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Здружение
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To
The Committee on Economic, Social and Cultural Rights (CESCR)

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Submission from the National Roma Centrum (NRC) to the Committee on Economic, Social and Cultural Rights (CESCR) on List of Issues for the 56th session of the CESCR concerning Macedonia (pre-session working group 12-16 October 2015)

1. Introduction

The National Roma Centrum (NRC) was established in 2005, creating an opportunity as a civil society organisation to look specifically at what extent the national and local policy addresses the inclusion and equal opportunities regarding Roma, and how social, economic and political needs and aspirations of the Roma community are addressed. NRC mission is through people mobilization and empowerment, using rights based advocacy and participatory approach to support its constituents (Roma and other people living at social risk) to fulfil their fundamental rights and enjoy their freedoms as equal in the society. For more information visit: www.nationalromacentrum.org and <http://ednomagazine.com>

The present list of issues is composed of NRC professional expertise and field experience across the country, with strategic priority action areas in the field of Education; Decent home and living conditions; Access to high quality health care services and information; Equal opportunity access to justice and rule of law.

This submission covers the following issues:

2. Domestic application of the Covenant and maximum use of available resources (Article 2.1 and General Comment No.9)

2.1 The Committee may consider to ask the state to provide information of cases when the Covenant has been applied by domestic courts in judicial and administrative court procedures. Explain the state's obligation regarding the duty to give effect to the Covenant using all appropriate means in the legal and administrative system as well. Any training for the lawyers, judges, prosecutors regarding the domestic application of the Covenant.

2.2 The Committee may ask the state to provide information for substantial resources put to decrease the disparities between Roma and non Roma population in Macedonia in access to personal documents, employment and housing.

2.3 The Committee may ask the state to provide exact number of people without access to personal documents (not enrolled in the civil registry department and without birth certificate; without citizenship status or without valid documents as foreigners with residence permit) and to disaggregate data by ethnicity (particularly to provide number of Roma). In that context persons without valid Macedonian ID Card or valid documents for residence of foreigners cannot start a procedure, thus cannot fulfill their economic, social and cultural rights, which further exacerbates the discrimination.

3. The right to work (Article 6)

3.1 In December 2014 Law on Prohibition and Prevention of Practicing Unregistered Activities was adopted, and amended in 2015, which started with implementation in March 2015, (Official Gazette of R. Macedonia 199/14, 147/15) regulating the practice of unregistered activities for natural and legal persons. The Committee may ask the State to provide information about the conformity of the Law with the Covenant and to explain further for which activities performed by natural persons the obligation to be registered is being exempted, (the Law stipulates the following activities which will be considered as activities which need not to be registered: work for self based needs; family assistance; neighborhood assistance; selling of personal used items; work performed without financial benefit and if the work is not being performed regularly; as well as communication, performing and presentation of arts creations). In the name of legal certainty physical persons should be aware and publicly informed for which activities they need to be registered, where and when, in order to be able to conduct the procedure if necessary.

4. The right to just conditions for work and the right to social security (Article 7 and Article 9)

4.1 We welcome the adopted Law on minimum wage, but the minimum wage set in 2015 set is 9,590 denars¹ far from the average monthly net wage paid per employee in June 2015 was 22 025 denars². State Statistical Office (SSO) Review³ published in May 2015 gave opinion that with the monthly incomes 57,5% of the respondents in households more or less are not satisfied or are not satisfied at all according to the subjective opinion about the

¹ Ministry of Labour and Social Policy, Law on minimum wage

<http://www.mtsp.gov.mk/content/pdf/zakoni/Zakon%20za%20minimalna%20plata%20precisten.pdf>

² State Statistical Office, 27 August 2015, http://www.stat.gov.mk/PrikaziSoopstenie_en.aspx?rbtxt=40

³ The survey is conducted on a sample of 5040 households on the whole territory of the country, which is about 1% of the total number of households in the country.

ability to make ends meet.⁴ According to the SSO Review used assets in 2014 according to the purpose of consumption – annual average per household member is 96,405 denars, 8033 denars per household member for month⁵. The social security for household composed of one person is 1,200 denars, for household composed of three members is 4,200 denars, far below the minimum wage and average consumption for member of the household. The Committee may ask the State is regular adjustment of the minimum wage and social security planned according to the household consumption providing recipients and their families with a decent standard of living.

4.2 Further more in the area of labour relation and protection of the right of women employees, particularly young mothers, the Law on Labour Relations in the XII Part where Special Protection is foreseen for employees, in Article 166 p.4 of the Law prescribes that at the end of the parental leave the employee has the right to be returned at the same workplace or, if that is not possible, to be returned at appropriate workplace according to the conditions in the Contract for employment. The Committee may ask the State to explain the progressive realization of the right to work, in conjunction with Article 3 ensuring the equal right of men and women to the enjoyment of all rights present in the Covenant. It seems that a woman after maternity leave can be returned to work not as senior manager, but on a far lower position.

5. The right to the adequate standard of living (Article 11, General Comment No. 7, General Comment No.4)

5.1 NRC⁶ is concerned that the majority of Roma continue to live in substandard housing conditions, without safe drinking water or sanitation facilities, electricity, heating, sewage, waste disposal or legal security of tenure, which exposes them to the risk of eviction and discrimination. We welcome the policy and legislative measures for legalization of illegal objects taken by the State which followed after the adoption of the Law for treating the illegally built objects in 2011, and related bylaws adopted after it. The Law is valid until beginning of the 2017, after that all illegal objects should be pull down according to the Law on Construction.

The Committee may wish to ask the State how many claims for legalizations were submitted and registered in the Registry of applications for "legalization" which should be prepared by the Local Self Government Units. How many applications are completed with all supportive documents required by the Law (geodesic elaborates for which the deadline is 31st of December 2015; notary statements; land property resolved issues; and etc), how many applications are finished having validity and legal effectiveness, how many cases are pending ahead of second instance decision. The municipal Councils should adopt special decision if the intent of the illegal object (house) is not in accordance with the intent of the land on which the object is built, determined in accordance with the valid urban planning documentation, then, a decision from the Council of the authorized municipality is necessary for carrying of urban planning documentation with which the intent will be

⁴ State Statistical Office, Household consumption in the Republic of Macedonia, 2014, Statistical review: Incomes, expenditures and prices -2014, p.20 , <http://www.stat.gov.mk/Publikacii/4.4.15.01.pdf>

⁵ P.48, State Statistical Office, <http://www.stat.gov.mk/Publikacii/4.4.15.01.pdf>

⁶ NRC in partnership with Habitat for Humanity Macedonia and FOSM, from 2011 is working on 1,519 administrative procedures for legalization of Roma houses. Furthermore NRC works on privatization of land owned by Roma and citizens involvement in urban planning processes and the right to adequate housing in Macedonia.

determined in the future, but there is no strict legal term when the competent body for legalization should submit the claim for compatibility of land in front of the municipal Council, which influence the dynamics of the procedure itself.

5.2 It is known fact that Roma in Macedonia live in urban areas in cities, but still their housing areas are not part of urban planning processes, as it is the case with Kumanovo city biggest Roma settlement Sredorek, 6 ha of land inhabited decades ago where now 400-600 Roma families live, which according to urban planning documents is protected green area incompatible with individual housing according to urban planning bylaws.

Participation of citizens in urban planning processes is issue closely linked to housing, particularly for Roma living in urban areas but still outside urban planning processes, you may ask the State do they have appropriate measures to stimulate citizen's participation and to ensure adequate allocation of resources for public utilities and infrastructure.

5.3 Another important aspect of housing is implementation of the Law on Privatization and Lease of State-Owned Construction Land, adopted in 2005, after the introduction of private property in Macedonia. Responsible for implementation is the Property and Legal Affairs Office, a body within the Ministry of Finance. All natural and legal persons possessing land should brought claim for privatization conducting first-instance administrative procedure in the field of privatization of state-owned construction land. When finished the final decision is legal valid document to be entitled as private owner/co-owner of land in the Cadastre Agency and in the property deed. The Committee may wish to ask the State about the process of privatization of state owned construction land, how many applications were brought, how many decisions, pending cases, particularly the implementation of the Law in regard to citizen's property coverage and applications for privatization (how many citizens did not used the provisions and so far have not lodged an application for privatization).

6. The right to the highest attainable standard of health (Article 12)

6.1. NRC is concerned that Macedonia has very high infant and maternal mortality rates concerning Roma. The Committee may ask the State to provide information and data disaggregated by ethnicity for infant and mortality rates in the period 2006-2014.

6.2 The Committee may ask the State to provide information about the implementation of the following programmes targeting reproductive health right:

- Programme for Active Health Care of Mothers and Children in the Republic of Macedonia for 2014⁷
- Action Plan to Reduce Maternal, Perinatal and Infant Mortality for 2013 - 2014
- Safe Motherhood Strategy⁸
- Action Plan of the Safe Motherhood Strategy 2010 - 2013⁹
- Strategy on Sexual and Reproductive Health for 2013 and the Action Plan¹⁰

Particularly for the introduced possibilities for exemption of participation for health services (introduced with Action Plan to Reduce Maternal, Perinatal and Infant Mortality for 2013 – 2014 and Programme for Active Health Care of Mothers and Children in the Republic of Macedonia for 2014) during pregnancy for socially vulnerable groups of women –

⁷ Government of the Republic of Macedonia on 08.01.2014 (Official Gazette of RM, No. 15/14)

⁸ <http://zdravstvo.gov.mk/wp-content/uploads/2012/12/strategija-bezbedno-majcinstvo.pdf>

⁹ <http://zdravstvo.gov.mk/wp-content/uploads/2012/12/akcionen-bezbedno-majcinstvo.pdf>

¹⁰ <http://zdravstvo.gov.mk/wp-content/uploads/2012/12/strategija-seksualno-i-reproduktivno-zdravje.pdf>

unemployed, social assistance users and employees with salary lower than average salary and 1,500 Roma women. The Committee may wish to ask the State about the implementation of this measure in particular.

Based on previous researches and advocacy of NRC in the time period between 2007 and 2011, we have a data showing that Romani women face with obstacles in the access to health care and health services in reproductive period, in particular, in the area of antenatal care. In fact, "women stated that in the period of antenatal care during pregnancy they have problems in communication with the chosen gynaecologist, they do laboratory and microbiological analysis very rarely, they are not familiar with the need to have a Pap test and they make it very rarely, they do not make analyses of sexually transmitted diseases (STDs), and there is usually no continuance in measuring weight and blood pressure. Some women suffered anemia during pregnancy. Some of them had no finances for diagnostic treatments since they are to pay participation for a treatment, for example, laboratory examinations of blood and urine, microbiological swab tests.¹¹"

6.3. The Law on Protection of Patients' Rights (Official Gazette of the Republic of Macedonia No. 82/08) governs and stipulates the rights and obligations of patients and health care professionals and institutions in the Republic of Macedonia. As regards measures taken in terms of protection of patients rights the Committee may ask the State to provide information for patient's complaints (in writing or oral) in front of health institutions and in front of the Commissions for Protection and Promotion of Patient Rights established in the municipalities, if appropriate.

7. The right to education (Article 13)

7.1 The Committee may ask to state to provide information for the possible future introduction of Roma Education Mediators in primary education.

¹¹ Summary and recommendations for applied policies to reduce health inequalities, 2011
<http://www.nationalromacentrum.org/en/publications/research/reducing-health-inequalities-in-antenatal-and-postnatal-care-of-romani-women-in-the-republic-of-macedonia>