
FYR Macedonia

Criminal Code (23 July 1996), Article 319 - Causing national, racial or religious hate, discord and intolerance

1) A person who by force, mistreatment, endangering the security, ridicule of the national, ethnic or religious symbols, by damaging other people's objects, by desecration of monuments, graves, or in some other manner causes or excites national, racial or religious hate, discord or intolerance, shall be punished with imprisonment of one to five years.

2) A person, who commits the crime from item 1 by misusing his position or authorization, or if because of these crimes, riots and violence were caused among people, or a property damage with a large extent was caused, shall be punished with imprisonment of one to ten years.

Racial or other discrimination, Article 417

A person who based on the difference in race, color of skin, nationality or ethnic belonging, violates the basic human rights and freedoms, acknowledged by the

international community, shall be punished with imprisonment of six months to five years.

The punishment from item 1 shall apply also to a person who persecutes organizations or individuals because of their efforts for equality of the people.

A person who spreads ideas about the superiority of one race above some other, or who advocates racial hate, or instigates to racial discrimination, shall be punished with imprisonment of six months to three years.

Case Law

Macedonia

Constitutional Court: <http://www.constitutionalcourt.mk/domino/WEBSUD.nsf>

The screenshot shows the website of the Constitutional Court of the Republic of Macedonia. The page features a red header with the national flag and the court's name in Macedonian and English. A navigation menu is on the left, and a search bar is on the right. The main content area is titled 'НОВОСТИ' (News) and contains a table of news items.

Датум	Опис	Категорија
04/01/2011	Преглед на иницијативи за оценување на уставноста и законитоста предложени за 1-та седница на Уставниот суд на Република Македонија закажана за 12.01.2011	Дневен ред
03/01/2011	МЕДИУМИТЕ ЗА УСТАВНИОТ СУД НА РЕПУБЛИКА МАКЕДОНИЈА (период 1.12. - 31.12.2010 година)	Друго
23/12/2010	Преглед на иницијативи за оценување на уставноста и законитоста предложени за 40-та седница на Уставниот суд на Република Македонија закажана за 29.12.2010	Дневен ред
16/12/2010	Преглед на иницијативи за оценување на уставноста и законитоста предложени за 39-та седница на Уставниот суд на Република Македонија закажана за 22.12.2010	Дневен ред
07/12/2010	Преглед на иницијативи за оценување на уставноста и законитоста предложени за 38-та седница на Уставниот суд на Република Македонија закажана за 15.12.2010	Дневен ред
06/12/2010	Учество на VIII Светски конгрес на Меѓународното здружение за уставно право (6-10 декември, Мексико Сити)	Соопштение
03/12/2010	МЕДИУМИТЕ ЗА УСТАВНИОТ СУД НА РЕПУБЛИКА МАКЕДОНИЈА (период 1.11. - 31.11.2010 година)	Друго
25/11/2010	Преглед на иницијативи за оценување на уставноста и законитоста предложени за 37-та седница на Уставниот суд на Република Македонија закажана за 01.12.2010	Дневен ред
18/11/2010	Преглед на иницијативи за оценување на уставноста и законитоста предложени за 36-та седница на Уставниот суд на Република Македонија закажана за 24.11.2010	Дневен ред
11/11/2010	Преглед на иницијативи за оценување на уставноста и законитоста предложени за 35-та седница на Уставниот суд на Република Македонија закажана за 17.11.2010	Дневен ред
08/11/2010	МЕДИУМИТЕ ЗА УСТАВНИОТ СУД НА РЕПУБЛИКА МАКЕДОНИЈА (период 1.10. - 31.10.2010 година)	Друго
04/11/2010	Преглед на иницијативи за оценување на уставноста и законитоста предложени за 34-та седница на Уставниот суд на Република Македонија закажана за 10.11.2010	Дневен ред
01/11/2010	Новоизбраното претседател ќе даде изјава	Соопштение

Supreme Court: <http://www.vsrn.mk/>

The screenshot shows the homepage of the Supreme Court of the Republic of Macedonia (Vrhoven Суд на Република Македонија). The page features a navigation menu with links for Home, Map, Contact, and a Table of Contents. A sidebar on the left contains links for the Court's role, judicial power, practice, information, expert cases, useful links, public information, and questions/answers. The main content area includes a section for 'DOBRODOJDEVTE NA OFICIJALNATA STRANA NA VRHOVNIOT СУД NA РЕПУБЛИКА МАКЕДОНИЈА' (Welcome to the official website of the Supreme Court of the Republic of Macedonia), followed by a section on 'VRHOVEN СУД - НАДЛЕЖНОСТИ' (Supreme Court - Jurisdiction) which lists its functions and jurisdiction. A 'ПРАШАЊА / ОДГОВОРИ' (Questions/Answers) section is also visible.

This screenshot shows the 'ПРАШАЊА' (Questions) section of the website. It includes a 'ПРАШАЊА' sidebar with options like 'Најчесто поставувани прашања (FAQ)', 'Постави Прашање', and 'Поднеси Претставка'. The main content area features a 'СТАТИСТИКА НА СУДОТ' (Court Statistics) section and a 'ГАЛЕРИЈА НА ФОТОГРАФИИ' (Photo Gallery) section. A search form for questions is present, with fields for 'ИМЕ ИЛИ ДЕП ОД ИМЕТО:', 'КАТЕГОРИЈА ИЛИ ПОДКАТЕГОРИЈА:', and 'ДАТУМ НА ДОНЕСУВАЊЕ НА ОДЛУКАТА:'. The search form also includes a 'Повеќе' (More) link and a 'Барај' (Search) button.

Public Policies

REPORT ON THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"

(fourth monitoring cycle)

Adopted on 28 April 2010

Published on 15 June 2010

63. ECRI recommends that the authorities step up their efforts to ensure that the right to translation and interpretation in judicial proceedings is effectively guaranteed, in particular by taking measures to increase the number of translators and interpreters and their level of qualification.

64. ECRI recommends that the authorities establish a full system of legal aid. _____,

III. Racist violence

65. The authorities have indicated that the country has no problem of racist violence. However, as mentioned above, collection of statistical data on offences against the criminal law provisions to combat racism is inadequate. Further, since criminal law until recently took no account of a racist motivation, except for special offences," it seems reasonable to assume that the racist element of a number of violent acts has escaped the authorities. ECRI moreover notes that non-governmental organisations sometimes report attacks possibly perpetrated on ethnic grounds. It also regards the relatively low-level, but constant interethnic tensions within the population as a potential breeding ground for violence.

66. ECRI recommends that the authorities reinforce their vigilance with regard to racist violence.

IV. Racism in public discourse

Opinion leaders and the media

67. In its previous reports ECRI voiced concerns about the fact that many political leaders, intellectuals and religious figures and the media adopted positions which furthered ethnic divisions rather than promoting increased acceptance and trust between communities. It also noted that the media, which are divided along ethnic lines, reported events in a very different manner depending on their ethnic tinge, a situation which tended to foster intolerance and mistrust between ethnic communities. It was also concerned about the way in which Roma were portrayed in the media, in particular by mentioning the Roma origin of suspected offenders, and called for effective application of the code of ethics and the criminal law provisions relating to hate speech.

68. According to non-governmental sources, expressions of interethnic intolerance have recently become more frequent. The attitude of certain political figures, who are tempted to fan ethnic tensions as a means of vote-catching, is apparently particularly problematic, especially during election campaigns. On this specific matter, ECRI draws attention to the benefits of having political parties sign the Charter of European Political Parties for a Non-Racist Society of 28 February 1998.²¹

69. Some sixty incidents of ethnic hostility in the media have been noted by the "Journalists' Council of Honour" over the last three or four years, and civil society representatives point out that the media help to propagate stereotypes concerning not only Roma but also women and homosexuals, in particular.

²⁰ See "Criminal law provisions to combat racism and racial discrimination" above.

²¹ The signatory parties undertake inter alia to "refuse to display, to publish or to have published, to distribute or to endorse in any way views and positions which stir up or invite, or may reasonably be expected to stir up or to invite, prejudices, hostility or division between people of different ethnic or national origins or religious beliefs, and to deal firmly with any racist sentiments and behaviour within [their] own ranks."

70. ECRI notes that the press code of ethics duly requires journalists to refrain from intentionally relaying or publishing information that jeopardises human rights or fundamental freedoms and from propagating hatred or encouraging violence and discrimination; it also requires them to respect ethnic, cultural and religious diversity. In addition, Article 69 of the broadcasting law expressly prohibits the transmission of information which aims to incite hatred or intolerance on grounds of ethnicity, race or religion. ECRI nonetheless notes that the "Journalists' Council of Honour", which is competent for ensuring compliance with the code of ethics, has no powers of coercion: its only means of action is public denouncement of breaches of the code. Moreover, Article 69 of the broadcasting law solely applies to the audiovisual media, and the Broadcasting Council²² has almost never raised any matter related to ECRI's mandate that might come within the scope of this article. This contrasts sharply with the observations of the Journalists' Council of Honour and civil society representatives and would seem to imply that the Broadcasting Council perhaps does not pay sufficient heed to the issue of intolerance.
71. Division of the media along ethno-linguistic lines and ethnically tinted reporting of events are still very widespread. The dividing line is primarily between media and news published and broadcast in Macedonian and those in Albanian. According to non-governmental sources, the key problem is that there is significant political interference in the media and the country's politics are focalised on ethnic issues. For instance, most private television channels - which constitute the majority of the audiovisual media - are reportedly linked to political figures or parties. Further, the fact that the state is a major client of the media has apparently permitted successive governments to favour those media outlets deemed to be pro-government. ECRI accordingly draws attention to the need to support projects aimed at fostering interethnic cohesion through access to the same objective information for all. The "Monitor", a local weekly paper published in both Macedonian and Albanian in the region of Tetovo and Gostivar, was an example, but it unfortunately ceased circulation for lack of funds.
172. ECRI recommends that the authorities, through their most senior representatives, systematically and publically denounce in the strongest terms any expressions of intolerance by opinion leaders or persons in the media eye. It also recommends that they initiate proceedings in cases where the remarks in question might qualify as hate speech and come within the scope of criminal law.
173. ECRI recommends that the authorities bring together media professionals and civil society representatives to take stock of the situation regarding the propagation of stereotypes in the media and the possible role this plays in fostering intolerance and to determine measures to be taken to raise awareness among media professionals of the issue of discrimination and strengthen application of the relevant provisions of the code of ethics.
174. ECRI recommends that, while preserving media independence, the authorities encourage and actively support initiatives in the field of the media that aim at fostering interethnic cohesion.

²² The Broadcasting Council has nine members appointed by parliament for a six-year term and is responsible, inter alia, for ensuring compliance with Article 69 of the law on telecommunications. It can deal with cases of its own initiative and can impose penalties going as far as licence withdrawal.

The Internet

75. The authorities indicated that they had noted no cases of use of the Internet for disseminating racist or hate-based content via sites hosted in the country. They pointed out that the Ministry of the Interior had a unit to combat cybercrime, which nonetheless did not specifically monitor the situation regarding racism or incitement of hatred on the Internet. To identify problem cases, they primarily rely on complaints by individuals, who can contact the Ministry of the Interior via the telephone number available for reporting all kinds of offences. According to the authorities, the staff of this unit has been increased so as to be able to deal with racist content more effectively.
176. ECRI recommends that the authorities step up their vigilance concerning use of the Internet for disseminating racist or hate-based content. It recommends in particular that they establish a surveillance system, in co-operation with access providers and without interfering in the latter's independence, and that they monitor the situation. It draws their attention to its General Policy Recommendation No. 6 on combating the dissemination of racist, xenophobic and antisemitic material via the Internet.

V. Interethnic relations"

77. In its third report ECRI noted a deterioration of interethnic relations and a deepening of the gulf between communities, in particular the majority population and the Albanian minority. In this connection it noted that, although the Ohrid Framework Agreement had ended the conflict in 2001 and set out provisions of considerable importance for enhancing recognition of minority groups and their participation in society, the ways in which it had been implemented had helped to aggravate the situation. It considered that the problem lay in the fact that the measures taken to give effect to the agreement had not included initiatives to build communication and constructive contacts between communities and to identify discrimination in different fields of life so as to overcome it. It consequently recommended that the authorities take measures of this kind.
78. As already noted in the sections of this report concerning education and opinion leaders and the media, the country is still strongly divided along ethnic lines, and the gulf does not seem to have diminished since the publication of the third report. Relations between the majority population and the Albanian minority have not become less tense - although few clashes between individuals have been reported - a situation for which certain opinion leaders can be held at least partly responsible. The recent events surrounding the publication of the "Macedonian Encyclopaedia" offer an illustration of these divisions and tensions, of the difficulties the country's two major ethnic groups have in entering into a dialogue and of the over-politicisation of ethnic issues." Significant efforts are clearly now needed to strengthen interethnic relations and preserve the concept of a multiethnic, multicultural society.

²³ See also "Discrimination in various fields - Education" and "Racism in public discourse - Opinion leaders and the media" above.

²⁴ The drafting of the publicly funded "Macedonian Encyclopaedia" was entrusted to the Academy of Science in Skopje. Its publication, on 17 September 2009 following several years' work, sparked a fierce row, in particular - but not solely - because the book questioned the length of time for which the Albanian community had been present in the region and used allegedly pejorative terms to refer to this community. Following weeks of tension, the academy decided to suspend the book's distribution and announced that it would be revised by a team not including the Chief Editor who had initially worked on the book.

nonetheless indicated that they wish to continue increasing the percentage of staff originating from the communities most under-represented among law enforcement officials. In particular, they encourage young Roma to choose this career course. ECRI further notes that the police code of ethics, adopted by the Ministry of the Interior in 2004, provides in particular that police officers shall be required to perform their duties in compliance with the principles of impartiality and the equality of citizens (Article 42) and with due regard for their fundamental rights (Article 45) and must provide victims of offences with the support and assistance they need, regardless of their race, sex, religion or ethnicity (Article 58). A law on the police, intended to guarantee full compliance with European standards in such matters, also entered into force in 2007. Police training is the responsibility of the police training centre established in 2008 when the police college was divided up. As provided for in the code of ethics (Article 26), a significant share of initial training focuses on respect for human rights and fundamental freedoms and on fighting racism and xenophobia. The same applies to in-service training, which is organised according to the needs identified. In 2006, in co-operation inter alia with the OSCE, a total of 4,150 police officers, or 47.5% of the entire force, received human rights training entitled "Police and human rights". The authorities have also indicated that a one-week course on police respect for human rights was held in March 2009 for all members of the above-mentioned "Alpha" unit based in Skopje.

117. ECRI encourages the authorities to continue their efforts to improve relations between the police and minority groups.
118. Referring the authorities to its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, ECRI recommends that they pursue the process of recruiting members of under-represented minority groups into the police. It also recommends that they include in the law and the code of ethics a ban on racial profiling and, more broadly, a requirement that the police promote equality and prevent discrimination in the performance of their duties with regard to both suspects and victims. Lastly, it recommends that they also focus initial and in-service training for the police on the issue of
- .. ___ , Policing in a multi-ethnic society:..... _____ ---
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VIII. Monitoring racism and racial discrimination, awareness-raising and education in fundamental rights and tolerance and co-operation with the non-governmental sector

Monitoring racism and racial discrimination

119. ECRI notes that, although data on the ethnicity of public servants are gathered, there is still no system for collecting full statistics making it possible to assess minorities' participation in public life and their economic and social circumstances, particularly regarding access to employment, health care, education and housing.
120. ECRI reiterates its recommendation that the authorities establish a comprehensive, consistent system for collecting data making it possible to assess the situation of various minority groups in different fields of life and to determine the extent of manifestations of racism and direct and indirect discrimination. In this connection, it recommends that they envisage collecting data broken down according to categories such as ethnic or national origin, religion, language or nationality so as to identify manifestations of discrimination, while ensuring that this collection is systematically carried out in accordance with the principles of confidentiality, informed consent and individuals' voluntary self-identification as members of a particular group. This

system should be developed in close co-operation with all the operators concerned, including civil society organisations. It should also take into consideration the potential existence of cases of double or multiple discrimination.

Awareness-raising and education in fundamental rights and tolerance and co-operation with the non-governmental sector

121. As mentioned in the third report, content relating to human rights and democratic values is part of the primary and secondary school curricula, and, since the 2002/2003 school year, civics education at primary level covers the themes of diversity and the fight against discrimination (grade 7) and peace and tolerance (grade 8). At secondary level the sociology curriculum covers subjects such as rights and freedoms and civic values. In 2005 the country also adopted the United Nations plan of action for the implementation of the World Programme for Human Rights Education and a national action plan on human rights education has apparently been developed. There are apparently also plans for teacher training courses to include a module on the significance and importance of fighting discrimination.
122. ECRI strongly encourages the authorities to continue integrating civics education into all levels of the education system, developing the teaching of human rights, tolerance and respect for differences and enhancing the efforts to train teachers in these subjects.
123. During the contact visit, on a number of occasions ECRI's attention was drawn to the general public's low awareness of the issues of intolerance and discrimination. The authorities mentioned a public awareness-raising campaign entitled "Enhancing respect and tolerance within the population" which was run in the media in 2008, with the broadcasting of video clips on television between 3 and 23 November 2008 and 30 December 2008 and 9 January 2009. The civil society representatives whom the delegation met during the contact visit reported that this initiative had gone unnoticed and that awareness-raising measures were still needed. Moreover, in the light of ECRI's findings in this report, it would be useful to devise and implement a national strategy to combat racism and intolerance.
124. ECRI recommends that the authorities devise and implement, in close cooperation with civil society, a national strategy to combat racism and intolerance in the long term, including a long-lasting general information and awareness-raising campaign. -----
125. Lastly, ECRI notes that many non-governmental organisations engaged in fighting intolerance, safeguarding fundamental rights *and/or* protecting the interests of minority groups consider that they do not have a sufficient role in the decision-making process in these fields. It also notes, however, that the authorities would like to involve them more and draws the authorities' attention to the importance of providing them with lasting support so they have sufficient stable financial resources with which to perform their tasks.
126. ECRI encourages the authorities to further their co-operation with nongovernmental organisations engaged in fighting intolerance, safeguarding fundamental rights *and/or* protecting the interests of minority groups and recommends that they provide them with lasting support so they have sufficient stable financial resources with which to perform their tasks.