



Office for Democratic Institutions and Human Rights

**Information Submitted to the
Office of the United Nations High Commissioner for
Human Rights
as a Stakeholder in the
Universal Periodic Review of the
former Yugoslav Republic of Macedonia**



WARSAW, 24 JUNE 2013

The following information is submitted by the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) about an OSCE participating State or Partner for Co-operation under consideration in the Universal Periodic Review process:

Participating/Partner State: The former Yugoslav Republic of Macedonia

UPR Session and Date of Review: 18th Session, January – February 2014

Background

The former Yugoslav Republic of Macedonia has been a participating State in the Organization for Security and Co-operation in Europe (OSCE) since 1995 and has thus undertaken and recently reaffirmed a wide range of political commitments in the “human dimension” of security as outlined in relevant OSCE documents.¹ The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) has been mandated by OSCE participating States, including the former Yugoslav Republic of Macedonia, to assist them in implementing their human dimension commitments. OSCE/ODIHR assistance includes election observation and assessment activities as well as monitoring and providing assessments, advice and recommendations relating to implementation of commitments in the fields of human rights, democracy, tolerance and non-discrimination, and the situation of Roma and Sinti in the OSCE area. The present submission provides publicly available country-specific information that may assist participants in the Universal Periodic Review process in assessing the situation in the former Yugoslav Republic of Macedonia and its implementation of past recommendations, as well as to formulate new recommendations that may be relevant to enhancing the enjoyment of human rights and fundamental freedoms in the former Yugoslav Republic of Macedonia.

Overview of this Submission

Upon invitation, the OSCE/ODIHR has regularly deployed Election Observation Missions to the former Yugoslav Republic of Macedonia. Information about elections observed from 2009 to 2013 is summarized below, and reports from these Missions are annexed.

Also upon request, the OSCE/ODIHR has reviewed electoral and other legislation of the former Yugoslav Republic of Macedonia for its consistency with OSCE commitments and other international standards. Information about the resulting comments and opinions issued by the OSCE/ODIHR from 2009 to 2013 is summarized below and annexed.

¹ OSCE Office for Democratic Institutions and Human Rights, *Compendium of OSCE Human Dimension Commitments: Volume 1, Thematic Compilation (third edition)*, <http://www.osce.org/odihr/elections/76894> and *Compendium of OSCE Human Dimension Commitments: Volume 2, Chronological Compilation (third edition)*, 2011, <http://www.osce.org/odihr/76895>; OSCE Summit Meeting, Astana 2010, *Astana Commemorative Declaration: Toward a Security Community*, 3 December 2010, <http://www.osce.org/cio/74985?download=true>

The OSCE/ODIHR has also compiled information relating to hate crimes and to Roma and Sinti communities in the former Yugoslav Republic of Macedonia which is described below.

Elections

Presidential and Municipal Elections, 22 March and 5 April 2009

Following an invitation from the Foreign Ministry of the former Yugoslav Republic of Macedonia, the OSCE/ODIHR deployed an election observation mission to observe the presidential and municipal elections on 22 March and 5 April. For election day observation on 22 March, the ODIHR EOM joined efforts with observer delegations of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe (PACE) and the Congress of Local and Regional Authorities of the Council of Europe (the Congress) to form an International Election Observation Mission (IEOM). For election day observation of the second round on 5 April, the OSCE/ODIHR EOM joined efforts with an observer delegation of the PACE. These elections were assessed for their compliance with OSCE commitments and other international standards for democratic elections, as well as with domestic legislation.

The report from this IEOM noted that *“the two rounds of presidential and municipal elections met most OSCE commitments and other international standards for democratic elections. The constructive role and discreet, but reassuring, presence of the police contributed to the conduct of peaceful election days. Other meaningful progress such as the responsible behavior of political parties and the discernible efforts to use measured rhetoric in the campaign was noted. Overall, these elections were administered in a professional and transparent manner. Some problems were evident, such as allegations of intimidation of voters in the pre-election periods.”* The full report, together with its recommendations, is annexed.²

Early Parliamentary Elections, 5 June 2011

Following the receipt of an invitation from the Ministry of Foreign Affairs of the former Yugoslav Republic of Macedonia, and based on the recommendation of the Needs Assessment Mission (NAM), the OSCE/ODIHR deployed an Election Observation Mission (EOM) for the 5 June 2011 early parliamentary elections. The elections were assessed for compliance with OSCE commitments and other international standards for democratic elections, and domestic legislation. For election day observation, the OSCE/ODIHR EOM joined efforts with delegations from the OSCE Parliamentary Assembly and the Parliamentary Assembly of the Council of Europe.

The report from EOM noted that *“the early parliamentary elections were competitive, transparent, and well-administered throughout the country, although certain aspects require attention”*. The full report, together with its recommendations, is annexed.³

Local Elections, 24 March 2013

² <http://www.osce.org/odihr/elections/fyrom/37851>

³ <http://www.osce.org/odihr/elections/FYROM/83666>

Following an invitation from the Ministry of Foreign Affairs of the former Yugoslav Republic of Macedonia to observe the 24 March municipal elections and in accordance with its mandate, the OSCE/ODIHR deployed a Needs Assessment Mission (NAM). The NAM report concluded that *“although some OSCE/ODIHR recommendations have been implemented since the 2011 early parliamentary elections, there are a number of issues that would benefit from continued attention. These include the procedures for compiling voter lists, the election campaign and potential misuse of administrative resources, media coverage, campaign finance provisions, and complaints and appeals mechanisms. The majority of OSCE/ODIHR NAM interlocutors underscored the importance of an OSCE/ODIHR assessment and recommendations in the context of anticipated electoral reform following the municipal elections. On this basis, the OSCE/ODIHR NAM recommends the deployment of an EOM to observe the municipal elections.”* The full report is annexed to this submission.⁴

On 25 March the observers from the OSCE/ODIHR and the Council of Europe's Congress of Local and Regional Authorities issued a preliminary statement when assessing the first round of the municipal elections and concluded that the elections were *“efficiently administered and highly competitive, but playing field not always level”*. For the second round their preliminary statement concluded on 8 April that the elections were *“well administered and highly competitive, but lack of level playing field persists”*. Both statements are annexed to this submission.⁵

The final report is forthcoming.

Election-related legislation reviewed by the OSCE/ODIHR

Upon request by authorities of an OSCE participating State, the OSCE/ODIHR reviews draft or enacted legislation of OSCE participating States on electoral matters for its conformity with OSCE commitments and other international standards. The legal reviews and opinions are often produced in co-operation with the Council of Europe's Commission for Democracy through Law (Venice Commission). In the case of the former Yugoslav Republic of Macedonia, the OSCE/ODIHR has reviewed the following election-related legislation since 2009:

Joint Opinion on the Electoral Code of the former Yugoslav Republic of Macedonia as revised on 29 October 2008 (Opinion-Nr.: 509/2008, issued jointly by the OSCE/ODIHR and the Venice Commission on 5 August 2009)

This opinion was prepared jointly by ODIHR and the Venice Commission in order to comment on changes in the voter turnout requirement for presidential elections, out-of-country voting, voter registration, campaign finance and the complaints and appeals process and complements the joint opinion (Nr. 413/2006) from 2007.

The opinion concluded that *“the amendments strengthened some aspects of the Electoral Code”* but *“would benefit from further improvements”* including in the areas of voter turnout requirement for Presidential elections, procedures for appointment and dismissal of members of electoral commissions, and the system for voting abroad.

⁴ <http://www.osce.org/odihr/elections/99530>

⁵ <http://www.osce.org/odihr/elections/100311> and <http://www.osce.org/odihr/elections/100554>.

*The full text of the joint opinion is annexed to this document.*⁶

Joint Opinion on the Revised Electoral Code of the former Yugoslav Republic of Macedonia (Opinion-Nr.: 640/2011, issued jointly by the OSCE/ODIHR and the Venice Commission on 17 October 2011)

This opinion was prepared jointly by the OSCE/ODIHR and the Venice Commission, upon request of the Ministry of Justice of the former Yugoslav Republic of Macedonia, in order to comment on amendments to the Electoral Code passed on 5 and 13 April 2011.

The opinion concluded that *“the amended Code represents a genuine attempt to address many of the previous recommendations and issues raised by OSCE/ODIHR and the Venice Commission. It is an improvement over the previous Code. However, a number of previous recommendations remain unaddressed even though the relevant articles were the subject of recent amendments.”*

*The full text of the joint opinion is annexed to this document.*⁷

Joint Opinion on the Electoral Code of the former Yugoslav Republic of Macedonia (Opinion-Nr.: 700/2012, issued jointly by ODIHR and the Venice Commission on 18 June 2013)

This opinion was prepared jointly by ODIHR and the Venice Commission, upon request of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, in order to comment on amendments to the Electoral Code passed on 13 November 2012.

The opinion concluded that *“amendments introduced to the Electoral Code follow some of the recommendations previously made by the Venice Commission and the OSCE/ODIHR, changing certain provisions which were not in accordance with democratic standards. The amended Code is therefore an improvement over the previous Code. [...] A number of previous recommendations of the Venice Commission and the OSCE/ODIHR 2011 Joint Opinion remain unaddressed.”*

*The full text of the joint opinion is annexed to this document.*⁸

Legislation reviewed by the OSCE/ODIHR on human dimension issues (other than elections)

Upon request by authorities of an OSCE participating State, an OSCE field operation or another OSCE institution, the OSCE/ODIHR reviews draft or enacted legislation of OSCE participating States on topics relating to the human dimension of security for its conformity with OSCE commitments and other international standards. The legal reviews and opinions, often produced in co-operation with the Council of Europe’s Commission for Democracy through Law (Venice Commission), are available at www.legislationline.org. Basic

⁶ <http://www.osce.org/odihr/elections/67524>

⁷ <http://www.osce.org/odihr/84226>

⁸ <http://www.osce.org/odihr/elections/102832>

information about the constitutional system and legislation of the former Yugoslav Republic of Macedonia is also available in English on www.legislationline.org.

In 2009-2012, the following legal opinions (on topics other than elections) were issued on legislation or draft legislation of the former Yugoslav Republic of Macedonia:

Comments on Provisions Relating to Hate Crimes in the Draft Criminal Code of the former Yugoslav Republic of Macedonia (Opinion-Nr.: HCRIM-fYROM/132/2009, issued on 23 April 2009)

The Comments were provided on draft amendments to the Criminal Code related to hate crimes (draft Articles 173 and 394-g), upon the request of the OSCE Spillover Monitor Mission to Skopje (at present, the OSCE Mission to Skopje), and analyzed these provisions' compatibility with relevant international standards, including those set by the European Union (given the former Yugoslav Republic of Macedonia's aspirations to join this body), and OSCE commitments. These Comments did not purport to be a comprehensive review of all relevant legislation pertaining to hate crimes; rather they highlighted the key issues, and strived to provide useful indicators of areas of concern, that future versions of the draft provisions should take into account. The full text of the Comments is attached to this document.

Following the above Comments and their recommendations, amendments to the Criminal Code were adopted in September 2009.

Comments on the Draft Law on Prevention and Protection against Discrimination of the former Yugoslav Republic of Macedonia (Opinion-Nr.: NDISCR-fYROM/145/2009, issued jointly by the OSCE/ODIHR and the OSCE Spillover Monitor Mission to Skopje on 13 October 2009)

The Comments were requested by the OSCE Spillover Monitor Mission to Skopje (currently, the OSCE Mission to Skopje), following significant changes introduced to the draft Law on Prevention and Protection Against Discrimination in follow up to the Joint ODIHR-Venice Commission Opinion on a previous version of the draft Law on Prevention and Protection Against Discrimination of 22 December 2008.

These Comments focused on the above draft Law and its compliance with relevant international anti-discrimination standards and good practice; they did not constitute a full and comprehensive review of all available framework legislation governing the issue in the former Yugoslav Republic of Macedonia. The full text of the Comments is attached to this document.

While not all of OSCE/ODIHR's recommendations were taken into account, the final version of the Law on the Prevention and Protection against Discrimination created an independent equality body, namely the Commission for Protection against Discrimination, in line with OSCE/ODIHR recommendations.

Opinion on the Law on Equal Opportunities for Women and Men of the former Yugoslav Republic of Macedonia (Opinion Nr. GEND- FYROM/184/2011, issued in Warsaw on 9 June 2011)

The Opinion was provided upon the request by the Ministry of Labour and Social Policy in a letter sent to the Director of ODIHR informing him that the Ministry planned to reform the Law on Equal Opportunities of the former Yugoslav Republic of Macedonia. The Opinion was conducted based on the ODIHR's mandate to promote gender equality and review related legislation, established by the OSCE Action Plan for the Promotion of Gender Equality (see OSCE Ministerial Council Decision 14/04 on the 2004 OSCE Action Plan for the Promotion of Gender Equality of 7 December 2004, Annex, Chapter 5, par 44(b))

While OSCE/ODIHR noted that the Law on Equal Opportunities was an important instrument to ensure equal treatment of women and men in all spheres of society in the former Yugoslav Republic of Macedonia, it still found that this Law would benefit from some revisions to ensure full compliance with international gender equality standards. The full text of this Opinion is attached to this document.

Opinion on the Draft Law on Equal Opportunities for Women and Men of the former Yugoslav Republic of Macedonia (Opinion Nr. GEND– FYROM/191/2011, issued in Warsaw on 16 September 2011)

In follow-up to the previous Opinion that OSCE/ODIHR had provided on the existing Law on Equal Opportunities, and ensuing discussions with the competent working group, the Ministry of Labour and Social Policy asked OSCE/ODIHR to review the draft Law on Equal Opportunities prepared by the working group.

In its Opinion, OSCE/ODIHR recognized that the competent working group had made genuine efforts to ensure that the draft Law was in line with international gender equality standards. At the same time, OSCE/ODIHR still considered that certain provisions would benefit from revision, to ensure clarity of the draft Law, and full compliance with the above international standards. The full text of the Opinion is attached to this document.

In follow-up to both opinions, it should be noted that most of OSCE/ODIHR's recommendations had been supported and endorsed by the working group, but most recommendations were later disregarded when the Ministry of Labour and Social Policy revised the draft Law prior to its endorsement by the Government, and final adoption by Parliament.

Tolerance and non-discrimination issues, including incidents of and responses to hate crime

OSCE participating States have made a number of commitments to promote tolerance and non-discrimination and specifically to combat hate crime, and the OSCE/ODIHR supports states in their implementation of those commitments. As of 2011, 55 OSCE participating States including the former Yugoslav Republic of Macedonia had appointed National Points of Contact on Combating Hate Crimes, to support ODIHR in its task of serving "as a collection point for information and statistics collected by participating States". In this context, the OSCE/ODIHR produces an annual report on hate crime – *Hate Crimes in the OSCE Region: Incidents and Responses* – to highlight the prevalence of hate crimes and good practices that participating States and civil society have adopted to tackle them. The bulk of information for the report was gathered through the completion of an online questionnaire by

National Points of Contact. The questionnaire for 2011 contained questions about the following areas: data-collection methods; legislation; reported hate crime data; and policies and initiative.

For the 2011 report,⁹ the National Point of Contact from the former Yugoslav Republic of Macedonia did not submit the questionnaire to ODIHR, which also sent requests for information on hate crime to non-governmental organizations. One organization, not based in the country, reported one physical assault against a transgender person in the former Yugoslav Republic of Macedonia.

Roma and Sinti issues

The OSCE/ODIHR has a specific mandate to assist participating States in implementing the OSCE Action Plan for Improving the Situation of Roma and Sinti Within the OSCE Area.¹⁰ A Status Report on implementation of the Action Plan was issued by ODIHR in 2008¹¹ which indicated that the Roma population of the former Yugoslav Republic of Macedonia was estimated to be about 220,000 – 260,000 persons and the official number was 43,707 (according to the 1994 census).

According to the last census from 2002, there were 53,879 ethnic Roma in the former Yugoslav Republic of Macedonia or 2.66 percent of the population. The Status Report included the following specific information about the situation of Roma in the former Yugoslav Republic of Macedonia:

- Trends and challenges in the field of combating discrimination (page 22);
- Police failure to act or refusal to properly investigate crimes against Roma and information on action undertaken to improve the relation between police and Roma (page 25 ff.);
- Challenges in the field of health care (page 35);
- Enhancing participation in public and political life (page 43 ff.);
- Roma and Sinti in crisis and post-crisis situations (page 46 ff).

A second Status Report is under preparation and should be available before the end of 2013 at www.osce.org/odihr/roma.

Country-specific ODIHR monitoring and assessment activities (other than elections)

N/A

Other assessments and recommendations contained in ODIHR reports on thematic human dimension issues

N/A

⁹ <http://tandis.odihr.pl/hcr2011/>

¹⁰ <http://www.osce.org/odihr/17554>

¹¹ <http://www.osce.org/odihr/33500?download=true>