall be strengthened, encouraged, trained to claim their rights, to actively change situations, to bring in their expertise and have an impact on their environment – which also includes children and adolescents, for instance. Empowerment involves mobilization, capacity-building and emancipation from dependencies and necessarily requires participation in decision-making processes by those affected: as an expression of democratic principle and as an added value for improved planning, implementation and monitoring. Effective participation requires appropriate conditions – the **Draft Poverty Guideline 5: Participation and Empowerment** in this context refers to capacity-building measures and minimum economic security indispensable for meaningful participation of poor people (p. 86).
- Accountability and monitoring: linked to empowerment of right holders is accountability of duty bearers. A human rights approach aims to clarify responsibilities, make them explicit and continuously monitor performance in carrying out these responsibilities.

This further implies the provision of remedies and procedures for reparation in relation to victims and punishment of perpetrators. **Draft Poverty Guideline 16: Principles of Monitoring and Accountability** mentions four groups of accountability mechanisms: judicial (courts), quasi-judicial (ombudspersons, international treaty bodies), administrative (reporting, assessments) and political (through parliamentary instruments). In all of these areas human rights capacity-building may be necessary, for example, training of security forces in relation to anti-trafficking measures or sensitization of judges in relation to violence in the family. It should be stressed here that human rights work is not ‘anti-State’ directed, and while maintaining the critical ‘public watch-dog’ function of non-governmental organizations towards their government, cooperation with civil society in the area of trainings, for example, will nevertheless be crucial for effective capacity-building (on both sides).

### ***II.2.2 Using the human rights framework: implementation***

After all, human rights are more than talking about principles – it is action-oriented. Thus, it is a common saying that the major challenge today is less on standard setting but more on implementation of the broad variety of standards. This is particularly true for a country like Macedonia, which has already declared itself bound by almost all major human rights treaties; the task set is now on making those standards a reality for its people.

Because of the evident legal implications of a human rights-based approach, it is often assumed such an approach is mainly focusing on legislative reform. This is certainly not the case – while the establishment of an adequate legal framework is with no doubt a major element in efforts to strengthen human rights protection, it is by far not the

only element. Implementation of human rights requires a broad range of activities to be taken in relation to:

- Legislation, including constitutional guarantees and laws;
- Administration, such as regulations, coordination structures, monitoring, disciplinary mechanisms;
- Judiciary and accountability mechanisms, law enforcement;
- Policy development, e.g. labour market policy, education, social security;
- Budget impact assessment, e.g. in relation to poverty high-risk groups;
- Research and data collection, statistics, e.g. gender- and child-disaggregated data;
- Public information and awareness-raising, e.g. campaigns against violence in the family;
- Training, education and capacity-building, e.g. of security forces, social workers, health workers.

Furthermore, human rights may be regarded not just as goals but also as means for their achievement. As a tool, they are both process-oriented (e.g. by calling for participatory approaches) and result-oriented (e.g. by focusing on worst violations to be addressed first). Content-related human rights also offer guidance for value judgements, through extensive case-law of the European Court of Human Rights on the principle of proportionality for instance, or statements by the Committee on the Rights of the child on the concept of “best interests of the child”. Finally, structure-related human rights are being used as a tool for programme development (analysis, design, implementation, monitoring, evaluation) and require the establishment of specific institutions and mechanisms, e.g. advisory boards, human rights commissions visiting prisons, ombudspersons for complaint procedures, etc.

## II.3 Added value of a human rights-based approach

In order to conclude this chapter some key distinctive features of the human rights approach will be summed up here. It should be noted that a human rights approach is not simply a 'best of' of existing development approaches. Part of current good development practice already includes requirements of comprehensive situation analysis, sustainable interventions, participatory approaches/local community development, capacity-building, establishing partnerships, gender aspects and sharing of best practice models.

Still, the human rights approach adds to this a binding normative framework linked to empowerment of the individual. 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 CRC);
- Making human rights visible also strengthens rule of law and helps clarify responsibilities;
- It aims to strengthen 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.

There is no inherent '100 percent guarantee' for the human right approach to work better than others or to work at all – human rights programmes and projects still require careful planning and implementation. But with its accountability-driven, all-inclusive and participatory way of addressing situations there is at least a better chance for effectiveness and sustainability for development efforts.

The following is a (very simplistic) comparison of rather typical elements of a needs perspective in relation to a human rights perspective:

Needs-based perspective	Human rights-based perspective
Focus on objects – provide services	Focus on subjects – empower individuals and communities
Driven by private/voluntary initiative, public attention, personal concern, charity	Driven by responsibilities, legal obligations, mandatory action
Needs are local - vary according to context-related criteria, resources, actors involved	Rights are universal, based on international standards
Hierarchy of needs (e.g. food before education)	All rights of equal value, indivisible, interrelated
Welfare-oriented	Legal protection-oriented – rule of law, access to justice as a crosscutting issue; welfare just one of several areas
Target groups deserve support	Target groups are entitled to support
Target groups as passive recipients of support	Active participation of target groups is both a democratic principle and a human right
Focus on maximum service provision for the most of the people, analysis based on average numbers	Non-discrimination principle calls for maximum provision for all, with specific focus on most excluded – analysis to be based on dis-aggregation of numbers
Women as one target group with specific needs	Women to challenge gender inequality and demand for affirmative action
Children are victims in need of protection	Children have competences and rights to protection and to participation and self-determination
Focus on goals/achievements	Focus on goals and processes
Fragmented, often poorly linked goals	Holistic, comprehensive goals
Addresses rather symptoms, often emergency-driven, avoids political confrontation	Addresses root causes, including power relations and political context
Short-term perspective, filling gaps	Long-term approach
Uses external, specialized-only expertise	Uses interdisciplinary approaches, existing capacities
Limited to successful service provision	Capacity-building and awareness-raising of all groups concerned
Accountability often limited to compliance with project management standards	Accountability of all duty bearers to be identified, monitored and ensured

## III. GENERAL CHARACTERISTICS OF MACEDONIA'S HUMAN RIGHTS LEGAL FRAMEWORK

In the following chapter essential general features of the human rights framework applicable to Macedonia will be presented. It has been divided into an international part (which also includes the European dimension) and into a national part; the first covers information on ratification of international human rights treaties (including notes on reservations for UN and Council of Europe treaties), human rights state reporting and other monitoring mechanisms. The second, domestic part offers an overview of constitutional basic rights provisions and key human rights structures in Macedonia.

All data given is valid as of 1 April 2006.

### III.1 International level

#### III.1.1 Ratification of human rights treaties

Macedonia has ratified almost all major human rights treaties on the international and European levels (see ratification tables below with details on UN, ILO, UNESCO and Council of Europe conventions).

The most notable exception to this rule concern, on the UN level, is the 2002 Optional Protocol to the Convention against Torture, which if ratified, would allow for a visiting system of places of deprivation of liberty to prevent maltreatment in prisons or other closed institutions.

Also Macedonia has not yet ratified the 1990 Migrant Worker's Convention, which is, however, true for almost all European States.

Regarding Council of Europe treaties, Macedonia has ratified the European Social Charter in 2005, but unfortunately only in its original version of 1961 (and without the 1995 Protocol allowing for collective complaints under the ESC), while the Revised ESC of 1996 would have offered increased protection through provision of additional economic, social and cultural rights. Moreover, ratification of the 1992 European Charter for Regional or Minority Languages, which has been signed already in 1996, is still missing. The recent CoE Convention on Action against Trafficking of Human Beings has already been signed, but not yet ratified.

It should be noted that prior to Macedonia's independence in 1991 most of the conventions were already in force on its territory as the former Yugoslavia had been State party to them (ratification of CERD on 2 October 1967, CCPR on 2 June 1971, CESC on 2 June 1971, CEDAW on 26 February 1982, CAT on 10 September 1991 and CRC on 3 January 1991). By way of succession to the former Yugoslavia the Government of Macedonia took over responsibility for its international relations with effect from 17 September 1991.

Macedonia was admitted as a member to the United Nations by General Assembly Resolution A/RES/47/225 of 8 April 1993, following the dissolution of the former Yugoslavia. Macedonia also became Member State of the Council of Europe on 9 November 1995.

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

Convention	Signature	Ratification/ Succession/ Accession	Entry into Force
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	---	---	---

Sources: OHCHR Treaty Bodies Database, [www.unhcr.ch/tbs/doc.nsf](http://www.unhcr.ch/tbs/doc.nsf), Macedonia State Party reports, accessible at [www.ohchr.org](http://www.ohchr.org), [Bayefsky.com](http://Bayefsky.com), [www.bayefsky.com](http://www.bayefsky.com)

### III.1.1.1 United Nations human rights treaties

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

#### Notes on ratification, declarations and reservations:

- Convention Against Torture 1984

Source: Macedonia State party report 1998, CAT/C/28/Add.4., Para. 6.

In relation to the CAT Committee's competence for receiving complaints (Articles 21, 22):

*“With the accession to the Convention by succession, the Republic of Macedonia took over the declarations with regard to Articles 21 and 22 of the Convention. By these declarations the Republic of Macedonia recognizes the competence of the Committee against Torture to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under this Convention, as well as communications from and on behalf of individuals who claim to be victims of torture by a State party to the Convention.”*

- Convention on the Rights of the Child 1989

Sources: OHCHR website, [www.ohchr.org](http://www.ohchr.org); Bayefsky.com, [www.bayefsky.com](http://www.bayefsky.com)

In relation to the status of the reservation to Article 9/1:

The status of Macedonia's legal obligations in relation to Article 9/1 of the CRC (judicial review of decisions to separate a child from his/her parents) remains unclear: according to the UN Treaty Collection/Multilateral Treaties Deposited with the Secretary-General (quoted at [www.ohchr.org/english/countries/ratification/11.htm](http://www.ohchr.org/english/countries/ratification/11.htm)) the former Yugoslavia had initially entered a reservation to Article 9/1:

“The former Yugoslavia had signed and ratified the Convention on 26 January 1990 and 3 January 1991, respectively, with the following reservation:

*“The competent authorities (ward authorities) of the Socialist Federal Republic of Yugoslavia may, under Article 9, paragraph 1 of the Convention, make decisions to deprive parents of their right to raise their children and give them an upbringing without prior judicial determination in accordance with the internal legislation of the SFR of Yugoslavia.”*

In 1997, the Government of Yugoslavia, however, declared it would withdraw this reservation; following a dispute with the (other) successor states to the former Yugoslavia (Slovenia, Croatia, Bosnia and Herzegovina, the Former

Yugoslav Republic of Macedonia) ensued, with the latter claiming that (the succeeding) Yugoslavia lacked the competence for such a declaration as not being identical to the former Yugoslavia. As a consequence, Yugoslavia declared its succession and confirmed the withdrawal of the reservation in 2001. And in 2004 Slovenia formally withdrew the reservation for its own jurisdiction. However, such a withdrawal has not been officially reported in relation to Macedonia, thus making the reservation declared by the former Yugoslavia and taken over by succession by Macedonia still valid. But in the state reporting process neither the government nor the Committee on the Rights of the Child in 2000 referred to the reservation, the latter nonetheless recommending a judicial review mechanism be established (UN Doc CRC/C/15/Add.118).

Declaration by Greece:

On 12 April 1994, the Secretary-General received from the Government of Greece the following communication:

*“Succession of the former Yugoslav Republic of Macedonia to the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989, does not imply its recognition on behalf of the Hellenic Republic.”*

- Optional Protocol to the CRC on the involvement of children in armed conflict 2000

Sources: OHCHR website, [www.ohchr.org](http://www.ohchr.org); Bayefsky.com, [www.bayefsky.com](http://www.bayefsky.com)

Declaration by Macedonia upon ratification:

*“Related to Article 3, paragraph 2 of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts the Republic of Macedonia States that under the Macedonian legislation there are no possibilities, neither on obligatory nor voluntary grounds, to direct any person younger than 18 years of age to military service, i.e. there is no opportunity to violate the right to a special protection of persons of less than 18 years of age. In order to ensure that persons under 18 do not join its Armed Forces, the Republic of Macedonia has made the following provision:*

*“Article 62 of the Law on Defence of the Republic of Macedonia sets forth that draftees shall be directed to military service after attaining 19 years of age. The draftee who requests to be drafted for military service shall be directed to military service after three months from the day of submission of the application, if he/she has attained 18 years of age.”*



- International Convention on the Elimination of All Forms of Racial Discrimination 1965

Sources: OHCHR website, [www.ohchr.org](http://www.ohchr.org); Bayefsky.com, [www.bayefsky.com](http://www.bayefsky.com)

In relation to the CERD Committee's competence for receiving individual complaints (Article 14) – Declaration submitted 22 December 1999:

*“The Republic of Macedonia declares that it recognizes the competence of the Committee on the Elimination of Racial*

*Discrimination to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by the Republic of Macedonia of any of its rights set forth in this Convention, with the reservation that the Committee shall not consider any communication from individuals or groups of individuals, unless it has ascertained that the same matter has not been, and is not being, examined under another procedure of international investigation or settlement.”*

### III.1.1.2 International Labour Organization Conventions

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

Source: ILOLEX Database of International Labour Standards - [www.ilo.org/public/english/standards/norm/index.htm](http://www.ilo.org/public/english/standards/norm/index.htm)

### III.1.1.3 UNESCO Conventions

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	---

Source: UNESCO Legal Instruments section – [www.unesco.org](http://www.unesco.org)

### III.1.1.4 Council of Europe Conventions

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 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

Source: Council of Europe Treaty Office - <http://conventions.coe.int>

### Notes on ratification, declarations and reservations:

Source: Council of Europe Treaty Office - <http://conventions.coe.int>

- Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms 1952

On Article 2 (rights of parents and education according to their own convictions): reservation contained in the instrument of ratification, deposited on 10 April 1997: *"Pursuant to Article 45 of the Constitution of the Republic of Macedonia, the right of parents to ensure education and teaching in conformity with their own religious and philosophical convictions cannot be realized through primary private education, in the Republic of Macedonia."*

Article 45 of the Constitution reads as follows: *"Citizens have a right to establish private schools at all levels of education, with the exception of primary education, under conditions determined by law."*

- European Social Charter 1961

On the scope of obligations assumed by Macedonia in relation to the ESC: declaration contained in the instrument of ratification, deposited on 31 March 2005:

*In accordance with Article 20, paragraph 2, of the Charter, the Republic of Macedonia declares that it considers itself bound by the following Articles of Part II of the Charter: Articles 1 (work), 2 (just conditions), 5 (association), 6, 7 (paragraphs 1, 2, 3, 4, 6, 7, 8, 9 and 10), 8, 11, 12, 13, 15 and 17.*

- European Convention on the Exercise of Children's Rights 1996

On categories of family cases before a judicial authority to which the Convention shall apply: declaration contained in the instrument of ratification deposited on 15 January 2003: *In accordance with Article 1, paragraphs 4 and 5, of the Convention, "the former Yugoslav Republic of Macedonia" declares that the said Convention shall apply to the following categories of family cases: adoption proceedings, cases concerning the custody of children, the proceedings while deciding on the custody and upbringing of children and proceedings concerning establishment of parental affiliation (paternity and maternity), as well as in the proceedings when parental affiliation is contested.*

- Framework Convention for the Protection of National Minorities 1995

On the term 'national minorities': declaration contained in a letter from the Minister of Foreign Affairs, dated 16 April 2004, registered at the Secretariat General on 2 June 2004: *Referring to the Framework Convention, and taking into account the latest amendments to the Constitution of the Republic of Macedonia, the Minister of Foreign Affairs of Macedonia submits the revised declaration to replace the previous two declarations on the aforesaid Convention: The term 'national minorities' used in the Framework Convention and the provisions of the same Convention shall be applied to the citizens of the Republic of*

*Macedonia who live within its borders and who are part of the Albanian people, Turkish people, Vlach people, Serbian people, Roma people and Bosniac people.*

### *III.1.1.5 Other treaties relevant in the context of human rights protection*

Apart from human rights treaties, Macedonia has also ratified the following relevant instruments:

#### **Organized Crime and Trafficking**

Signature (12/12/2000), ratification (12/1/2005) and entry into force (11/2/2005) of:

- United Nations Convention against Transnational Organized Crime;
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Preamble, supplementing the United Nations Convention against Transnational Organized Crime;
- Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

*(Source: UN Office on Drugs and Crime, [www.unodc.org/unodc/en/drug\\_and\\_crime\\_conventions.html](http://www.unodc.org/unodc/en/drug_and_crime_conventions.html))*

#### **International humanitarian law**

On 1 September 1993 Macedonia declared succession to:

- Geneva Convention 1949 for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field
- Geneva Convention 1949 for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea
- Geneva Convention 1949 relative to the Treatment of Prisoners of War
- Geneva Convention 1949 relative to the Protection of Civilian Persons in Time of War
- Protocol Additional of 1977 to the Geneva Conventions, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)
- Protocol Additional of 1977 to the Geneva Conventions, and Relating to the Protection of Victims on Non-International Armed Conflicts (Protocol II)

*(Source: International Committee of the Red Cross, [www.icrc.org](http://www.icrc.org))*

- The Statute of the International Criminal Court has been ratified by Macedonia on 6 March 2002

*(Source: International Criminal Court, [www.icc-cpi.int](http://www.icc-cpi.int))*

#### **International refugee law**

On 18 January 1994 declaration of succession to:

- Convention relating to the Status of Refugees
- Protocol Relating to the Status of Refugees

*(Source: UN High Commissioner for Refugees, [www.unhcr.org](http://www.unhcr.org))*

### **III.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.

All data given is valid as of 1 April 2006.

#### *III.1.2.1 State reporting mechanisms*

##### **UN Treaty bodies**

Generally, there is at least one monitoring instrument provided for in international UN human rights treaties: a state reporting procedure. States parties are regularly required to submit (usually 4-5 years) reports on their activities to implement the standards contained in the human rights treaty. After this the respective treaty monitoring body enters into a 'constructive dialogue' with the government, including a public meeting with a delegation of the government at the United Nations (usually in Geneva). Increasingly, the treaty bodies have started to involve also non-governmental organizations (NGOs) in the process, which frequently have prepared their own parallel/'shadow' reports on the government's performance and which may also be sent to the treaty body for additional information. After the meeting with the government the treaty body adopts a final statement (often called 'Concluding Observations'), with an assessment of both positive achievements and negative development, followed by recommendations for further follow-up by the government. Although not legally binding on the government, it is, of course, expected that a state party to such a treaty comply with the recommendations of the treaty's own monitoring body. In addition the body's statement on compliance with the respective human rights treaty is a welcome instrument of lobbying for implementation of the given recommendations.

The following overview lists the relevant treaties to which Macedonia is a state party which establish reporting obligations (including reports due in 2006). For several years significant delays in submitting due reports have been observed by the monitoring bodies; however, over the last two years major efforts have been undertaken to meet Macedonia's reporting duties (see reporting status below). Still, as a consequence of this delay, almost all of the treaty bodies' concluding statements (except the most recent CEDAW Concluding Comments of January 2006) date back to the year 2000.

## Reporting status:

UN Treaty and Report round	Report due	Report received	Report examined
<b>CESCR</b>			
Initial	30/6/1993	Submitted July 2005: E/1990/5/Add.69	Scheduled for November 2006
2nd	30/6/1998		
3rd	30/6/2003		
<b>CCPR</b>			
Initial	16/9/1992	20/3/1998 CCPR/C/74/Add.4	29/7/1998 CCPR/C/79/Add.96
2nd	1/6/2000	---	---
3rd	1/6/2005	---	---
<b>CAT</b>			
Initial	11/12/1995	27/5/1998 CAT/C/28/Add.4	30/4/1999 A/54/44, paras.106-117
2nd	11/12/1999	---	---
3rd	11/12/2003	---	---
<b>CRC</b>			
Initial	16/9/1993	4/3/1997 CRC/C/8/Add.36	17/1/2000 CRC/C/15/Add.118
2nd	16/9/1998	---	---
3rd	16/9/2003	---	---
<b>OP Armed conflict</b>			
Initial	12/2/2006	---	---
<b>OP Sale of children</b>			
Initial	17/11/2005	---	---
<b>CEDAW</b>			
Initial	17/2/1995	27/5/2004 CEDAW/C/MKD/ 1-3 (combined)	25/1/2006 CEDAW/C/MKD/CO/3
2nd	17/2/1999		
3rd	17/2/2003		
<b>CERD</b>			
Initial	17/9/1992	25/2/1997 CERD/270/Add.2 (combined)	11/8/1997 CERD/C/304/Add.38
2nd	17/9/1994		
3rd	17/9/1996		
4th	17/9/1998	13/1/2006 CERD/C/MKD/7 (combined)	Scheduled for 2007
5th	17/9/2000		
6th	17/9/2002		
7th	17/9/2004		
8th	(17/9/2006)		

Sources: OHCHR Country Profile (July 2004), OHCHR website, Bayefski.com

Notes: Only the final day of an examination of a report is included in the list; all references are those to UN Document numbers.

### Overview of recommendations in relation to UN human rights treaties:

Sources: OHCHR website (Treaty bodies, UN Commission on Human Rights' Special procedures), [www.ohchr.org](http://www.ohchr.org)

Note: the following grouping of rights follows roughly the same order as in chapter IV along with the MDGs.

#### Right to work

- CRC Committee, 2000:
  - Protection from child labour, economic exploitation – enforce schooling obligations – [ratify ILO 138/182]
- CEDAW Committee, 2006:
  - Employment and women's entrepreneurship to be supported (include section in next report 2011)

#### Right to education

- CERD Committee, 1997:
  - Incorporate CERD in school curricula against racial discrimination

- CRC Committee, 2000:
  - Increase enrolment of minority children in primary and secondary education, particularly of girls, Roma children; address high drop-out rates
  - Increase higher education among minorities, raise quality in minority language schools, review allocation of financial resources
  - Integrate children with disabilities into education and recreation programmes, improve physical access to buildings, including schools, review facilities

#### Right to health

- CRC Committee, 2000:
  - Adequate health education for mothers
  - Adolescent health: data collection, reproductive health education, counselling for HIV/AIDS, STDs, pregnancy among girls, abortion
  - Access for children to health care services from all regions; review cost-sharing policies for adolescents

- Continue prevention and monitoring on HIV/AIDS
- Seek technical assistance from WHO (adolescent health, HIV/AIDS)
- CEDAW Committee, 2006:
  - Access to contraceptives – less use of abortion as a method of birth control

#### Civil and political rights, access to justice

- CERD Committee, 1997:
  - Request for additional information on the role of the justice system in eliminating racial discrimination
- Human Rights Committee, 1998:
  - Investigate abuse of police authority, ill treatment, use of excessive force (against ethnic minorities), practice of enforced attendance of ‘informative talks’; provide training
  - Lack of access to information/foreign print media
- CAT Committee, 1999:
  - No torture definition in Criminal Law
  - Investigate complaints of maltreatment, particularly in relation to ethnic minorities
  - Comply fully with principle of *non-refoulement* of refugees during border crises
- CRC Committee, 2000:
  - Support child participation
- CEDAW Committee, 2006:
  - Gender-sensitive approach in asylum procedures

#### Rights of the child

- CRC Committee, 2000:
  - Lack of coordination mechanism in implementation; Action Plan missing
  - Disseminate CRC, mainstream best interests principle in legislation and administration
  - Protect children from negative effects of poor economy – reflect child focus in budget priorities – focus on poor families, particularly in difficult regions
  - Review system of ‘three-child policy’/limitations to access to social service benefits
  - Alternative care: strengthen foster care and review legislation for allowing judicial review, more resources for Centres for Social Work
  - End corporal punishment, particularly in schools, support awareness-raising among parents, provide training for police, staff of Centres for Social Work for identifying child abuse, domestic violence
  - Reform juvenile justice system – detention only as a last resort, focus on reintegration
  - Monitor drug abuse
  - Support NGOs
  - Seek technical assistance from UNICEF (mainstreaming, training, disabilities, health, education, minorities)

#### Rights of women

- Human Rights Committee, 1998:
  - Lack of equality between men and women, particularly in employment, education
  - Concerted action of authorities to reduce domestic violence against women
- CEDAW Committee, 2006:

- Ratify the Migrant Workers Convention 1990
- Report on MDG implementation in next report 2011
- Disseminate CEDAW, Concluding Comments
- Adopt comprehensive Law on Equal Opportunities
- Lack of definition of discrimination
- Adopt special temporary measures
- Local gender equality committees in all municipalities, with adequate powers and visibility
- Training for lawyers, judges for complaints and capacity-building for women to claim rights
- Change stereotypes in family, education, media, rural areas
- Implement National Programme against trafficking
- Suppress exploitation of prostitution
- Address violence against women, including in family and shelter
- Increase political participation in elected and appointed bodies and internationally
- Eliminate discrimination against rural women, ethnic minority women/Albanian and Roma (include section in next report 2011)

#### Rights of minorities

- CERD Committee, 1997:
  - Better educational and cultural opportunities for Albanian minority
- Human Rights Committee, 1998:
  - Increase number of Albanians and other minorities in public life, including in civil service, army, police; Roma population as a “matter of particular concern”
  - Minority participation in educational system, teacher training in minority languages
- CRC Committee, 2000:
  - More teaching of Macedonian in minority language schools for better participation
  - Increase higher education among minorities, raise educational quality particularly in minority language schools, review allocation of financial resources
  - Vocational training, personal development, interethnic tolerance with stronger emphasis in school curricula

#### Council of Europe state reporting

On the European level, and compared to the UN system state reporting does not rank that prominently in human rights monitoring, because the key human rights instrument here is the European Convention on Human Rights with its Strasbourg-based Court and the corresponding complaint procedures. Still, both other major CoE documents ratified by Macedonia, the European Social Charter 1961 and the Framework Convention on National Minorities (FCNM) 1995, contain reporting obligations for the States parties.

Differing, however, from the rather clear UN reporting procedures, the CoE system is less streamlined and involves more bodies. Concerning the European Social Charter, its expert monitoring body, the European Committee

of Social Rights (ESCR) receives – on an annual basis – state reports; after considering the report, the Committee adopts ‘Conclusions’ on ESC compliance; furthermore, a ‘Governmental Committee’ of representatives of States parties and social partners follows-up on the Conclusions and may, finally, propose to the CoE’s Committee of Ministers to adopt recommendations to that State party. In the case of Macedonia, the first state report under ESC will be due only in 2007, so, there is not as yet any statement by the European Committee of Social Rights in this regard.

#### Reporting status:

Treaty and Report cycle	Report due	Report received	Report examined
ESC			
Initial	(June 2007)		
FCNM			
Initial	01/02/1999	23/09/2003 ACFC/SR(2003)002	Opinion of Advisory Committee adopted: 27/05/2004 ACFC/INF/OP/I(2005)001  Resolution of Committee of Ministers adopted: 15/06/2005 ResCMN(2005)4
2nd	01/02/2004	---	---

Sources: Council of Europe European Social Charter website, [www.coe.int/t/e/human\\_rights/esc/](http://www.coe.int/t/e/human_rights/esc/)  
Council of Europe National Minorities website, [www.coe.int/t/e/human\\_rights/minorities/](http://www.coe.int/t/e/human_rights/minorities/)

#### Overview of recommendations in relation to Council of Europe treaties:

In relation to the Framework Convention on National Minorities (FCNM) 1995

- Committee of Ministers (Resolution Res CMN (2005) 4, of 15 June 2005):
  - Important constitutional and legislative reforms in accordance with the Ohrid Framework to be further pursued, particularly in relation to minority languages (including of “numerically smaller minorities” than the major ethnic groups)
  - Strengthen teaching in minority languages, particularly for Turkish, Albanian communities
  - Review legislation in order to allow for private primary education
  - Improve situation of Roma in employment, housing, health care, education and adopt new National Strategy
  - Strengthen cultural rights, including Vlach minority
  - Establish regular consultations with ethnic groups
- Additional areas addressed by the Opinion of the Advisory Committee (ACFC/INF/OP/I(2005)001, of 27 May 2004):
  - Stronger focus on smaller minority groups
  - Respect distinct identity of the Egyptian community
  - Resolve citizenship issues with Roma and Albanians

As far as the FCNM is concerned, a slightly different procedure has been established: here, States parties are required to submit regularly reports (every five years, after the first report) to an expert Advisory Committee; the Committee adopts ‘Opinions’ on state compliance, which are then further discussed at the CoE Committee of Ministers, which takes the final ‘Conclusions’ with recommendations to the State. Macedonia has already completed the first cycle of this reporting process, with the second report already due since 2004.

- Stronger protection of rights of refugee/displaced groups
- Promote peaceful interethnic relations on central and local authority level
- Address cases of ill-treatment of persons belonging to minorities by law enforcement officials
- Improve access to media and broadcasting in minority languages
- Address high drop-out rates of Roma pupils, of members of the Turkish and Albanian communities, provide adequate textbooks and material
- Strengthen structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education
- Stronger representation of minorities in public administration, judiciary
- Allow for greater participation of minorities in the decentralization process

#### III.1.2.2 Complaint mechanisms

Another important instrument of monitoring compliance with human rights standards can be found in complaint procedures. Initially provided in some UN and CoE treaties as both individual complaints and complaints of a State party against another State party, the latter has assumed rather limited practical relevance due to its political implications.

The (first) Optional Protocol to CCPR (in relation to alleged violations of the CCPR) as well as the Convention on

the Elimination of All Forms of Racial Discrimination, the Convention Against Torture, and – since 1999 – the Convention on the Elimination of All Forms of Discrimination against Women do all offer such individual complaint instruments. Macedonia has ratified all the necessary respective Protocols or officially declared its acceptance of such competence by the treaty bodies; as a consequence, any person alleging a violation of the rights protected by the respective treaties, and after exhausting all reasonably available domestic remedies, may lodge a complaint before the treaty body concerned to initiate a review of his/her allegation against the State party. So far, however, no such decision by a UN treaty body has been taken in relation to Macedonia.

The leading complaint mechanism today is, however, the ‘Strasbourg procedure’ provided under the European Convention of Human Rights. Article 34 allows for the

European Court of Human Rights to “receive applications from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto”.

Since its entry into force for Macedonia on the 10 April 1997, several hundred applications (2003: 148, 2004: 148, 2005: 234, see the Court website at: [www.echr.coe.int/ECHR](http://www.echr.coe.int/ECHR)) have been lodged with the European Court of Human Rights; however, altogether, only five judgements (four of them finding violations at least in part) have been passed so far in relation to Macedonia, with four additional admissibility decisions and one friendly settlement published (see table below, as of 1 April 2006). Substantially the decisions had to deal with alleged violations of Articles 3 (*non-refoulement*), 6 (length of proceedings and other fair trial standards), 10

Case	Appl. No.	Published	Decision	Alleged violation and findings
Atanasovic and Others v. FYROM	13886/02	22/12/2005	Judgement	Article 6/1 – yes: unreasonable length of enforcement proceedings (6 years) Article 13 – yes: no effective domestic remedy Article 14 – no: no discrimination as creditors
Dumanovski v. FYROM	13898/02	8/12/2005	Judgement	Article 6/1 – yes: unreasonable length of proceedings (4,5 years) Article 1 of Protocol 1 – no: no denial of right to the peaceful enjoyment of possessions (calculation of unemployment benefits)
Berisha and Haljiti v. FYROM	18670/03	16/6/2005	Admissibility decision	Article 3 – manifestly ill-founded: no non-refoulement protection Article 4 of Protocol 4 – manifestly ill-founded: no collective expulsion of spouses Article 13 – manifestly ill-founded: not applicable due to lack of arguable claim Article 6/ and /3 – adjourned for lack of information
Djidrovski v. FYROM	46447/99	24/2/2005	Judgement	Article 1 of Protocol 1 – yes: unjustified interference with peaceful enjoyment of possessions (conditions for purchase of apartment) Article 14 – further examination “not necessary”
Veselinski v. FYROM	45658/99	24/2/2005	Judgement	Article 1 of Protocol 1 – yes: unjustified interference with peaceful enjoyment of possessions (conditions for purchase of apartment) Article 14 – further examination “not necessary”
Boškoski v. FYROM	11676/04	2/9/2004	Admissibility decision	Article 3 of Protocol 1 – incompatible <i>ratione materiae</i> : right to stand for presidential election is not applicable (no ‘legislature’) Article 6 – incompatible <i>ratione materiae</i> : political right not covered by Article 6
Janeva v. FYROM	58185/00	3/10/2002	Friendly settlement	Article 6/1 for length/unfairness of civil proceedings (dismissal from work)
Trajkovski v. FYROM	53320/99	7/3/2002	Admissibility decision	Article 1 of Protocol 1 – manifestly ill-founded: no denial of right to the peaceful enjoyment of possessions (restrictions on withdrawal of funds from foreign currency saving accounts)
Solakov v. FYROM	47023/99	31/10/2001	Judgement	Article 6/1 and 6/3(d) – no: no unfair trial by court’s refusal to summon two additional witnesses
Osmani and Others v. FYROM	50841/99	11/10/2001	Admissibility decision	Articles 10 and 11 – manifestly ill-founded: freedom of expression and of peaceful assembly not violated by conviction to prison for stirring up national hatred as a public official (mayor)

and 11 (freedom of expression and of peaceful assembly), 13 (effective remedy) and Article 1 of Protocol 1 (right to peaceful enjoyment of property).

### *III.1.2.3 Inquiry procedures*

Another quite strong monitoring mechanism concerns the initiation of an inquiry through an international treaty body. Under the 1999 Optional Protocol to CEDAW, “if the Committee receives reliable information indicating grave or systematic violations by a State party of rights set forth in the Convention, the Committee shall invite that State party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned” and it may then “designate one or more of its members to conduct an inquiry and to report urgently to the Committee”. With the consent of the State party, this may also include on-site visits in the country (Article 8). Macedonia has ratified this Optional Protocol; so far only one inquiry (to Mexico) has taken place.

The new 2002 Optional Protocol to CAT establishes a visiting system of any places, where persons are held deprived of their liberty (any place of detention, imprisonment, placement without the possibility to leave). Here, the focus lies less on fact-finding but more on prevention of maltreatment which might occur in circumstances of such closed settings – very similar to the preventive visiting system established under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 1987. Here, the Committee for the Prevention of Torture (CPT) has the right to visit sites, where people are being deprived of their liberty by a public authority. The CPT then prepares a confidential report to the government with recommendations, which may be published only upon the government’s request. Macedonia has ratified the latter European Convention, but not yet the Optional Protocol to CAT.

Since 1998 Macedonia has been visited by the CPT five times (1998, 2001, July 2002, November 2002, July 2004 – see the CPT website: [www.cpt.coe.int](http://www.cpt.coe.int)), with a sixth visit generally announced for 2006. The last visit in 2004 broadly focused on the treatment of persons deprived of their liberty by law enforcement agencies, issues of accountability and the situation in remand prisons; the report of that visit has not yet been made public.

### *III.1.2.4 Non-treaty related monitoring*

Both the United Nations and European institutions have established a further wide variety of monitoring instruments not directly mandated by a human rights treaty. Still based, however, on the UN Charter 1945 some UN organs, for instance, have started monitoring processes through fact-finding and reporting procedures. Dozens of working groups, independent experts, Special Representatives and Rapporteurs of the UN Commission on Human Rights or the UN Secretary-General have been established with either a thematic mandate (e.g. on torture, education, violence against women) or on specific countries (see [www.ohchr.org/english/bodies/chr/special/index.htm](http://www.ohchr.org/english/bodies/chr/special/index.htm) for a list of those special procedures). In the course of their actions they may conduct also visits to countries (upon consent of the government concerned) to establish a dialogue with

governments and civil society alike and report afterwards on their finding to the respective UN bodies.

Macedonia has issued a general ‘standing invitation’ to all thematic mechanisms to visit its country. Over the last years some of these experts have actually undertaken missions to Macedonia: in 1999 the Special Representative of the Secretary-General on children and armed conflict visited Kosovo refugee children in Macedonia and Albania. In his report, he called for protection of those children from sexual exploitation and provision of trauma counselling and educational opportunities (Report to the General Assembly A/54/430 (1999)). The Special Representative of the Secretary-General on Human Rights Defenders arrived in Macedonia in 2004 (Report contained in UN Doc. E/CN.4/2004/94/Add.2). Among other concerns, she urged increase of support for the work of NGOs, long-term strategies for donor assistance and strengthening of the independence of the judiciary. Macedonia has also been included recently in the annual reports of the UN Commission’s Special Rapporteur on freedom of religion (2005, concerning the 2004 arrest of a Serbian Orthodox Archbishop, UN Doc. E/CN.4/2005/61/Add.1) and on arbitrary executions (2005, concerning two communications sent by the Rapporteur to the Government in relation to death threats against a journalist investigating corruption cases, UN Doc. E/CN.4/2005/7/Add.1).

Apart from these monitoring mechanisms, several UN organizations and institutions have offered technical assistance to Macedonia, including UNDP, the Office of the UN High Commissioner for Human Rights, UNICEF, WHO, UNHCR and the World Bank (see for an overview of organizations including links to various publications on Macedonia: [www.un.org.mk](http://www.un.org.mk)). They offer and support valuable capacity-building, monitoring and reporting activities, often facilitated through field offices in Macedonia.

On the European organizational level, mention should be made here also of the Council of Europe’s European Commission against Racism and Intolerance (ECRI). As an independent expert body ECRI regularly publishes also country-specific reports, with the latest (third) on Macedonia in June 2004 (CRI (2005) 4, see [www.coe.int/ecri](http://www.coe.int/ecri)). In this report ECRI welcomed legislative steps for implementing the Ohrid Framework Agreement, while noting in practice still increasing separation between ethnic communities. In these recommendations it thus focuses on an educational system, which positively supports the studying together of different ethnicities and provides adequate language training. Furthermore ECRI called for measures to improve the situation of Roma “in all fields of life”.

Finally, the OSCE plays an important role for monitoring human rights protection in Macedonia. The OSCE High Commissioner on National Minorities has visited Macedonia several times during the 1990s (1993, 1994, 1995, and 1997) and published reports on his findings (see the High Commissioner’s website: [www.osce.org/hcnm/](http://www.osce.org/hcnm/)). The OSCE Spillover Monitor Mission in Skopje helped contain the outbreak of further violence in the context of the Kosovo crisis (see [www.osce.org/skopje/](http://www.osce.org/skopje/)). In addition it carries out activities in areas such as police training, election monitoring, anti-trafficking cooperation, support to institutions of local self-government and promotion of interethnic relations.



## III.2 National level

### III.2.1 Overview of Constitutional provisions on human rights

**Constitution of the Republic of Macedonia: (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 are 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 are published in the Official Gazette of the Republic of Macedonia No. 91/2003)**

- 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

### III.2.2 Incorporation of international law into Macedonian domestic law

The Republic of Macedonia is a party to numerous international human rights conventions of the United Nations and of the European Council, including the

control mechanisms established for application of the provisions. The Republic of Macedonia inherited most of the instruments of the UN by succession from the former federation (SFRY), on the basis of Article 5 from the Constitutional Law for implementation of the Constitution of the Republic of Macedonia (*Official Gazette of the Republic of Macedonia Nos. 52/91 and 04/92*), and there is a decision of the Government of the Republic of Macedonia on this, dated from 20 September 1993 (*Official Gazette of the Republic of Macedonia No. 57/93*).

In the legal system of the Republic of Macedonia, the issue of the relation between the domestic and international law is a constitutional-legislative matter and is determined according to the monistic theory. 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.

### III.2.3 Structures for protection and monitoring of human rights

#### Protection of constitutional guarantees of basic freedoms and rights

##### Article 50

Every citizen may invoke the protection of freedoms and rights determined by the Constitution before the courts, as well as before the Constitutional Court of the Republic of Macedonia, in a procedure based upon the principles of priority and urgency.

Judicial protection of the legality of individual acts of state administration, as well as of other institutions carrying out public mandates, is guaranteed.

A citizen has the right to be informed of the human rights and basic freedoms as well as to contribute actively, individually or jointly with others, to their promotion and protection.

**Article 51**

Laws in the Republic of Macedonia shall be in accordance with the Constitution, whilst all other pieces of regulations shall be consistent with the Constitution and the law.

Everyone is obliged to respect the Constitution and the laws.

**Article 52**

Laws and other regulations are published before they enter into force.

Laws and other regulation are published in the *Official Gazette of the Republic of Macedonia* within not later than seven days after the date of passage.

Laws enter into force not earlier than on the eighth day following the date of publication, or in exceptional cases determined by the Assembly, on the date of publication.

Laws and other regulation may not have a retroactive effect, except in cases when this is more favourable for the citizens.

**Article 53**

Attorneyship is an autonomous and independent public service, providing legal assistance and performing public mandates in accordance with the law.

**Article 54**

The freedoms and rights of the individual and citizen can be restricted only in cases determined by the Constitution.

The freedoms and rights of the individual and citizen may be restricted during states of war or emergency, in accordance with the provisions of the Constitution.

The restriction of freedoms and rights may not be discriminatory on grounds of gender, race, colour of skin, language, religion, national or social origin, property or social status.

The restriction of freedoms and rights shall not apply to the right to life, the interdiction of torture, inhuman and humiliating conduct and punishment, the legal determination of punishable offences and sentences, as well as to the freedom of conviction, conscience, opinion, public expression of opinion and religious confession.

### *III.2.3.1 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 the citizens on grounds of gender, race, religious, national, social and political affiliation. With this instrument, called Constitutional Lawsuit, the Constitutional Court has to date reviewed nearly eighty appeals concerning violations 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 on many occasions repealed provisions of laws and other regulation which constituted violations of civil rights and freedoms guaranteed by the Constitution.

**Initiation of a procedure**

*From the Journal of the Constitutional Court of the Republic of Macedonia, Articles 12, 13, 14 and 15*

“The procedure of assessment of the constitutionality of a given law and the constitutionality and legality of a regulation or another universal act is initiated by a decision of the Constitutional Court in response to an application. Everyone may file an application for initiation of a procedure for reassessment of the constitutionality of a law and the constitutionality and legality of a regulation or another universal act. The applicant and the party that has issued the act challenged are participants in the procedure before the Constitutional Court.

“The Constitutional Court may initiate a procedure for assessing the constitutionality of a law and the constitutionality and legality of a regulation or another universal act when it finds it to be appropriate. When determining the constitutionality of a law, and the constitutionality and legality of a regulation or another universal act, the Constitutional Court has the liberty to assess the constitutionality and legality of the regulations in the provision or the other universal act, which have not been challenged in the application.”

**Form of application**

The applications with the Constitutional Court are filed in writing and in two copies. The application for initiation of a procedure for assessing the constitutionality of a law and the constitutionality and legality of a regulation or another universal act contains:

- Specification of the law, regulation or universal act or provisions challenged;
- Reasons for the challenge;
- Provisions from the Constitution or the law of which the act is in breach; and
- The name, title and location of the applicant.

### *III.2.3.2 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 judgements are public. The public may be excluded in cases determined by law.

#### Structure of the judicial system:

1. Supreme Court
2. Appellate Courts (Skopje, Bitola and Stip)
3. Courts of first instance

#### 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 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) *<missing bracket>*.

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.

#### III.2.3.3 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.

### III.2.3.4 Ombudsman

The Constitution of the Republic of Macedonia also includes the institution 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 Ombuds-

man 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. *(revise transliteration?)*

### III.2.3.5 Select committee of the Assembly of the Republic of Macedonia for protection of the civil freedoms and rights

The Committee looks into the issues regarding:

- general issues, suggestions and opinions regarding the implementation of the provisions of the Constitution, laws and other regulations and acts of significance for the implementation and protection of the freedoms and rights of the citizen;
- indicating a need for enacting laws and other regulations and acts for a more comprehensive protection of the freedoms and rights of citizens;
- monitoring, assessment and analysis of the implementation of the ratified international acts which regulate the protection of freedoms and rights of citizens;
- looking into the petitions filed by the citizens and defining positions in this respect;
- cooperating with scientific and expert organizations from the field of protection of the freedoms and rights of citizens;
- cooperation with certain foreign and international agencies from the field of protection of the freedoms

and rights of citizens and other issues regarding the protection of the freedoms and rights of citizens.

- The Commission may not perform investigative or other judicial functions.

The findings of the Commission are the basis for initiation of a procedure for determining the liability of the public office holders.

### *III.2.3.6. Local-Self Government and human rights protection*

Decentralization is a process that aims to enable the citizens, either directly or indirectly, to be more involved in the decision-making in a wider number of areas. Macedonia, upon adopting the Law on Local Self-Government in 2002, commenced this rather difficult process of transferring

responsibilities from the national to the local/municipal level.

The municipality may effect monitoring and protection of human rights through the following forms:

- Municipal Committee for Gender Equality (this body is responsible for gender equality on the municipal level. This body is not established in all municipalities);
- In addition to the State Educational Inspectorate there are also authorized educational inspectors at the municipal level. The decision on whether there is an authorized educational inspector designated at the municipal level is made by the Mayor;
- For the purpose of measurement and monitoring of the ambient air quality in settlements and industrial areas, municipalities and the City of Skopje, upon prior consent by the competent authority for performance of professional matters in the area of environment may establish local networks.

### III.3 Checklist of general key questions

The following general questions should help in identifying crucial issues to be addressed in the application of the human rights legal framework in Macedonia. They should not be seen as exhaustive, but rather a first step in an assessment. Most of these questions will not be answerable by a simple yes/no, but require further consideration and possible additional research; in addition, these questions are not intended to replace other checklists and tools available (including those developed by BIM) nor to be used in isolation of them.

*See also the specific MDG/rights-focused questions in chapter IV.*

- In the national development planning process, at which stages at the local level are human rights standards being made explicit and visible,
  - planning stage?
  - implementation stage?
  - monitoring and evaluation stage?
- Have there been any public commitments on human rights protection, in areas such as
  - right to an adequate standard of living?
  - right to work and fair working conditions?
  - right to social security?
  - right to education?
  - right to health, including HIV/AIDS and tuberculosis?
  - rights of children and adolescents?
  - rights of women?
- Have there been such statements made by all relevant local stakeholders, including the
  - Mayor?
  - Municipal council?
  - representatives of the private sector?
  - representatives of the social sector?
  - civil society groups, including the media?
  - What is the role of the judiciary in the process?
  - What is the role of law enforcement agencies in the process?
- How is coordination of different levels (local, regional, central) of administration and government working?
- How is it ensured in relation to key institutions for human rights protection, such as gender equality committees, Ombudsperson, Centres for Social Work, NGOs as well as in relation to international organizations present?
- Has the existing system of laws and regulations been checked for compatibility with international and constitutional standards and adapted accordingly, if needed?
- How is meaningful participation of the following groups being ensured in the national development process (including access to information, translation services, etc.), including for
  - Women?
  - Children?
  - Minority groups?
  - Roma people?
  - Persons living in remote areas of Macedonia?
  - People living in poverty?
  - Refugees and displaced persons?
  - People with disabilities?
- Has the impact of the existing interethnic relations on the planning process been established?
- Have any capacity-building needs in relation to human rights protection been identified?
- What monitoring and feedback mechanisms have been developed to assess progress of the process?
- Are there any structures missing, which would be helpful in the process, e.g. for information exchange, social and community life, lobbying, networking with other municipalities, partners outside the country?

# IV. 'MILLENNIUM DEVELOPMENT RIGHTS'

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

### IV.1.1 Overview

#### Macedonia MDG 1

**Target:** Reduce the proportion of the population living below the poverty line to 9.5 percent by 2015

#### Indicators:

- Poverty incidence
- Poverty depth
- Regional disparities
- Gini coefficient/index (EU Laeken indicator)
- Profiles of poverty - rates of poverty levels for the poor households facing highest risks
- People living in jobless households (EU Laeken indicator)
- Rates of poverty depth
- Long-term unemployment rate, more than 12 months as a % of the active population (EU Laeken indicator)
- Long-term unemployment share, more than 12 months as a % of unemployed (EU Laeken indicator)
- Very long-term unemployment, over 24 months (EU Laeken indicator)
- Social assistance beneficiaries
- Life expectancy at birth (EU Laeken indicator)

#### Key human rights

- Right to an adequate standard of living, including right to food, water, clothing, housing and the right to appear in public without shame
- Right to decent work
- Right to social security
- Child rights protection as a primary consideration
- Non-discrimination for women and affirmative action
- Non-discrimination for minorities and affirmative action

#### Key human rights instruments

- Universal Declaration of Human Rights 1948: Articles 12, 23, 24, 25, 27
- UN International Covenant on Economic, Social and Cultural Rights (CESCR) 1966: Articles 6, 7, 8, 9, 10, 11, 15
- UN International Covenant on Civil and Political Rights (ICCPR) 1966: Articles 10, 17, 22, 24

- UN Convention on the Rights of the Child (CRC) 1989: Articles 16, 19, 23, 24, 26, 27, 31, 32, 37, 39, 40; 2, 3, 4, 5, 6, 12, 18, 20
- UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979: Articles 11, 13, 14, 16; 3, 4
- UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1965: Articles 5; 1, 2
- CoE European Social Charter (ESC) 1961: Articles 1, 2, 5, 6, 7, 8, 12, 13, 15, 17
- CoE Framework Convention for the Protection of National Minorities (FCNM) 1995: Articles 4, 15
- ILO Convention No. 29 concerning Forced or Compulsory Labour 1930
- ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize 1948
- ILO Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively 1949
- ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value 1951
- ILO Convention No. 105 concerning the Abolition of Forced Labour 1957
- ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation 1958
- ILO Convention No. 138 concerning Minimum Age for Admission to Employment 1973
- ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour 1999

#### Further relevant non-treaty standards and goals for implementation (including follow-up processes)

- Johannesburg Declaration on Sustainable Development, World Summit on Sustainable Development, 2002
- A World Fit for Children, UN General Assembly Special Session on Children, New York 2002
- Monterrey Consensus, International Conference on Financing for Development, 2002
- Rome Declaration, World Food Security and World Food Summit Plan of Action, 1996

- Istanbul Declaration on Human Settlements, Second UN Conference on Human Settlements (HABITAT II), 1996
- Beijing Declaration and Platform for Action, Fourth World Conference on Women, 1995
- Copenhagen Declaration and Programme of Action, World Summit for Social Development, 1995
- Cairo Programme of Action of the International Conference on Population and Development, 1994
- UN Declaration on the Right to Development 1986

#### Further references for interpretation

- CESCR Committee General Comments 4 and 7 (housing, forced evictions), 12 (food), 15 (water), 18 (work)
- ICCPR Human Rights Committee: General Comments 9 (humane treatment of persons deprived of their liberty), 16 (privacy)
- CRC Committee; Recommendations of Days of General Discussions 1993 (economic exploitation), 2002 (private sector), 2004 (early childhood)
- CEDAW Committee: General Recommendations 13 (equal remuneration), 16 (unpaid family workers), 17 (domestic activities of women)

- CERD Committee: General recommendation 27 (discrimination against Roma)
- Opinion of the FCNM Advisory Committee on Macedonia, May 2004 and Resolution of the CoE Council of Ministers on Macedonia, June 2005
- Reports of the Special Rapporteur of the UN Commission on Human Rights on adequate housing as a component of the right to an adequate standard of living
- Reports of the Independent Expert of the UN Commission on Human Rights on the question of human rights and extreme poverty
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the right to food
- Digest of the case law of the European Committee of Social Rights, CoE Committee Secretariat, March 2005
- Third report on Macedonia of the CoE European Commission against Racism and Intolerance, June 2004
- Reports of the OSCE High Commissioner on National Minorities regarding visits to Macedonia to the former Yugoslav Republic of Macedonia

## DRAFT GUIDELINES ON A HUMAN RIGHTS APPROACH TO POVERTY REDUCTION STRATEGIES

(Excerpts from Guidelines 6-15, 'key targets and indicators')

### Guideline 6: RIGHT TO ADEQUATE FOOD

- **Target 1:** All people to be free from chronic hunger

#### Indicators:

- Proportion of people with inadequate intake of dietary energy
- Proportion of adults and adolescents with low body mass
- Proportion of underweight among under-five children

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

#### Indicators:

- Proportion of males and females with inadequate intake of dietary energy
- Proportion of male and female adults and adolescents with low body mass
- Proportion of underweight boys and girls

- **Target 3:** All people to be free from food insecurity

#### Indicators:

- Proportion of households not able to have two square meals regularly
- Proportion of household expenditure on food
- Variability of prices of staple foods

- **Target 4:** All people to have access to food of adequate nutritional value

#### Indicators:

- Proportion of poor people with inadequate intake of protein
- Proportion of poor people with inadequate intake of micronutrients

- **Target 5:** All people to have access to safe food

#### Indicators:

- Proportion of poor people vulnerable to consumption of unsafe food
- Proportion of people exposed to public information and education campaigns (including school instruction) regarding nutrition and food safety

### Guideline 10: RIGHT TO ADEQUATE HOUSING

- **Target 1:** All people to have a home

#### Indicators:

- Proportion of homeless people in the overall population
- Number of homeless shelter beds per homeless person



- **Target 2:** All people to enjoy security of tenure  
**Indicators:** Proportion of people in the overall population:
  - With legal title (e.g. freehold, leasehold, collective tenure) to their homes
  - With statutory or other (e.g. common law) legal due process protections with respect to eviction
  - Living in informal settlements
  - Squatting
  - Forcibly evicted within a given period
- **Target 3:** All people to enjoy habitable housing  
**Indicator:** Average number of square metres per poor person or poor household
- **Target 4:** All people to enjoy housing situated in a safe and healthy location  
**Indicator:** Proportion of poor households within 5 kilometres of a hazardous site (e.g. toxic waste, garbage dump)
- **Target 5:** All people able to afford adequate housing  
**Indicator:** Monthly housing expenditure by median poor household as a proportion of its monthly income
- **Target 6:** Adequate housing physically accessible to all  
**Indicator:** Proportion of multi-unit residential buildings occupied by the poor that are accessible to persons with physical disabilities
- **Target 7:** All people to enjoy housing with access to essential services, materials, facilities and infrastructure  
**Indicators:**
  - Proportion of households with:
    - Drinking water
    - Sanitation facilities
    - All-weather roads
    - Electricity

#### **Guideline 12: RIGHT TO APPEAR IN PUBLIC WITHOUT SHAME**

- **Target 1:** Ability of poor people to appear in public without shame  
**Indicators:**
  - Proportion of poor people who feel that they lack adequate clothing
  - Proportion of poor people who are socially excluded
  - Proportion of poor people who fear being discriminated against or dishonoured when taking part in cultural life

#### **Guideline 9: RIGHT TO DECENT WORK**

- **Target 1:** Full employment  
**Indicators:**
  - Rate of unemployment
  - Rate of underemployment
- **Target 2:** All workers to be able to earn a minimum necessary income  
**Indicators:**
  - Proportion of working poor (working but earning less than poverty-line income) in the labour force
  - Proportion of labour force covered by minimum wage legislation
- **Target 3:** All workers to receive reasonable financial support during spells of unemployment  
**Indicator:** Proportion of labour force covered by adequate social security provisions
- **Target 4:** To eliminate gender inequality in access to work  
**Indicator:** Female and male labour force participation rates
- **Target 5:** To eliminate gender inequality in remuneration for work  
**Indicators:**
  - Average wages of males and females in different economic sectors
  - Proportion of working poor in labour force disaggregated by gender
- **Target 6:** To eliminate child labour  
**Indicators:**
  - Labour force participation rate of children under the age of 15
  - Prevalence of the worst forms of child labour (in the sense of ILO Convention No.182)
- **Target 7:** To eliminate bonded labour  
**Indicator:**
  - Proportion of bonded labourers in the workforce

## IV.1.2 International Legal Framework

### IV.1.2.1 Relevant Human Rights Treaty Provisions

(Summarized only – for the full text of provisions see [reference to some Treaties compilation available in Macedonia])

#### 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/ 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/guardians 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/guardians 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 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/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/guardians 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/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/guardians 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/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/guardians 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 minimal age 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; 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 on the 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 for parents, including child-care services and alternative care for children outside their families – Articles 5, 18 and 20

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

– Special protection and assistance for children and families free from all discrimination – Article 10

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

– Special protection and assistance without any discrimination against children – Article 24

- **CoE European Social Charter 1961**

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

– 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 – 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

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

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

– State to take special measures securing adequate advancement of certain ethnic groups, including specifically in the social and economic field – Articles 1/4 and 2/2

- **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

#### IV.1.2.2 Rights in context and international monitoring

Macedonia's government report on the MDGs provides a clear picture of current challenges in relation to MDG and related human rights implementation, considering the goals of increasing economic growth at times of high unemployment while reducing social imbalances and disparities. Households with unemployed members, low levels of education, living outside Skopje in some mountainous areas, belonging to ethnic minorities are among those most affected. Accordingly the Government defined labour market, reform of the social transfer system, education and local development as some of its key areas for action.

Starting from this assessment, MDG 1 evidently calls for comprehensive and systematic actions. It is also clear that implementation of MDG 1 is closely linked to basically all other MDGs, be it education, health, gender equality or healthy environment. Similarly, poverty limits the development of the individual's personal capabilities and is as such also at the core of limitations to the enjoyment of that individual's human rights. The Draft Poverty Guidelines have illustratively shown that practically the whole human right framework can be applied in efforts to reduce and end poverty. Still, it is necessary to stay focused, and, thus, the human rights listed in the preceding section are based on a selection. That is because in relation to implementation and mobilization for action, which is also the core objective of the Millennium Development Goals, it is necessary to establish certain focus areas for engagement. Consequently, in relation to MDG 1 the rights to an adequate standard of living, the right to work and the right to social security have been targeted here.

The right to an adequate standard of living is already a very broad one, but gets a clearer profile by looking at some key elements, which have been formulated as rights themselves, including the right to food, water, clothing, housing, etc. Poverty must not be defined as simply the lack of income/financial resources, but should be seen in the broader context of availability and accessibility of key resources required for a decent living environment. This goes also beyond only a basic needs for survival approach, as, for instance, the Convention on the Rights of the Child follows a slightly different path in focusing on the comprehensive physical, mental, social development of the child's personality in the context of an adequate standard of living (Article 27). Additionally, thus, in the list of relevant rights, also participation in cultural activities has been included here, which is often rather neglected in discussions of basic needs and poverty reduction.

Protecting the right to work provides one crucial mean to enable the individual to establish his/her adequate standard of living through income generation, be it as a factory worker or peasant or freelance journalist. The state's role here is not to guarantee the individual a specific job, but to provide the relevant economic and

social conditions for finding one, e.g. through services of employment agencies. In addition the state – through legislation and its enforcement – bears responsibility for maintaining high standards of safety at work and other working conditions.

Moreover, the state should establish a system of social security which would provide some assistance in case of risks, which limit the person's possibilities to earn his/her own living – be it in cases of illness, accidents, death or unemployment.

The selection of rights here, finally, also includes three recurring groups of rights, which aim to mainstream a child rights, a gender, and a minority protection perspective into implementation efforts in relation to MDG 1 and its corresponding rights. Children are basically excluded for most of their childhood and youth from earning their own income and thus particularly dependent on support, but also capabilities of adults; women are still earning lower wages than men for the same kind of work; and the unemployment rate of Roma people in Macedonia is almost 80 percent, according to the Macedonian MDG report. In order to highlight such disparities and help to integrate them consistently into any priority setting decision-making, the human rights perspectives of these three target groups have been incorporated into all eight of the MDG sections here in this document.

The following lists some key recommendations of treaty monitoring bodies towards Macedonia, focusing on those recommendations which should have an impact on implementation of MDG 1 and the rights to an adequate standard of living, to work and to social security (although some are of a rather general nature and/or only indirectly related, e.g. strengthening of institutions, development of general Action Plans), taking into account also the specific rights perspectives of children, women and national minorities.

#### Overview of recommendations by UN and CoE treaty monitoring bodies

Sources: OHCHR website (State reports, Concluding Observations/Comments), [www.ohchr.org](http://www.ohchr.org); Council of Europe website (State reports, treaty body statements), [www.coe.int](http://www.coe.int).

##### Right to work

- CRC Committee, 2000:
  - Protection from child labour, economic exploitation – enforce schooling obligations – [ratify ILO 138/182]
- CEDAW Committee, 2006:
  - Employment and women's entrepreneurship to be supported (include section in next report 2011)

##### Rights of the child

- CRC Committee, 2000:
  - Lack of coordination mechanism in implementation; Action Plan missing
  - Disseminate CRC, mainstream best interests principle in legislation and administration
  - Protect children from negative effects of poor economy – reflect child focus in budget priorities – focus on poor families, particularly in difficult regions
  - Review system of 'three-child policy'/limitations to access to social service benefits

- Alternative care: strengthen foster care and review legislation for allowing judicial review, more resources for Centres for Social Work
- End corporal punishment, particularly in schools, support awareness-raising among parents, provide training for police, staff of Centres for Social Work for identifying child abuse, domestic violence
- Reform juvenile justice system – detention only as a last resort, focus on reintegration
- Monitor drug abuse
- Support NGOs
- Seek technical assistance from UNICEF (mainstreaming, training, disabilities, health, education, minorities)

#### Rights of women

- Human Rights Committee, 1998:
  - Lack of equality between men and women, particularly in employment, education
  - Concerted action of authorities to reduce domestic violence against women
- CEDAW Committee, 2006:
  - Ratify the Migrant Workers Convention 1990
  - Report on MDG implementation in next report 2011
  - Disseminate CEDAW, Concluding Comments
  - Adopt comprehensive Law on Equal Opportunities
  - Lack of definition of discrimination
  - Adopt special temporary measures
  - Local gender equality committees in all municipalities, with adequate powers and visibility
  - Training for lawyers, judges for complaints and capacity-building for women to claim rights
  - Change stereotypes in family, education, media, rural areas
  - Implement National Programme against trafficking
  - Suppress exploitation of prostitution
  - Address violence against women, including in family and shelter
  - Increase political participation in elected and appointed bodies and internationally
  - Eliminate discrimination against rural women, ethnic minority women/Albanian and Roma (include section in next report 2011)

#### Rights of minorities

- CERD Committee, 1997:
  - Better educational and cultural opportunities for Albanian minority
- Human Rights Committee, 1998:
  - Increase number of Albanians and other minorities in public life, including in civil service, army, police; Roma population as a “matter of particular concern”
  - Minority participation in educational system, teacher training in minority languages
- CRC Committee, 2000:
  - More teaching of Macedonian in minority language schools for better participation

- Increase higher education among minorities, raise educational quality particularly in minority language schools, review allocation of financial resources
- Vocational training, personal development, interethnic tolerance with stronger emphasis in school curricula
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Strengthen structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education
  - Establish regular consultations with ethnic groups
  - Allow for greater participation of minorities in the decentralization process
  - Promote peaceful interethnic relations on central and local authority level
  - Generally, stronger focus on “numerically smaller minorities”
  - Respect distinct identity of the Egyptian community
  - Resolve citizenship issues with Roma and Albanians
  - Strengthen cultural rights of minorities, including Vlach minority
  - Improve situation of Roma in employment, housing, health care, education and adopt new National Strategy

### IV.1.3 Macedonia Domestic Legal Human Rights Framework

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

##### IV.1.3.1 Overview

#### 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 no 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 be paid daily, weekly and annual leave. Employers 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 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 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.

### KEY LEGISLATION

- Law on Records of Insured Parties and Users of Pension and Disability Insurance, *Official Gazette of the Republic of Macedonia* No. 16/04
- Law on Records in the Area of Labour, *Official Gazette of the Republic of Macedonia* No. 16/04
- Law on Pension and Disability 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 Social Protection, *Official Gazette of the Republic of Macedonia* Nos. 50/97, 16/2000, 17/2003, 28/04
- Law on Employment of Disabled Individuals, *Official Gazette of the Republic of Macedonia* Nos. 44/2000, 16/04
- 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, 4/05
- Law on Mandatory Capital-Financed Pension Insurance, *Official Gazette of the Republic of Macedonia* Nos. 16/04
- Children Protection Law, *Official Gazette of the Republic of Macedonia* Nos. 98/2000, 69/2004
- Law on Labour Relations, *Official Gazette of the Republic of Macedonia* No. 62/04

### IV.1.3.2 The Right to Work

#### 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 tasks in accordance with the instructions and under the supervision of the employer.

An employee is any physical person in an employment relation on the basis of an employment contract; an employer is a legal and/or physical entity or another entity (State administration agency, unit of local government organs, a representative office of a foreign company, diplomatic and consular office) that hires workers on the basis of an employment contract.

#### 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.

#### Employing disabled individuals:

Disabled individuals are individuals with impaired sight or hearing, impediments in their voice, speech and language, physical disability, individuals with light impediments in their psychological development, individuals with combined impediments and individuals with psychosis who, due to their degree of disability, have specific needs in their work.

Special and favourable conditions for employment and work of disabled individuals are:

- creation of conditions for work by adaptations to the working place at which the disabled individuals will work in case of a need of equipment procurement, upgrading and adapting the working space in accordance with the criteria and in the manner as defined in the act of the Minister of Labour and Social Policy;
- exemption from taxes and ensuring funds for contributions; and
- financial support for their operation.

In employing disabled individuals, employers shall create adequate conditions for work and adaptations to the working place depending on the job, type and degree of education and the type and degree of disability of the individual hired. Employed disabled individuals with

confirmed disability are exempt from paying personal income taxes. Funds for contributions for the pension and disability insurance, contributions for health insurance and for employment are ensured from the budget of the Republic of Macedonia. For the purpose of employing disabled individuals, protective companies are established as trading companies. A protective company may be established if it employs at least five individuals of whom at least 40 percent of the total number of employees is disabled and at least half of those are with confirmed disability.

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

The employer is obliged to register the employee in 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.

### **Resting of rights and obligations emerging from an employment contract**

In the event that an employee – due to serving a sentence or to an educational or protection measure issued by court – is not in a position to carry out tasks for a period shorter than six months or due to serving in the army or a paid civil service, due to detainment or in other cases as defined by law, the employment contract shall not be terminated and the employer may not withdraw from it, i.e. the employment contract rests, unless a procedure for termination of the employment contract has been initiated by the employer.

During such time as the employment contract rests, so do the contractual and other rights and the obligations in the employment relation that are directly related to carrying out of the work.

### **Objection against a decision on termination of an employment contract with a notice**

Employees have the right to submit an objection against a decision on termination of an employment contract with the managing body or the employer. In the event that no decision on the objection is reached within eight days following the date of submission of such an objection or in case the employee is not satisfied with the decision on the appeal, the latter has the right to initiate litigation before the competent court.

Upon a request of an employee, the union may represent the employee in litigation.

In the event that the court determines by an effective ruling that the employment contract was unrightfully terminated, the employee has the right to return to work, if so requested by him/her. In addition to returning the employee to work, the employer shall also pay out compensation to the amount of 70 percent of the lost earnings, in accordance

with the law, collective agreements and the employment contract, and shall also pay the contributions for the mandatory social insurance.

Employees disputing a decision of termination of their employment contract may request that the court return them temporarily to work, until such time as the dispute is completed.

In the event that the court determines by an effective ruling that the employment contract was terminated by the employer against the law and it is unacceptable for the employee to remain employed, the court may – at the request of the employee – determine the date of termination of the employment contract and order the employer to pay compensation for damage to the employee to an amount of no less than three and no more than 12 average monthly salaries paid in the preceding 12 months, depending on the duration of the employment, age, social position and obligations of the employee to support others.

In the event that of termination of the employment contract for business reasons (technological, economic, organizational, etc.), the employer shall pay the employee severance payment.

### **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 borne 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 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 by the employer;
- Compensation for injuries at work suffered by the employee and any work-related illnesses; 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 at 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.

### Labour inspection and supervision

The state administration agency in charge of labour inspection carries out supervision over the application of rights and obligations of the employee and employer under the employment contract. The employees, union and employers may request that the labour inspector carry out an inspection for the purpose of supervision. In the event that the inspector discovers a violation of an act regulating the area of labour relations under their competence, they shall order the employer to issue or annul an act to remedy any such irregularities and flaws.

The labour inspector shall issue a decision to ban the operations of the employer, if:

- they find at work individuals who are not employed in accordance with the law and collective agreement;
- the employer fails to submit an application for social insurance or to calculate and pay salary contributions;
- the employer fails to pay wages or minimum wages for three consecutive months;
- the employer disrespects or violates the working hours and working hours schedule; and
- the employer fails to keep electronic records of the full-time working hours and the working hours schedule.

### Rights of the unemployed

The category of unemployed individual includes individuals who:

- are not employed;
- are registered with the Employment Agency;
- are able and willing to work;
- have actively sought employment over the past 30 days and are registered with the labour exchange as available to start working within 15 days;
- have not refused an appropriate employment offer; and
- whose employment has been not terminated at their own will.

Individuals not regarded as unemployed are those:

- employed;
- in retirement;
- engaged in craftsmanship or in a professional activity;
- owning or having founded a company, enterprise or another legal entity;

- engaged in agricultural, cattle-breeding or another activity;
- refusing training, re-qualification or a further qualification as referred to by the Agency or refusing to appear at work or accept employment with an employer as directed by the Agency;
- engaged in work or carry out activities contrary to law.

**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 preceding 18 months. The unemployed have a right to financial assistance for the period of time spent as employed for which contributions have been paid, if they:

- have been employed on a full-time basis;
- are employed on a part-time basis, calculated as full-time working hours;
- are employed for a definite period of time (seasonal employment) longer than 40 hours per week, if included in their official working years; and
- are working abroad.

The financial assistance to the unemployed is paid for a period of:

- three months, in the event that they have been insured for at least nine months with or 12 months without interruptions over the past 18 months;
- four months, in case they have been insured for at least 24 months with or 36 months without interruptions over the past 18 months;
- six months, provided that they have been insured between five and ten years;
- eight months, provided that they have been insured between ten and fifteen years;
- 12 months, provided that they have been insured for more than fifteen years.

Unemployed who have had insurance for more than 15 years and are not more than five years away from meeting the requirements to retire on grounds of their age receive financial assistance until they find employment or until any of the grounds for expiration of the right to financial assistance come in effect.

**Recording the unemployed:** unemployed individuals have to personally register in the Agency in the area of their permanent residence to be included in the records of unemployed. Foreigners may register themselves as unemployed provided that they have a permanent residence permit.

The expert, organizational, administrative and other matters related to employment and insurance in case of unemployment are taken care of by the Employment Agency of the Republic of Macedonia as a public institution. Employers may request that the Agency refers to them one to five unemployed individuals for each declared need of workers, for recruitment purposes.

In mediating for employment, the Employment Agency and the Employment Mediation Agency shall be particularly guided by:

- respect for the labour needs declared by employers and the special conditions stated in the so-declared needs;
- the fact that an unemployed individual may not be forced to accept the position offered;
- the fact that employers may not be forced to accept the labour offered;
- their obligation to inform the unemployed in a timely and appropriate manner of any vacancies and to offer the required labour to the employers;
- the need to take into account the education and previous working experience in the profession, knowledge, abilities, desires, psycho-physical abilities of the unemployed, as well as the need, features and specifics of the job;
- the fact that the unemployed may be employed at positions that match their psycho-physical abilities and do not jeopardize their health and that they get paid for as per the employment contract; and
- the need to ensure that the dignity and morale of the unemployed are not offended, and to ensure their right to initiate a civil court case.

#### *IV.1.3.3. Rights from the pension and disability insurance*

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

Insured parties acquire a right to 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 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 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 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 work-related illness, 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.

### Procedure for exercising rights from pension and disability insurance

#### Acquiring a capacity of an insured party:

The right to pension and disability insurance may be acquired by an individual with a capacity of an insured party. The capacity of an insured party is acquired on the basis of a request for insurance, submitted in accordance with the regulations for basic records by:

- employers for employees employed in their organizations;
- physical persons for themselves, if carrying out duties for themselves;
- individual farmers for themselves;
- the Employment Agency for unemployed who receive financial assistance or are undergoing training to acquire skills, additional or new qualifications; and
- in the event that the employer fails to submit an insurance request, the employee or the person for whom no request has been submitted may require that the Fund issues a decision to grant them the capacity of an insured party.

A decision on the rights from pension and disability insurance is issued by the Fund, no later than within 30 days from the date of submission of an orderly request.

### Competences of the Pension and Disability Fund:

The Fund:

- carries out the development policy of the pension and disability insurance;
- monitors and analyses the situation in the pension and disability insurance;
- proposes the introduction of measures to improve the pension and disability insurance system;
- undertakes measures for rational use of the funds required for ensuring the rights from the pension and disability insurance;

- implements the voluntary insurance;
- makes decisions at a first instance regarding rights from the pension and disability insurance and carries out the payment as per such decisions;
- implements international agreements and inter-State covenants in the area of pension and disability insurance.

### IV.1.3.4 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.

### Social prevention

For the purpose of social prevention, measures are undertaken to prevent the occurrence of social risks for the citizens, family or group of population, particularly through educational and counselling work, development of forms of self-help, voluntary work with personal engagement and for no reward, and application of other methods appropriate to the needs of the social protection beneficiaries.

### Out-of-institutional protection

- **Right to first social service:** the right to first social service for social protection beneficiaries includes the detection of problems arising from the situation of social risk, informing the beneficiaries of the possible solutions, services and means for protection of beneficiaries, as well as the network of service providers.
- **Right to assistance for individuals:** the right to assistance for individuals means various forms of expert, counselling or advisory work, which enables the individual to obtain the information required, to become enabled for independent decision-

making, preservation and development of the social potential.

- **Right to assistance for families:** the right to assistance for families includes expert assistance for the family members, so that they overcome family crisis in the relations between the spouses, and particularly in the parents-children relation, as well as enabling such families to carry out their functions in everyday life.
- **Right to domestic care and assistance:** the right to domestic care and assistance is reserved for elderly, exhausted and disabled individuals, who are not in a condition to take care of themselves and need care and assistance to satisfy their existential needs. The domestic care and assistance to individuals is provided even if they live with a family.
- **Right to daily care:** the right to daily care is reserved for:
  - Old and exhausted individuals, in the form of services relating to meals, daily accommodation, cultural and entertaining activities, and maintenance of personal hygiene.
  - Individuals with moderate and severe impediments in their intellectual development and disabled individuals who may not take care of themselves.
  - Children with physical impediments, for the purpose of their inclusion in everyday life.
  - Street children, through educational and pedagogical measures, counselling work with the children and members of their families, cultural, entertainment and recreational activities.
  - Individuals using/abusing drugs and other psychotropic substances and members of their families, through the provision of counselling services, information, advice and education, working engagements, and cultural, entertainment and recreational activities.
  - Individuals using/abusing alcohol and are treated for addiction to alcohol and members of their families, through counselling, education, working engagements, and cultural and entertainment activities.
  - Homeless people, in the form of counselling services, food-related services, daily care, maintenance of personal hygiene and cultural and entertainment activities.
  - Victims of domestic violence, through counselling services, food-related services, daily care, accommodation, maintenance of personal hygiene and cultural and entertainment activities.

The assistance in the daily care, i.e. daycare and temporary accommodation and care for the above-mentioned categories of individuals is provided even if they live with their families.

- **Right to accommodation in a foster family:** the right to be accommodated in a foster family is reserved for those who have no appropriate conditions for living with their own families or need accommodation in a foster family for other reasons, and may not be taken care of by another form of social protection.

The right to accommodation in a foster family may be guaranteed to:

- children with no parents and parental care until such time as they are able to live an independent

and working life, unless there are possibilities to provide the accommodation and raising in another manner;

- children with educational and social problems (neglected, abused and socially uninsured children);
- children with disrupted social behaviour;
- individuals with moderate and severe impediments in their psychological development, advised to obtain working and productivity skills, individuals with the most severe impediments in their psychological development and physically disabled who are in a need of complete care and attention;
- elderly, disabled adults and individuals with impediments in their psychological development who are not able to take care of themselves and for whom – due to their housing and family situation – there are no means of ensuring protection in another way.

### Institutional protection

- **Right to acquire working and productivity ability:** the right to become able for working and productivity activities is a right enjoyed by individuals with moderate and severe impediments in their psychological development.

- **Right to accommodation in social protection institutions:** the right to accommodation in a social protection institution, in accordance with this law, is a right of individuals with no appropriate living conditions in their own families or who for other reasons need accommodation in a social protection institution, and in whose cases no other form of social protection is available.

The right to accommodation in a social protection institution is reserved for:

- children with no parents and parental care, until such time as they are able to live an independent and working life, but no later than by completion of high school, unless there are other alternatives for their accommodation and education;
- children with educational and social problems (neglected, abused and socially uninsured children);
- children with disrupted behaviour (in all three of the above-mentioned cases, the children may be accommodated in student dormitories or another institution which the centre regards will be able to provide accommodation, education and normal development of the child);
- pregnant women, one month before delivery and single parents with a child of up to three months;
- individuals with moderate and severe impediments in their psychological development, advised to obtain working and productivity skills, individuals with the most severe impediments in their psychological development and physically disabled, who are in a need of complete care and attention; and
- elderly, disabled adults and individuals with impediments in their psychological development who are not able to take care of themselves and for whom – due to their housing and family situation – there are no means of ensuring protection in another way.

## 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, severe and the most severe 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 severe and the most severe 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 epidemics, 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.

## Social protection institutions

Types of institutions for social prevention and out-of-institution prevention:

- Centre for social work;
- Accommodation in a foster family;
- Day centre for street children/children in the streets;
- Day centre for alcohol abusers or those treated for alcohol abuse;
- Centre for homeless;
- Centre for victims of domestic violence;
- Day centre for individuals with physical and intellectual impediments.

## Types of institutional protection institutions:

- institution for accommodating children and adolescents without parents and parental care;
- institution for accommodating children and adolescents with educational and social problems and with distorted behaviour;
- institution for accommodating children and adolescents with impediments in their psychological development;
- institution for accommodating children and adolescents with physical disability; and
- institution for accommodating elderly and disabled adults.

## Carrying out operations in the field of social protection by other legal and physical entities

Associations of citizens may carry out certain activities in the area of social protection, provided that they are registered for the achievement of goals and tasks related to social protection. Natural persons may independently carry out activities related to social protection as a professional activity, such as counselling, domestic care and assistance to individuals and families and accommodating individuals in another family, provided that they meet the following requirements:

- to have appropriate education;
- not to have had their business permit revoked or restricted;
- not to have had their right to exercising parental rights revoked;
- to be sufficiently healthy to carry out the activity; and
- to have adequate premises and working equipment.

### Types of founders of institutions

Public institutions for social protection may be founded by the Government, in cooperation with the network of public institutions. Private institutions for social protection may be founded by domestic and foreign legal or physical entities. Domestic and foreign legal and physical entities may not be founders or co-founders of centres for social work and pedagogical institutions for accommodating children and adolescents with social problems and of distorted behaviour.

The municipality, the City of Skopje and the municipalities within the City of Skopje may (upon previous consent from the Ministry of Labour and Social Policy) found public institutions for out-of-institutional and institutional protection, on the basis of an approval obtained in accordance with this law, except for centres for social work and public pedagogical institutions for accommodating children and adolescents of distorted behaviour.

### Procedure for exercising social protection rights

Requests for exercising social protection rights are dealt with in first instance by the centre competent for the area of residence of the requesting party. The Minister of Labour and Social Policy decides on appeals against the centre's decisions. Appeals do not postpone the enforcement of the decision.

A procedure of exercising the social protection right is initiated at a request of the concerned citizen, his legal representative, and guardian or *ex officio*. The centre commences a procedure *ex officio* at its own initiative, at an initiative from concerned citizens, competent body and other organs and organizations, whenever it is in the interest of the citizen in question or in the interest of third parties.

### Supervision over the legality of operation

Supervision over the legality in the operation of the municipal organs, the City of Skopje and the municipalities in the City of Skopje is conducted by the Ministry, as part of the supervision over the implementation of laws and regulations in the area of social protection.

In conducting supervision over the operation of the municipal organs, the City of Skopje and the municipalities in the city of Skopje, the Ministry conducts the following activities:

- monitors the legality of operations, undertakes measures and activities and submits initiatives for carrying out the competences of the municipal organs, the City of Skopje and the municipalities in the City of Skopje;
- assesses whether the organs of municipalities, the City of Skopje and the municipalities in the City of Skopje ensure that the competences of the municipalities, of the City of Skopje and of the municipalities in the City of Skopje are carried out pursuant to the applicable acts;
- notifies the organs of municipalities, the City of Skopje and the municipalities in the City of Skopje of any acts of their by which they exceed their competences determined in this law and proposes appropriate measures of overcoming such a condition;

- gives recommendations for consistent implementation of the competences of the municipalities, the City of Skopje and the municipalities in the City of Skopje within the framework of this law, at their request;
- submits initiatives and proposals to the municipalities, the City of Skopje and the municipalities in the City of Skopje in case it reveals any failures in the implementation of this law due to the conflict of competences between the organs of municipalities, the City of Skopje and the municipalities in the City of Skopje;
- monitors the legality of the solutions of the mayors of municipalities, the City of Skopje and the municipalities in the City of Skopje in dealing with individual rights, obligations and interests of all physical and legal entities and undertakes measures in accordance with this law;
- monitors the implementation of findings of past supervision of the regulations of municipalities, the City of Skopje and the municipalities in the City of Skopje;
- timely informs the organs of municipalities, the City of Skopje and the municipalities in the City of Skopje regarding any findings about the operation of the municipalities and the measures undertaken in conducting the supervision.

### Supervision over the level of expertise in the operation

The supervision over the level of expertise in the operation of the social protection institution and the workers in it, as well as over other legal and physical entities that carry out certain activities in the area of social protection (hereinafter: supervision over the expertise in the operation) is conducted by the 'Social Activities Office'.

### IV.1.3.5 Child protection rights

A child is any individual until the age of 18 and an individual with impediments in the physical and psychological development until the age of 26

#### Child benefit

For the purpose of covering a portion of the expenses in raising and development of the child, child benefit is provided. The amount of child benefit depends on the child's age and the financial situation of the family. The financial situation of a family is determined on the basis of its income and expenditure and the number of members in the family.

**Conditions for receiving child benefit:** The right to child benefit may be granted to only one of the parents with a permanent place of residence in the Republic of Macedonia, provided that:

- the child is a citizen of the Republic of Macedonia;
- the child is attending school in the Republic of Macedonia; and
- the child is not a citizen of the Republic of Macedonia, but only if there is a reciprocity covenant.

One of the parents has a right to child benefit until the child turns 15 or for as long as they regularly attend school. One of the parents also has a right to child benefit in the case of a child that – due to a illness or injury – is prevented from attending school regularly and because of that is forced to continue with the education not as a regular student, in accordance with the law. Child benefit may also be granted to guardians.

**Right to child benefit for foreigners:** Foreigners with a place of residence within the territory of the Republic of Macedonia may be granted child benefit, in the event that this is regulated in an international agreement and there is reciprocity.

Child benefit amount:

- 1) For children up to 15 years of age or until they are regular students in primary school, the amount is 5.50 percent of the average salary per employee in the Republic of Macedonia in the preceding year; and
- 2) For children at the age of 15-18 or until they are regular students in secondary school, the amount is 8.50 percent of the average salary per employee in the Republic of Macedonia in the preceding year.

**Special child benefit:** for children with specific needs and who have physical or psychological impediments or combined impediments in their development, a special child benefit is provided until they turn 26, as a special financial benefit. Children with specific needs are those with:

- severe, more severe, and the most severe disability;
- severe, more severe and the most severe mental handicap;
- the most severe forms of chronic diseases;
- the highest degree of impairment of the sight, hearing or speech; and
- several forms of impediments (combined) in their development.

The finding, assessment and opinion on the need of a special child benefit are issued by a competent body for assessing specific needs.

The right to a special child benefit goes to one of the parents only, who has a permanent place of residence in the Republic of Macedonia, if the child is a citizen of the Republic of Macedonia; they have this right until the child is 26 years old, unless it is institutionally taken care of at the expense of the state. The amount of the special child benefit is 26.30 percent of the average salary per employee in the Republic of Macedonia in the preceding year.

**Benefit for newborn babies:** benefit for newborn babies in the form of a package is a one-off assistance to families and in the case of a first child it is in the form of financial aid. The right to benefit in the form of a package for newborn babies goes to one of the parents only, who is a citizen of the Republic of Macedonia with a permanent place of residence in the Republic of Macedonia and only in the case of children born within the territory of the Republic of Macedonia. The amount of the benefit is 25 percent of the average salary paid out per employee in the Republic of Macedonia in the first half of the preceding year.

### Procedure for exercising rights related to child protection

The procedure for exercising the right to protect the child is initiated by the parent, i.e. guardian of the child. Requests for exercising the right to protect the child are dealt with by the centre for social work, which is in charge of the area in which the requesting party has a permanent place of residence. Appeals against the decision of the centre for social work are decided upon by the Minister who is in charge of the state administration agency competent for child protection (hereinafter: the Minister). The appeal does not postpone the enforcement of the decision.

At a request of the Centre for Social Work, legal and physical entities shall submit data presenting evidence of the exercise of the children's rights determined in this law. The exercise of one of the children's rights does not exclude the right to exercise another right in accordance with this law.

The rights are ensured by the state. A larger scope of the rights for children's benefits may be provided by the municipality, the City of Skopje and the municipalities within the City of Skopje, provided that they secure funds from their own sources. The manner and criteria for such benefits are in closer detail defined by the municipality council, the City of Skopje Council and the Council of the Municipality in the City of Skopje.

### IV.1.4 Checklist of MDG/rights-related key questions

The following general questions should help in identifying crucial issues to be addressed in the application of the human rights legal framework in Macedonia. They should not be seen as exhaustive, but rather a first step in an assessment. Most of these questions will not be answerable by a simple yes/no, but require further consideration and possible additional research; in addition, these questions are not intended to replace other checklists and tools available (including those developed by BIM) nor to be used in isolation of them.

*They should be read in conjunction with additional general questions listed above (see III.3).*

- Are there any public statements being made during the national planning process by relevant local stakeholders (government, private sector, social sector, civil society, including the media), in relation to the
  - right to an adequate standard of living?
  - right to work and fair working conditions?
  - right to social security?
- How is an assessment being ensured of the impact of the national planning process on the rights to an adequate standard of living, to work and fair working conditions, to social security at the
  - planning stage?
  - implementation stage?
  - monitoring and evaluation stage?
- Does this impact assessment take Macedonia's immediate state obligations (under the concept of progressive

realization of human rights, see above, II.2.1) duly into account, including the obligations

- to develop a strategy for addressing the most pressing needs?
  - to ensure non-discrimination and participation of all groups affected by the measures?
  - to prevent retrogression of standards of rights protection already achieved?
  - the identification of the maximum available resources?
  - to meet core obligations of the respective rights for ensuring at least a basic minimum level of rights protection?
- Does this impact assessment include analysis of the criteria (see above, II.2.1) of
    - Availability of services?
    - Accessibility of services, including
      - Physical accessibility?
      - Economic accessibility/affordability?
      - Access to information?
      - Acceptability and sensitiveness of services?
      - High quality of services?
  - Does this impact assessment take into account the rights of specific target groups, including
    - Women?
    - Children?
    - Minority groups?
    - Roma people?
    - Persons living in remote areas of Macedonia?
    - People living in poverty?
    - Refugees and displaced persons?
    - People with disabilities?
  - How is meaningful participation of these groups being ensured in the national development process in relation to the rights to an adequate standard of living, to work and fair working conditions, to social security (including access to information, translation services, etc.), for
    - Women?
    - Children?
    - Minority groups?
    - Roma people?
    - Persons living in remote areas of Macedonia?
    - People living in poverty?
    - Refugees and displaced persons?
    - People with disabilities?
    - Have any capacity-building needs in relation to protection of the rights to an adequate standard of living, to work and fair working conditions, to social security been identified?
    - What monitoring and feedback mechanisms have been developed to assess progress of the process?
    - Are there any structures missing, which would be helpful in the process, e.g. for information exchange, social and community life, lobbying, networking with other municipalities, partners outside the country?

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

### IV.2.1 Overview

#### Macedonia MDG 2

**Target:** Ensure that, by 2015, all children will be able to complete a full course of primary and secondary schooling

**Indicators:**

- Inclusion in primary education
- Enrolment ratio in primary education
- Primary education completion rate
- Proportion of pupils starting grade 1 who reach grade 5
- Inclusion in secondary education
- Rate of completion of secondary education
- Literacy rate of 15+ year-olds
- Persons with low educational attainment (EU Laeken indicator)
- Proportion of ethnic groups in the completion of primary and secondary education
- Portion of the budget allocated to education, as a share in GDP

**Target:** Eliminate gender disparities in primary and secondary education if possible by 2005, and in all levels of education by 2015

**Indicators:**

- Proportion of boys and girls in primary, secondary and higher education
- Proportion of girls and boys completing primary education, by ethnic background
- Proportion of boys and girls completing secondary education by ethnic background
- Proportion of boys and girls completing higher education, by ethnic background
- Ratio between literate women and men at the age of 15 and over by ethnicity

#### Key human rights

- Right to education
- Child rights protection as a primary consideration
- Non-discrimination for women and affirmative action
- Non-discrimination for minorities and affirmative action

#### Key human rights instruments

- Universal Declaration of Human Rights 1948: Article 26
- UN International Covenant on Economic, Social and Cultural Rights 1966: Articles 10, 13, 14
- UN International Covenant on Civil and Political Rights 1966: Article 24
- UN Convention in the Rights of the Child 1989: Articles 28, 29, 31; 2, 3, 4, 5, 6, 12, 18, 20



- UN Convention on the Elimination of All Forms of Discrimination against Women 1979: Articles 10, 14; 3, 4
- UN International Convention on the Elimination of All Forms of Racial Discrimination 1965: Articles 5, 7; 1, 2
- CoE Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms 1952: Article 2
- CoE European Social Charter 1961: Article 7
- CoE Framework Convention for the Protection of National Minorities 1995: Articles 6, 12, 13, 14; 4
- UNESCO Convention against Discrimination in Education 1960
- ILO Convention No. 138 concerning Minimum Age for Admission to Employment 1973
- ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour 1999

#### **Further relevant non-treaty standards and goals for implementation**

(including follow-up processes)

- A World Fit for Children, UN General Assembly Special Session on Children, New York 2002
- Durban Declaration and Programme of Action, World Conference against racism, racial discrimination, xenophobia and related intolerance, 2001
- Dakar Framework for Action, World Education Forum, 2000
- Beijing Declaration and Platform for Action, Fourth World Conference on Women, 1995
- UN Declaration on the Right to Development 1986

#### **Further references for interpretation**

- CESCR Committee: General Comments 5 (disabilities), 6 (older persons), 11 (primary education action plans), 13 (education)
- CRC Committee: General Comments 1 (aims of education), 4 (adolescent health), 5 (general measures of CRC implementation, including awareness-raising in school system), Recommendations of Days of General Discussions 1997 (children with disabilities), 2001 (violence in family and school)
- CEDAW Committee: General Recommendations 3 (education and public information), 14 (female circumcision), 18 (disabled women)
- CERD Committee: General recommendations 5 (prejudices), 20 and 22 (economic, social and cultural rights), 27 (discrimination against Roma)
- Opinion of the FCNM Advisory Committee on Macedonia, May 2004 and Resolution of the CoE Council of Ministers on Macedonia, June 2005
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the right to education
- Digest of the case law of the European Committee of Social Rights, CoE Committee Secretariat, March 2005
- Third report on Macedonia of the CoE European Commission against Racism and Intolerance, June 2004
- Reports of the OSCE High Commissioner on National Minorities regarding visits to Macedonia to the former Yugoslav Republic of Macedonia

## **IV.2.2 International Legal Framework**

### **IV.2.2.1 Relevant Human Rights Treaty Provisions**

*(Summarized only – for the full text of provisions see [reference to some Treaties compilation available in Macedonia])*

#### **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 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-out – 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 to 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 – 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 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, 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 on the 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 Covenant on Economic, Social and Cultural Rights 1966**
    - Special protection and assistance for children and families free from all discrimination – Article 10

- **UN Covenant on Civil and Political Rights 1966**
  - Special protection and assistance without any discrimination against children – Article 24
- **CoE European Social Charter 1961**

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

  - 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 – 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

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

- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - State to take special measures securing adequate advancement of ethnic groups, including specifically in the social and economic field – Articles 1/4 and 2/2
- **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

#### IV.2.2.2 Rights in context and international monitoring

According to the Macedonian MDG Report 2005, educational priorities include higher enrolment in primary education, higher quality of education and higher degrees of education. As a consequence, monitoring of compulsory education shall be improved, and drop-outs among children in rural areas, girls and children belonging to minorities shall be decreased; in addition, the quality of the infrastructure as well as of teaching will be another area of activities, with particular tasks for the local self-government authorities.

Education is both a goal and a tool for the goal's achievement, or in the words of the Draft Poverty Guideline 8 – The Right to Education: "Education is the primary vehicle by which poor children and adults can lift themselves out of poverty" (Para. 125). The realization of universal education for all as a key strategy for empowerment of the individual is both as an MDG and as a human right crucial for the realization of all other MDGs and rights. Moreover, the right to education is closely interrelated with other human rights, such as freedom of conscience and belief, freedom of expression and access to information, child participation, right to work, right to health, and the right to (political) participation.

The right to education itself may be further categorized into different groups: first in relation to the content, the aims of education. Based on Article 29 CRC the first General Comment (2001) of the Committee on the Rights of the Child extensively elaborates on the development of the child's personality and capacities, his/her identity, social skill, respect and tolerance, non-violent conflict resolution, etc. At the same time the role of parents in relation to religious and moral education according to their own convictions has to be respected by the State. Finally, as interpreted by the Committee the use of corporal punishment for maintaining school discipline is prohibited.

On the organizational and structural level, several human rights features can be identified:

- Make primary education compulsory and available free to all;
- Encourage the development of different forms of secondary education, including general and vocational education available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance if needed;
- Make higher education accessible to all on the basis of capacity by every appropriate means;
- Make educational and vocational information and guidance available and accessible to all children;
- Take measures to encourage regular attendance at schools and the reduction of drop-out rates;
- Eliminate child labour and reintegrate children into educational system;
- Allow for private schools, which is not the case in Macedonia with respect to primary education.

In relation to accessibility, the State has to protect children and adults alike from any form of discrimination (gender, belonging to an ethnic minority community, disability of a child, etc.).

The following lists some key recommendations of treaty monitoring bodies towards Macedonia, focusing on those recommendations which should have an impact on implementation of MDG 2 and the right to education (although some are of a rather general nature and/or only indirectly related, e.g. strengthening of institutions, development of general Action Plans), taking into account also the specific rights perspectives of children, women and national minorities.

#### Overview of recommendations by UN and CoE treaty monitoring bodies

Sources: OHCHR website (State reports, Concluding Observations/Comments), [www.ohchr.org](http://www.ohchr.org); Council of Europe website (State reports, treaty body statements), [www.coe.int](http://www.coe.int).

##### Right to education

- CERD Committee, 1997:
  - Incorporate CERD in school curricula against racial discrimination
- CRC Committee, 2000:
  - Increase enrolment of minority children in primary and secondary education, particularly of girls, Roma children; address high drop-out rates

- Increase higher education among minorities, raise quality particularly in minority language schools, review allocation of financial resources
- Integrate children with disabilities into education and recreation programmes, improve physical access to buildings, including schools, review facilities
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Review legislation in order to allow for private primary education
  - Address high drop-out rates of Roma pupils, of members of the Turkish and Albanian communities, provide adequate textbooks and material
  - Strengthen teaching in minority languages, particularly for Turkish, Albanian communities, but also for smaller ethnic communities

#### Rights of the child

- CRC Committee, 2000:
  - Lack of coordination mechanism in implementation; Action Plan missing
  - Disseminate CRC, mainstream best interests principle in legislation and administration
  - Protect children from negative effects of poor economy – reflect child focus in budget priorities – focus on poor families, particularly in difficult regions
  - Review system of ‘three-child policy’/limitations to access to social service benefits
  - Alternative care: strengthen foster care and review legislation for allowing judicial review, more resources for Centres for Social Work
  - End corporal punishment, particularly in schools, support awareness-raising among parents, provide training for police, staff of Centres for Social Work for identifying child abuse, domestic violence
  - Reform juvenile justice system – detention only as a last resort, focus on reintegration
  - Monitor drug abuse
  - Support NGOs
  - Seek technical assistance from UNICEF (mainstreaming, training, disabilities, health, education, minorities)

#### Rights of women

- Human Rights Committee, 1998:
  - Lack of equality between men and women, particularly in employment, education
  - Concerted action of authorities to reduce domestic violence against women
- CEDAW Committee, 2006:
  - Ratify the Migrant Workers Convention 1990
  - Report on MDG implementation in next report 2011
  - Disseminate CEDAW, Concluding Comments
  - Adopt comprehensive Law on Equal Opportunities
  - Lack of definition of discrimination
  - Adopt special temporary measures
  - Local gender equality committees in all municipalities, with adequate powers and visibility

- Training for lawyers, judges for complaints and capacity-building for women to claim rights
- Change stereotypes in family, education, media, rural areas
- Implement National Programme against trafficking
- Suppress exploitation of prostitution
- Address violence against women, including in family and shelter
- Increase political participation in elected and appointed bodies and internationally
- Eliminate discrimination against rural women, ethnic minority women/Albanian and Roma (include section in next report 2011)
- 

#### Rights of minorities

- CERD Committee, 1997:
  - Better educational and cultural opportunities for Albanian minority
- Human Rights Committee, 1998:
  - Increase number of Albanians and other minorities in public life, including in civil service, army, police; Roma population as a “matter of particular concern”
  - Minority participation in educational system, teacher training in minority languages
- CRC Committee, 2000:
  - More teaching of Macedonian in minority language schools for better participation
  - Increase higher education among minorities, raise educational quality particularly in minority language schools, review allocation of financial resources
  - Vocational training, personal development, interethnic tolerance with stronger emphasis in school curricula
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Strengthen structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education
  - Establish regular consultations with ethnic groups
  - Allow for greater participation of minorities in the decentralization process
  - Promote peaceful interethnic relations on central and local authority level
  - Generally, stronger focus on “numerically smaller minorities”
  - Respect distinct identity of the Egyptian community
  - Resolve citizenship issues with Roma and Albanians
  - Strengthen cultural rights of minorities, including Vlach minority
  - Improve situation of Roma in employment, housing, health care, education and adopt new National Strategy

## DRAFT GUIDELINES ON A HUMAN RIGHTS APPROACH TO POVERTY REDUCTION STRATEGIES

(Excerpts from Guidelines 6-15, 'key targets and indicators')

### 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  
**Indicators:**
  - Net enrolment ratio in primary education
  - Proportion of pupils starting grade 1 who reach grade 5
  - Literacy rate in the age group 15-24
  - Drop-out and attendance rates in primary schools
  - Share of public expenditure on primary education
- **Target 2:** To make free primary education available to all children  
**Indicators:**
  - Proportion of primary school pupils in state schools not paying school fees
  - Average fees paid by primary school pupils in state schools
- **Target 3:** To implement compulsory primary education  
**Indicator:**
  - Number of years' schooling made compulsory
- **Target 4:** To eradicate illiteracy  
**Indicators:**
  - Overall adult literacy rate
  - Literacy rate in the age group 15-24
- **Target 5:** To ensure equal access for all to secondary education  
**Indicators:**
  - Net enrolment ratio in secondary education, disaggregated for poor and non-poor
  - Share of public expenditure on secondary education
  - Ratio of girls to boys in secondary education
  - Drop-out and attendance rates in secondary education
  - Proportion of children with disabilities attending secondary education
- **Target 6:** To make free secondary education available to all children  
**Indicators:**
  - Proportion of secondary school pupils in state schools not paying school fees, disaggregated for poor/non-poor
  - Average fees paid by secondary school pupils in state schools
- **Target 7:** To eliminate gender disparity in primary and secondary education  
**Indicators:**
  - Ratio of girls to boys in primary education
  - Ratio of girls to boys in secondary education
  - Ratio of literate females to males in the age group 15-24
- **Target 8:** To improve the quality of primary and secondary education  
**Indicators:**
  - Pupil-teacher ratio
  - Teacher-classroom ratio
  - Proportion of primary/secondary school pupils receiving textbooks free of charge

## IV.2.3 Macedonia's Domestic Legal Framework

### The Right to Education

#### IV.2.3.1 Overview

##### Constitution of the Republic of Macedonia 1991

###### Article 44

1. Everyone has a right to education.
2. Education is accessible to everyone under equal conditions.
3. Primary education is compulsory and free.

###### Article 45

Citizens have a right to establish private schools at all levels of education, with the exception of primary education, under conditions determined by law.

###### Article 48 (as amended by Amendment VIII)

1. Members of communities have a right freely to express, foster and develop their identity and community attributes, and to use their community symbols.
2. The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of all communities.
3. Members of communities have the right to establish institutions for culture, art, science and education, as well as scholarly and other associations for the expression, fostering and development of their identity.
4. Members of communities have the right to instruction in their language in primary and secondary education, as determined by law. In schools where education is carried out in another language, the Macedonian language is also studied.

###### Article 115 (as amended by Amendment XVII)

1. In units of local self-government, citizens directly and through representatives participate in decision-making on issues of local relevance particularly in the fields of public services, urban and rural planning, environmental protection, local economic development, local finances, communal activities, culture, sport, social security and childcare, education, health care and other fields determined by law.
2. The municipality is autonomous in the execution of its constitutionally and legally determined spheres of competence; supervision of the legality of its work is carried out by the Republic.
3. The carrying out of specified matters can by law be entrusted to the municipality by the Republic.

See, similarly, Article 117 (as amended by Amendment XVII) for the City of Skopje.

##### Key Legislation

- Law on Local Self-Government 2002
- Law on Secondary Education published in the *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 Primary Education published in the *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 Financing the Units of the Local Self-Government 2002
- Law on State Educational Inspectorate 2005
- Regulation on Methodology for Distribution of Intended Subsidies in Secondary Education to Municipalities and City of Skopje, 2005
- Regulation on Methodology for Distribution of Intended Subsidies in Primary Education to Municipalities, 2005

#### IV.3.2.2 Right to Education

##### Duration of primary education

Primary education lasts' 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 by 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 sec-

ondary schools can be either established by the municipality or state (the private and state established secondary schools are not involved/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 Macedonian 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.

#### *IV.2.3.3 The Structural framework for implementation*

Both elementary and secondary education came under the municipal jurisdiction starting 1 July 2005. This means, among other things, that the municipalities have assumed ownership over school buildings and other property related to elementary and secondary education as well as responsibilities such as the maintenance of school buildings and the payment of salaries for auxiliary staff will be the concern of municipalities.

#### **The role and responsibilities of the Ministry/Minister of Education and Science**

The Minister:

- adopts pedagogical standards and norms (proposed by the Bureau for Development of Education);
- adopts the plans and programmes for the public schools which prepared by the Bureau for Development of Education;
- selects a public school in which an experiment is to be carried out, i.e. with the view to the introduction of new forms and contents of the educational activity;
- approves textbooks and the textbooks' concept (prepared in accordance with the plans and programme for the respective subjects by the Bureau);
- establishes a committee for professional evaluation of proposals for textbooks for the respective subjects;
- passes the programmes for taking exams under the national high-school graduation diploma, the school graduation diploma, the final exam or the international graduation diploma in secondary

education (following proposal of the Bureau for Development of Education);

- passes acts on the forms, manner, procedures and the conditions for professional and pedagogical training;
- validates, i.e. verifies the equivalence of a certificate achieved abroad;
- establishes an expert commission (comprising representatives of the professional bodies of the Ministry and universities) for exam for appointing school director;
- supervises the legal compliance of primary and secondary school work.

#### **The role and responsibilities of the Bureau for Development of Education (BfDoE)**

The Bureau for Development of Education is an organ within the framework of the Ministry of Education and Science (currently a Law on BfDoE is being prepared). In addition to the tasks carried out for the MoE, the BfDoE carries out the following tasks:

- study, research and development of pre-school, primary and secondary education;
- development of curricula, education standards, normative and other programme documents;
- professional supervision, provision of instructions and monitoring;
- professional teacher training of the associates and the management;
- assessment of pupils' achievement;
- provision of information, record keeping, statistics and publishing educational materials.

#### **The role and responsibilities of the Mayor:**

- Appoints and/or dismisses the school principal;
- Adopts the decision to select a new school principal, three months before the expiration of the mandate of the incumbent, and invites the School Board to make a vacancy announcement for this position;
- Appoints a new principal within 15 days of having received a proposal from the School Board. If for any reason a director is not appointed, the entire procedure is repeated, and within five days the Mayor appoints a director;
- Appoints a trustee, for not longer than six months, in the event of the principal being dismissed;
- Authorizes an entity to act as an educational inspector. Should the Mayor not appoint an inspector, such competences shall be performed by the state educational inspector at the expense of the municipality until his/her appointment.

#### **The role and responsibilities of the Municipal Council:**

- Establishes and/or abolishes the school;
- Notifies the courts on its decision within three days of the adoption of the act;
- Ensures access to primary and secondary education for all children;
- Decides upon the location of the school;
- Appoints members to the School Board – two members at elementary schools and three at second-

ary schools – to represent the local municipality therein.

### The role and responsibilities of the School Board

The role of the School Board is to be the management unit in the primary school and in the public secondary school. The decision of the School Board is taken by majority votes out of the total number of members of the Board.

The School Board in small primary schools (as small schools are considered to be those that have up to 24 classes) comprises seven members, which are the following: two representatives of the teachers, professional associates and educators; two representatives of pupils' parents/guardians; one representative of the Ministry; and two representatives of the founder (Law on Primary Education).

The School Board in large primary schools (as large schools are considered to be those that have more than 24 classes) comprises nine members: three representatives of the teachers, professional associates and educators; three representatives of pupils' parents/guardians; one representative of the Ministry; and two representatives of the founder.

In the School Board of the primary school and the School board of the secondary schools founded by the municipality:

- representatives of *students' parents/guardians* are appointed and suspended by the Parents' Council;
- representatives of *teachers* are appointed and suspended by the Teachers' Council;
- representatives of the *Ministry* are appointed and suspended by the Minister.

The School Boards' responsibilities in the primary and municipal secondary school are to:

- adopt the Statute;
- propose annual work programme and report on the school performance to the Municipal Council;
- propose annual financial plan to the Founder;
- propose annual statement of accounts to the Founder;
- announce a public announcement for election of a school director;
- make interviews with the candidates for school director;
- propose to the mayor of the municipality a candidate for school director out of the candidates who applied at the public announcement;
- make decisions on complaints and appeals of the school employees;
- make decisions on complaints of students, parents i.e. guardians of students.

The School Board of the primary school also gives an opinion to the school director about the appointment of teachers, professional associates and educators.

### The role and responsibilities of the School Director

The school director represents the governance unit of the primary school and public secondary school and he/she is responsible for the legal compliance and the material-financial operation of the school.

The tenure in office for the school principal is four years in total. All candidates for the position of principal must have at least five years of teaching experience, and should

have passed the exam for principals. A candidate who has not passed this exam may be considered for the position, provided she/he takes the examination within one year of service as school principal. If she/he fails to pass the exam, she/he will no longer be eligible for the position.

The school director organizes and manages the educational and other activity, independently takes decisions, represents the school before third parties and is responsible for the legal compliance of the school-work. The school director:

- proposes annual work programme and undertakes measures for its realization;
- executes the decisions of the School Board;
- carries out selection of teachers and professional associates and other administrative-logic personnel;
- makes decisions on deployment of the teachers, professional associates and the other administrative-logic personnel;
- makes decisions on termination of the employment of teachers and professional associates;
- reports on the school performance and results achieved in educational activity in the school to the Bureau for Development of Education;
- reports on the realization of the annual programme to the Ministry, and also to the municipality.

Overall, the school director is one of the actors who make an important contribution to ensuring that a child's education is successful, she/he plays a key part in managing the school and mentoring teachers as they apply their new skills in the classroom.

### Professional School Organs and Bodies – role and responsibilities

Professional School Organs and Bodies are playing rather limited role in the process of the decentralization and education. However, they may play an important role in the decision-making process at the school level, for example acting on behalf of the students and similar.

The professional organs in primary and secondary school are the following: Teachers' Council and Class Teachers' Council, and the class teacher.

The **Teachers' Council** comprises all teachers, professional associates, educators and the school director. The Teachers' Council is chaired by the school director.

The **Class Council** comprises all teachers of the classes where education activity is performed, professional associates and the school director. The Class Council is chaired by the school director.

The **Class teacher** is appointed by the Teachers' Council of the primary school on proposal of the director.

The **Expert Working Group** is an expert body that comprises a smaller group of teachers that teach the same subject. The expert working group is led by a teacher from the teachers group.

### IV.2.3.4 Domestic monitoring and supervision

#### State Educational Inspectorate

A State Educational Inspectorate is an organ of the state government and it functions within the framework of



the Ministry of Education and Science. The Inspectorate supervises the quality of the educational process and the effectiveness of the work of the educational institutions in the primary and secondary education as well as supervises the application of the relevant laws, the other regulations and general acts in the area of schooling and education.

Among the major competences of the State Educational Inspectorate there are also supervision of work performance; professional and pedagogical upgrading; usage of textbooks; school management and administration; realization of the syllabus; realization of extracurricular activities; performance of a competitive examination; keeping of pedagogical records.

#### **Authorized educational inspectors at the municipal level**

In addition to the State Educational Inspectorate there are also **authorized educational inspectors** at the municipal level (only in some – the decision on whether there is an authorized educational inspector designated at the municipal level is made by the Mayor (Law on Educational Inspectorates)) and in the City of Skopje (only in secondary education). An educational inspector supervises the legitimacy of the activities in the area of education for which the municipality is competent. More precisely, the authorized municipal inspector supervises the conditions and the decision on establishment or termination of the activity of the educational institutions; the working conditions in the educational institutions; the enrolment of pupils; the involvement of the pupils in accordance with the realization of the schools, the transport, the food and the accommodation of the pupils; a procedure for formation of school organs; control of the assets acquired from personal sources

#### **IV.2.4 Checklist of MDG/rights-related key questions**

The following general questions should help in identifying crucial issues to be addressed in the application of the human rights legal framework in Macedonia. They should not be seen as exhaustive, but rather a first step in an assessment. Most of these questions will not be answerable by a simple yes/no, but require further consideration and possible additional research; in addition, these questions are not intended to replace other checklists and tools available (including those developed by BIM) nor to be used in isolation of them.

They should be read in conjunction with additional general questions listed above (see III.3).

- Are there any public statements being made during the national planning process by relevant local stakeholders (government, private sector, social sector, civil society, including the media), in relation to the right to education?
- How is an assessment being ensured of the impact of the national planning process on the right to education at the
  - planning stage?
  - implementation stage?
  - monitoring and evaluation stage?
- Does this impact assessment take Macedonia's immediate state obligations (under the concept of progressive realization of human rights, see above, II.2.1) duly into account, including the obligations
  - to develop a strategy for addressing the most pressing needs?
  - to ensure non-discrimination and participation of all groups affected by the measures?
  - to prevent retrogression of standards of rights protection already achieved?
  - the identification of the maximum available resources?
  - to meet core obligations of the respective rights for ensuring at least a basic minimum level of rights protection?
- Does this impact assessment include analysis of the criteria (see above, II.2.1) of
  - Availability of services?
  - Accessibility of services, including
  - Physical accessibility?
  - Economic accessibility/affordability?
  - Access to information?
  - Acceptability and sensitiveness of services?
  - High quality of services?
- Does this impact assessment take into account the rights of specific target groups, including
  - Women?
  - Children?
  - Minority groups?
  - Roma people?
  - Persons living in remote areas of Macedonia?
  - People living in poverty?
  - Refugees and displaced persons?
  - People with disabilities?
- How is meaningful participation of these groups being ensured in the national development process in relation to the right to education (including access to information, translation services, etc.), for
  - Women?
  - Children?
  - Minority groups?
  - Roma people?
  - Persons living in remote areas of Macedonia?
  - People living in poverty?
  - Refugees and displaced persons?
  - People with disabilities?
- Have any capacity-building needs in relation to protection of the right to education been identified?
- What monitoring and feedback mechanisms have been developed to assess progress of the process?
- Are there any structures missing, which would be helpful in the process, e.g. for information exchange, social and community life, lobbying, networking with other municipalities, partners outside the country?

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

#### IV.3.1 Overview

##### Macedonia MDG 3

**Target:** Halving, by 2015, the proportion of women as unpaid family workers and reducing their inactivity rate by one third

**Indicators:**

- Disparity in income
- Increased rate of inactivity
- Activity rate
- Unemployment rate
- Employment rate
- Comparison of non-commercial activities sectors employing women and men

**Target:** Doubling the proportion of women in governance

**Indicators:**

- Proportion of women in Parliament
- Proportion of women in Government
- Proportion of women in government at local level

##### Key human rights

- Non-discrimination for women and affirmative action
- Child rights protection as a primary consideration
- Non-discrimination for minorities and affirmative action

##### Key human rights instruments

- Universal Declaration of Human Rights 1948: Articles 2, 16, 23, 25
- UN Convention on the Elimination of All Forms of Discrimination against Women 1979: Articles 2-16
- UN International Covenant on Economic, Social and Cultural Rights 1966: Articles 3, 6, 7, 13, 14; 10
- UN International Covenant on Civil and Political Rights 1966: Articles 3, 6, 23, 25, 26; 24
- UN Convention in the Rights of the Child 1989: Articles 2, 18, 24; 2, 3, 4, 5, 6, 12, 18, 20
- UN International Convention on the Elimination of All Forms of Racial Discrimination 1965: Articles 5; 1, 2
- CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950: Article 14; and Protocol No. 12 2000: Article 1
- CoE European Social Charter 1961: Articles 8, 17
- CoE Framework Convention for the Protection of National Minorities 1995: Article 5
- UNESCO Convention against Discrimination in Education 1960: Articles 1, 3

##### Further relevant non-treaty standards and goals for implementation

(including follow-up processes)

- Beijing Declaration and Platform for Action, Fourth World Conference on Women, 1995
- Johannesburg Declaration on Sustainable Development, World Summit on Sustainable Development, 2002
- A World Fit for Children, UN General Assembly Special Session on Children, New York 2002
- Monterrey Consensus, International Conference on Financing for Development, 2002
- Durban Declaration and Programme of Action, World Conference against racism, racial discrimination, xenophobia and related intolerance, 2001
- Declaration of Commitment on HIV/AIDS, UN General Assembly Special Session on HIV/AIDS, New York 2001
- Dakar Framework for Action, World Education Forum, 2000
- Rome Declaration, World Food Security and World Food Summit Plan of Action, 1996
- Istanbul Declaration on Human Settlements, Second UN Conference on Human Settlements (HABITAT II), 1996
- Copenhagen Declaration and Programme of Action, World Summit for Social Development, 1995
- Cairo Programme of Action of the International Conference on Population and Development, 1994
- Declaration on the Elimination of Violence against Women 1984
- Vienna Declaration and Programme of Action, World Conference on Human Rights, 1993
- UN Declaration on the Right to Development 1986

##### Further references for interpretation

- CEDAW Committee: all General Recommendations
- CESCR Committee: General Comments 5 (disabilities), 6 (older persons), 7 (housing/forced evictions), 11 and 13 (education), 12 (food), 14 (health), 15 (water), 16 (equality in economic, social, cultural rights), 18 (work)
- ICCPR Human Rights Committee: General Comments 18 (non-discrimination), 19 (family), 25 (right to vote, public affairs), 27 (freedom of movement), 28 (equality of men and women)
- CRC Committee: General Comments 3 (HIV/AIDS), 4 (adolescent health), 7 (early childhood), Recommendations of Days of General Discussions, in particular 1995 (girl child)
- CERD Committee: General recommendation 25 (gender-related dimension of racial discrimination), 27 (discrimination against Roma)
- Opinion of the FCNM Advisory Committee on Macedonia, May 2004 and Resolution of the CoE Council of Ministers on Macedonia, June 2005
- Reports of the Special Rapporteur of the UN Commission on Human Rights on violence against women, its causes and consequences
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the sale of children, child prostitution and child pornography
- Reports of the Special Rapporteur of the UN Commission on Human Rights on trafficking in persons, especially in women and children

- Digest of the case law of the European Committee of Social Rights, CoE Committee Secretariat, March 2005
- Reports of the OSCE High Commissioner on National Minorities regarding visits to Macedonia to the former Yugoslav Republic of Macedonia

### IV.3.2 International Legal Framework

#### IV.3.2.1 Relevant Human Rights Treaty Provisions

(Summarized only – for the full text of provisions see [reference to some Treaties compilation available in Macedonia])

#### 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 – Article 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

#### 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, 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 on the 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 Covenant on Economic, Social and Cultural Rights 1966**
  - Special protection and assistance without any discrimination for children, families – Article 10
- **UN Covenant on Civil and Political Rights 1966**
  - Special protection and assistance for children free from all discrimination – Article 24
- **CoE European Social Charter 1961**  
(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)
  - Right of mothers and children to specific social and economic protection – Article 17

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

- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - State to take special measures securing adequate advancement of certain ethnic groups, including specifically in the social and economic field – Articles 1/4 and 2/2
- **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
  - 
  -

#### IV.3.2.2 Rights in context and international monitoring

Gender equality is a typical crosscutting issue, not limited by municipal boundaries or ministerial areas of competence. The Convention on the Elimination of All Forms of Discrimination against Women requires States parties to protect women from gender-based discrimination in a wide variety of fields, including access to food, housing, family relations, property, health and education. Overcoming traditional gender roles and imbalances in access to resources, educational opportunities, etc., will empower women and constitute a key instrument to achieving the MDGs as a whole and protect women's human rights.

The Macedonian MDG Report quite openly addresses some of the challenges for realizing the gender equality rights. In relation to employment, for instance, the high inactivity rate of women has been attributed both to the still difficult transition to a market economy and the prevailing stereotypical role models for women to remain confined to the household. Similarly, girls are at higher risk of dropping out of school in some areas, and women continue to be underrepresented in government and other

decision-making bodies. In order to meet these challenges the Government committed itself to strengthening relevant structures, such as the local gender equality committees or by adopting key legislation, in particular the Law on Equal Opportunities.

The following lists some key recommendations of treaty monitoring bodies towards Macedonia, focusing on those recommendations which should have an impact on implementation of MDG 3 and women's right to gender equality (although some are of a rather general nature and/or only indirectly related, e.g. strengthening of institutions, development of general Action Plans), taking into account also the specific rights perspectives of children and national minorities.

#### Overview of recommendations by UN and CoE treaty monitoring bodies

Sources: OHCHR website (State reports, Concluding Observations/Comments), [www.ohchr.org](http://www.ohchr.org); Council of Europe website (State reports, treaty body statements), [www.coe.int](http://www.coe.int).

#### Rights of women in general

- CEDAW Committee, 2006:
  - Ratify the Migrant Workers Convention 1990
  - Report on MDG implementation in next report 2011
  - Disseminate CEDAW, Concluding Comments
  - Adopt comprehensive Law on Equal Opportunities
  - Lack of definition of discrimination
  - Adopt special temporary measures
  - Increase political participation in elected and appointed bodies and internationally
  - Local gender equality committees in all municipalities, with adequate powers and visibility
  - Training for lawyers, judges for complaints and capacity-building for women to claim rights
  - Change stereotypes in family, education, media, rural areas
  - Implement National Programme against trafficking
  - Suppress exploitation of prostitution
  - Address violence against women, including in family and shelter
  - Eliminate discrimination against rural women, ethnic minority women/Albanian and Roma (include section in next report 2011)
  -

#### Right to work

- Human Rights Committee, 1998:
  - Lack of equality between men and women, particularly in employment
- CEDAW Committee, 2006:
  - Employment and women's entrepreneurship to be supported (include section in next report 2011)

#### Right to education

- Human Rights Committee, 1998:
  - Lack of equality between men and women, particularly in education

- CRC Committee, 2000:
  - Increase enrolment of minority children in primary and secondary education, particularly of girls, Roma children; address high drop-out rates
  - Integrate children with disabilities into education and recreation programmes, improve physical access to buildings, including schools, review facilities
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Address high drop-out rates of Roma pupils, of members of the Turkish and Albanian communities, provide adequate textbooks and material
  - Strengthen teaching in minority languages, particularly for Turkish, Albanian communities, but also for smaller ethnic communities

#### Right to health

- Human Rights Committee, 1998:
  - Concerted action of authorities to reduce domestic violence against women
- CRC Committee, 2000:
  - Adequate health education for mothers
  - Adolescent health: data collection, reproductive health education, counselling for HIV/AIDS, STDs, pregnancy among girls, abortion
  - Access for children to health care services from all regions; review cost-sharing policies for adolescents
  - Continue prevention and monitoring on HIV/AIDS
- CEDAW Committee, 2006:
  - Access to contraceptives – less use of abortion as a method of birth control

#### Civil and political rights, access to justice

- CEDAW Committee, 2006:
  - Gender-sensitive approach in asylum procedures

#### Rights of the child

- CRC Committee, 2000:
  - Lack of coordination mechanism in implementation; Action Plan missing
  - Disseminate CRC, mainstream best interests principle in legislation and administration
  - Protect children from negative effects of poor economy – reflect child focus in budget priorities – focus on poor families, particularly in difficult regions
  - Review system of ‘three-child policy’/limitations to access to social service benefits
  - Alternative care: strengthen foster care and review legislation for allowing judicial review, more resources for Centres for Social Work
  - Support child participation
  - End corporal punishment, particularly in schools, support awareness-raising among parents, provide training for police, staff of Centres for Social Work for identifying child abuse, domestic violence
  - Monitor drug abuse
  - Support NGOs

- Seek technical assistance from UNICEF (mainstreaming, training, disabilities, health, education, minorities)

#### Rights of minorities

- Human Rights Committee, 1998:
  - Minority participation in educational system, teacher training in minority languages
- CRC Committee, 2000:
  - More teaching of Macedonian in minority language schools for better participation
  - Increase higher education among minorities, raise educational quality particularly in minority language schools, review allocation of financial resources
  - Vocational training, personal development, interethnic tolerance with stronger emphasis in school curricula
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Strengthen structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education
  - Establish regular consultations with ethnic groups
  - Allow for greater participation of minorities in the decentralization process
  - Promote peaceful interethnic relations on central and local authority level
  - Generally, stronger focus on “numerically smaller minorities”
  - Respect distinct identity of the Egyptian community
  - Strengthen cultural rights of minorities, including Vlach minority
  - Improve situation of Roma in employment, housing, health care, education and adopt new National Strategy

### IV.3.3 Macedonia’s Domestic Legal Framework

#### Human Rights of Women and Gender Equality

##### IV.3.3.1 Overview

#### Constitution of the Republic of Macedonia 1991

##### Article 9

Citizens of the Republic of Republic of Macedonia are equal in their freedoms and rights, regardless of gender, race, colour of skin, national and social origin, political and religious beliefs, property and social status.

All citizens are equal before the Constitution and law

### Key Legislation

- Law on Labour Relations, *Official Gazette of the Republic of Macedonia* Nos. 50/97, 16/2000, 17/2003, 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* No 17/97, 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, 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, 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

### IV.3.3.2 Gender and Work relations

#### 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.

Every job is open to all under equal conditions. Any person that is 15 or older, and is work capable from a health point of view, may be employed.

Women and men must be provided equal opportunities and equal treatment in access to employment, promotion, training, education, retraining, salaries, and other income arising from the employment, absence from work, working conditions, working hours, and termination of the employment contract.

Employers are forbidden to put an applicant or an employee in an unequal legal position on the grounds of race, colour

of skin, gender, age, health status/disability, religious, political or other belief, membership in trade unions, national or social background, family status, property status, or any other personal circumstances.

#### Gender Equality when Advertising Vacancies

The employer must not advertise a vacancy only for men or only for women, unless the particular gender is the essential condition for carrying out the work.

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

The employer must not terminate the employment contract of the female employees 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.

#### Ban on Performing Work beyond the Full Working Hours

The employer must not impose performing of work beyond the full working hours:

- if the work may be carried out by appropriate organization or distribution of duties, by organization of the working hours or by introducing new shifts;
- to a female employee, in accordance with the provisions of this law, for the purpose of protecting pregnancy, childbirth and parenthood;
- to a mother with a child under the age of three and self-supporting parent with a child under the age of six, except if the employee gives a written statement declaring that he is willing to work overtime.

#### Night Work for Female Employees in Industry and Construction

- (1) The female employee in the field of industry and construction may not be assigned to night work if that work does not allow her to rest at least seven hours between 2200 hours and 0500 hours the following day.
- (2) The ban shall not refer to a female employee that has special authorizations and responsibilities or carries out tasks related to health care, social security and other protection of employees.
- (3) As an exception to the provision referred to in paragraph 1, the female employee may be assigned to night work when it is indispensable to continue the work interrupted by *force majeure*, and when it is necessary to prevent damage to raw or other materials.
- (4) The female employee may also be assigned to night work when it is required by especially serious economic, social and similar circumstances, under the condition the employer to receive consent for introducing such work from the governmental authority in charge of labour issues.

## DRAFT GUIDELINES ON A HUMAN RIGHTS APPROACH TO POVERTY REDUCTION STRATEGIES

(Excerpts from Guidelines 6-15, 'key targets and indicators')

### Guideline 6: RIGHT TO ADEQUATE FOOD

- **Target 2:** Eliminate gender inequality in access to food
  - Indicators:**
    - Proportion of males and females with inadequate intake of dietary energy
    - Proportion of male and female adults and adolescents with low body mass
    - Proportion of underweight boys and girls

### Guideline 7: RIGHT TO HEALTH

- **Target 7:** To eliminate gender inequality in access to health care
  - Indicators:**
    - Sex ratio (overall, birth and juvenile)
    - Disability-adjusted life years lost for men and women
    - Ratio of women and men treated in medical institutions

### 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
  - Indicators:**
    - Net enrolment ratio in primary education
    - Proportion of pupils starting grade 1 who reach grade 5
    - Literacy rate in the age group 15-24
    - Drop-out and attendance rates in primary schools
    - Share of public expenditure on primary education
- **Target 5:** To ensure equal access for all to secondary education
  - Indicators:**
    - Net enrolment ratio in secondary education, disaggregated for poor and non-poor
    - Share of public expenditure on secondary education
    - Ratio of girls to boys in secondary education
    - Drop-out and attendance rates in secondary education
    - Proportion of children with disabilities attending secondary education
- **Target 7:** To eliminate gender disparity in primary and secondary education
  - Indicators:**
    - Ratio of girls to boys in primary education
    - Ratio of girls to boys in secondary education
    - Ratio of literate females to males in the age group 15-24

### Guideline 9: RIGHT TO DECENT WORK

- **Target 4:** To eliminate gender inequality in access to work
  - Indicator:**
    - Female and male labour force participation rates
- **Target 5:** To eliminate gender inequality in remuneration for work
  - Indicators:**
    - Average wages of males and females in different economic sectors
    - Proportion of working poor in labour force disaggregated by gender

### Guideline 11: RIGHT TO PERSONAL SECURITY

- **Target 1:** To eliminate violence against the poor by State and non-State actors
  - Indicators:**
    - Crime rate disaggregated between poor and non-poor segments of society
    - Ratio of killings, violent attacks and similar crimes against the poor to the overall crime rate
    - Proportion of poor people subjected to police violence, harassment, intimidation, discrimination
    - Ratio of police violence, harassment, intimidation, discrimination against the poor to overall police violence, harassment, intimidation, discrimination
    - Proportion of poor people subjected to violent crime
    - Rate of specific crime against women disaggregated between poor and non-poor segments of society

### Guideline 13: RIGHT OF EQUAL ACCESS TO JUSTICE

#### ➤ Target 1: Equal access to civil justice for poor people as victims

##### Indicators:

- Proportion of people availing themselves of civil justice mechanisms, disaggregated by gender and poverty
- Proportion of poor people having access to legal aid in civil matters
- Proportion of people availing themselves of specific human rights litigation, disaggregated by gender and poverty
- Proportion of poor people having access to legal aid for human rights litigation
- Number of judges and courts per unit of population
- Average distance between poor households and courts
- Average length of proceedings before civil and human rights courts and tribunals
- Level of corruption in the administration of civil justice

#### IV.3.3.3 Gender and Education

##### 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. Discriminations on grounds of gender, race, colour of the skin, national and social background, political and religious beliefs, financial and social status are 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.

##### Professional orientation and advice

The Employment Agency provides advice regarding professional orientation and choice of profession for all unemployed, pupils, students, handicapped, and employed. The advice is provided by the Agency's unit on the territory of residence of the individual seeking such advice, whereas in the case of students in their final years of education at all levels of education, this is done by the Agency on the territory of which the educational institutions are located. This type of Agency's services is free of charge.

#### IV.3.3.4 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.

##### Interruption of pregnancy

It provides that by exception, pregnancy interruption may be done after the tenth week if the inception was a result of a criminal offence: rape, sexual abuse of an incapable person, sexual abuse of a minor, sexual abuse based on abuse of an official post and incest.

#### IV.3.3.5 Gender and Marriage and parental rights

##### Right of marriage

Two persons of different gender and of full age may enter into marriage, based on their freely expressed will before

a competent body, in a manner determined by law. The conditions for entering into marriage are that the persons are of full age, which according to the applicable legislation of the Republic of Macedonia is attained at 18 years. The competent court may in an out-of-court procedure, allow the entering into a marriage to a person having attained 16 years of age, if it has established that the person is of physical and mental maturity necessary for the performance of the rights and duties related to marriage, which is granted based on a previously acquired opinion from a health care institution and after the person has been provided professional assistance at the Centre for Social Work. A marriage is void, i.e. fully annulled, when the consent for entering into marriage is given under by deception.

##### Ownership of property belonging to a woman at the moment of entering into marriage

The property belonging to one of the marital partners at the time of conclusion of marriage is his/her own property, which means that the husband cannot acquire the right of ownership over the property of his wife once they enter into marriage. The law explicitly states the following: "Each of the marital partners independently manages and disposes with his/her own property unless differently agreed in writing by the marital partners."

##### Rights and obligations of men and women upon entering into marriage and dissolving of marriage

Spouses are equally guaranteed their parental and guardianship right, as well as their right to adoption.

In the event of divorce, the uncared for spouse is entitled to require personal support and child support for the custody granted to one of the spouses. In the event of dissolution of marriage due to death, the law guarantees equal right to inheritance.

##### Parental rights

Parental rights arise with birth and adoption. Parents have equal rights and obligations towards their children. The parents equally share parental rights and they exercise them jointly, on consensual basis. If one of the parents is deceased, is not known or has been deprived of parental rights or is prevented owing to other reasons to exercise the parental rights, the other parent implements the parental rights.

Under the Criminal Law, criminal liability is incurred by the spouse who avoids paying the support determined under effective court decision or settlement, as well as for maltreatment or neglect of a minor, for abandoning a vulnerable child, and criminal liability is incurred for neglect and maltreatment of a minor by a parent, foster parent,



guardian, or other individual with whom a vulnerable child or minor is placed into care.

#### **Right of women to bring voluntary and responsible decisions for the number of children**

Termination of pregnancy is deemed a special medical intervention for which pregnant women decide voluntarily. Illegal termination of pregnancy is punishable, and criminal liability is incurred when pregnancy is terminated without the consent of the pregnant woman.

The health care institutions are responsible for ensuring that all women, in both urban and rural environments, obtain specialized knowledge and experience for administering contraception as well as for other methods of preventing unintended pregnancy that are deemed to be efficient factors in family planning.

#### *IV.3.3.6 Gender and the Right of Citizenship*

The Constitution and the Law on Citizenship of the Republic of Macedonia recognize and ensure equal rights for both women and men regarding the acquisition, changing and retaining their citizenship. It is allowed that a citizen of the Republic of Macedonia also has citizenship of another state (dual citizenship). Neither a marriage with a foreigner nor any changes in the citizenship of the husband during the marriage will automatically change the citizenship status of the wife. Both parents (male and female) have equal right to decide on the citizenship of their children.

#### *IV.3.3.7 Women's rights in the judicial sphere*

The legislation in force guarantees women equal rights in all phases and court procedures in the civil procedure, non-trial procedure and enforcement procedure. In all of the abovementioned procedures, women can appear in several roles.

In the event of the violation of the legal provisions related to gender issues, the substantive legislation in the Republic of Macedonia envisages two types of liability: offence and criminal liability. The former is postulated in individual laws (Law on Labour Relations, Law on Health Protection, Law on Elementary Education, Law on Secondary Education, and other special laws), while the latter is defined in Article 137 of the Criminal Code of the country, which refers to violations of equality of citizens.

#### Article 137:

*(1) A person who, based on a difference in gender, race, colour of skin, national and social origin, political and religious belief, wealth and social position, the language or other personal characteristics or circumstances, takes away or limits the rights of humans and citizens, determined by the Constitution, by law or by ratified international covenant, or who based on all these differences gives citizens favours contrary to the Constitution, some law or international ratified covenant, shall be punished with imprisonment of three months to three years.*

*(2) If the crime from item 1 is committed by an official person while performing his duty, he shall be punished with imprisonment of six months to five years.*

#### **IV.3.4 Checklist of MDG/rights-related key questions**

The following general questions should help in identifying crucial issues to be addressed in the application of the human rights legal framework in Macedonia. They should not be seen as exhaustive, but rather a first step in an assessment. Most of these questions will not be answerable by a simple yes/no, but require further consideration and possible additional research; in addition, these questions are not intended to replace other checklists and tools available (including those developed by BIM) nor to be used in isolation of them.

They should be read in conjunction with additional general questions listed above (see III.3).

- Are there any public statements being made during the national planning process by relevant local stakeholders (government, private sector, social sector, civil society, including the media), in relation to gender equality rights?
  - planning stage?
  - implementation stage?
  - monitoring and evaluation stage?
- Does this impact assessment take Macedonia's immediate state obligations (under the concept of progressive realization of human rights, see above, II.2.1) duly into account, including the obligations
  - to develop a strategy for addressing the most pressing needs?
  - to ensure non-discrimination and participation of all groups affected by the measures?
  - to prevent retrogression of standards of rights protection already achieved?
  - the identification of the maximum available resources?
  - to meet core obligations of the respective rights for ensuring at least a basic minimum level of rights protection?
- Does this impact assessment include a gender equality analysis in relation to the criteria (see above, II.2.1) of
  - Availability of services?
  - Accessibility of services, including
  - Physical accessibility?
  - Economic accessibility/affordability?
  - Access to information?
  - Acceptability and sensitiveness of services?
  - High quality of services?
- Does this impact assessment take into account the rights of specific target groups, including
  - Children?
  - Minority groups?
  - Roma people?
  - Persons living in remote areas of Macedonia?
  - People living in poverty?
  - Refugees and displaced persons?
  - People with disabilities?

- How is meaningful participation of these groups being ensured in the national development process in relation to gender equality (including access to information, translation services, etc.), for

- Children?
- Minority groups?
- Roma people?
- Persons living in remote areas of Macedonia?
- People living in poverty?
- Refugees and displaced persons?
- People with disabilities?

- Have any capacity-building needs in relation to protection of gender equality rights been identified?

- What monitoring and feedback mechanisms have been developed to assess progress of the process?

- Are there any structures missing, which would be helpful in the process, e.g. for information exchange, social and community life, lobbying, networking with other municipalities, partners outside the country?

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

### IV.4.1 Overview

#### Macedonia MDG 4

**Target:** Further reduce the infant and under-five mortality rate

**Indicators:**

- Under-five mortality rate
- Infant mortality rate

**Target:** Eradicate measles by year 2015

**Indicators:**

- Proportion of one-year-old children immunized against measles
- Reported cases with measles

#### Key human rights

- Child’s right to health and child rights protection as a primary consideration
- Non-discrimination for women and affirmative action
- Non-discrimination for minorities and affirmative action

#### Key human rights instruments

- UN Convention in the Rights of the Child 1989: Articles 24, 25, 6, 23, 19, 39, 32, 33; 2, 3, 4, 5, 6, 12, 18, 20
- UN Convention on the Elimination of All Forms of Discrimination against Women 1979: Articles 10, 12, 14; 2, 3, 4
- Universal Declaration of Human Rights 1948: Article 25
- UN International Covenant on Economic, Social and Cultural Rights 1966: Articles 10, 12, 15
- UN International Covenant on Civil and Political Rights 1966: Articles 6, 7; 24
- UN International Convention on the Elimination of All Forms of Racial Discrimination 1965: Articles 5; 2, 1
- CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950: Article 2
- CoE European Social Charter 1961: Articles 7, 11, 13; 17
- Coe Framework Convention for the Protection of National Minorities 1995: Article 4

#### Further relevant non-treaty standards and goals for implementation

(including follow-up processes)

- A World Fit for Children, UN General Assembly Special Session on Children, New York 2002
- World Declaration and Plan of Action on the Survival, Protection and Development of Children, World Summit for Children, New York 1990
- Johannesburg Declaration on Sustainable Development, World Summit on Sustainable Development, 2002
- Declaration of Commitment on HIV/AIDS, UN General Assembly Special Session on HIV/AIDS, New York 2001

- Dakar Framework for Action, World Education Forum, 2000
- Beijing Declaration and Platform for Action, Fourth World Conference on Women, 1995
- Vienna Declaration and Programme of Action, World Conference on Human Rights, 1993
- UN Declaration on the Right to Development 1986

#### Further references for interpretation

- CRC Committee: all General Comments, in particular No. 3 (HIV/AIDS), 4 (adolescent health), 7 (early childhood), all Recommendations of Days of General Discussions, in particular 1995 (girl child), 1997 (disabilities), 1998 (HIV/AIDS), 2000/01 (violence), 2002 (private sector services), 2004 (early childhood)
- CEDAW Committee: General Recommendations 14 (female circumcision), 15 (AIDS), 19 (violence against women), 21 (equality in family relations), 24 (women and health)
- CESCR Committee: General Comment 14 (health)
- ICCPR Human Rights Committee: General Comment 17 (children)
- CERD Committee: General recommendations 22 (refugees and displaced persons), 27 (discrimination against Roma), 29 (descent)
- Opinion of the FCNM Advisory Committee on Macedonia, May 2004 and Resolution of the CoE Council of Ministers on Macedonia, June 2005
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the sale of children, child prostitution and child pornography
- Reports of the Special Representative of the Secretary-General for Children and Armed Conflict
- UN Study on Violence against Children 2006
- Digest of the case law of the European Committee of Social Rights, CoE Committee Secretariat, March 2005
- Third report on Macedonia of the CoE European Commission against Racism and Intolerance, June 2004
- Reports of the OSCE High Commissioner on National Minorities regarding visits to Macedonia to the former Yugoslav Republic of Macedonia
- 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/guardians – 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 on the grounds of social origin, property – Article 2
- State responsibility for protection and care of children and maximum resources for economic and

## IV.4.2 International Legal Framework

### IV.4.2.1 Relevant Human Rights Treaty Provisions

*(Summarized only – for the full text of provisions see [reference to some Treaties compilation available in Macedonia])*

#### Child's right to health

- **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

- 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 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, 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 – Article 2
  - State to ensure full development and advancement of girls, including in the economic and social field, and to adopt temporary special measures aimed at accelerating *de facto* equality between boys and girls – Articles 3 and 4

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

- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - State to take special measures securing adequate advancement of ethnic groups, including specifically in the social and economic field – Articles 1/4 and 2/2
- **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

#### IV.4.2.2 Rights in context and international monitoring

Although MDG 4 focuses only on a few (important) goals and indicators of child health it is warranted to place this right in the broader context of child rights protection. Just as in the case of implementation of the gender/women-specific MDGs 3 and 5 and of the corresponding legal human rights framework, children constitute another target group calling for comprehensive mainstreaming efforts. Child health issues will not be adequately addressed if the underlying dependencies, ambivalent perceptions and expectations of society towards children are not taken into account. Children are often treated as objects of an adult's care rather than as respected subjects on their own, with adults all too frequently claiming to protect

only the child's best interests. Almost all states in the world have ratified the Convention on the Rights of the Child in less than a decade, and still thousands of children – defined by the CRC as all persons below the age of 18 – are deliberately sexually abused by adults, economically exploited, killed as child soldiers or trafficked to the so-called 'developed countries'. Still, on a less tremendous level of disrespect of the child's dignity, societies are struggling to find the right balance between the protection needs of children and their equally relevant needs for self-determination and autonomy as part of their regular personal development.

International human rights treaty bodies, like the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child have adopted an understanding of 'health' as going beyond mere absence of disease (following the WHO health definition). Thus, the living environment and its impact on the child are as important for health protection as the access of the child to health care services itself. The Macedonian MDG Report illustrates this, for instance, by referring on the one hand to the generally high level of immunization in the country, while on the other hand acknowledging difficulties in poor, rural settings or as far as Roma people are concerned. And the link between health, nutrition, adequate sanitation, housing and education is already well established.

The following lists some key recommendations of treaty monitoring bodies towards Macedonia, focusing on those recommendations which should have an impact on implementation of MDG 4 and the child's right to health (although some are of a rather general nature and/or only indirectly related, e.g. strengthening of institutions, development of general Action Plans), taking into account also the specific rights perspectives of women and national minorities.

### Overview of recommendations by UN and CoE treaty monitoring bodies

Sources: OHCHR website (State reports, Concluding Observations/Comments), [www.ohchr.org](http://www.ohchr.org); Council of Europe website (State reports, treaty body statements), [www.coe.int](http://www.coe.int).

#### Right to health

- CRC Committee, 2000:
  - Adequate health education for mothers
  - Adolescent health: data collection, reproductive health education, counselling for HIV/AIDS, STDs, pregnancy among girls, abortion
  - Access for children to health care services from all regions; review cost-sharing policies for adolescents
  - Continue prevention and monitoring on HIV/AIDS
  - Support child participation
  - Protection from child labour, economic exploitation – enforce schooling obligations – [ratify ILO 138/182]
  - Seek technical assistance from WHO (adolescent health, HIV/AIDS)
- CEDAW Committee, 2006:
  - Access to contraceptives – less use of abortion as a method of birth control

#### Rights of the child

- CRC Committee, 2000:
  - Lack of coordination mechanism in implementation; Action Plan missing
  - Disseminate CRC, mainstream best interests principle in legislation and administration
  - Protect children from negative effects of poor economy – reflect child focus in budget priorities – focus on poor families, particularly in difficult regions
  - Review system of 'three-child policy'/limitations to access to social service benefits
  - Alternative care: strengthen foster care and review legislation for allowing judicial review, more resources for Centres for Social Work
  - End corporal punishment, particularly in schools, support awareness-raising among parents, provide training for police, staff of Centres for Social Work for identifying child abuse, domestic violence
  - Increase enrolment of minority children in primary and secondary education, particularly of girls, Roma children; address high drop-out rates
  - Increase higher education among minorities, raise quality particularly in minority language schools, review allocation of financial resources
  - Integrate children with disabilities into education and recreation programmes, improve physical access to buildings, including schools, review facilities
  - Reform juvenile justice system – detention only as a last resort, focus on reintegration
  - Monitor drug abuse
  - Stronger protection of rights of refugee/displaced groups
  - Support NGOs
  - Seek technical assistance from UNICEF (mainstreaming, training, disabilities, health, education, minorities)
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Review legislation in order to allow for private primary education
  - Address high drop-out rates of Roma pupils, of members of the Turkish and Albanian communities, provide adequate textbooks and material
  - Strengthen teaching in minority languages, particularly for Turkish, Albanian communities, but also for smaller ethnic communities

#### Rights of women

- Human Rights Committee, 1998:
  - Concerted action of authorities to reduce domestic violence against women
- CEDAW Committee, 2006:
  - Report on MDG implementation in next report 2011
  - Disseminate CEDAW, Concluding Comments
  - Lack of definition of discrimination
  - Adopt special temporary measures
  - Increase political participation in elected and appointed bodies and internationally

- Local gender equality committees in all municipalities, with adequate powers and visibility
- Training for lawyers, judges for complaints and capacity-building for women to claim rights
- Change stereotypes in family, education, media, rural areas
- Implement National Programme against trafficking
- Suppress exploitation of prostitution
- Gender-sensitive approach in asylum procedures
- Address violence against women, including in family and shelter
- Eliminate discrimination against rural women, ethnic minority women/Albanian and Roma (include section in next report 2011)

#### Rights of minorities

- CERD Committee, 1997:
  - Better educational opportunities for Albanian minority
- Human Rights Committee, 1998:
  - Minority participation in educational system, teacher training in minority languages
- CRC Committee, 2000:
  - More teaching of Macedonian in minority language schools for better participation
  - Increase higher education among minorities, raise educational quality particularly in minority language schools, review allocation of financial resources
  - Vocational training, personal development, interethnic tolerance with stronger emphasis in school curricula
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Strengthen structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education
  - Establish regular consultations with ethnic groups
  - Allow for greater participation of minorities in the decentralization process
  - Promote peaceful interethnic relations on central and local authority level
  - Generally, stronger focus on “numerically smaller minorities”
  - Respect distinct identity of the Egyptian community
  - Improve situation of Roma in employment, housing, health care, education and adopt new National Strategy

## IV.4.3 Macedonia’s Domestic Legal Framework

### The Child’s Right to Health

#### IV.4.3.1 Overview

##### Constitution of the Republic of Macedonia 1991

###### Article 10

Human life is inviolable.

In the Republic of Macedonia the death penalty may not be imposed on any grounds whatsoever.

###### Article 39

Every citizen is guaranteed the right to health care. A citizen has the right and duty to protect and promote their own health and the health of others.

###### Article 40

The Republic provides particular care and protection of the family.

The legal relations in marriage, family and cohabitation are regulated by law.

Parents have the right and duty to provide for nurturing and education of the children. The children are responsible for the care of their old and infirm parents.

The Republic provides particular protection for parentless children and children with no parental care.

###### Article 41

It is a human right to freely decide on procreation of children.

The Republic conducts a humane population policy in order to provide balanced economic and social development.

###### Article 42

The Republic particularly protects mothers, children and minors.

A person under 15 years of age cannot be employed. Minors and mothers have the right to particular protection at work.

Minors may not undertake any employment that is detrimental to their health or morality

#### Key Legislation and Instruments

- Social Welfare Law, *Official Gazette of the Republic of Macedonia* Nos. 50/97, 16/2000, 17/2003, 28/04
- Law on Protection of Children, *Official Gazette of the Republic of Macedonia* Nos. 98/2000, 69/2004
- Health Care Law, *Official Gazette of the Republic of Macedonia*, Nos. 38/91, 46/93, 55/95, 10/04

- Law for Protection of the Population from Contagious Diseases, *Official Gazette of the Republic of Macedonia* No. 66/04
- Law for Sanitary and Health Inspection, *Official Gazette of the Republic of Macedonia* No. 19/95
- Law for Keeping Records in the Health Department, *Official Gazette of the Socialist Federal Republic of Yugoslavia* Nos. 22/78, 18/88 and *Official Gazette of the Republic of Macedonia* No. 15/95
- Health Insurance Law, *Official Gazette of the Republic of Macedonia* Nos. 25/2000, 34/2000, 96/2000, 50/2001, 11/2002, 31/2003 and Constitutional Court Decision No. 104/2000 and 48/2001
- Rulebook for Reporting Contagious Diseases (*Official Gazette of the Socialist Federal Republic of Yugoslavia* Nos. 42/85)
- Programme for Compulsory Immunization of the Population in the Republic of Macedonia
- National Action Plan for the Children in the Republic of Macedonia
- Family Law, *Official Gazette of the Republic of Macedonia* No. 83/04
- Programme for Active Mothers and Child Protection

### National Action Plan for the Children of the Republic of Macedonia

#### Some goals of the National Plan

- To define the policy of the Republic of Macedonia regarding the rights of children for a period of ten years;
- to set the standards through which protection and improvement of the conditions for equal access to the basic rights of every child will be secured, as part of the proper development of the child and as part of the human dignity;
- to put the children first, that is, the best interest of the child to be of primary importance in all activities;
- not to exclude even a single child and to eliminate all sorts of discrimination penetrating the rights and interests of children;
- to reduce the differences between children, that is, to dedicate equal care to every child, especially to children coming from poor families or from certain ethnic communities or who are children with special needs;
- reducing poverty as an obstacle to accomplishing the basic rights guaranteed with the Convention for the Rights of Children with investment in children, and based on the Strategy for Reducing Poverty and the Millennium Goals;
- those children with special needs are to have all necessary conditions and possibilities for attaining all rights without any discrimination;
- to protect the children from all sorts of abuse and violence;
- to provide all children with an appropriate standard for living necessary for normal growth and development;
- to provide a healthy environment for the children, that is, to save the planet for children and to provide them with healthy food and drinking water;
- to provide every child with the highest level of health care, and before all, to protect the children from HIV – AIDS and other serious and contagious u1073 diseases.

#### Some directions and priorities

For implementing the goals of the National Action Plan the following directions and priorities are determined:

- Full incorporation of the provisions of the Convention for the Rights of Children in legislative regulations, which in any way touch the rights and interests of children, and its implementation in the policy and practice of all individuals, institutions and the state as a whole. This induces the need to reach new laws, but also modifications and amendments of the existing ones;
- Establishing appropriate mechanisms and modes of coordination of the subjects involved in the implementation of the legislative regulations;
- Providing all possible resources and determining the priorities when distributing the budget resources for realizing children's rights, with a special accent on the children living in poverty and who are in a difficult financial situation;
- Education of the wider public on the rights of children, and especially education of the children about the concept of human rights and freedoms, with a goal to train and prepare them to recognize the rights and obligations and to endow them with skills for self-protection from various injuries and abuses;
- Inclusion of all children in the education process, especially the children from the rural environments and the street children, with the support from the state and with stimulation measures for attending the education institutions;
- Releasing from participation in the usage of health care services, medications and orthopaedic devices to all children under 18 years of age, for obtaining the highest u1085 level of protection of every child and non-exclusion of any child from the usage of the health care services on any grounds;
- Creating a strong legal system for minors by obtaining a special Law for Juvenile Justice and amendments of other laws, with the aim of encompassing and protecting the risk group children, of offering alternative instead of penal measures for the children in conflict with the law and of undertaking measures for rehabilitation and re-socialization of the children in conflict with the law;
- Reaching appropriate legislative solutions and altering of the practice for protection of children from all sorts of abuses, violence and exploitation;
- Advancing the cooperation between the governmental institutions and other institutions in regard to the accomplishing and protection of the rights of children, and by this, meaning to form a special department in one of the ministries with a competence which would unite, coordinate, would aid the work of all relevant institutions and would create a joint database of all aspects of the children's life;
- Advancing the cooperation between the governmental institutions and the non-governmental organizations and greater involvement and usage of the non-governmental sector for matters to be executed and provided for by the state.

## DRAFT GUIDELINES ON A HUMAN RIGHTS APPROACH TO POVERTY REDUCTION STRATEGIES

(Excerpts from Guidelines 6-15, 'key targets and indicators')

### Guideline 7: RIGHT TO HEALTH

- **Target 1:** All people to have access to adequate and affordable primary health care

**Indicators:**

- Life expectancy at birth
- Proportion of public expenditure on primary health care
- Proportion of the poor population not covered by any kind of pre-payment mechanisms, by non-discretionary interventions (e.g. exemption schemes, cash subsidies, vouchers) in relation to health user fees, or by privately funded health insurance
- Number of primary health care units per thousand population
- Number of doctors per thousand population
- Proportion of the poor population with access to affordable essential drugs

- **Target 2:** To eliminate avoidable child mortality

**Indicators:**

- Under-five mortality rate
- Infant mortality rate
- Proportion of under-five children immunized against communicable diseases

- **Target 4:** All men and women of reproductive age to have access to safe and effective methods of contraception

**Indicators:**

- The rate of use of safe and effective methods of contraception among poor couples of reproductive age who wish to use contraceptives

–

- **Target 6:** To eliminate the incidence of other communicable diseases

**Indicators:**

- Prevalence and mortality rate associated with communicable diseases
- Proportion of people with access to clean, safe drinking water
- Proportion of people with access to adequate sanitation
- Proportion of people immunized against communicable diseases

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

**Indicators:**

- Sex ratio (overall, birth and juvenile)
- Disability-adjusted life years lost for men and women
- Ratio of women and men treated in medical institutions

#### IV.4.3.2 Child's Right to Health Care

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

For exercising certain rights in cases of illness and injury and of other rights in the 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;
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.

#### **Realizing the needs and interests of society from an aspect of health care**

All citizens of the Republic of Macedonia are granted exercising of their guaranteed rights and determined needs and interests, which are:

1. Measures and activities for detecting, prevention and suppression of contagious diseases which have to be immediately reported;
2. Systematic medical examination of children, pupils and students;
3. Measures and activities for protection of the women during pregnancy, giving birth and breastfeeding, and of the suckling infants;
4. Measures and activities for family planning.

The means secured with the Republic budget are distributed with programmes reached by the Government of the Republic of Macedonia, as follows:

1. Programme for preventive health care;
2. Programme for compulsory immunization of the population;
3. Programme for examining the occurrence, prevention and suppressing of brucellosis in people;
4. Programme for preventive measures for prevention of tuberculosis in the population;
5. Programme for protection of the population from AIDS;
6. Programme for active health care of mothers and children;
7. Programme for systematic medical examinations of children, pupils and students.

#### **Procedure for exercising the right to health care**

When the beneficiary is satisfied with the shown health care, as well as when he/she is not satisfied with the treatment by a health care organization employee, he/she may file a complaint to the management body of the health care organization. A complaint may be filed orally or in writing.

The management body of the health care organization is obliged within three days from filing of a complaint, or in urgent cases to look immediately into the complaint, to give a written reply to the complainant about the facts determined, as well as the undertaken measures.

If the beneficiary is not satisfied with the measures undertaken by the management body, he/she has a right to request for the Ministry of Health to look into the allegations of his/her complaint. When a beneficiary is not satisfied with the shown health care by a medical worker from the health care profession, he/she may file a complaint to the Ministry of Health, which will look into the allegations of the complaint.

#### **Institutions competent for health care of children from 0 to 6 years of age**

The health care of children in the Republic of Macedonia is conducted within the frames of the state or public health care and within the frames of the private health care, and it is organized at three levels of health care:

- a) Primary health care – conducted within the frames of the Paediatric Dispensers as part of the Health Care Centres and former Medical Centres, as well as within the medical units in the country, as part of the general medical practice;
- b) Secondary health care – is organized within the specialist-consultative practice and the hospital practice, within the frames of paediatric departments in General Practice Hospitals, the Health Care Institute for Mothers and Children in Skopje, the Special Hospital for Children's Diseases in Ohrid, the Institute for Mental Health in Skopje, Service for Mental Health of Children and Youth in Bitola, and so on;
- c) Tertiary health care – is realized within the frames of the Paediatric Clinic within the Clinical Centre in Skopje, the Institute for Pulmonary Diseases of Children in Skopje, as well as in all paediatric organizational units within the other clinics and institutes.

#### *IV.4.3.3 Parental and social care for children*

##### **Parental rights and duties**

Parenthood begins with giving birth and adoption. Parents have equal rights and duties (parental rights) towards their children.

The relationship between parents and children is based on the rights and duties of parents to take care of nurturing, raising, upbringing and educating their children and to develop their working abilities and habits. The parental right is realized by parents in accordance with the needs and interests of the children and the interests of society.

Legitimate or illegitimate children are equal in regard to their relationships, rights and duties with the parents and close relatives.

Parents have a right and duty to nurture their underage children, to take care of their upbringing, schooling and academic development.

Minor children may live separately from their parents only when this is in the immediate interest of the child or when this is of mutual interest to both children and parents.

The parent with whom the child does not live has the right and duty to maintain personal contact with his/her child.

If it is in the interest of the child, parents must entrust the child to a third person to be nurtured and brought up, or have it taken care of by an appropriate facility.

### Guardianship

Through guardianship the Republic provides protection for parentless children, for the minors with no parental care and for adults under conditions determined by law.

In cases of disagreement between the parents in the exercise of their parental rights, the Centre for Social Care has the final say.

The guardian of a minor is obliged to take care of the person-minor as a parent, and especially concerning the minor's health, upbringing, education and building his/her capacity for independent life and work.

### Competence of the Centre for Social Work in cases of separated parents and inappropriate treatment of the child by the parents

In cases when the child's parents do not live together, they then make an agreement as to who will take care of the child's nurturing and upbringing, and if they cannot reach an agreement, or if their agreement runs contrary to the interests of the child, the Centre for Social Work will decide.

The Centre for Social Work, at the request of one of the parents, or *ex officio*, will reach a new decision on entrusting the child's care and upbringing, if the change of circumstances so requires.

Every citizen, body and legal entity shall inform the Centre for Social Work immediately when they find out that a parent is negligent of his/her parental duty or that there are other reasons that impose the need for protection of the person, the rights and interests of the child.

If this is in the interest of the child, the Centre for Social Work warns the parents about the negligence in the upbringing and development of the child, and helps them to develop and bring up the child correctly, but it can also direct them to go, by themselves or with the child, to a counselling service or another health, social or educational facility which would be able to give them the necessary advice.

If it is in the interest of the child, the Centre for Social Work may reach a decision on regular monitoring of the performance of the parental duty in regard to all children or in regard to just one of them.

The Centre for Social Work may take the child from the care of one parent and entrust it to the care and upbringing

of the other parent, a third person or to an appropriate facility, when the parents, or one parent, with whom the child lives neglect the child's nurturing and upbringing, or when there is a serious danger to his/her appropriate development and upbringing.

The Centre for Social Work may also take the child from one parent and give it to the other, to a third person or to an appropriate facility, in cases when the parent to whom the child's nurturing and upbringing have been entrusted prevents the child's personal relationships with the other parent.

The other rights and duties of the parents towards the child do not stop with the removal of the child.

After the reasons for which the child has been taken away from the parents have been removed, the Centre for Social Work may make a decision and return the child to the parents.

### Facilities competent for social care

The facilities for children with no parental care are: 'Majchindom' in Bitola including children up to three years of age, and in the first three months after birth it also includes mothers; and the Children's Home '11 Oktomvri' in Skopje for children between three and 18 years of age, where care for the children is provided instead of <by??> parents and family.

### IV.4.4 Checklist of MDG/rights-related key questions

The following general questions should help in identifying crucial issues to be addressed in the application of the human rights legal framework in Macedonia. They should not be seen as exhaustive, but rather a first step in an assessment. Most of these questions will not be answerable by a simple yes/no, but require further consideration and possible additional research; in addition, these questions are not intended to replace other checklists and tools available (including those developed by BIM) nor to be used in isolation of them.

They should be read in conjunction with additional general questions listed above (see III.3).

- Are there any public statements being made during the national planning process by relevant local stakeholders (government, private sector, social sector, civil society, including the media), in relation to the child's right to health?
- How is an assessment being ensured of the impact of the national planning process on the child's right to health at the
  - planning stage?
  - implementation stage?
  - monitoring and evaluation stage?
- Does this impact assessment take Macedonia's immediate state obligations (under the concept of progressive realization of human rights, see above, II.2.1) duly into account, including the obligations

- to develop a strategy for addressing the most pressing needs?
- to ensure non-discrimination and participation of all groups affected by the measures?
- to prevent retrogression of standards of rights protection already achieved?
- the identification of the maximum available resources?
- to meet core obligations of the respective rights for ensuring at least a basic minimum level of rights protection?
- Does this impact assessment include analysis of the criteria (see above, II.2.1) of
  - Availability of services?
  - Accessibility of services, including
    - Physical accessibility?
    - Economic accessibility/affordability?
    - Access to information?
    - Acceptability and sensitiveness of services?
    - High quality of services?
- Does this impact assessment take into account the rights of specific target groups, including
  - Children living in a family environment?
  - Children living in alternative care?
  - Children at school?
  - Juveniles deprived of their liberty?
  - Street children?
  - Child victims of trafficking and exploitation?
  - Child victims of violence?
  - Girl children?
  - Children affected by HIV/AIDS?
  - Children of minority groups?
  - Roma children?
  - Children living in remote areas of Macedonia?
  - Children living in poverty?
  - Refugees and displaced children?
  - Children with disabilities?
  - Teachers?
  - Social workers?
  - Other professionals working with/for children?
  - NGOs working with/for children?
  - Public institutions for children?
- How is meaningful participation of these groups being ensured in the national development process in relation to the right to education (including access to information, translation services, etc.), for
  - Children living in a family environment?
  - Children living in alternative care?
  - Children at school?
  - Juveniles deprived of their liberty?
  - Street children?
  - Child victims of trafficking and exploitation?
  - Child victims of violence?
  - Girl children?
  - Children affected by HIV/AIDS?
  - Children of minority groups?
  - Roma children?
- Children living in remote areas of Macedonia?
- Children living in poverty?
- Refugees and displaced children?
- Children with disabilities?
- Teachers?
- Social workers?
- Other professionals working with/for children?
- NGOs working with/for children?
- Public institutions for children?
- Have any capacity-building needs in relation to protection of the child's right to health been identified?
- What monitoring and feedback mechanisms have been developed to assess progress of the process?
- Are there any structures missing, which would be helpful in the process, e.g. for information exchange, social and community life, lobbying, networking with other municipalities, partners outside the country?

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

### IV.5.1 Overview

#### Macedonia MDG 5

**Target:** Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio

#### Indicators:

- Maternal mortality ratio
- Proportion of births attended by skilled health personnel (doctors, nurses or midwives)

#### Key human rights

- Women's right to health and non-discrimination for women and affirmative action
- Child rights protection as a primary consideration
- Non-discrimination for minorities and affirmative action

#### Key human rights instruments

- UN Convention on the Elimination of All Forms of Discrimination against Women 1979: Articles 12, 10, 11, 14; 2, 3, 4
- UN Convention in the Rights of the Child 1989: Articles 24, 25, 6, 19, 39, 32, 33; 2, 3, 4, 5, 6, 12, 18, 20
- Universal Declaration of Human Rights 1948: Article 25
- UN International Covenant on Economic, Social and Cultural Rights 1966: Articles 12, 10, 15
- UN International Covenant on Civil and Political Rights 1966: Articles 6, 7
- UN International Convention on the Elimination of All Forms of Racial Discrimination 1965: Articles 5; 1, 2
- CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950: Article 2
- CoE European Social Charter 1961: Articles 8, 11, 13; 17
- CoE Framework Convention for the Protection of National Minorities 1995: Article 4

#### Further relevant non-treaty standards and goals for implementation

(including follow-up processes)

- UN Declaration on the Elimination of Violence against Women 1994
- Beijing Declaration and Platform for Action, Fourth World Conference on Women, 1995
- Johannesburg Declaration on Sustainable Development, World Summit on Sustainable Development, 2002
- A World Fit for Children, UN General Assembly Special Session on Children, New York 2002
- Declaration of Commitment on HIV/AIDS, UN General Assembly Special Session on HIV/AIDS, New York 2001
- Dakar Framework for Action, World Education Forum, 2000

- Vienna Declaration and Programme of Action, World Conference on Human Rights, 1993
- UN Declaration on the Right to Development 1986

#### Further references for interpretation

- CEDAW Committee: General Recommendations 12 and 19 (violence against women), 14 (female circumcision), 15 (AIDS), 21 (equality in family relations), 24 (women and health)
- CRC Committee: General Comments 3 (HIV/AIDS), 4 (adolescent health), 7 (early childhood); Recommendations of Days of General Discussions 1994 (role of the family), 1995 (girl child), 1998 (HIV/AIDS), 2000/01 (violence), 2004 (early childhood)
- CESCR Committee: General Comment 14 (health), 16 (equality in economic, social, cultural rights)
- ICCPR Human Rights Committee: General Comments 23 (family)
- CERD Committee: General recommendations 22 (refugees and displaced persons), 27 (discrimination against Roma), 29 (descent)
- Opinion of the FCNM Advisory Committee on Macedonia, May 2004 and Resolution of the CoE Council of Ministers on Macedonia, June 2005
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- Reports of the Special Rapporteur of the UN Commission on Human Rights on violence against women, its causes and consequences
- Digest of the case law of the European Committee of Social Rights, CoE Committee Secretariat, March 2005
- Third report on Macedonia of the CoE European Commission against Racism and Intolerance, June 2004
- Reports of the OSCE High Commissioner on National Minorities regarding visits to Macedonia to the former Yugoslav Republic of Macedonia

### IV.5.2 International Legal Framework

#### IV.5.2.1 Relevant Human Rights Treaty Provisions

(Summarized only – for the full text of provisions see [reference to some Treaties compilation available in Macedonia])

#### The right to health of 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 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, counselling 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/guardians – 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 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
- **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 prevention 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 best's 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 on the 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 Covenant on Economic, Social and Cultural Rights 1966**
  - Special protection and assistance for children and families free from all discrimination – Article 10
- **UN Covenant on Civil and Political Rights 1966**
  - Special protection and assistance for children free from all discrimination – Article 24
- **CoE European Social Charter 1961**  
(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)
  - Right of mothers and children to specific social and economic protection – Article 17

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

- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - State to take special measures securing adequate advancement of ethnic groups, including specifically in the social and economic field – Articles 1/4 and 2/2
- **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

#### IV.5.2.2 Rights in context and international monitoring

Just as in the case of the child's right to health/MDG 4, the health situation of women has to be assessed from a comprehensive context-oriented perspective. Changes in

cultural traditions and stereotypes in perceptions of the status of women in society, access to education for girls, addressing also the urban-rural disparities are similarly relevant to decreasing the scope of maternal mortality as the availability of adequately skilled health personnel attending birth.

The Macedonian MDG Report clearly establishes the link between rights and between target groups by promoting joint measures for children and their mothers, to support awareness-raising on risk behaviour (drug abuse, including alcohol, nicotine) strengthen reproductive health services, but also to address far-reaching problems like violence in the family.

The following lists some key recommendations of treaty monitoring bodies towards Macedonia, focusing on those recommendations which should have an impact on implementation of MDG 5 and women's right to health (although some are of a rather general nature and/or only indirectly related, e.g. strengthening of institutions, development of general Action Plans), taking into account also the specific rights perspectives of children and national minorities.

#### Overview of recommendations by UN and CoE treaty monitoring bodies

Sources: OHCHR website (State reports, Concluding Observations/Comments), [www.ohchr.org](http://www.ohchr.org); Council of Europe website (State reports, treaty body statements), [www.coe.int](http://www.coe.int).

##### Right to health

- CRC Committee, 2000:
  - Adequate health education for mothers
  - Adolescent health: data collection, reproductive health education, counselling for HIV/AIDS, STDs, pregnancy among girls, abortion
  - Access for children to health care services from all regions; review cost-sharing policies for adolescents
  - Continue prevention and monitoring on HIV/AIDS
  - Seek technical assistance from WHO (adolescent health, HIV/AIDS)
- CEDAW Committee, 2006:
  - Access to contraceptives – less use of abortion as a method of birth control

##### Rights of women

- Human Rights Committee, 1998:
  - Lack of equality between men and women, particularly in employment, education
  - Concerted action of authorities to reduce domestic violence against women
- CEDAW Committee, 2006:
  - Ratify the Migrant Workers Convention 1990
  - Report on MDG implementation in next report 2011
  - Disseminate CEDAW, Concluding Comments
  - Adopt comprehensive Law on Equal Opportunities
  - Lack of definition of discrimination
  - Adopt special temporary measures

- Local gender equality committees in all municipalities, with adequate powers and visibility
- Training for lawyers, judges for complaints and capacity-building for women to claim rights
- Change stereotypes in family, education, media, rural areas
- Address violence against women, including in family and shelter
- Increase enrolment of minority children in primary and secondary education, particularly of girls, Roma children; address high drop-out rates
- Implement National Programme against trafficking
- Suppress exploitation of prostitution
- Gender-sensitive approach in asylum procedures
- Increase political participation in elected and appointed bodies and internationally
- Eliminate discrimination against rural women, ethnic minority women/Albanian and Roma (include section in next report 2011)

#### Rights of the child

- CRC Committee, 2000:
  - Lack of coordination mechanism in implementation; Action Plan missing
  - Disseminate CRC, mainstream best interests principle in legislation and administration
  - Protect children from negative effects of poor economy – reflect child focus in budget priorities – focus on poor families, particularly in difficult regions
  - Review system of ‘three-child policy’/limitations to access to social service benefits
  - End corporal punishment, particularly in schools, support awareness-raising among parents, provide training for police, staff of Centres for Social Work for identifying child abuse, domestic violence
  - Seek technical assistance from UNICEF (mainstreaming, training, disabilities, health, education, minorities)

#### Rights of minorities

- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Strengthen structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education
  - Establish regular consultations with ethnic groups
  - Allow for greater participation of minorities in the decentralization process
  - Promote peaceful interethnic relations on central and local authority level
  - Generally, stronger focus on “numerically smaller minorities”
  - Respect distinct identity of the Egyptian community
  - Improve situation of Roma in employment, housing, health care, education and adopt new National Strategy
  -

## IV.5.3 Macedonia’s Domestic Legal Framework

### The Right to Health of Women

#### IV.5.3.1 Overview

##### Constitution of the Republic of Macedonia 1991

###### Article 10

Human life is inviolable.

In the Republic of Macedonia the death penalty may not be imposed on any grounds whatsoever.

###### Article 39

Every citizen is guaranteed the right to health care.

A citizen has the right and duty to protect and promote their own health and the health of others.

###### Article 40

The Republic provides particular care and protection of the family.

The legal relations in marriage, family and cohabitation are regulated by law.

Parents have the right and duty to provide for nurturing and education of the children. The children are responsible for the care of their old and infirm parents.

The Republic provides particular protection for parentless children and children with no parental care.

###### Article 41

It is a human right to freely decide on procreation of children.

The Republic conducts a humane population policy in order to provide balanced economic and social development.

###### Article 42

The Republic particularly protects mothers, children and minors.

A person under 15 years of age cannot be employed. Minors and mothers have the right to particular protection at work.

Minors may not undertake any employment that is detrimental to their health or morality.

#### Key Legislation and Instruments

- Social Welfare Law, *Official Gazette of the Republic of Macedonia* No. 50/97, 16/2000, 17/2003, 28/04
- Health Care Law, *Official Gazette of the Republic of Macedonia* Nos. 38/91, 46/93, 55/95, 10/04
- Law for Sanitary and Health Inspection, *Official Gazette of the Republic of Macedonia* No. 19/95

- Law for Keeping Records in the Health Department, *Official Gazette of the Socialist Federal Republic of Yugoslavia* Nos. 22/78, 18/88 and *Official Gazette of the Republic of Macedonia* No. 15/95
- Health Insurance Law, *Official Gazette of the Republic of Macedonia* Nos. 25/2000, 34/2000, 96/2000, 50/2001, 11/2002, 31/2003 and Constitutional Court Decision no. 104/2000 and 48/2001
- Law on Labour Relations *Official Gazette of the Republic of Macedonia* No. 62/05
- Programme for Active Mothers and Children Protection

### IV.5.3.2 Women's Right to Health Care

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

For exercising certain rights in cases of illness and injury and of other rights in the 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;
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.

#### Realizing the needs and interests of society from an aspect of health care

All citizens of the Republic of Macedonia are granted exercising of their guaranteed rights and determined needs and interests, which are:

1. Measures and activities for detecting, prevention and suppression of contagious diseases which have to be immediately reported;
2. Systematic medical examination of children, pupils and students;
3. Measures and activities for protection of the women during pregnancy, giving birth and breast feeding, and of the suckling infants;
4. Measures and activities for family planning.

The means secured with the Republic budget are distributed with programmes reached by the Government of the Republic of Macedonia, as follows:

1. Programme for preventive health care;
2. Programme for compulsory immunization of the population;
3. Programme for examining the occurrence, prevention and suppressing of brucellosis in people;
4. Programme for preventive measures for prevention of tuberculosis in the population;
5. Programme for protection of the population from AIDS;
6. Programme for active health care of mothers and children;
7. Programme for systematic medical examinations of children, pupils and students.

#### Procedure for exercising the right to health care

When the beneficiary is satisfied with the shown health care, as well as when he/she is not satisfied with the treatment by a health care organization employee, he/she may file a complaint to the management body of the



## DRAFT GUIDELINES ON A HUMAN RIGHTS APPROACH TO POVERTY REDUCTION STRATEGIES

(Excerpts from Guidelines 6-15, 'key targets and indicators')

### Guideline 7: RIGHT TO HEALTH

- **Target 1:** All people to have access to adequate and affordable primary health care
  - Indicators:**
    - Life expectancy at birth
    - Proportion of public expenditure on primary health care
    - Proportion of the poor population not covered by any kind of pre-payment mechanisms, by non-discretionary interventions (e.g. exemption schemes, cash subsidies, vouchers) in relation to health user fees, or by privately funded health insurance
    - Number of primary health care units per thousand population
    - Number of doctors per thousand population
    - Proportion of the poor population with access to affordable essential drugs
  
- **Target 3:** To eliminate avoidable maternal mortality
  - Indicators:**
    - Maternal mortality ratio
    - Proportion of births attended by skilled health personnel
    - Proportion of mothers with access to pre- and post-natal medical care facilities
  
- **Target 4:** All men and women of reproductive age to have access to safe and effective methods of contraception
  - Indicators:**
    - The rate of use of safe and effective methods of contraception among poor couples of reproductive age who wish to use contraceptives
  
- **Target 5:** To eliminate HIV/AIDS
  - Indicators:**
    - HIV prevalence among pregnant women
    - Condom use rate
    - Number of children orphaned by HIV/AIDS
  
- **Target 6:** To eliminate the incidence of other communicable diseases
  - Indicators:**
    - Prevalence and mortality rate associated with communicable diseases
    - Proportion of people with access to clean, safe drinking water
    - Proportion of people with access to adequate sanitation
    - Proportion of people immunized against communicable diseases
  
- **Target 7:** To eliminate gender inequality in access to health care
  - Indicators:**
    - Sex ratio (overall, birth and juvenile)
    - Disability-adjusted life years lost for men and women
    - Ratio of women and men treated in medical institutions

health care organization. A complaint may be filed orally or in writing.

The management body of the health care organization is obliged within three days from filing of a complaint, or in urgent cases to look immediately into the complaint, and to give a written reply to the complainant about the facts determined, as well as the undertaken measures.

If the beneficiary is not satisfied with the measures undertaken by the management body, he/she has a right to request for the Ministry of Health to look into the allegations of his/her complaint. When a beneficiary is not satisfied with the shown health care by a medical worker from the health care profession, he/she may file a complaint to the Ministry of Health, which will look into the allegations of the complaint.

### IV.5.3.3 Maternal health and labour relations

#### 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 the employees the easier coordination of family and professional obligations.

#### Ban on Performing Certain Tasks- during Pregnancy and After Childbirth

The female employee must not perform tasks during pregnancy and one year following the childbirth, if the

tasks, duties 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 tasks 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.

### **Absence from Work due to Pregnancy, Childbirth and Parenthood**

The female employee shall be entitled to a continuous nine-month paid leave in the period of her pregnancy, childbirth and maternity, and, if she gives birth to more than one child (twins, triplets, etc.), to a continuous paid leave of one year.

On the basis of the opinion issued by the competent health care body, the female employee may begin her maternity leave 45 days, and obligatorily, 28 days before childbirth.

The female employee who adopts a child shall be entitled to a maternity leave until the child reaches nine months of age, and, if she adopts more than one child (two or more children), to a maternity leave of one year.

The female employee, who adopts a child, shall be entitled to paid leave during the period of the child's adaptation, in accordance with the regulations on family.

### **Return to Work after Absence due to Pregnancy, Childbirth and Parenthood**

The female employee, who is on pregnancy, childbirth and maternity leave, may return to work, on her own decision, even before the expiry of the maternity leave.

The female employee, referred to in paragraph 1 of this Article, besides the right to salary, shall also have the right to salary remuneration for absence due to pregnancy and

parenthood amounting to 50 percent of the determined amount of the remuneration in accordance with the health care regulations.

### **Salary Compensation**

The employee, who is on parental leave due to pregnancy, childbirth and parenting, i.e. taking care and raising the child, shall be entitled to salary compensation, in accordance with this and other laws and collective agreements.

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

The female employee, who continues to breastfeed her child after the expiry of the 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.

## ***IV.5.4 Checklist of MDG/rights-related key questions***

The following general questions should help in identifying crucial issues to be addressed in the application of the human rights legal framework in Macedonia. They should not be seen as exhaustive, but rather a first step in an assessment. Most of these questions will not be answerable by a simple yes/no, but require further consideration and possible additional research; in addition, these questions are not intended to replace other checklists and tools available (including those developed by BIM) nor to be used in isolation of them.

They should be read in conjunction with additional general questions listed above (see III.3).

- Are there any public statements being made during the national planning process by relevant local stakeholders (government, private sector, social sector, civil society, including the media), in relation to women's right to health?
- How is an assessment being ensured of the impact of the national planning process on women's right to health at the
  - planning stage?
  - implementation stage?
  - monitoring and evaluation stage?
- Does this impact assessment take Macedonia's immediate state obligations (under the concept of progressive realization of human rights, see above, II.2.1) duly into account, including the obligations
  - to develop a strategy for addressing the most pressing needs?
  - to ensure non-discrimination and participation of all groups affected by the measures?
  - to prevent retrogression of standards of rights protection already achieved?
  - the identification of the maximum available resources?
  - to meet core obligations of the respective rights for ensuring at least a basic minimum level of rights protection?

- Does this impact assessment include analysis of the criteria (see above, II.2.1) of
  - Availability of services?
  - Accessibility of services, including
    - Physical accessibility?
    - Economic accessibility/affordability?
    - Access to information?
  - Acceptability and sensitiveness of services?
  - High quality of services?
- Does this impact assessment take into account the rights of specific target groups, including
  - Women in single households?
  - Women after a divorce?
  - Mother/child households?
  - Women in the labour market?
  - Women deprived of their liberty?
  - Women as victims of trafficking and exploitation?
  - Women as victims of violence?
  - Women affected by HIV/AIDS?
  - Women of minority groups?
  - Roma women?
  - Women living in remote areas of Macedonia?
  - Women living in poverty?
  - Refugees and displaced women?
  - Women with disabilities?
  - NGOs working with/for women?
- How is meaningful participation of these groups being ensured in the national development process in relation to women's right to health (including access to information, translation services, etc.), for
  - Women in single households?
  - Women after a divorce?
  - Mother/child households?
  - Women in the labour market?
  - Women deprived of their liberty?
  - Women as victims of trafficking and exploitation?
  - Women as victims of violence?
  - Women affected by HIV/AIDS?
  - Women of minority groups?
  - Roma women?
  - Women living in remote areas of Macedonia?
  - Women living in poverty?
  - Refugees and displaced women?
  - Women with disabilities?
  - NGOs working with/for women?
- Have any capacity-building needs in relation to protection of women's right to health been identified?
- What monitoring and feedback mechanisms have been developed to assess progress of the process?
- Are there any structures missing, which would be helpful in the process, e.g. for information exchange, social and community life, lobbying, networking with other municipalities, partners outside the country?

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

### IV.6.1 Overview

#### Macedonia MDG 6

**Target:** Have halted by 2015 and begun to reverse the spread of HIV/AIDS

**Indicators:**

- HIV/AIDS incidence rate
- Number of voluntary tests and consulting for HIV/AIDS

**Target:** Have halved by 2015, and begun reverse the incidence of tuberculosis and other major diseases

**Indicators:**

- Prevalence and death rates associated with tuberculosis
- Proportion of TB cases detected and cured under DOTS (Directly Observed Treatment Short Course)
- Number of cases with multiresistant forms of TB

#### Key human rights

- Right to health
- Child rights protection as a primary consideration
- Non-discrimination for women and affirmative action
- Non-discrimination for minorities and affirmative action

#### Key human rights instruments

- Universal Declaration of Human Rights 1948: Article 25
- UN International Covenant on Economic, Social and Cultural Rights 1966: Articles 12, 10, 15; 2
- UN International Covenant on Civil and Political Rights 1966: Articles 6, 7, 26; 24
- UN Convention in the Rights of the Child 1989: Articles 24, 25, 23, 6, 2, 19, 39, 32, 33; 2, 3, 4, 5, 6, 12, 18, 20
- UN Convention on the Elimination of All Forms of Discrimination against Women 1979: Articles 12, 11, 10, 14; 2, 3, 4
- UN International Convention on the Elimination of All Forms of Racial Discrimination 1965: Articles 5; 1, 2
- CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950: Articles 2, 14; and Protocol No. 12 2000: Article 1
- CoE European Social Charter 1961: Articles 11, 13, 8; 17
- CoE Framework Convention for the Protection of National Minorities 1995. Article 4

#### Further relevant non-treaty standards and goals for implementation

(including follow-up processes)

- Declaration of Commitment on HIV/AIDS, UN General Assembly Special Session on HIV/AIDS, New York 2001

- The International Guidelines on HIV/AIDS and Human Rights 1998 (including 2002 Revised Guideline 6)
- The Framework for the Protection, Care and Support of Orphans and Vulnerable Children living in a World with HIV and AIDS ('OVC Framework') 2004
- A World Fit for Children, UN General Assembly Special Session on Children, New York 2002
- Beijing Declaration and Platform for Action, Fourth World Conference on Women, 1995
- UN Declaration on the Elimination of Violence against Women 1994
- Johannesburg Declaration on Sustainable Development, World Summit on Sustainable Development, 2002
- Dakar Framework for Action, World Education Forum, 2000
- Copenhagen Declaration and Programme of Action, World Summit for Social Development, 1995
- Vienna Declaration and Programme of Action, World Conference on Human Rights, 1993
- UN Declaration on the Right to Development 1986

#### Further references for interpretation

- CESCR Committee: General Comment 14 (health), 16 (equality in economic, social, cultural rights)
- ICCPR Human Rights Committee: General Comments 17 (children), 23 (family)
- CRC Committee: General Comments 3 (HIV/AIDS), 4 (adolescent health), 7 (early childhood); Recommendations of Days of General Discussions 1994 (role of the family), 1995 (girl child), 1997 (disabilities), 1998 (HIV/AIDS), 2000/01 (violence), 2002 (private sector services), 2004 (early childhood)
- CEDAW Committee: General Recommendations 12 and 19 (violence against women), 14 (female circumcision), 15 (AIDS), 21 (equality in family relations), 24 (women and health)
- CERD Committee: General recommendations 22 (refugees and displaced persons), 27 (discrimination against Roma), 29 (descent)
- Opinion of the FCNM Advisory Committee on Macedonia, May 2004 and Resolution of the CoE Council of Ministers on Macedonia, June 2005
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the sale of children, child prostitution and child pornography
- Reports of the Special Rapporteur of the UN Commission on Human Rights on violence against women, its causes and consequences
- Reports of the Special Representative of the Secretary-General for Children and Armed Conflict
- UN Study on Violence against Children 2006
- Digest of the case law of the European Committee of Social Rights, CoE Committee Secretariat, March 2005
- Third report on Macedonia of the CoE European Commission against Racism and Intolerance, June 2004
- Reports of the OSCE High Commissioner on National Minorities regarding visits to Macedonia to the former Yugoslav Republic of Macedonia

## IV.6.2 International Legal Framework

### IV.6.2.1 Relevant Human Rights Treaty Provisions

*(Summarized only – for the full text of provisions see [reference to some Treaties compilation available in Macedonia])*

#### 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 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 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, counselling 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, 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 on the 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 Covenant on Economic, Social and Cultural Rights 1966**
    - Special protection and assistance for children and families free from all discrimination – Article 10
  - **UN Covenant on Civil and Political Rights 1966**
    - Special protection and assistance for children free from all discrimination – Article 24

- **CoE European Social Charter 1961**  
(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)
  - 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 – 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

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

- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - State to take special measures securing adequate advancement of ethnic groups, including specifically in the social and economic field – Articles 1/4 and 2/2
- **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

#### Key extracts of specific non-treaty documents on HIV/AIDS

- **Declaration of Commitment on HIV/AIDS 2001**  
Chapter 'HIV/AIDS and human rights', Paras. 58-61
  - State to eliminate all forms of discrimination against people living with HIV/AIDS and members of vulnerable groups (by 2003)
  - State to develop strategies to combat stigma and social exclusion connected with the epidemic (by 2003)
  - State to develop/accelerate national strategies that promote advancement of women and women's full enjoyment of all human rights; promote shared responsibility of men and women to ensure safe sex; and empower women to have control over and decide freely and responsibly on matters related to their sexuality to increase their ability to protect themselves from HIV infection (by 2005)
  - State to increase capacities of women and adolescent girls to protect themselves from the risk of HIV infection, principally through the provision of health care and health services, including for sexual and reproductive health, and through prevention education that promotes gender equality within a culturally and gender-sensitive framework (by 2005)

- State to implement national strategies to eliminate all forms of violence against women and girls, including harmful traditional and customary practices, abuse, rape and other forms of sexual violence, battering and trafficking in women and girls (by 2005)

- **The International Guidelines on HIV/AIDS and Human Rights 1998/2002**

- State to establish effective (coordinated, participatory, transparent and accountable) national framework for response to HIV/AIDS – Guideline 1
- State to ensure community consultation in all phases of HIV/AIDS policy design, programme implementation and evaluation – Guideline 2
- State to review and reform public health laws – Guideline 3
- State to review and reform criminal laws and correctional systems, not to be misused in the context of HIV/AIDS or targeted against vulnerable groups – Guideline 4
- State to enact/strengthen anti-discrimination and other protective laws that protect vulnerable groups, people living with HIV/AIDS and people with disabilities from discrimination – Guideline 5
- State to regulate HIV-related goods, services and information; to ensure availability and accessibility of quality goods, services and information for HIV/AIDS prevention, treatment, care and support, including antiretroviral and other safe and effective medicines, diagnostics and related technologies for preventive, curative and palliative care of HIV/AIDS and related opportunistic infections and conditions – (2002 Revised) Guideline 6
- State to implement and support legal support and protection, education on their rights for people affected by HIV/AIDS – Guideline 7
- State to promote a supportive and enabling environment for women, children and other vulnerable groups by addressing underlying prejudices and inequalities – Guideline 8
- State to promote creative education, training and media programmes to change attitudes of discrimination and stigmatization associated with HIV/AIDS – Guideline 9
- State to ensure that government and private sectors develop codes of conduct of professional responsibility and practice – Guideline 10
- State to ensure monitoring and enforcement mechanisms to guarantee the protection of HIV-related human rights – Guideline 11
- State should cooperate through all relevant programmes and agencies of the United Nations system, including UNAIDS – Guideline 12

- **The Framework for the Protection, Care and Support of Orphans and Vulnerable Children living in a World with HIV and AIDS ('OVC Framework') 2004**

Guiding Human Rights Principles, based on the UN Convention on the Rights of the Child:

- Best interests of the child
- Non-discrimination
- Right to survival, well-being and development
- Respect for the view of the child

#### Five Key Strategies:

1. Strengthen the capacity of families to protect and care for orphans and vulnerable children by prolonging the lives of parents and providing economic, psychosocial and other support.
2. Mobilize and support community-based responses.
3. Ensure access for orphans and vulnerable children to essential services, including education, health care, birth registration and others.
4. Ensure that governments protect the most vulnerable children through improved policy and legislation and by channelling resources to families and communities.
5. Raise awareness at all levels through advocacy and social mobilization to create a supportive environment for children and families affected by HIV/AIDS.

#### IV.6.2.2 Rights in context and international monitoring

Health figures prominently among the MDGs, with three out of eight dealing with specific aspects of health. While MDG 4 sets targets and indicators in relation to children and MDG 5 addresses the situation of women, MDG 6, finally, concentrates particularly on two specific diseases: internationally, on malaria and HIV/AIDS; on the Macedonian domestic level the latter, together with the locally more relevant threat from tuberculosis. While the MDG Report refers to a generally very low incidence rate of HIV/AIDS in Macedonia, it nevertheless admits difficulties in actually monitoring the disease, leading also to a lack of information about high-risk groups, such as drug users, prisoners, sex workers, refugees, trafficked persons. In relation to tuberculosis, “a leading cause of death from infectious diseases among women” (MDG report, p. 63) Macedonia has adopted a National Preventive Programme and started early warning programmes.

HIV/AIDS, however, is a particularly compelling example of how society and its social norms may have an impact on the disease, but also *vice versa* the disease impacts on society. Stigmatization of HIV/sexually transmitted diseases raises issues of discrimination from a human rights perspective. At the same time due to lack of a cure and generally expensive drugs HIV/AIDS also puts pressure on the potency of health systems of a country (see also the international MDG 8 target 17 on access to affordable drugs). Still, as the **Draft Poverty Guideline 7: Right to Health** states: “The right to health is not to be understood as the right to be healthy”; instead it is “the right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health” (Para. 116). As already stated in chapter III implementing this right requires commitment to meet a variety of criteria, including availability and affordability of drugs, acceptability of services and appropriate quality of treatment and training for medical staff. Due to the unprecedented scale of spreading of HIV/AIDS, particularly in the southern parts of Africa, it has also created a huge international debate also on appropriate counter-strategies. In this regard non-treaty standards such as those listed above provide valuable guidance on interpretation and implementation of the right to health.

The following lists some key recommendations of treaty monitoring bodies towards Macedonia, focusing on those recommendations which should have an impact on implementation of MDG 6 and the right to health (although some are of a rather general nature and/or only indirectly related, e.g. strengthening of institutions, development of general Action Plans), taking into account also the specific rights perspectives of children, women and national minorities.

#### Overview of recommendations by UN and CoE treaty monitoring bodies

Sources: OHCHR website (State reports, Concluding Observations/Comments), [www.ohchr.org](http://www.ohchr.org); Council of Europe website (State reports, treaty body statements), [www.coe.int](http://www.coe.int).

#### Right to health

- CRC Committee, 2000:
  - Adolescent health: data collection, reproductive health education, counselling for HIV/AIDS, STDs, pregnancy among girls, abortion
  - Access for children to health care services from all regions; review cost-sharing policies for adolescents
  - Continue prevention and monitoring on HIV/AIDS
  - Support child participation in general
  - Adequate health education for mothers
  - Seek technical assistance from WHO (adolescent health, HIV/AIDS)
- CEDAW Committee, 2006:
  - Access to contraceptives – less use of abortion as a method of birth control

#### Rights of the child

- CRC Committee, 2000:
  - Lack of coordination mechanism in implementation; Action Plan missing
  - Disseminate CRC, mainstream best interests principle in legislation and administration
  - Protect children from negative effects of poor economy – reflect child focus in budget priorities – focus on poor families, particularly in difficult regions
  - End corporal punishment, particularly in schools, support awareness-raising among parents, provide training for police, staff of Centres for Social Work for identifying child abuse, domestic violence
  - Reform juvenile justice system – detention only as a last resort, focus on reintegration
  - Monitor drug abuse
  - Seek technical assistance from UNICEF (mainstreaming, training, disabilities, health, education, minorities)

#### Rights of women

- Human Rights Committee, 1998:
  - Concerted action of authorities to reduce domestic violence against women
- CEDAW Committee, 2006:
  - Report on MDG implementation in next report 2011
  - Disseminate CEDAW, Concluding Comments

- Lack of definition of discrimination
- Adopt special temporary measures
- Increase political participation in elected and appointed bodies and internationally
- Local gender equality committees in all municipalities, with adequate powers and visibility
- Training for lawyers, judges for complaints and capacity-building for women to claim rights
- Change stereotypes in family, education, media, rural areas
- Implement National Programme against trafficking
- Suppress exploitation of prostitution
- Address violence against women, including in family and shelter
- Eliminate discrimination against rural women, ethnic minority women/Albanian and Roma (include section in next report 2011)

#### Rights of minorities

- CERD Committee, 1997:
  - Better educational opportunities for Albanian minority
- Human Rights Committee, 1998:
  - Minority participation in educational system, teacher training in minority languages
- CRC Committee, 2000:
  - More teaching of Macedonian in minority language schools for better participation
  - Increase higher education among minorities, raise educational quality particularly in minority language schools, review allocation of financial resources
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Strengthen structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education
  - Establish regular consultations with ethnic groups
  - Allow for greater participation of minorities in the decentralization process
  - Generally, stronger focus on “numerically smaller minorities”
  - Respect distinct identity of the Egyptian community
  - Improve situation of Roma in employment, housing, health care, education and adopt new National Strategy

## IV.6.3 Macedonia's Domestic Legal Framework

### The Right to Health – HIV/AIDS and Tuberculosis

#### IV.6.3.1 Overview

##### Constitution of the Republic of Macedonia 1991

###### Article 10

Human life is inviolable.

In the Republic of Macedonia the death penalty may not be imposed on any grounds whatsoever.

###### Article 39

Every citizen is guaranteed the right to health care.

A citizen has the right and duty to protect and promote their own health and the health of others.

#### Key Legislation and Instruments

- Health Care Law, *Official Gazette of the Republic of Macedonia* Nos. 38/91, 46/93, 55/95, 10/04
- Law for Protection of the Population from Transmittable Diseases, *Official Gazette of the Republic of Macedonia* No. 66/04
- Law for Sanitary and Health Inspection, *Official Gazette of the Republic of Macedonia* No. 19/95
- Law for Keeping Records in the Health Department, *Official Gazette of the Socialist Federal Republic of Yugoslavia* Nos. 22/78, 18/88 and *Official Gazette of the Republic of Macedonia* No. 15/95
- Rulebook on the Manner and Conditions for Disinfection, Disinsection and Deratization, *Official Gazette of the Socialist Republic of Macedonia* No. 45/76
- Rulebook for Disinfection, Disinsection and Deratization for Preventing and Suppressing Transmittable Diseases, *Official Gazette of the Socialist Federal Republic of Yugoslavia* No. 42/85
- Rulebook for Medical Examinations of Persons under Medical Surveillance for Preventing Transmittable Diseases, *Official Gazette of the Socialist Federal Republic of Yugoslavia* No. 42/85
- Rulebook on the Manner, Timeframes and Forms for Reporting, Recording and Informing on the Movement of Transmittable Diseases, as well as on the Manner of Informing on the Laboratory Findings, *Official Gazette of the Socialist Republic of Macedonia* No. 45/76
- Rulebook for the Measures for Protection from Spreading and for Suppression of Cholera, Plague, Virus Haemorrhagic Fevers, Yellow Fever and Malaria, *Official Gazette of the Republic of Macedonia* No. 76/03
- Rulebook for the Conditions and Manner of Keeping Data from Laboratory Researches and Reporting about the Causes of Certain Transmittable Diseases, *Official Gazette of the Socialist Federal Republic of Yugoslavia* No. 42/85



- Rulebook for Medical Examinations of Persons who recovered from Intestinal Typhus, Bacillus Dysentery or Salmonella Disease, *Official Gazette of the Socialist Federal Republic of Yugoslavia* No. 42/85
- Rulebook for Reporting Transmittable Diseases, *Official Gazette of the Socialist Federal Republic of Yugoslavia* No. 42/85
- Rulebook for Measures of Protection from Spreading Diseases in the Health Institutions, *Official Gazette of the Socialist Federal Republic of Yugoslavia* No. 49/86
- Rulebook for Conditions and Manner of Executing Compulsory Immunization, Seroprophylaxis and Haemoprophylaxis against Transmittable Diseases and for Persons Subjected to this Obligation, *Official Gazette of the Socialist Federal Republic of Yugoslavia* No. 68/91
- Resolution for Measures of Protection of the Population from the Acquired Immunodeficiency Syndrome, *Official Gazette of the Socialist Federal Republic of Yugoslavia* Nos. 36/86, 53/87
- Programme for preventive health care
- Programme for examining the occurrence, preventing and suppression of brucellosis of people in the Republic of Macedonia
- Programme for preventive measures for subsiding tuberculosis of the population in the Republic of Macedonia
- Programme for compulsory immunization of the population in the Republic of Macedonia
- Programme for protection of the population from AIDS

### Macedonian HIV/AIDS Policy

#### National Strategy of Macedonia for HIV AIDS

The National Strategy for HIV/AIDS has been drafted as a three-year framework for putting into effect the interventions for implementing the global policy in the relevant field, as well as for monitoring and evaluation of the effectiveness of the national response.

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 (STDs), to secure them access to information on STDs 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.

#### Law for protection of the population from transmittable diseases

Among the transmittable diseases threatening the country are the sexually transmitted diseases syphilis and gonorrhoea, and the Acquired Immunodeficiency Syndrome (AIDS) was added in 1990 to the Law for Protection of the Population from Transmittable Disease. At the same time, in 1990, a legal obligation was added in favour of early detection of the condition and the way in which it was spread, that, for example, the blood of blood-donors should be examined for AIDS antibodies besides the examinations for antigens of infectious hepatitis B. This is when an obligation was determined to examine the presence of antibodies and antigens of the AIDS contagion in the semen and in the oocytes of the donors, as well as in the transplantable human body parts.

#### Programme for protection of the population from AIDS

The annual programme for protection of the population in the Republic of Macedonia from Acquired Immunodeficiency Syndrome (AIDS) is implemented in line with the recommendations of the United Nations Programme for prevention and suppression of HIV/AIDS in the world – UNAIDS (UNICEF, UNDP, UNFPA, UNESCO, World Health Organization, World Bank) and it comprises the following measures and activities:

- system for planned epidemiological examinations and surveys;
- laboratory tests;
- education of the health care professionals;
- health education activities for the entire population of the Republic of Macedonia, and especially for the vulnerable groups of the population.

The planned epidemiological examinations are focused on the activities for discovering new cases, as well as on organizing health surveillance of the persons with HIV/AIDS and checking their contacts. With this programme the diagnostic procedures for locating antibodies or antigens of the virus are defined and the infection is confirmed. Moreover, there are two institutes in the state for making a definitive laboratory diagnosis, which are the laboratories of the Republic Health Care Institute and the Infective Clinic at the Clinical Centre, Skopje.

For the most encompassing informing of the population, the following is being conducted:

- organizing lectures with appropriate content in the labour and other organizations and communities;
- introducing regular columns in the daily press referring to information of the state of the epidemic, advice, news regarding medical achievements, various announcements, questions and answers, and the like;
- cooperation with radio and television in the information and health-education programmes, including videos;
- in the work with the most vulnerable categories of the population, special methods of education are used, depending on the particularities of the categories concerned (i.e. drug users, delinquents, prostitutes, workers in countries with high risk of contracting the disease, and the like);
- conducting a health-education activity with special approach to the HIV infected persons.

### Programme for active health care of mothers and children

The strategy for promoting the health of women in the reproductive period, which is part of the Programme for Active Health Care of Mothers and Children in the Republic of Macedonia, implies the following:

1. Promotion of family planning as a precondition for safe motherhood and optimized conditions for appropriate development of the children. The fertile population at the age between 15 and 49, regardless of the gender, marital status, degree of education and religious affiliation, receives advice for family planning and early detection of malignant disorders of the reproductive organs, as well as prevention of sexually transmissible diseases.
2. Advice for contraception. Advice for contraception to the women in the reproductive period is provided for 10 percent of them, with a special emphasis on women in the rural areas and adolescents.
3. Prevention of cervical cancer. Cervical cancer is an important public health problem for women in the reproductive period and an effective cytological screening of the cervix may reduce the incidence of this disorder through early detection and effective treatment of the pre-cancer conditions.
4. Health education activities.
5. Protection of the planned and wanted pregnancy:
  - prenatal care;
  - intrapartum care;
  - postpartum care;
  - using the mass media, television and press for promotion of the motherhood.

### Normative provisions regarding the issues concerning the blood and blood derivatives in regard to the prevention of the spreading of HIV/AIDS

The Health Care Law (*Official Gazette of the Republic of Macedonia* Nos. 38/91, 46/93, 55/95 and 10/04), in Article 106 defines the Institute for Transfusion as an independent, specialized facility for work in transfusion and other works it carries out;

- The Law for Keeping Records in the Health Department (*Official Gazette of the Socialist Federal Republic of Yugoslavia* Nos. 22/78, 18/88 and *Official Gazette of the Republic of Macedonia* No. 15/95) defines the data that need to be recorded at the occurrence of transmittable diseases; the data kept for the volunteering blood donors, the amount of blood given.
- Law on Drugs, Auxiliary Medications and Medical Aids (*Official Gazette of the Republic of Macedonia* No.21/98), with which the blood derivatives are defined as medications;
- Law for Protection of the Population from Transmittable Diseases (*Official Gazette of the Republic of Macedonia* No. 66/04), regulates the compulsory reporting of HIV infection, compulsory examination of the blood and organ and tissue donors for presence of syphilis, viruses of hepatitis B and C, HIV infection and other diseases transmissible by human material;
- Rulebook for Allowing Human Blood, Its Components and Derivatives to be Used (*Official Gazette of the Socialist*

*Federal Republic of Yugoslavia*, 14 June 1989), in which the more immediate conditions for selecting blood donors are defined, the individual blood components and products are defined, the necessary examination of the donated blood, the contents of the label of the blood, blood components and products, the distribution of blood, blood components and products, expert preparation of the health care workers who work in medical transfusion and the necessary working equipment, as well as the spatial conditions;

- The Rulebook for the Immediate Spatial Conditions, Equipment and Staff for Foundation and Work of the Health Institutions (*Official Gazette of the Republic of Macedonia* No. 11/92), defines the spatial conditions of the hospital facility for providing blood, the staff conditions for providing blood and blood derivatives;
- The Programme for Organization and Promotion of Blood Donation in the Republic of Macedonia defines the principles for organization and promotion of voluntary blood donation, as well as the means through which this is to be realized;
- The Programme for providing for the expenses of the patients treated with dialysis, for securing medications for the patients that have undergone a transplantation surgery and for providing cytostatics, insulin, growth hormone and treatment of the patients with haemophilia in the Republic of Macedonia, defines the amount of factors for coagulation necessary for treatment of the persons with haemophilia A and B.

### Monitoring and control of transmittable diseases

Epidemiological monitoring and control of transmittable diseases includes the following activities:

- Early detection of;
- Reporting;
- Epidemiological examinations;
- Health monitoring, isolation, transportation, quarantine;
- Immunoprophylaxis and haemoprophylaxis;
- Disinfection, disinsection and deratization;
- Health-hygienic examinations;
- Health education.

The doctors in primary and secondary health care are obligated to immediately report transmittable diseases specified in the List of Diseases subject to compulsory reporting, according to the current law. Holders of epidemiological positions in the Health Care Institutes and their local units are specialized epidemiologists, educated for monitoring the transmittable and non-transmittable diseases and field epidemiology.

The reports on transmittable diseases are taken to the local Units of the Health Care Institutes (21 local units). After being processed and filed, the same are sent to the Health Care Institutes (10 Health Care Institutes) scheme in order to the answer this question. Within these 10 institutes, the reports are filed, processed, the data are elaborated and on the basis of these, monthly reports are prepared. The reports for the transmittable diseases which contain the data on the diseased person are sent to the Republic Health Care Institute (RHCI) for further

computer processing (according to gender, age group, place of residence, diagnosis of the disease, results from the disease, etc.), where after the processing, weekly, monthly and annual reports are prepared. Every year RHCI prepares Draft Programmes (for preventive health care protection – the epidemiological part – on brucellosis, on AIDS and on immunization) and sends these to the Ministry of Health.

#### **IV.6.4 Checklist of MDG/rights-related key questions**

The following general questions should help in identifying crucial issues to be addressed in the application of the human rights legal framework in Macedonia. They should not be seen as exhaustive, but rather a first step in an assessment. Most of these questions will not be answerable by a simple yes/no, but require further consideration and possible additional research; in addition, these questions are not intended to replace other checklists and tools available (including those developed by BIM) nor to be used in isolation of them.

They should be read in conjunction with additional general questions listed above (see III.3).

- Are there any public statements being made during the national planning process by relevant local stakeholders (government, private sector, social sector, civil society, including the media), in relation to the
  - right to health?
  - right to health in the context of HIV/AIDS?
  - right to health in the context of tuberculosis?
- How is an assessment being ensured of the impact of the national planning process on the right to health/HIV/AIDS/tuberculosis at the
  - planning stage?
  - implementation stage?
  - monitoring and evaluation stage?
- Does this impact assessment take Macedonia's immediate state obligations (under the concept of progressive realization of human rights, see above, II.2.1) duly into account, including the obligations
  - to develop a strategy for addressing the most pressing needs?
  - to ensure non-discrimination and participation of all groups affected by the measures?
  - to prevent retrogression of standards of rights protection already achieved?
  - the identification of the maximum available resources?
  - to meet core obligations of the respective rights for ensuring at least a basic minimum level of rights protection?
- Does this impact assessment include analysis of the criteria (see above, II.2.1) of
  - Non-discrimination in relation HIV/AIDS?
  - Availability of services?
  - Accessibility of services, including
    - Physical accessibility?
    - Economic accessibility/affordability?
  - Access to information?
  - Acceptability and sensitiveness of services?
  - High quality of services?
- Does this impact assessment take into account the rights of specific target groups, including
  - Women?
  - Children?
  - Minority groups?
  - Roma people?
  - Persons living in remote areas of Macedonia?
  - People living in poverty?
  - Refugees and displaced persons?
  - People with disabilities?
- How is meaningful participation of these groups being ensured in the national development process in relation to the right to health/HIV/AIDS/tuberculosis (including access to information, translation services, etc.), for
  - Women?
  - Children?
  - Minority groups?
  - Roma people?
  - Persons living in remote areas of Macedonia?
  - People living in poverty?
  - Refugees and displaced persons?
  - People with disabilities?
- Have any capacity-building needs in relation to protection of the right to health/HIV/AIDS/ tuberculosis been identified?
- What monitoring and feedback mechanisms have been developed to assess progress of the process?
- Are there any structures missing, which would be helpful in the process, e.g. for information exchange, social and community life, lobbying, networking with other municipalities, partners outside the country?

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

### IV.7.1 Overview

#### Macedonia MDG 7

**Target:** Integrate the principles of sustainable development into national policies and programmes and reverse the losses of environmental resources

#### Indicators:

- Percentage of territory covered by forests
- Percentage of protected territory for maintaining biodiversity
- Energy consumption (expressed in kg of oil equivalent) per US\$ 1 GDP
- Percentage of population using solid fuels

**Target:** Halve by 2015 the proportion of people without sustainable access to safe drinking water and basic sanitation

#### Indicators:

- Percentage of population (urban and rural) with sustainable access to (sanitary) improved water sources

**Target:** Have achieved by the year 2020 significant improvements in the lives of people in terms of safety of their dwellings (homes)

#### Indicators:

- Percentage of population with access to secure tenure

#### Key human rights

- Right to healthy environment
- Child rights protection as a primary consideration
- Non-discrimination for women and affirmative action
- Non-discrimination for minorities and affirmative action

#### Key human rights instruments

- Universal Declaration of Human Rights 1948: Article 25
- UN International Covenant on Economic, Social and Cultural Rights 1966: Articles 11, 12, 10, 15
- UN International Covenant on Civil and Political Rights 1966: Articles 6; 24
- UN Convention on the Elimination of All Forms of Discrimination against Women 1979: Articles 12, 11, 14:2, 3, 4
- UN Convention in the Rights of the Child 1989: Articles 27, 24, 6, 25, 32, 33; 2, 3, 4, 5, 6, 12, 18, 20
- UN International Convention on the Elimination of All Forms of Racial Discrimination 1965: Articles 5; 1, 2
- CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950: Articles 2, 8
- CoE European Social Charter 1961: Articles 11, 7, 8; 17
- CoE Framework Convention for the Protection of National Minorities 1995: Article 4

#### Further relevant non-treaty standards and goals for implementation

(including follow-up processes)

- Rio Declaration on Environment and Development, UN Conference on Environment and Development ('Earth Summit'), 1992
- UN General Assembly Resolution 45/94 on the need to ensure a healthy environment for the well-being of individuals, 1990
- Stockholm Declaration on the Human Environment, 1972
- Draft Declaration of Principles on Human Rights and the Environment, 1994
- Johannesburg Declaration on Sustainable Development, World Summit on Sustainable Development, 2002
- A World Fit for Children, UN General Assembly Special Session on Children, New York 2002
- Rome Declaration, World Food Security and World Food Summit Plan of Action, 1996
- Istanbul Declaration on Human Settlements, Second UN Conference on Human Settlements (HABITAT II), 1996
- Beijing Declaration and Platform for Action, Fourth World Conference on Women, 1995
- Copenhagen Declaration and Programme of Action, World Summit for Social Development, 1995
- Cairo Programme of Action of the International Conference on Population and Development, 1994
- Vienna Declaration and Programme of Action, World Conference on Human Rights, 1993
- UN Declaration on the Right to Development 1986

#### Further references for interpretation

- CESCR Committee: General Comments 4 and 7 (housing, forced evictions), 12 (food), 14 (health), 15 (water)
- ICCPR Human Rights Committee: General Comments 6 and 14 (right to life), 17 (rights of the child)
- CRC Committee: General Comments 4 (adolescent health), 7 (early childhood); Recommendations of Days of General Discussions 1993 (economic exploitation), 1994 (role of the family), 1995 (girl child), 2000/01 (violence), 2004 (early childhood)
- CEDAW Committee: General Recommendations 12 and 19 (violence against women), 14 (female circumcision), 16 (unpaid women workers), 24 (women and health)
- CERD Committee: General recommendations 27 (discrimination against Roma), 29 (descent)
- Opinion of the FCNM Advisory Committee on Macedonia, May 2004 and Resolution of the CoE Council of Ministers on Macedonia, June 2005
- Reports of the Special Rapporteur of the UN Commission on Human Rights on adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights
- Reports of the Special Rapporteur of the UN Commission on Human Rights on adequate housing as a component of the right to an adequate standard of living
- Reports of the Independent Expert of the UN Commission on Human Rights on the question of human rights and extreme poverty
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the right to food

- Reports of the Special Rapporteur of the UN Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- Reports of the Special Rapporteur of the UN Commission on Human Rights on violence against women, its causes and consequences
- Reports of the Special Representative of the Secretary-General for Children and Armed Conflict
- UN Study on Violence against Children 2006
- Digest of the case law of the European Committee of Social Rights, CoE Committee Secretariat, March 2005
- Third report on Macedonia of the CoE European Commission against Racism and Intolerance, June 2004
- Reports of the OSCE High Commissioner on National Minorities regarding visits to Macedonia to the former Yugoslav Republic of Macedonia

## DRAFT GUIDELINES ON A HUMAN RIGHTS APPROACH TO POVERTY REDUCTION STRATEGIES

(Excerpts from Guidelines 6-15, 'key targets and indicators')

### Guideline 7: RIGHT TO HEALTH

- **Target 1:** All people to have access to adequate and affordable primary health care
  - Indicators:**
    - Life expectancy at birth
    - Proportion of public expenditure on primary health care
    - Proportion of the poor population not covered by any kind of pre-payment mechanisms, by non-discretionary interventions (e.g. exemption schemes, cash subsidies, vouchers) in relation to health user fees, or by privately funded health insurance
    - Number of primary health care units per thousand population
    - Number of doctors per thousand population
    - Proportion of the poor population with access to affordable essential drugs
- **Target 2:** To eliminate avoidable child mortality
  - Indicators:**
    - Under-five mortality rate
    - Infant mortality rate
    - Proportion of under-five children immunized against communicable diseases
- **Target 3:** To eliminate avoidable maternal mortality
  - Indicators:**
    - Maternal mortality ratio
    - Proportion of births attended by skilled health personnel
    - Proportion of mothers with access to pre- and post-natal medical care facilities
- **Target 4:** All men and women of reproductive age to have access to safe and effective methods of contraception
  - Indicators:**
    - The rate of use of safe and effective methods of contraception among poor couples of reproductive age who wish to use contraceptives
- **Target 5:** To eliminate HIV/AIDS
  - Indicators:**
    - HIV prevalence among pregnant women
    - Condom use rate
    - Number of children orphaned by HIV/AIDS
- **Target 6:** To eliminate the incidence of other communicable diseases
  - Indicators:**
    - Prevalence and mortality rate associated with communicable diseases
    - Proportion of people with access to clean, safe drinking water
    - Proportion of people with access to adequate sanitation
    - Proportion of people immunized against communicable diseases
- **Target 7:** To eliminate gender inequality in access to health care
  - Indicators:**
    - Sex ratio (overall, birth and juvenile)
    - Disability-adjusted life years lost for men and women
    - Ratio of women and men treated in medical institutions

## IV.7.2 International Legal Framework

### IV.7.2.1 Relevant Human Rights Treaty Provisions

(Summarized only – for the full text of provisions see [reference to some Treaties compilation available in Macedonia])

#### Right to healthy environment

- **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/guardians and provide in case of need 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/guardians – 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 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
- **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 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 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
  - 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, 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 on the 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 Covenant on Economic, Social and Cultural Rights 1966**
  - Special protection and assistance for children and families free from all discrimination – Article 10
- **UN Covenant on Civil and Political Rights 1966**
  - Special protection and assistance for children free from all discrimination – Article 24
- **CoE European Social Charter 1961**  
(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)
  - 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 – 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

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

- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
  - State to take special measures securing adequate advancement of ethnic groups, including specifically in the social and economic field – Articles 1/4 and 2/2

#### 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

#### Key extracts of specific non-treaty documents on the right to a healthy environment

- **Stockholm Declaration on the Human Environment 1972**
  - Right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being; responsibility to protect and improve the environment for present and future generations – Principle 1
- **General Assembly Resolution 45/94 (1990) on the need to ensure a healthy environment for the well-being of individuals**
  - All individuals are entitled to live in an environment adequate for their health and well-being (Para. 1)
- **Rio Declaration on Environment and Development 1992**
  - Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature – Principle 1
  - States' right to exploit their own resources and responsibility to ensure that they do not cause damage to the environment of other states or of areas beyond the limits of national jurisdiction – Principle 2
  - Right to development to be fulfilled to equitably meet developmental and environmental needs of present and future generations – Principle 3
  - Environmental protection as an integral part of the development process – Principle 4
  - Poverty eradication as an requirement for sustainable development – Principle 5
  - Women's participation essential to achieve sustainable development – Principle 20
  - Mobilize creativity, ideals and courage of the youth for global partnership to achieve sustainable development – Principle 21
  - States to support indigenous people and other local communities to enable their effective participation in the achievement of sustainable development – Principle 22
  - States to respect international law providing protection for the environment in times of armed conflict – Principle 24
  - Peace, development and environmental protection are interdependent and indivisible – Principle 25
- **1994 Draft Declaration of Principles on Human Rights and the Environment**
  - Human rights, an ecologically sound environment, sustainable development and peace are interdependent and indivisible – Principle 1
  - All persons have the right to a secure, healthy and ecologically sound environment. This right and other human rights, including civil, cultural, economic, political and social rights, are universal, interdependent and indivisible – Principle 2

#### IV.7.2.2 *Rights in context and international monitoring*

The right to a healthy environment is a rather recently established human right; the 1988 Inter-American Protocol of San Salvador to the American Convention of Human Rights stated: "Everyone shall have the right to live in a healthy environment and to have access to basic public services"; further discussion about the right to development and environmental protection as part of the development process ensued at the 1992 Earth Summit of Rio de Janeiro. The overall relevant mantra of sustainable development has been confirmed quite recently by the 2002 Johannesburg Summit.

Following the sub-targets to MDG 7 on access to safe drinking water and safe dwellings, the right to a healthy environment may be linked to the right to adequate housing, to health, water, life, and respect for private and family life. It also bears relevance to the right to information and is of particular importance to protection of rights of minorities/indigenous people. During the 1990s the European Court of Human Rights developed case law subsuming protection from emissions, noise under the right to private life (Article 8 of the ECHR, see 1994 Lopez Ostra case), with ensuing protection responsibilities by the state.

The Macedonian MDG Report 2005 lists a wide range of measures taken to protect Macedonia's natural resources and environment, not least due to efforts to meet the EU standards within the integration process.

#### IV.7.2.3 *MDG 7 and international human rights monitoring in relation to Macedonia*

The following lists some key recommendations of treaty monitoring bodies towards Macedonia, focusing on those recommendations which should have an impact on implementation of MDG 7 and the right to a healthy environment (although some are of a rather general nature and/or only indirectly related, e.g. strengthening of institutions, development of general Action Plans), taking into account also the specific rights perspectives of children, women and national minorities.

##### **Overview of recommendations by UN and CoE treaty monitoring bodies**

Sources: OHCHR website (State reports, Concluding Observations/Comments), [www.ohchr.org](http://www.ohchr.org); Council of Europe website (State reports, treaty body statements), [www.coe.int](http://www.coe.int).

##### Right to healthy environment

- CRC Committee, 2000:
  - Adequate health education for mothers
  - Access for children and adolescents to health care services from all regions
- Human Rights Committee, 1998:
  - Investigate abuse of police authority, ill treatment, use of excessive force (against ethnic minorities); provide training

- CAT Committee, 1999:
  - No torture definition in Criminal Law
  - Investigate complaints of maltreatment by security forces, particularly in relation to ethnic minorities
- CRC Committee, 2000:
  - Support child participation
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Address cases of ill-treatment of persons belonging to minorities by law enforcement officials

##### Rights of the child

- CRC Committee, 2000:
  - Lack of coordination mechanism in implementation; Action Plan missing
  - Disseminate CRC, mainstream best interests principle in legislation and administration
  - Protect children from negative effects of poor economy – reflect child focus in budget priorities – focus on poor families, particularly in difficult regions
  - Alternative care: strengthen foster care, more resources for Centres for Social Work
  - End corporal punishment, particularly in schools, support awareness-raising among parents, provide training for police, staff of Centres for Social Work for identifying child abuse, domestic violence
  - Reform juvenile justice system – detention only as a last resort, focus on reintegration
  - Monitor drug abuse

##### Rights of women

- Human Rights Committee, 1998:
  - Concerted action of authorities to reduce domestic violence against women
- CEDAW Committee, 2006:
  - Disseminate CEDAW, Concluding Comments
  - Lack of definition of discrimination
  - Adopt special temporary measures
  - Establish local gender equality committees in all municipalities, with adequate powers and visibility
  - Train lawyers, judges on capacity-building for women to claim rights
  - Change stereotypes in family, education, media, rural areas
  - Suppress exploitation of prostitution
  - Address violence against women, including in family and shelter
  - Increase political participation in elected and appointed bodies and internationally
  - Eliminate discrimination against rural women, ethnic minority women/Albanian and Roma (include section in next report 2011)

##### Rights of minorities

- CRC Committee, 2000:
  - Vocational training, personal development, interethnic tolerance with stronger emphasis in school curricula



- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Strengthen structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education
  - Establish regular consultations with ethnic groups
  - Allow for greater participation of minorities in the decentralization process
  - Promote peaceful interethnic relations on central and local authority level
  - Generally, stronger focus on “numerically smaller minorities”
  - Respect distinct identity of the Egyptian community
  - Strengthen cultural rights of minorities, including Vlach minority
  - Improve situation of Roma in employment, housing, health care, education and adopt new National Strategy

### IV.7.3 Macedonia's Domestic Legal Framework

#### The Right to a Healthy Environment

##### IV.7.3.1 Overview

#### Constitution of the Republic of Macedonia 1991

##### Article 43

Everyone has the right to live in a healthy environment.

Everyone is obliged to promote and protect the environment.

The Republic provides conditions for the exercise of the right of citizens to a healthy environment.

#### Key Legislation

- Law on Air Quality, published in the *Official Gazette of the Republic of Macedonia* No. 67/2004
- Law on Waste Management, October 2004
- Law on Nature Protection, published in the *Official Gazette of the Republic of Macedonia* No. 67/2004
- Law on Environment, June 2005
- Law on Amendment and Supplementing of the Law on Environment, September 2005
- Law on Local Self-Government, 2002

##### IV.7.3.2 The legal framework

#### The polluter pays principle

The polluter shall compensate the costs associated with the elimination of the danger of environmental 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 competences 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 their opinion in decision-making processes through such decision-making procedures.

#### Access to information

Everyone shall have the right to request validated environmental information and data from public authorities and legal entities and natural persons without having to prove their interest.

The right of access to environmental information shall be exercised in respect of all information in written, visual, audible, electronic or any other available form.

#### Public information on environmental pollution and undertaking and introduction of mandatory measures

The Minister managing the body of the state administration responsible for the affairs of the environment shall inform the public on the cases of emissions exceeding the permissible limits, and in other cases of large-scale pollution of the environment.

The councils of municipalities and the Council of the City of Skopje shall, within the scope of their competences regarding environmental protection as laid down in the law, shall inform the public of the cases of emissions exceeding the permissible limits, and in other cases of environmental pollution and adopt a special act to regulate cases referred to in paragraph 1, provided that the pollution is limited to the territory of the municipality and the City of Skopje and without widespread effects across the area, and inform the public thereof in a manner specified in the law and in the statute of the municipality and of the City of Skopje.

#### Monitoring

The environmental media and areas monitoring shall be carried out through:

- systematic observation, investigation and assessment of the pollution and state of environmental media and areas as a whole; and

- identification and registration of the sources of pollution of individual environmental media and areas.

The body of the state administration responsible for the affairs of the environment shall be responsible for the environmental media and areas monitoring.

#### **Local monitoring networks**

The municipalities and the City of Skopje may, in accordance with the special law, establish a local monitoring network to carry out the monitoring of individual environmental media and areas.

The finances required for the establishment, operation, maintenance and development of local monitoring network are to be provided from the budget of the municipality and of the City of Skopje and from other sources, in accordance with the law or a relevant act of the municipality or of the City of Skopje.

#### **Sustainable development**

The body of the state administration responsible for the affairs of the environment shall, in cooperation with other bodies of the state administration and institutions, and with the municipalities and the City of Skopje and municipalities of the City of Skopje, are to be responsible for the implementation of the principles of sustainable development, as well as promote and support sustainable development in the Republic of Macedonia.

### *IV.7.3.3 Air quality*

#### **Principle of careful and responsible behaviour**

In the course of activities that may affect the quality of ambient air, everyone shall be obliged to behave in a careful and responsible manner in order to avoid and prevent ambient air pollution and harmful effects on human health and environment as a whole.

#### **Subject of assessment**

(1) The assessment of the ambient air quality within the territory of the Republic of Macedonia shall be performed on the basis of regular measurements through national network, as well as through local networks and measurements of emissions from stationary and mobile sources of pollution conducted in the course of not less than one year, with a possibility to use modelling techniques.

#### **Sources of pollution**

The sources of ambient air pollution are to be defined as:

1. Installations used in technological processes and energy generation facilities;
2. Internal combustion engines in locomotives, ships, aircraft and vehicles; and
3. Fuels.

#### **Manner of management**

The ambient air quality management shall be performed through:

1. Ambient air quality assessment; and
2. Adoption and implementation of planning documents.

#### **Responsible authorities**

The public administration body responsible for the affairs of the environment shall carry out the assessment of ambient air quality.

The public administration body responsible for the affairs of health shall carry out the assessment of health risk associated with the ambient air quality.

#### **Monitoring of the ambient air quality and sources of emission**

##### **National network**

For the purpose of the ambient air quality monitoring within the territory of the Republic of Macedonia, the Government of the Republic of Macedonia shall establish a national ambient air quality monitoring network.

The national network shall provide continuous ambient air quality monitoring as an integral part of the overall monitoring of the environment.

Competent authority for performance of professional matters in the area of environment shall carry out ambient air quality monitoring through the national network and shall manage the national network.

##### **Local networks**

For the purpose of measurement and monitoring of the ambient air quality in settlements and industrial areas, municipalities and the City of Skopje, upon prior consent by the competent authority for performance of professional matters in the area of environment may establish local networks.

### *IV.7.3.4 Waste management*

#### **Principle of environmental protection in the waste management**

When undertaking certain activities regarding waste management, the legal entities and individuals shall provide high level of environmental and human life and health protection.

The legal entities and individuals undertaking certain activities in the process of production shall use raw materials that generate less waste during their processing, shall apply technologies that allow for cleaner production and save the natural resources, and shall manufacture products that, while produced and used, do not pollute the environment, or reduce the pollution to the lowest possible level in accordance with the sustainable development principles.

The processing and the disposal of the waste must be done by using the best available techniques and technologies.

#### **Obligations of waste generators and holders**

The generator and/or holder of waste shall be obliged to:

1. Select the waste;
2. Classify the waste according to the List of Wastes;
3. Specify the characteristics of waste;
4. Control the impacts of waste on the environment, human life and health;
5. Store the waste on locations intended for that purpose;

6. Process the waste, and if such processing is not technically feasible and cost-effective, to hand it over to another legal entity or individual holding a permit for waste collection and transportation, processing, removal and/or export.

If the waste has one or more hazardous characteristics, the generator and/or the holder thereof shall classify the waste into a hazardous waste category, and to handle it as hazardous waste. Individuals in households shall be obliged to comply with the obligations referred to in items 1 and 4.

### **Responsibility of the municipalities and the City of Skopje regarding the municipal and other non-hazardous waste management**

According to the Waste Management Plan of the Republic of Macedonia, the municipalities and the City of Skopje shall:

1. Take care of the public hygiene and of the abandoned waste;
2. Issue acts in order to regulate the selection, collection and transportation of the municipal and other non-hazardous waste;
3. Cooperate with the other municipalities and the City of Skopje with regard to the municipal and other non-hazardous waste management;
4. Implement projects and undertake investments for improvement of the general state of waste management; and
5. Act in accordance with the general rules on municipal and other waste treatment.

For the purpose of the implementation of the Waste Management Plan of the Republic of Macedonia, the Councils of the Municipalities and of the City of Skopje shall adopt a Waste Management Plan for the respective municipality, i.e. the City of Skopje, upon a proposal of the Mayor of the Municipality and the City of Skopje.

Two or more municipalities may enact a joint Waste Management Programme for municipal and other types of non-hazardous waste.

### **Maintenance of public cleanliness**

The Mayor of the Municipality or of the City of Skopje shall maintain the public cleanliness and handle the abandoned waste on the public and traffic areas in both the urban and non-urbanized space within its territory.

The manner and conditions for fulfilment of the obligations referred to in paragraph 1 of this Article shall be prescribed by the Council of the Municipality and the Council of the City of Skopje, upon the proposal of the Mayor of the Municipality or of the City of Skopje.

### **Manner of execution of the public service by municipalities and the City of Skopje**

The collection and transportation of municipal waste, the maintenance of public cleanliness, the municipal waste treatment, as well as the management and maintenance of the locations for selective waste collection shall represent public service of local importance. At the proposal of the Mayor of the Municipality and of the City of Skopje, the

Council of the Municipality and the Council of the City of Skopje can establish a public enterprise for collection and transportation of municipal and other types of non-hazardous waste. For the purpose of performing the activity referred to in paragraph 2 of this Article, two or more municipalities, as well as municipalities and the City of Skopje, can establish a joint Public Enterprise.

The Mayor of the Municipality and of the City of Skopje may entrust the collection and transportation of municipal and other types of non-hazardous waste to legal entities and individuals, by means of a Contract for performance of activities of public interest of local importance for one or more municipalities or the City of Skopje, in accordance with the public tendering procedure. The public enterprises and legal entities and individuals shall be issued with a licence for collection and transportation of waste. The procedure and the manner of awarding the contract for performing the activities shall be conducted in accordance with the provisions of the Law on Concessions.

### *IV.7.3.5 Nature protection*

#### **Principles of nature protection**

Nature protection shall be based on:

1. **Principle of high level of protection** – When undertaking or performing activities all shall be obliged to provide a high level of protection of the biological and landscape diversity and of the natural heritage, as well as the conservation of the common beneficial role of nature;
2. **Principle of integration** – The measures and activities of nature protection shall be integrated into all development strategic, planning and programme documents, plans for spatial development and use, as well as in the plans for natural wealth management and use;
3. **Principle of sustainable development** – For the purposes of satisfying the needs of nature protection, as well as the social and economic needs of the present generations, without jeopardizing the rights of the future generations to satisfy their needs, the non-renewable natural wealth shall be used in a rational manner, while the renewable resources shall be used in a sustainable manner;
4. **Principle of precaution** – If based on modern scientific and technical-technological knowledge and concluded that a certain activity or action could damage nature, the necessary measures and activities shall be undertaken prior to obtaining the scientific proof that damage could occur;
5. **Principle of prevention** – It shall be the right and obligation of individuals and legal entities to undertake measures and activities for nature protection before damage occurs;
6. **Principle of user pays** – When using nature, the user of nature is obliged to compensate the costs for maintenance of the natural balance and for enjoying the natural heritage, as well as for recovery of nature degradation that occurs when using nature and enjoying the natural heritage;
7. **Principle of public participation** – The public shall have the right to unhindered access to information

on the state of nature, the right to be informed in a timely manner about damage in nature and about activities undertaken for elimination of that damage, as well as the right to participate in the decision-making process concerning nature protection; and

- 8. Principle of cooperation** – The competent state bodies and the bodies of the local self-government units, as well as other organizations and institutions shall, when performing the activities within the scope of their competence, be obliged to comply with the principles, objectives, measures and activities for nature protection, while closely cooperating both amongst themselves and internationally.

#### Ban on the use of nature

It shall be forbidden to use nature in a manner that causes:

1. Damage to or destruction of biological and landscape diversity;
2. Damage of soil and loss of its fertility;
3. Damage of surface or underground geo-morphological values;
4. Water pollution and change in water regime;
5. Air pollution.

#### Spatial development and use and nature impact assessment

The spatial development and use shall be implemented in accordance with the spatial and urban plans and conditions, measures and activities for nature protection.

#### IV.7.4 Checklist of MDG/rights-related key questions

The following general questions should help in identifying crucial issues to be addressed in the application of the human rights legal framework in Macedonia. They should not be seen as exhaustive, but rather a first step in an assessment. Most of these questions will not be answerable by a simple yes/no, but require further consideration and possible additional research; in addition, these questions are not intended to replace other checklists and tools available (including those developed by BIM) nor to be used in isolation of them.

They should be read in conjunction with additional general questions listed above (see III.3).

- Are there any public statements being made during the national planning process by relevant local stakeholders (government, private sector, social sector, civil society, including the media), in relation to the right to a healthy environment?
- How is an assessment being ensured of the impact of the national planning process on the right to a healthy environment at the
  - planning stage?
  - implementation stage?

- monitoring and evaluation stage?

- Does this impact assessment take Macedonia's immediate state obligations (under the concept of progressive realization of human rights, see above, II.2.1) duly into account, including the obligations

- to develop a strategy for addressing the most pressing needs?
- to ensure non-discrimination and participation of all groups affected by the measures?
- to prevent retrogression of standards of rights protection already achieved?
- the identification of the maximum available resources?
- to meet core obligations of the respective rights for ensuring at least a basic minimum level of rights protection?

- Does this impact assessment include analysis of the criteria (see above, II.2.1) of

- Availability of services?
  - Accessibility of services, including
    - Physical accessibility?
    - Economic accessibility/affordability?
    - Access to information?
  - Acceptability and sensitiveness of services?
  - High quality of services?

- Does this impact assessment take into account the rights of specific target groups, including

- Women?
- Children?
- Minority groups?
- Roma people?
- Persons living in remote areas of Macedonia?
- People living in poverty?
- Refugees and displaced persons?
- People with disabilities?

- How is meaningful participation of these groups being ensured in the national development process in relation to the right to a healthy environment (including access to information, translation services, etc.), for

- Women?
- Children?
- Minority groups?
- Roma people?
- Persons living in remote areas of Macedonia?
- People living in poverty?
- Refugees and displaced persons?
- People with disabilities?

- Have any capacity-building needs in relation to protection of the right to a healthy environment been identified?

- What monitoring and feedback mechanisms have been developed to assess progress of the process?

- Are there any structures missing, which would be helpful in the process, e.g. for information exchange, social and community life, lobbying, networking with other municipalities, partners outside the country?

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

### IV.8.1 Overview

#### Macedonia MDG 8

**Target:** Create an environment conducive to increase the inflow of FDI up to 7 percent of GDP by 2015

**Indicators:**

- FDI inflows as percentage of the GDP
- Cumulative FDI inflow per capita

**Target:** Increase the share of foreign trade on the world markets up to 60 percent of the GDP and reduce the trade deficit to 12 percent of the GDP

**Indicators:**

- Share of foreign trade in the global trade
- Share of foreign trade in GDP

#### Key human rights

- Right of equal access to justice
- Right to personal security
- Political rights and freedoms
- Right to development
- Right to international cooperation
- Child rights protection as a primary consideration
- Non-discrimination for women and affirmative action
- Non-discrimination for minorities and affirmative action

#### Key human rights instruments

- UN Charter 1945: Articles 1, 55, 56
- Universal Declaration of Human Rights 1948: Articles 21, 28
- UN International Covenant on Economic, Social and Cultural Rights 1966: Articles 2, 10
- UN International Covenant on Civil and Political Rights 1966: Articles 6, 7, 9, 14, 17, 18, 19, 21, 22, 24, 25
- UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984: Article 2
- UN Convention in the Rights of the Child 1989: Articles 2, 3, 4, 5, 6, 12, 13, 14, 15, 16, 18, 20, 22, 23, 24, 28, 37, 40
- UN Convention on the Elimination of All Forms of Discrimination against Women 1979: Articles 2, 3, 4, 7, 8, 14, 15, 16
- UN International Convention on the Elimination of All Forms of Racial Discrimination 1965: Articles 1, 2
- CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950: Articles 13, 2, 5, 6, 8, 9, 10, 11 and Protocol 1 (Article 3), Protocol 7 (Articles 2, 3, 4)
- CoE European Social Charter 1961: Article 17
- CoE Framework Convention for the Protection of National Minorities 1995: Articles 4, 7, 15

#### Further relevant non-treaty standards and goals for implementation

(including follow-up processes)

- UN Declaration on the Right to Development 1986
- Vienna Declaration and Programme of Action, World Conference on Human Rights, 1993
- Johannesburg Declaration on Sustainable Development, World Summit on Sustainable Development, 2002
- A World Fit for Children, UN General Assembly Special Session on Children, New York 2002
- Monterrey Consensus, International Conference on Financing for Development, 2002
- Rome Declaration, World Food Security and World Food Summit Plan of Action, 1996
- Istanbul Declaration on Human Settlements, Second UN Conference on Human Settlements (HABITAT II), 1996
- Beijing Declaration and Platform for Action, Fourth World Conference on Women, 1995
- Copenhagen Declaration and Programme of Action, World Summit for Social Development, 1995
- Cairo Programme of Action of the International Conference on Population and Development, 1994

#### Further references for interpretation

- ICCPR Human Rights Committee: General Comments 6 and 14 (right to life), 13 (administration of justice), 20 (torture), 21 (humane treatment of persons deprived of their liberty), 25 (right to vote, public affairs), 31 (nature of general legal obligations)
- CESCR Committee: General Comments 3 (nature of States parties' obligations), 17 (authors to benefit from their scientific, literary or artistic production)
- CRC Committee: General Comments 5 (general measures of implementation), 7 (early childhood); Recommendations of Days of General Discussions 1995 (juvenile justice), 1996 (child and the media), 1999 (general measures of implementation), 2002 (private sector services), 2004 (early childhood)
- CEDAW Committee: General Recommendation 23 (political and public life)
- CERD Committee: General recommendations 27 (discrimination against Roma), 29 (descent)
- Opinion of the FCNM Advisory Committee on Macedonia, May 2004 and Resolution of the CoE Council of Ministers on Macedonia, June 2005
- Reports of the Independent Expert of the UN Commission on Human Rights on human rights and international solidarity
- Reports of the Independent Expert of the UN Commission on Human Rights on the effects of economic reform policies and foreign debt
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression

## DRAFT GUIDELINES ON A HUMAN RIGHTS APPROACH TO POVERTY REDUCTION STRATEGIES

(Excerpts from Guidelines 6-15, 'key targets and indicators')

### Guideline 7: RIGHT TO HEALTH

- **Target 1:** All people to have access to adequate and affordable primary health care
  - Indicators:**
    - Life expectancy at birth
    - Proportion of public expenditure on primary health care
    - Proportion of the poor population not covered by any kind of pre-payment mechanisms, by non-discretionary interventions (e.g. exemption schemes, cash subsidies, vouchers) in relation to health user fees, or by privately funded health insurance
    - Number of primary health care units per thousand population
    - Number of doctors per thousand population
    - Proportion of the poor population with access to affordable essential drugs
- **Target 6:** To eliminate the incidence of other communicable diseases
  - Indicators:**
    - Prevalence and mortality rate associated with communicable diseases
    - Proportion of people with access to clean, safe drinking water
    - Proportion of people with access to adequate sanitation
    - Proportion of people immunized against communicable diseases
- **Target 7:** To eliminate gender inequality in access to health care
  - Indicators:**
    - Sex ratio (overall, birth and juvenile)
    - Disability-adjusted life years lost for men and women
    - Ratio of women and men treated in medical institutions

### Guideline 10: RIGHT TO ADEQUATE HOUSING

- **Target 1:** All people to have a home
  - Indicators:**
    - Proportion of homeless people in the overall population
    - Number of homeless shelter beds per homeless person
- **Target 2:** All people to enjoy security of tenure
  - Indicators:** Proportion of people in the overall population:
    - With legal title (e.g. freehold, leasehold, collective tenure) to their homes
    - With statutory or other (e.g. common law) legal due process protections with respect to eviction
    - Living in informal settlements
    - Squatting
    - Forcibly evicted within a given period
- **Target 3:** All people to enjoy habitable housing
  - Indicator:**
    - Average number of square metres per poor person or poor household
- **Target 4:** All people to enjoy housing situated in a safe and healthy location
  - Indicator:**
    - Proportion of poor households within 5 kilometres of a hazardous site (e.g. toxic waste, garbage dump)
- **Target 6:** Adequate housing physically accessible to all
  - Indicator:**
    - Proportion of multi-unit residential buildings occupied by the poor that are accessible to persons with physical disabilities
- **Target 7:** All people to enjoy housing with access to essential services, materials, facilities and infrastructure
  - Indicators:** Proportion of households with:
    - Drinking water
    - Sanitation facilities
    - All-weather roads
    - Electricity

- Reports of the Special Representative of the Secretary-General on the situation of human rights defenders
- Reports of the Special Rapporteur of the UN Commission on Human Rights on the independence of judges and lawyers
- Digest of the case law of the European Committee of Social Rights, CoE Committee Secretariat, March 2005
- Reports of the CoE European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on Macedonia, 2001, 2003, 2004
- Third report on Macedonia of the CoE European Commission against Racism and Intolerance, June 2004
- Reports of the OSCE High Commissioner on National Minorities regarding visits to Macedonia to the former Yugoslav Republic of Macedonia
- Reports of the OSCE Representative on Freedom of the Media
- Child's right to freedom of association and to freedom of peaceful assembly – Article 15
- No arbitrary or unlawful interference with the child's privacy, family, home or correspondence – Article 16
- Child participation in all matters affecting the child – Article 12/1

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

- 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
- Accord to women equality with men before the law and full legal capacity identical to men – Articles 15 and 16
- Equal participation of women and men in political and public life, at national and international level – Articles 7 and 8
- Eliminate discrimination specifically in relation to women in rural areas – Article 14

- **CoE Convention for the Protection of Human Rights and Fundamental Freedoms 1950**

- Right to an effective remedy – Article 13
- Right to life – Article 2
- Right to liberty and security – Article 5
- Standards of fair trial – Article 6 (and Protocol No. 7 to the ECHR)
- Right to respect for one's private and family life, home and correspondence – Article 8
- Freedom of thought, conscience and religion – Article 9
- Freedom of expression – Article 10
- Freedom of peaceful assembly and of association – Article 11

- **CoE Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms 1952**

- Right to free elections – Article 3

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

- Right of equality before the law and of equal protection of the law of persons belonging to a national minority – Article 4/1
- Right to freedom of expression, thought, conscience and religion, peaceful assembly and association – Article 7
- Effective participation of persons belonging to national minorities in [...] public affairs, in particular those affecting them – Article 15

#### **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

## **IV.8.2 International Legal Framework**

### **IV.8.2.1 Relevant Human Rights Treaty Provisions**

*(Summarized only – for the full text of provisions see [reference to some Treaties compilation available in Macedonia])*

#### **Rule of law and access to justice, civil and political rights**

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

- Equality before the law and equal protection of the law – Article 26
- The inherent right to life for everyone – Article 6/1
- Prohibition of torture or other cruel, inhuman or degrading treatment or punishment – Article 7
- Right to liberty and security – Article 9
- Standards of fair trial – Article 14
- No arbitrary or unlawful interference with one's privacy, family, home or correspondence – Article 17
- Freedom of thought, conscience and religion – Article 18
- Freedom of expression – Article 19
- Freedom of peaceful assembly and of association – Articles 21 and 22
- Right to take part in the conduct of public affairs, the right to vote, the right to equal access to public office – Article 25

- **UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984**

- Effective legislative, administrative, judicial or other measures to prevent acts of torture – Article 2/1

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

- Child's right to life, survival and development – Article 6
- Child protection from arbitrary or unlawful deprivation of liberty – Article 37
- Fair trial and juvenile justice standards – Articles 37 and 40
- Child's right to freedom of expression – Article 13
- Child's right to freedom of thought, conscience and religion – Article 14

- UN to promote a higher standards of living, full employment, and conditions of economic and social progress and development; solutions of 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
    - 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, 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 on the 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 Covenant on Economic, Social and Cultural Rights 1966**
    - Special protection and assistance for children and families free from all discrimination – Article 10
  - **UN Covenant on Civil and Political Rights 1966**
    - Special protection and assistance for children free from all discrimination – Article 24
  - **CoE European Social Charter 1961**  
(based on commitments declared by the Government of Macedonia according to Art. 20 ESC)
    - 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 – 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
- Non-discrimination for ethnic groups and affirmative action**
- **UN Convention on the Elimination of All Forms of Racial Discrimination 1965**
    - State to take special measures securing adequate advancement of ethnic groups, including specifically in the social and economic field – Articles 1/4 and 2/2
  - **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



#### IV.8.2.2 Rights in context and international monitoring

MDG 8 differs from the other MDGs insofar, as it is very much more concerned with the framework and conditions of development, including, for instance, an “open, rule-based, predictable, non-discriminatory trading and financial system”, than with the content of development itself. Similarly, the localized Macedonian MDGs focus on general economic performance of the country, by showing concern for attracting increased foreign direct investment and an increased share of Macedonia’s trade on the global market. Consequently, in its 2005 MDG report the Government identifies as its key challenges under MDG 8 the improvement of the investment climate, regional and rural development, increased efficiency in public administration, but also the fight against corruption and strengthening of the judiciary.

All in all implementation of the Macedonian MDG 8 will very much depend on presenting itself to the world as an economically and politically stable country. This has now been reflected in this Human Rights Legal Framework Document by concentrating here on principal aspects of human rights protection, including respect for the principle of legality and the rule of law, access to justice and accountability, with protection of the corresponding civil and political human rights (see also **Draft Poverty Guideline 13: Equal access to justice** and **Draft Poverty Guideline 14: Political Rights and Freedoms**).

Furthermore, MDG 8 – both in its international formulation as well as in its Macedonian transformation addresses the domestic and the international framework alike. Therefore, and also in line with **Draft Poverty Guideline 15: Right to international assistance and cooperation** the responsibilities of Macedonia on the international level are also taken up here. This includes, for instance, the responsibility not to conclude any international agreement that would violate its international human rights commitments (Draft Poverty Guideline 15, Para. 222). And already in 1986 the (non-binding) UN Declaration on the Right to Development expressed a state’s “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”, which is understood as a development for full realization of all human rights.

In the end, thus, MDG 8 complements perfectly all the other Millennium Development Goals. While MDG 1 to 7 primarily focus on specific areas of international concern – poverty, education, gender, child protection, health and healthy environment – which can be associated with the corresponding economic, social and cultural rights, MDG 8 offers the possibility to close the cycle of goals by establishing the fundamental objective for a comprehensive global ‘partnership for development’, joined by civil and political rights to re-establish the indivisibility and interdependence of all human rights.

The following lists some key recommendations of treaty monitoring bodies towards Macedonia, focusing on those recommendations which should have an impact on implementation of MDG 8 and rule of law, access to justice, the right to development and international cooperation (although some are of a rather general nature and/or

only indirectly related, e.g. strengthening of institutions, development of general Action Plans), taking into account also the specific rights perspectives of children, women and national minorities.

#### Overview of recommendations by UN and CoE treaty monitoring bodies

Sources: OHCHR website (State reports, Concluding Observations/Comments), [www.ohchr.org](http://www.ohchr.org); Council of Europe website (State reports, treaty body statements), [www.coe.int](http://www.coe.int).

##### Civil and political rights, access to justice

- CERD Committee, 1997:
  - Request for additional information on the role of the justice system in eliminating racial discrimination
- Human Rights Committee, 1998:
  - Investigate abuse of police authority, ill treatment, use of excessive force (against ethnic minorities), practice of enforced attendance of ‘informative talks’; provide training
  - Lack of access to information/foreign print media
- CAT Committee, 1999:
  - No torture definition in Criminal Law
  - Investigate complaints of maltreatment, particularly in relation to ethnic minorities
  - Comply fully with principle of *non-refoulement* of refugees during border crises
- CRC Committee, 2000:
  - Support child participation
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Address cases of ill-treatment of persons belonging to minorities by law enforcement officials
  - Stronger representation of minorities in public administration, judiciary
  - Improve access to media and broadcasting in minority languages
  - Stronger protection of rights of refugee/displaced groups
- CEDAW Committee, 2006:
  - Gender-sensitive approach in asylum procedures
- European Court of Human Rights, 2002, 2005
  - Case-law reveals the particular need for strengthening judiciary to ensure fair trials and avoid lengthy proceedings; need to ensure peaceful enjoyment of property

##### Rights of the child

- CRC Committee, 2000:
  - Lack of coordination mechanism in implementation; Action Plan missing
  - Disseminate CRC, mainstream best interests principle in legislation and administration
  - Protect children from negative effects of poor economy – reflect child focus in budget priorities – focus on poor families, particularly in difficult regions
  - Reform juvenile justice system – detention only as a last resort, focus on reintegration
  - Monitor drug abuse

- Support NGOs
- Seek technical assistance from UNICEF (mainstreaming, training, disabilities, health, education, minorities)

#### Rights of women

- Human Rights Committee, 1998:
  - Lack of equality between men and women, particularly in employment, education
  - Concerted action of authorities to reduce domestic violence against women
- CEDAW Committee, 2006:
  - Ratify the Migrant Workers Convention 1990
  - Report on MDG implementation in next report 2011
  - Disseminate CEDAW, Concluding Comments
  - Adopt comprehensive Law on Equal Opportunities
  - Adopt special temporary measures
  - Increase political participation in elected and appointed bodies and internationally
  - Employment and women's entrepreneurship to be supported (include section in next report 2011)
  - Local gender equality committees in all municipalities, with adequate powers and visibility
  - Training for lawyers, judges for complaints and capacity-building for women to claim rights
  - Change stereotypes in family, education, media, rural areas
  - Implement National Programme against trafficking
  - Address violence against women, including in family and shelter
  - Eliminate discrimination against rural women, ethnic minority women/Albanian and Roma (include section in next report 2011)

#### Rights of minorities

- Human Rights Committee, 1998:
  - Increase number of Albanians and other minorities in public life, including in civil service, army, police; Roma population as a “matter of particular concern”
- CRC Committee, 2000:
  - Vocational training, personal development, interethnic tolerance with stronger emphasis in school curricula
- FCNM Advisory Committee/Committee of Ministers, 2004/2005
  - Strengthen structures combating discrimination, such as the Ombudsman, and capacities for minority education in the Ministry of Education
  - Establish regular consultations with ethnic groups
  - Allow for greater participation of minorities in the decentralization process
  - Promote peaceful interethnic relations on central and local authority level
  - Generally, stronger focus on “numerically smaller minorities”
  - Respect distinct identity of the Egyptian community
  - Resolve citizenship issues with Roma and Albanians
  - Improve situation of Roma in employment, housing, health care, education and adopt new National Strategy

## IV.8.3 Macedonia's Domestic Legal Framework

### Rule of Law, Access to Justice, Development and International Cooperation

#### IV.8.3.1 Overview

##### Constitution of the Republic of Macedonia 1991

##### Non-discrimination before the judicial bodies

###### Article 9

The citizens of the Republic of Macedonia are equal in their freedoms and rights regardless of their gender, race, colour of skin, national and social origin, political and religious beliefs, property and social status.

Citizens are equal before the Constitution and law.

###### Article 13

A person indicted for a criminal offence shall be considered innocent until his/her guilt is determined by a final court decision.

A person unlawfully detained, apprehended or convicted has a right to legal redress and other rights determined by the law.

###### Article 14

No person may be punished for an offence that has not been declared an offence punishable by law, or by other acts, prior to its being committed, and for which no punishment has been prescribed.

No person may be tried for an offence for which he/she has already been tried and for which a final court decision has been reached.

###### Article 15

The right to an appeal against individual legal acts reached in a first instance proceeding by a court, administrative body or organization, or other institutions with public mandates is guaranteed.

###### Article 24

Every citizen has a right to submit petitions to the state and other public bodies, as well as to receive an answer thereon.

A citizen may not be summoned to responsibility or suffer adverse consequences for positions expressed in petitions, unless he committed a criminal offence thereby.

#### Key Legislation

- Criminal Code (*Official Gazette of the Republic of Macedonia* Nos. 37/96, 80/99, 4/02, 43/03 and 19/04)
- Law on Sanctions (*Official Gazette of the Republic of Macedonia* Nos. 03/97, 23/99 and 74/04)
- Law on Courts (*Official Gazette of the Republic of Macedonia* Nos. 36/95, 45/95 and 64/03)

### IV.8.3.2 Equality before the Law

**Criminal Code** (*Official Gazette of the Republic of Macedonia Nos. 37/96, 80/99, 4/02, 43/03 and 19/04*) with Article 137 defines the violation of the equality of citizens as behaviour with which the rights established with the Constitution, a law or a ratified international agreement are violated or restricted on the grounds of gender, race, colour of skin, ethnic and social background, political or social background, material or social status, language or other personal feature, that is, circumstance, or the rights with which, on the basis of these differences the citizens are given benefits, contrary to the Constitution, to a law or ratified international agreement. In Article 319 it is provided that there will be punishment for a person who instigates ethnic, racial or religious hatred and intolerance by means of force, maltreatment, threat to safety, humiliation of the national, ethnic and religious symbols, desecration of monuments, tombs, or any other means through which he/she instigated or summoned to national, racial or religious hatred and intolerance. Article 417 provides that a person who on the grounds of race, colour of skin, national or ethnic background violates the basic human rights and freedoms recognized by the international community, is committing an act of discrimination.

**Law on Sanctions** (*Official Gazette of the Republic of Macedonia Nos. 03/97, 23/99 and 74/04*) prohibits discrimination on the basis of race, colour of skin, gender, language, religion, political and other convictions, ethnic and social belonging, association, financial and social status or other status of a person against whom a sanction is enforced. The religious beliefs, personal convictions and moral norms of a person against whom a sanction is enforced must be respected.

In accordance to the **Judicial Law** (*Official Gazette of the Republic of Macedonia Nos. 36/95, 45/95 and 64/03*) everyone has equal access to the courts for protection of their human rights and interests based on the law. Under the law, election of judges and judicial advisor shall be free from discrimination on the basis of gender, race, colour of skin, ethnic and social background, property or social status.

### IV.8.3.3 Principles of economic development

#### CONSTITUTION OF THE REPUBLIC OF MACEDONIA Foundations for economic relations

##### Article 55

The freedom of the market and entrepreneurship is guaranteed.

The Republic ensures equal legal position to all entities at the market. The Republic takes measures against monopolistic positions and monopolistic conduct on the market.

The freedom of the market and entrepreneurship can be restricted by law only for reasons of defence of the Republic, protection of the natural and living environment or public health.

##### Article 56

All the natural resources of the Republic of Macedonia, the flora and fauna, public property, as well as the objects and buildings of particular cultural and historical value determined by law, are properties of common interest for the Republic and enjoy particular protection.

The Republic guarantees protection, promotion and enhancement of the historical and artistic heritage of the Macedonian people and of the nationalities as well as of the treasures which of it is consisted, regardless of their legal status.

The law regulates the mode and conditions under which specific items of general interest for the Republic may be conceded for use.

##### Article 57

The Republic of Macedonia stimulates economic progress and provides for a more balanced spatial and regional development, as well as for the more rapid development of commercially underdeveloped regions.

##### Article 58

Ownership and labour form the basis for management and sharing in decision-making.

Participation in management and decision-making in public institutions and services is regulated by law, on the principles of expertise and competence.

##### Article 59

Foreign investors are guaranteed the right to the free transfer of invested capital and profits.

The rights obtained on the basis of the capital invested may not be reduced by law or other regulations.

##### Article 60

The National Bank of the Republic of Macedonia is a currency-issuing bank.

The National Bank is autonomous and responsible for the stability of the currency, the monetary policy and for the general liquidity of payments in the Republic and abroad.

The organization and work of the National Bank are regulated by law.

#### 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 the 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 so on.

Pursuant to article 28 from the Work Journal (*Official Gazette of the Republic of Macedonia* Nos. 38/01, 98/02, 9/03, 47/03, 64/03 and 67/03), the Government of the Republic of Macedonia established a special Economic Council besides the Economic-social Council, as a consultative body which at the request of the Government or at its own initiative looks into issues from the field of economic policy. This body, besides members of the Government, also includes experts of the science sphere, as well as businessmen from the larger business entities in the country. At the level of this body the foundations of the economic policy are harmonized, which provides a greater consensus in its creation, and especially in its realization.

#### **Coordination of the economic development policy**

Coordination of activities between the ministries is conducted in the Government of the Republic of Macedonia, that is, within the frames of the Board of General Secretaries/Ministers (General Board), which includes the general secretaries/ministers of all ministries. All materials and documents which are to be looked into and adopted at the sessions of the Government, but which have been done by the competent ministries, are looked into and coordinated at the level of expert services in the Government, after which a final coordination within the frames of the General Board follows, as a final instance in the process of harmonization. In addition, the coordination between the ministries is exercised within the frames of the process of developing the macroeconomic policy of the Government of the Republic of Macedonia as well as a document that gives a short-term economic programme of the Government, in which it presents the basic priorities of its action in the field of economy. The preparation of the macroeconomic policy includes developing a consistent macroeconomic framework and establishing the macroeconomic policies. For this purpose, the competent ministries are obligated, until the beginning of the month of October of the current year, to send to the Ministry of Finance a review of the planned activities, policies and measures within the frames of their competence. In the following two months, the process moves towards harmonization and coordination of the

activities and priorities between the ministries, after which the work on the final document follows. The coordination between the Government of the Republic of Macedonia (more precisely, the Ministry of Finance) and the National Bank of the Republic of Macedonia is executed within the frames of the Committee for coordination of the fiscal and monetary policy.

#### **IV.8.4 Checklist of MDG/rights-related key questions**

The following general questions should help in identifying crucial issues to be addressed in the application of the human rights legal framework in Macedonia. They should not be seen as exhaustive, but rather a first step in an assessment. Most of these questions will not be answerable by a simple yes/no, but require further consideration and possible additional research; in addition, these questions are not intended to replace other checklists and tools available (including those developed by BIM) nor to be used in isolation of them.

They should be read in conjunction with additional general questions listed above (see III.3).

- Are there any public statements being made during the national planning process by relevant local stakeholders (government, private sector, social sector, civil society, including the media), in relation to the right to a healthy environment
  - protection of the rule of law, access to justice and the strengthening of the judiciary?
  - general civil and political rights protection?
  - right to development?
  - right to international cooperation?
  - Macedonia's obligations as a beneficiary of international development assistance?
- How is an assessment being ensured of the impact of the national planning process on these rights at the
  - planning stage?
  - implementation stage?
  - monitoring and evaluation stage?
- Does this impact assessment take Macedonia's immediate state obligations (under the concept of progressive realization of human rights, see above, II.2.1) duly into account, including the obligations
  - to develop a strategy for addressing the most pressing needs?
  - to ensure non-discrimination and participation of all groups affected by the measures?
  - to prevent retrogression of standards of rights protection already achieved?
  - the identification of the maximum available resources?
  - to meet core obligations of the respective rights for ensuring at least a basic minimum level of rights protection?
- Does this impact assessment include analysis of the criteria (see above, II.2.1) of
  - Availability of services?
  - Accessibility of services, including

- Physical accessibility?
- Economic accessibility/affordability?
- Access to information?
- Acceptability and sensitiveness of services?
- High quality of services?
- Does this impact assessment take into account the rights of specific target groups, including
  - Women?
  - Children?
  - Minority groups?
  - Roma people?
  - Persons living in remote areas of Macedonia?
  - People living in poverty?
  - Refugees and displaced persons?
  - People with disabilities?
  - Domestic NGOs?
  - International NGOs?
  - International intergovernmental organizations co-operating with Macedonia?
  - Donor countries to Macedonia?
- How is meaningful participation of these groups being ensured in the national development process in relation to the right to a healthy environment (including access to information, translation services, etc.), for
  - Women?
  - Children?
  - Minority groups?
  - Roma people?
  - Persons living in remote areas of Macedonia?
  - People living in poverty?
  - Refugees and displaced persons?
  - People with disabilities?
  - Domestic NGOs?
  - International NGOs?
  - International intergovernmental organizations co-operating with Macedonia?
  - Donor countries to Macedonia?
- Have any capacity-building needs in relation to protection of the right to a healthy environment been identified?
- What monitoring and feedback mechanisms have been developed to assess progress of the process?
- Are there any structures missing, which would be helpful in the process, e.g. for information exchange, social and community life, lobbying, networking with other municipalities, partners outside the country?

## DRAFT GUIDELINES ON A HUMAN RIGHTS APPROACH TO POVERTY REDUCTION STRATEGIES

(Excerpts from Guidelines 6-15, 'key targets and indicators')

### Guideline 13: RIGHT OF EQUAL ACCESS TO JUSTICE

#### ➤ Target 1: Equal access to civil justice for poor people as victims

##### Indicators:

- Proportion of people availing themselves of civil justice mechanisms, disaggregated by gender and poverty
- Proportion of poor people having access to legal aid in civil matters
- Proportion of people availing themselves of specific human rights litigation, disaggregated by gender and poverty
- Proportion of poor people having access to legal aid for human rights litigation
- Number of judges and courts per unit of population
- Average distance between poor households and courts
- Average length of proceedings before civil and human rights courts and tribunals
- Level of corruption in the administration of civil justice

#### ➤ Target 2: Fair trial for poor people accused of crime

##### Indicators:

- Proportion of poor people sentenced for crimes in relation to the overall crime rate
- Level of corruption in the administration of criminal justice

#### ➤ Target 3: As victims of crime, poor people should be able to bring the perpetrators to justice

##### Indicator:

- Number of perpetrators sentenced for crimes against the poor as a percentage of number of crimes against the poor

### Guideline 11: RIGHT TO PERSONAL SECURITY

#### ➤ Target 1: To eliminate violence against the poor by State and non-State actors

##### Indicators:

- Crime rate disaggregated between poor and non-poor segments of society
- Ratio of killings, violent attacks and similar crimes against the poor to the overall crime rate
- Proportion of poor people subjected to police violence, harassment, intimidation, discrimination
- Ratio of police violence, harassment, intimidation, discrimination against the poor to overall police violence, harassment, intimidation, discrimination
- Proportion of poor people subjected to violent crime
- Rate of specific crime against women disaggregated between poor and non-poor segments of society

- **Target 2:** To ensure adequate police protection for poor people threatened with violence

**Indicators:**

- Proportion of police actions aimed at preventing violence against the poor in relation to preventive police actions in general
- Ratio of police actions aimed at investigating violent crime against the poor to overall criminal investigative actions by the police

**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

**Indicators:**

- Proportion of poor and non-poor people going to the polls
- Proportion of poor and non-poor people elected to public bodies at the local, regional and national level
- Proportion of poor and non-poor people appointed to public office

- **Target 2:** To ensure equal enjoyment by poor people of the right to freedom of association

**Indicators:**

- Proportion of poor people belonging to any association established by the poor themselves
- Number of associations, unions, political parties, foundations and media established by the non-poor for the protection of the interests of the poor

- **Target 3:** To ensure equal enjoyment by poor people of the right to freedom of assembly

**Indicator:**

- Number of public meetings, demonstrations or strikes organized by the poor or on their behalf

- **Target 4:** Equal enjoyment of the right to information by poor people

**Indicators:**

- Number of public information activities organized by governments directly addressing the poor
- Number of media programmes directly addressing the poor
- Circulation of print media in vernacular languages
- Share of public expenditure on dissemination of information to the poor

- **Target 5:** Full participation of the poor in the formulation, implementation and monitoring of PRS

**Indicators:**

- Proportion of poor people who are aware of a PRS process in their country
- Proportion of poor people who participate in public PRS information meetings
- Proportion of poor people who participate in the formulation of PRS
- Proportion of poor people who participate in the implementation of PRS
- Proportion of poor people who participate in the monitoring and accountability of PRS

**Guideline 15: RIGHT TO INTERNATIONAL ASSISTANCE AND COOPERATION**

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

**Indicators:**

- Proportion of exports (by value and excluding arms) admitted free of duties and quotas
- Average tariffs and quotas on agricultural products and textiles and clothing
- Domestic and export agricultural subsidies in OECD countries

## List of Abbreviations

Art.	Article
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCPR	International Covenant on Civil and Political Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CESCR	International Covenant on Economic, Social and Cultural Rights
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture
CRC	Convention on the Rights of the Child
ECHR	European Convention on Human Rights
ESC	European Social Charter
EU	European Union
FCNM	Framework Convention on National Minorities
GC	General Comment
ILO	International Labour Organization
MDG	Millennium Development Goal
MWC	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
NGO	Non-Governmental Organization
OP	Optional Protocol
OSCE	The Organization for Security and Cooperation in Europe
Para.	Paragraph
TB	Tuberculosis
UN	United Nations
UN Doc.	United Nations Document
UNAIDS	Joint UN Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	UN Office on Drugs and Crime
WHO	World Health Organization





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- UN Special Rapporteur on arbitrary executions, Report, UN Doc. E/CN.4/2005/7/Add.1

## Related websites

**Assembly of the Republic of Macedonia -  
Government of the Republic of Macedoni -  
Macedonian Legal Resource Centre -  
Macedonian Laws -**

**[www.sobranie.mk](http://www.sobranie.mk)  
[www.vlada.mk](http://www.vlada.mk)  
[www.mlrc.org.mk](http://www.mlrc.org.mk)  
[www.pravo.org.mk](http://www.pravo.org.mk)**

Bayefsky.com, The United Nations Human Rights Treaties -  
Committee for the Prevention of Torture (CPT) -  
Council of Europe -  
CoE European Social Charter -  
CoE National Minorities -  
European Commission against Racism and Intolerance -  
European Court of Human Rights -  
Government of Macedonia -  
OSCE High Commissioner on National Minorities -  
OSCE Spillover Monitor Mission in Skopje -  
UN: Human Rights and Development -  
UN in Macedonia -  
UN Millennium Project -  
UN Office of the High Commissioner for Human Rights -  
OHCHR Treaty Bodies Database -

[www.bayefsky.com](http://www.bayefsky.com)  
[www.cpt.coe.int](http://www.cpt.coe.int)  
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[www.coe.int/t/e/human\\_rights/esc/](http://www.coe.int/t/e/human_rights/esc/)  
[www.coe.int/t/e/human\\_rights/minorities/](http://www.coe.int/t/e/human_rights/minorities/)  
[www.coe.int/ecri](http://www.coe.int/ecri)  
[www.echr.coe.int/echr](http://www.echr.coe.int/echr)  
[www.vlada.mk](http://www.vlada.mk)  
[www.osce.org/hcnm/](http://www.osce.org/hcnm/)  
[www.osce.org/skopje/](http://www.osce.org/skopje/)  
[www.unhchr.ch/development/poverty.html](http://www.unhchr.ch/development/poverty.html)  
[www.un.org.mk](http://www.un.org.mk)  
[www.unmilleniumproject.org](http://www.unmilleniumproject.org)  
[www.ohchr.org](http://www.ohchr.org)  
[www.unhchr.ch/tbs/doc.nsf](http://www.unhchr.ch/tbs/doc.nsf)

# ANNEXES

## Annex 1 Macedonia Millennium Development Goals

### Macedonia MDG 1

**Target:** Reduce the proportion of the population living below the poverty line to 9.5 percent by 2015

**Indicators:**

- Poverty incidence
- Poverty depth
- Regional disparities
- Gini coefficient/index (EU Laeken indicator)
- Profiles of poverty - rates of poverty levels for the poor households facing highest risks
- People living in jobless households (EU Laeken indicator)
- Rates of poverty depth
- Long-term unemployment rate, more than 12 months as a % of the active population (EU Laeken indicator)
- Long-term unemployment share, more than 12 months as a % of unemployed (EU Laeken indicator)
- Very long-term unemployment, over 24 months (EU Laeken indicator)
- Social assistance beneficiaries
- Life expectancy at birth (EU Laeken indicator)

### Macedonia MDG 2

**Target:** Ensure that, by 2015, all children will be able to complete a full course of primary and secondary schooling

**Indicators:**

- Inclusion in primary education
- Enrolment ratio in primary education
- Primary education completion rate
- Proportion of pupils starting grade 1 who reach grade 5
- Inclusion in secondary education
- Rate of completion of secondary education
- Literacy rate of 15+ year-olds
- Persons with low educational attainment (EU Laeken indicator)
- Proportion of ethnic groups in the completion of primary and secondary education
- Portion of the budget allocated to education, as a share in GDP

**Target:** Eliminate gender disparities in primary and secondary education if possible by 2005, and in all levels of education by 2015

**Indicators:**

- Proportion of boys and girls in primary, secondary and higher education
- Proportion of girls and boys completing primary education, by ethnic background

- Proportion of boys and girls completing secondary education by ethnic background
- Proportion of boys and girls completing higher education, by ethnic background
- Ratio between literate women and men at the age of 15 and over by ethnicity

### Macedonia MDG 3

**Target:** Halving, by 2015, the proportion of women as unpaid family workers and reducing their inactivity rate by one third

**Indicators:**

- Disparity in income
- Increased rate of inactivity
- Activity rate
- Unemployment rate
- Employment rate
- Comparison of non-commercial activities sectors employing women and men

**Target:** Doubling the proportion of women in governance

**Indicators:**

- Proportion of women in Parliament
- Proportion of women in Government
- Proportion of women in government at local level

### Macedonia MDG 4

**Target:** Further reduce the infant and under-five mortality rate

**Indicators:**

- Under-five mortality rate
- Infant mortality rate

**Target:** Eradicate measles by year 2015

**Indicators:**

- Proportion of one-year-old children immunized against measles
- Reported cases with measles

### Macedonia MDG 5

**Target:** Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio

**Indicators:**

- Maternal mortality ratio
- Proportion of births attended by skilled health personnel (doctors, nurses or midwives)

### Macedonia MDG 6

**Target:** Have halted by 2015 and begun to reverse the spread of HIV/AIDS

**Indicators:**

- HIV/AIDS incidence rate
- Number of voluntary tests and consulting for HIV/AIDS

**Target:** Have halved by 2015, and begun reverse the incidence of tuberculosis and other major diseases

**Indicators:**

- Prevalence and death rates associated with tuberculosis
- Proportion of TB cases detected and cured under DOTS (Directly Observed Treatment Short Course)
- Number of cases with multiresistant forms of TB

### Macedonia MDG 7

**Target:** Integrate the principles of sustainable development into national policies and programmes and reverse the losses of environmental resources

**Indicators:**

- Percentage of territory covered by forests
- Percentage of protected territory for maintaining biodiversity
- Energy consumption (expressed in kg of oil equivalent) per US\$ 1 GDP
- Percentage of population using solid fuels

**Target:** Halve by 2015 the proportion of people without sustainable access to safe drinking water and basic sanitation

**Indicators:**

- Percentage of population (urban and rural) with sustainable access to (sanitary) improved water sources

**Target:** Have achieved by the year 2020 significant improvements in the lives of people in terms of safety of their dwellings (homes)

**Indicators:**

- Percentage of population with access to secure tenure

### Macedonia MDG 8

**Target:** Create an environment conducive to increase the inflow of FDI up to 7 percent of GDP by 2015

**Indicators:**

- FDI inflows as percentage of the GDP
- Cumulative FDI inflow per capita

**Target:** Increase the share of foreign trade on the world markets up to 60 percent of the GDP and reduce the trade deficit to 12 percent of the GDP

**Indicators:**

- Share of foreign trade in the global trade
- Share of foreign trade in GDP

## Annex 2 Macedonia Constitutional Rights

**Constitution of the Republic of Macedonia: (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 are 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 are published in the Official Gazette of the Republic of Macedonia No. 91/2003)**

### 1. CIVIL AND POLITICAL FREEDOMS AND RIGHTS

#### Equality of the citizens

##### Article 9

The citizens of the Republic of Macedonia are equal in their freedoms and rights regardless of their gender, race, colour of skin, national and social origin, political and religious beliefs, property and social status.

Citizens are equal before the Constitution and law.

#### Right to life

##### Article 10

Human life is inviolable.

In the Republic of Macedonia the death penalty shall not be imposed on any grounds whatsoever.

#### Integrity of the person

##### Article 11

Human, physical and moral integrity are inviolable

Any form of torture, inhuman or humiliating conduct or punishment is prohibited.

Forced labour is prohibited.

#### Right to freedom

##### Article 12

Human freedom is inviolable.

No one's freedom may be restricted, except by decision of the court or in cases and procedures set forth in the law. Persons summoned, apprehended or detained must immediately be informed of the reasons for their summons, apprehension or detention and their rights established by the law, and such persons shall not be forced to give a statement. Everyone has a right to an attorney in a police and court procedure.

Detained persons must immediately, at the latest within 24 hours from the moment of detention, be brought before the court of law that will bring a decision as to whether such detention is in breach of the law.

Once the charge is filed, the court shall make a decision on detention that may not exceed 180 days from the date of apprehension.

Once the charge is filed, the court of competent jurisdiction shall bring a judgement as to the extension or effectiveness of apprehension in a due process set forth in the law.

Detained persons may, under conditions determined by the law, be released from custody to conduct his/her defence.

#### Presumption of innocence

##### Article 13

A person indicted for a criminal offence shall be considered innocent until found guilty with a final decision of the court.

A person unlawfully detained, apprehended or convicted has a right to legal redress and other rights laid down in the law.

#### Indictment on legal grounds

##### Article 14

No person may be punished for an offence that has not been declared an offence by law or any other provisions prior to it being committed, and for which no punishment is envisaged.

No person may be subject to court proceedings for an offence in respect of which he/she has already been tried and a final decision has been reached.

#### Right to an appeal

##### Article 15

The right to an appeal against individual legal acts reached in a first instance proceeding by a court, administrative body or organization, or other institutions with public mandates is guaranteed.

#### Freedom of belief, speech and access to information

##### Article 16

The freedom of personal conviction, conscience, opinion and public expression of opinion is guaranteed.

The freedom of speech, public address, public information and the establishment of institutions for public information are guaranteed.

Free access to information and the freedom of reception and transmission of information are guaranteed.

The right of reply through the mass media is guaranteed.

The right to a correction in the mass media is guaranteed.

The right to protect a source of information in the mass media is guaranteed.

Censorship is prohibited.

### **Secrecy of correspondence**

#### **Article 17**

The freedom and confidentiality of correspondence and other forms of communication is guaranteed.

Only on the basis of a court decision may non-application of the principle of the inviolability of the confidentiality of correspondence and other forms of communication be authorized, in cases where it is indispensable to a criminal investigation or required in the interests of the defence of the Republic.

### **Security of the personal data**

#### **Article 18**

The security and confidentiality of personal data are guaranteed.

The citizens are guaranteed protection from any violation of their personal integrity deriving from the registration of personal information through data processing.

### **Freedom of religious confession**

#### **Article 19**

The freedom of religious confession is guaranteed.

The right to express one's faith freely and publicly, individually or in association with others is guaranteed.

The Macedonian Orthodox Church, as well as the Islamic community in Macedonia, the Roman Catholic Church, the Evangelic-Methodist Church, the Jewish community and the other religious communities and religious groups are separate from the state and equal before the law.

The Macedonian Orthodox Church, as well as the Islamic community in Macedonia, the Roman Catholic Church, the Evangelic-Methodist Church, the Jewish community and the other religious communities and religious groups are free to establish religious schools and other social and charitable institutions, by means of a procedure provided in the law.

### **Freedom of association**

#### **Article 20**

Citizens are guaranteed freedom of association to exercise and protect their political, economic, social, cultural and other rights and convictions.

Citizens may freely establish associations of citizens and political parties, approach them or resign from them.

The programmes and activities of citizens' associations and political parties may not be directed at the violent destruction of the constitutional order of the Republic, or at encouragement or incitement to military aggression or instigation of ethnic, racial or religious hatred or intolerance.

Military or paramilitary associations that do not belong to the Armed Forces of the Republic of Macedonia are prohibited.

### **Right to a rally**

#### **Article 21**

Citizens have the right to assemble peacefully and to express public protest without prior announcement or a special licence.

The exercise of this right may be restricted only during a state of emergency or war.

### **Right to vote**

#### **Article 22**

Citizens acquire the right to vote when they reach the age of 18.

The right to vote is equal, universal and immediate, and is exercised at free elections by secret ballot.

Persons who have suffered a loss of working capacity do not have the right to vote.

### **Right to public office**

#### **Article 23**

Every citizen has the right to take part in the performance of public office.

### **Right to petition**

#### **Article 24**

Every citizen has a right to submit petitions to the state and other public bodies, as well as to receive an answer.

Citizens shall not be held liable, or suffer adverse consequences for positions expressed in petitions, unless such acts constitute a criminal offence.

### **Right to privacy**

#### **Article 25**

Every citizen is guaranteed the respect and protection of the privacy of his/her personal and family life, dignity and reputation.

### **Right to inviolability of the home**

#### **Article 26**

The inviolability of the home is guaranteed.

The right to the inviolability of the home may be restricted only by a court decision in cases of detection or prevention of criminal offences or protection of people's health.

### **Freedom of movement**

#### **Article 27**

Every citizen of the Republic of Macedonia has the right to freely move within the territory of the Republic and to freely choose his/her place of residence

Every citizen has the right to leave the territory of the Republic and to return to the Republic.

The exercise of these rights may be restricted by law only in cases warranted by the need to protect the security of the Republic, conduct criminal investigation or ensure protection of people's health.

### **Right and duty to defence of the Republic**

#### **Article 28**

The defence of the Republic of Macedonia is the right and duty of every citizen.

The exercise of this right and duty of citizens is regulated by law.

### **Aliens' rights in the Republic of Macedonia**

#### **Article 29**

Foreign nationals in the Republic of Macedonia enjoy freedoms and rights guaranteed by the Constitution, under conditions regulated by law and international treaties.

The Republic guarantees the right of asylum to foreign nationals and stateless persons, persecuted for reasons of their democratic political convictions and activities.

Extradition of a foreign national can be carried out only on a basis of a ratified international agreement and in line

with the principle of reciprocity. A foreign national shall not be extradited on the grounds of politics related criminal offences. Acts of terrorism are not regarded as politically-related criminal offences.

## 2. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

### Right to ownership

#### 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 for the well-being of the individual and the community.

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

In cases of expropriation or restriction of property, rightful compensation, not lower than its market value, is guaranteed.

#### Article 31

Foreign nationals in the Republic of Macedonia may acquire right of ownership of property under conditions determined by law.

### Right to work

#### Article 32

Everyone has the right to work, to a 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 be paid daily, weekly and annual leave. Employers cannot waive this right.

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

### Obligation to pay taxes

#### Article 33

Everyone is obliged to pay tax and other public duties, as well as to share in the discharge of public expenditure in a manner determined by law.

### Right to social security

#### Article 34

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

#### Article 35

The Republic provides 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 incapable for work.

The Republic provides particular protection for disabled persons, as well as conditions for their involvement in society.

#### Article 36

The Republic guarantees particular social security rights to veterans of the Anti-Fascist War and of all Macedonian national liberation wars, to the war disabled, to the persecuted and imprisoned for the ideas of the sovereignty of the People of Macedonia and of Macedonia's statehood, as well as to

members of their families without means of material and social subsistence.

The particular rights are regulated by law.

### Right to associate in unions

#### Article 37

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

The law may impose restrictions concerning the conditions for the exercise of the right to organize in unions in the armed forces, the police and administrative bodies.

### Right to strike

#### Article 38

The right to strike is guaranteed.

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

### Right to health care

#### Article 39

Every citizen is guaranteed the right to health care.

A citizen has the right and duty to protect and promote their own health and the health of others.

### Protection of the family

#### Article 40

The Republic provides particular care and protection of the family.

The legal relations in marriage, family and cohabitation are regulated by law.

Parents have the right and duty to provide for upbringing and education of the children. Children are responsible for the care of their old and infirm parents.

The Republic provides particular protection for parentless children and children with no parental care.

### Free decision for procreation of children

#### Article 41

It is a human right to freely decide on procreation of children.

The Republic pursues a humane population policy in order to ensure a balanced economic and social development.

### Protection of mothers and children

#### Article 42

The Republic particularly protects mothers, children and minors.

A person under 15 years of age cannot be employed.

Minors and mothers have the right to particular protection at work.

Minors may not undertake any employment that is detrimental to their health or morality.

### Right to a healthy living environment

#### Article 43

Everyone has the right to a healthy living environment.

Everyone is obliged to promote and protect the living environment and nature.

The Republic provides conditions for applying the right of citizens to a healthy environment.

### **Right to education**

#### **Article 44**

Everyone has a right to education.

Education is available for everyone under equal conditions.

Primary education is compulsory and free.

#### **Article 45**

Citizens have a right to establish private schools at all levels of education, under conditions determined by law, with the exception of primary education schools.

#### **Article 46**

Universities are guaranteed autonomy.

The conditions for establishing, performance and termination of the activities of a university are regulated by law.

### **Right to free scientific and artistic creation**

#### **Article 47**

The freedom of scientific, artistic and other forms of creative work is guaranteed.

The rights stemming from scientific, artistic or other intellectual creative work are guaranteed.

The Republic encourages, assists and protects the development of science, arts and culture.

The Republic encourages and assists the scientific and technological development.

The Republic encourages and assists technical culture and sport.

### **Freedom to express identity of the nationalities**

#### **Article 48**

Members of nationalities have a right to freely express, foster and develop their identity and the attributes of their communities and to use the symbols of their community.

The Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity to all nationalities.

Members of the nationalities have the right to establish cultural, artistic, educational, as well as scientific and other associations for expressing, fostering and developing of their identity.

Members of the nationalities have the right to education in their language in primary and secondary education in a manner determined by law. In schools where education is carried out in another language the Macedonian language is studied as well.

Members of communities have the right to receive instructions in their mother tongue in elementary and secondary education in a manner set forth in the law. In schools where the instructions are delivered in a language other than Macedonian, student shall take classes of Macedonian.



## Annex 3 International Millennium Development Goals

### GOAL 1 ERADICATE EXTREME POVERTY AND HUNGER

**Target 1:** Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day

#### Indicators

1. Proportion of population below US\$1 (1993 PPP) per day (World Bank)
2. Poverty gap ratio [incidence x depth of poverty] (World Bank)
3. Share of poorest quintile in national consumption (World Bank)

**Target 2:** Halve, between 1990 and 2015, the proportion of people who suffer from hunger

#### Indicators

4. Prevalence of underweight children under five years of age (UNICEF-WHO)
5. Proportion of population below minimum level of dietary energy consumption (FAO)

### GOAL 2 ACHIEVE UNIVERSAL PRIMARY EDUCATION

**Target 3:** Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling

#### Indicators

6. Net enrolment ratio in primary education (UNESCO)
7. Proportion of pupils starting grade 1 who reach grade 5 (UNESCO)
8. Literacy rate of 15-24 year-olds (UNESCO)

### GOAL 3 PROMOTE GENDER EQUALITY AND EMPOWER WOMEN

**Target 4:** Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015

#### Indicators

9. Ratio of girls to boys in primary, secondary and tertiary education (UNESCO)
10. Ratio of literate women to men, 15-24 years old (UNESCO)
11. Share of women in wage employment in the non-agricultural sector (ILO)
12. Proportion of seats held by women in national parliament (IPU)

### GOAL 4 REDUCE CHILD MORTALITY

**Target 5:** Reduce by two thirds, between 1990 and 2015, the under-five mortality rate

#### Indicators

13. Under-five mortality rate (UNICEF-WHO)
14. Infant mortality rate (UNICEF-WHO)
15. Proportion of one-year-old children immunized against measles (UNICEF-WHO)

### GOAL 5 IMPROVE MATERNAL HEALTH

**Target 6:** Reduce by three quarters, between 1990 and 2015, the maternal mortality ratio

#### Indicators

16. Maternal mortality ratio (UNICEF-WHO)
17. Proportion of births attended by skilled health personnel (UNICEF-WHO)

### GOAL 6 COMBAT HIV/AIDS, MALARIA AND OTHER DISEASES

**Target 7:** Have halted by 2015 and begun to reverse the spread of HIV/AIDS

#### Indicators

18. HIV prevalence among pregnant women aged 15-24 years (UNAIDS-WHO-UNICEF)
19. Condom use rate of the contraceptive prevalence rate (UN Population Division)
- 19a. Condom use at last high-risk sex (UNICEF-WHO)
- 19b. Percentage of population aged 15-24 years with comprehensive correct knowledge of HIV/AIDS (UNICEF-WHO)
- 19c. Contraceptive prevalence rate (UN Population Division)
20. Ratio of school attendance of orphans to school attendance of non-orphans aged 10-14 years (UNICEF-UNAIDS-WHO)

**Target 8:** Have halted by 2015 and begun to reverse the incidence of malaria and other major diseases

#### Indicators

21. Prevalence and death rates associated with malaria (WHO)
22. Proportion of population in malaria-risk areas using effective malaria prevention and treatment measures (UNICEF-WHO)
23. Prevalence and death rates associated with tuberculosis (WHO)
24. Proportion of tuberculosis cases detected and cured under DOTS (internationally recommended TB control strategy) (WHO)

**GOAL 7 ENSURE ENVIRONMENTAL SUSTAINABILITY**

**Target 9:** Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources

**Indicators**

25. Proportion of land area covered by forest (FAO)
26. Ratio of area protected to maintain biological diversity to surface area (UNEP-WCMC)
27. Energy use (kg oil equivalent) per US\$1,000 GDP (PPP) (IEA, World Bank)
28. Carbon dioxide emissions per capita (UNFCCC, UNSD) and consumption of ozone-depleting CFCs (ODP tons) (UNEP-Ozone Secretariat)
29. Proportion of population using solid fuels (WHO)

**Target 10:** Halve, by 2015, the proportion of people without sustainable access to safe drinking water and sanitation

**Indicators**

30. Proportion of population with sustainable access to an improved water source, urban and rural (UNICEF-WHO)
31. Proportion of population with access to improved sanitation, urban and rural (UNICEF-WHO)

**Target 11:** By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers

**Indicators**

32. Proportion of households with access to secure tenure (UN-HABITAT)

**GOAL 8 DEVELOP A GLOBAL PARTNERSHIP FOR DEVELOPMENT**

**Target 12:** Develop further an open, rule-based, predictable, non-discriminatory trading and financial system. Includes a commitment to good governance, development and poverty reduction – both nationally and internationally

**Target 13:** Address the special needs of the least developed countries.

Includes: tariff and quota-free access for least developed countries' exports; enhanced programme of debt relief for heavily indebted poor countries (HIPC) and cancellation of official bilateral debt; and more generous ODA for countries committed to poverty reduction

**Target 14:** Address the special needs of landlocked developing countries and Small Island Developing States (through the Programme of Action for the Sustainable Development of Small Island Developing States and the outcome of the twenty-second special session of the General Assembly)

**Target 15:** Deal comprehensively with the debt problems of developing countries through national and international measures in order to make debt sustainable in the long term

*Some of the indicators listed below are monitored separately for the least developed countries (LDCs), Africa, landlocked developing countries (LLDCs) and Small Island Developing States (SIDS)*

**Indicators (combined for targets 12-15)**

Official development assistance (ODA)

33. Net ODA, total and to LDCs, as percentage of OECD/ Development Assistance Committee (DAC) donors' gross national income (GNI)(OECD)

34. Proportion of total bilateral, sector-allocable ODA of OECD/DAC donors to basic social services (basic education, primary health care, nutrition, safe water and sanitation) (OECD)

35. Proportion of bilateral ODA of OECD/DAC donors that is untied (OECD)

36. ODA received in landlocked developing countries as a proportion of their GNIs (OECD)

37. ODA received in Small Island Developing States as proportion of their GNIs (OECD)

**Market access**

38. Proportion of total developed country imports (by value and excluding arms) from developing countries and from LDCs, admitted free of duty (UNCTAD, WTO, WB)

39. Average tariffs imposed by developed countries on agricultural products and textiles and clothing from developing countries (UNCTAD, WTO, WB)

40. Agricultural support estimate for OECD countries as percentage of their GDP (OECD)

41. Proportion of ODA provided to help build trade capacity (OECD, WTO)

**Debt sustainability**

42. Total number of countries that have reached their Heavily Indebted Poor Countries Initiative (HIPC) decision points and number that have reached their HIPC completion points (cumulative) (IMF-World Bank)

43. Debt relief committed under HIPC initiative (IMF-World Bank)

44. Debt service as a percentage of exports of goods and services (IMF-World Bank)

**Target 16:** In cooperation with developing countries, develop and implement strategies for decent and productive work for youth

**Indicators**

45. Unemployment rate of young people aged 15-24 years, each sex and total (ILO)

**Target 17:** In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries

**Indicators**

46. Proportion of population with access to affordable essential drugs on a sustainable basis (WHO)

**Target 18:** In cooperation with the private sector, make available the benefits of new technologies, especially information and communications

**Indicators**

47. Telephone lines and cellular subscribers per 100 population (ITU)

48. Personal computers in use per 100 population and Internet users per 100 population (ITU)