

Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on extreme poverty and human rights and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

REFERENCE:
AL MKD 1/2019

24 September 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on minority issues; Special Rapporteur on extreme poverty and human rights; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 33/9, 34/6, 35/19 and 34/35.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **significant barriers to civil registration, including birth registration linked to obstacles in accessing healthcare, faced by persons belonging to the Roma minority in North Macedonia, which place them at risk of statelessness.**

According to information received:

There are approximately 900 persons at risk of statelessness in North Macedonia. However, because official data is not available or does not exist, reports indicate that the number of persons at risk of statelessness in the country may exceed this estimate.

Approximately 600 individuals at risk of statelessness in North Macedonia are undocumented due to unregistered births and names. These individuals predominantly belong to the Roma minority. The remaining individuals at risk of statelessness are persons belonging to Roma and other minorities who, since the dissolution of the former Yugoslavia, are considered to be of undetermined nationality (also known as "long-term habitual residents") and who, for various reasons, including lack of information and structural discrimination, did not or were unable to register and acquire a civil status.

The Roma are victims of racism and deeply rooted stereotypes, which authorities have reportedly used to justify their lack of official documentation. These beliefs and misconceptions play a critical role in the discrimination and exclusion of Roma, and further perpetuates their vulnerability and disadvantaged position in society.

Significant bureaucratic and institutional barriers may serve to exclude Roma from access to civil registration, including birth registration. The existing legal

and institutional framework in North Macedonia does not provide for a statelessness determination procedure and the Government has yet to ratify the 1961 United Nations Convention on the Reduction of Statelessness. The documentary evidence to register a child's birth is not clearly set out in law, and thus registry officers retain wide discretion to decide on specific registration requirements. Furthermore, authorities have yet to issue practical and public-facing guidelines on birth registration. Instead, there exist only a limited number of official documents on registers and official records, which are too technical in nature to be accessible to the public.

Complex administrative systems and requirements prevent the Roma from obtaining official documentation. Such barriers include the imposition of medical requirements, including DNA analysis, to prove family relations. The considerable costs of DNA tests are often prohibitive for members of the Roma minority, who are unable to bear the test costs and the travel costs to medical centres. Furthermore, a number of undocumented Roma remain unregistered because their parents are deceased and do not have any siblings who can confirm family ties through a DNA test.

These additional medical and DNA requirements are often imposed for births outside hospitals and are especially common when birth registration requests are submitted after the 30-day legal deadline. According to reports, these registration requirements disproportionately harm Roma women because, as a result of multiple forms of discrimination, Roman women are more likely to give birth outside a hospital, they frequently lack health insurance coverage and their undocumented status prevents them from accessing healthcare.

Reports indicate that undocumented status prevents parents from registering the birth of their child. Access to and/or renewal of identification documents is permitted only to those who can provide a valid registered address by showing, for example, a deed or a valid tenancy agreement. However, because approximately 28 per cent of Roma in North Macedonia live in informal settlements, numerous Roma are unable to provide a valid registered address. This barrier to registration therefore perpetuates the cycle of statelessness from one generation to the next.

Marginalisation, exclusion and poverty are often both the causes and the consequences of statelessness. In North Macedonia, obstacles to civil registration and to civil status documentation may have significant adverse effects on access to formal employment, education and healthcare by persons belonging to the Roma minority, and thus perpetuate and exacerbate their socio-economic exclusion and marginalisation.

The Government has been increasingly involved in initiatives and programmes to address civil registration and statelessness. In April 2018, the Ministry of Labour and Social Policy published a call for the registration of all non-registered persons born in the country and since 2012 it has been coordinating the work of a multi-

stakeholder working group on civil registration. Unfortunately, reports indicate that both the 2018 registration call and the multi-stakeholder working group have not produced sufficient or expected results. The Government measures have not led to the design and implementation of sustainable civil registration solutions for the undocumented and unregistered Roma. Furthermore, the Government has not provided sufficient support for civil registration support and awareness-raising for Roma in North Macedonia. Instead, civil society organizations have had to take up these efforts.

Without prejudging the accuracy of the information provided, we express our serious concern over the reported persisting challenges faced by the Roma minority in North Macedonia, with regard to civil registration, including birth registration intertwined with obstacles to access health care. Social stigma, poverty, discrimination, as well as legal and administrative barriers to civil registration place members of the Roma minority at risk of statelessness, which has far-reaching implications for the protection and enjoyment of their human rights.

Moreover, we are particularly concerned about the absence of a simplified and clearly defined procedure for civil registration and acquisition of a nationality, with special attention to the needs of unregistered persons belonging to minorities, including those with “undetermined” nationality and unresolved civil status since the dissolution of former Yugoslavia. We are further concerned at the lack of access to health care, including to give birth in hospitals and to access physically reachable medical centers and at the impact that these obstacles have on civil registration and acquisition of nationality for the Roma minority.

Although noting the Government’s recent efforts to coordinate civil registration initiatives, we remain concerned about the lack of comprehensive legislative and policy measures to ensure that all persons in North Macedonia and, in particular, persons belonging to minorities have access to civil registration, including birth registration, without discrimination on any grounds.

In connection with the above alleged facts and concerns, we refer you to the **Annex on Reference to international human rights law** attached to this letter. The Annex cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek clarification on all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information you may have on the above-mentioned allegations.
2. Please provide information on specific legislative and policy measures undertaken to ensure access to civil registration, including birth

registration, by all persons in North Macedonia and, in particular, by persons belonging to the Roma minority.

3. Please provide information on the measures undertaken to resolve the situation of Roma with “undetermined” nationality (“long-term habitual residents”), who, following the dissolution of the former Yugoslavia, still remain unregistered and at risk of statelessness.
4. Please provide information on programmes aimed to raise Roma minority awareness about civil registration, including birth registration. Please also provide information on human rights training programmes focusing on racial discrimination that address officers of all state agencies and bodies involved in civil registration procedures.
5. Please provide information on racial and minority disparities in the human right to health, especially with regard to access to health insurance, access to healthcare, and access to hospitals. Please provide information on any programmes that address such disparities. Please also provide information on the financial burden posed by mandated medical requirements, including DNA tests.
6. Please provide information on the steps taken by the Government of North Macedonia towards ratifying the 1961 United Nations Convention on the Reduction of Statelessness and establishing a simple, fair and efficient statelessness determination procedure.
7. Please indicate any legislative and policy measures aiming at eliminating discrimination on any grounds with regard to the right to a nationality, and in particular discrimination against persons belonging to minorities.

This communication and any response received from your Excellency’s Government will be made public via the communications reporting [website within 60 days](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge your Excellency’s Government to undertake all necessary interim measures to halt the alleged violations and prevent their re-occurrence. In the event that the investigations support or suggest the allegations to be correct, we also urge your Excellency’s Government to undertake all measures necessary to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Dainius Puras
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable
standard of physical and mental health

Fernand de Varennes
Special Rapporteur on minority issues

Philip Alston
Special Rapporteur on extreme poverty and human rights

E. Tendayi Achiume
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia
and related intolerance

Annex
Reference to international human rights law

In connection with above alleged facts and concerns we would like to recall that the right to a nationality is recognized and protected under international law. The Universal Declaration of Human Rights recognizes a general right to a nationality under its Article 15. In addition, Article 5 (d) (iii) of the International Convention on the Elimination of all of Forms of Racial Discrimination, to which North Macedonia is a party since 18 January 1994, explicitly obliges State parties to guarantee the right of everyone to equality before the law, including in the enjoyment of the right to nationality, without discrimination on any prohibited grounds. In this connection, the Committee on the Elimination of Racial Discrimination has reiterated that the deprivation of citizenship on the basis of race, colour, descent or national or ethnic origin violates State parties' obligations to ensure non-discriminatory enjoyment of the right to nationality (see e.g. General Recommendations No. 30, para. 14).

Article 7 of the Convention on the Rights of the Child, to which North Macedonia is a party since 2 December 1993, provides for the child's immediate birth registration and the right for the child to acquire a nationality. Furthermore, article 9.1 of the Convention on the Elimination of All Forms of Discrimination against Women – ratified on 7 September 2000 – stipulates that “State Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband”. Article 9.2 provides for equal rights of women and men with respect to the nationality of their children.

We also would like to draw your Excellency's Government attention to the recommendations of the Special Rapporteur on minority issues in his recent report to the General Assembly “Statelessness: A minority issue” (A/73/205), in particular his conclusions and recommendation in which he recalls that “States must not arbitrarily or discriminatorily deny or deprive minorities of citizenship”, that “States must grant nationality to all children born on their territory if the child would otherwise be stateless, regardless of the immigration status of the parents”, and notes that “State requirements for the granting of citizenship, including in relation to any preference in terms of linguistic, religious or ethnic characteristics, must be reasonable and justified in order not to constitute a form of discrimination prohibited under international law.” (para. 50 and 56)

We would like also to bring the attention of your Excellency's Government to the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the Human Rights Council (A/HRC/38/52), which identifies and reviews contemporary racist and xenophobic ideologies, and institutionalized laws, policies and practices, which together have a racially discriminatory effect on individuals' and groups' access to citizenship, nationality and immigration status. We would like to draw specific attention to her recommendations and

especially to “take specific steps to end statelessness, including by putting an end to the practices and policies identified [in the report] that render persons stateless and in doing so, make them vulnerable to extreme human rights violations” (para. 67 (c)).

We would like to bring to the attention of your Excellency’s Government the international standards regarding the protection of the rights of persons belonging to minorities, in particular to article 27 of the International Covenant on Civil and Political Rights and to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minorities), adopted by the General Assembly in 1992. In its Article 1, the Declaration on Minorities refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end. Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them. Article 4.1 establishes that “States will take measures where required, to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law”.

With regard to the issue of statelessness, the identification of stateless persons and the protection of their rights in accordance with the applicable standards of the international human rights law, we would like to recall the commitments under the 1954 Convention relating to the Status of Stateless Persons, to which North Macedonia is a party since 18 January 1994.

Finally, in terms of the right to health, we would like to refer to article 12 of the Covenant on Economic, Social and Cultural Rights, to which North Macedonia is a party since 18 January 1994, which protects this human right. Furthermore, according to article 2(2) of the same Covenant, States must guarantee that all rights enunciated in the Covenant, including the right to health, will be exercised without discrimination of any kind including national or social origin and birth.

In this connection, the Committee on Economic, Social and Cultural Rights in its General Comment 14 states that “While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties various obligations which are of immediate effect” (para. 30). Guaranteeing that the right to health will be exercised without discrimination of any kind is an immediate obligation of States Parties (para. 30). Furthermore, States should provide health facilities, goods and services that are accessible to everyone without discrimination and that are physical accessible and affordable. In particular, poorer households should not be disproportionately burdened with health expenses as compared to richer households (para 12 (b)).