

## FORMER YUGOSLAV REPUBLIC OF MACEDONIA

### 1. Discriminatory family code

The **legal minimum age for marriage** is 18 for women and men in the Former Yugoslav Republic of Macedonia (hereafter referred to as FYROM).<sup>1</sup> However, marriage from the age of 16 is possible for women and men with permission from the court, if the person is deemed to be physically and psychologically mature enough for marriage.<sup>2</sup> Living in an unregistered marriage with a juvenile aged 14-16 is a criminal offence.<sup>3</sup>

Religious marriages have no legal standing in FYROM, and only marriages registered at a civil registry office are valid.<sup>4</sup>

In its Concluding Observations, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Committee also drew attention to low rates of marriage registration among ethnic Albanians in FYROM.<sup>5</sup> However, it is important to note that under the Family Law, if an unmarried couple has co-habited for more than a year, legally they are treated as a married couple, in regard to property ownership and equality of parental rights.<sup>6</sup>

Research on **early marriage** by the United Nations Population Fund (UNFPA) found high rates of child marriage among Roma in FYROM, including girls married before the age of 14. The study notes that among Roma living in FYROM, marriages are rarely registered.<sup>7</sup> Of particular concern is the failure to adequately implement criminal law in regard to older men cohabiting with young girls; in such cases, the research found that courts tend to pass down suspended sentences, and accept Roma 'traditional values' in regard to early marriage as extenuating circumstances. Research by UNICEF cited in the UNFPA report found that in 78.5% of convictions for this crime, a conditional sentence had been issued.<sup>8</sup>

In its Concluding Observations, the CEDAW Committee also expressed concern regarding the persistence of early marriage practices among ethnic Albanians in FYROM.<sup>9</sup>

The Family Law states that parents have equal **parental authority** their children.<sup>10</sup> No restrictions could be located in the law as to whether a man or woman can be a head of household.<sup>11</sup> Women and men continue to have equal decision-making authority over children following **divorce**.<sup>12</sup>

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<sup>1</sup> Law on Family, Article 16

<sup>2</sup> CEDAW (2011), p. 51

<sup>3</sup> Mirceva, Stojanka (2012), p. 2

<sup>4</sup> Law on Family, Article 30

<sup>5</sup> CEDAW (2013), p. 10

<sup>6</sup> Family Law, Article 13

<sup>7</sup> Mirceva, Stojanka (2012), p. 4

<sup>8</sup> Mirceva, Stojanka (2012), p. 3

<sup>9</sup> CEDAW (2013), p. 10

Customary and religious laws are not considered valid sources of law under the Constitution, in regard to parental authority or any other matters.<sup>13</sup>

There are concerns of an increasing trend in FYROM for the promotion of traditional models such as the division of roles within the family, including through laws, policies and media campaigns. UNFPA reports that in some parts of FYROM, attitudes towards gender roles in the household remain traditional, with women expected to undertake the bulk of domestic and caring labour, and to defer to their husbands.<sup>14</sup>

Comments made by Bishop Petar of the FYROMn Orthodox Church in May 2013 calling for women to be submissive to their husbands who are the ‘head of the family’ were roundly condemned by women’s rights advocates.<sup>15</sup>

An interview with the head of a women’s NGO network in FYROM notes the increasing influence of religious leaders on FYROMn government, and her fears that this is leading to an erosion of women’s rights.<sup>16</sup> A 2012 CEDAW shadow report urged the government to take measures to reduce such promotion.<sup>17</sup>

The Law on **Inheritance** explicitly stipulates that men and women have the same rights to inheritance, and women have equal rights to inherit as spouses and as daughters.<sup>18, 19</sup>

In practice, a briefing issued to the Human Rights Committee in 2007 notes that property is usually left solely to male heirs.<sup>20</sup> A progress report on FYROM’s eventual integration into the European Union discriminatory customs, traditions and stereotypes are widespread and undermine women’s basic rights, especially in rural areas.<sup>21</sup>

### **More**

Women and men have the same **right to initiate divorce**.<sup>22</sup> According to a 2005 report, when a couple divorces, custody of any children is most often given to the wife, but she may also lose the right to live in the family home, if it is registered in the husband’s name.<sup>23</sup>

## **2. Restricted physical integrity**

FYROM, has signed but not yet ratified the Council of Europe ‘Convention on preventing and combating violence against women and domestic violence’.<sup>24</sup>

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<sup>10</sup> Family Law, Article 8

<sup>11</sup> The World Bank (2013 )

<sup>12</sup> Family Law, Articles 47, 48

<sup>13</sup> International Bank for Reconstruction and Development/The World Bank (2011), p. 102

<sup>14</sup> UNFPA (2011), p. 56

<sup>15</sup> KARAT (2013), p. 3

<sup>16</sup> Momaya, Masum (2009)

<sup>17</sup> ESE in cooperation with Akcija Zdruzenska (2012)

<sup>18</sup> CEDAW (2004), p. 13

<sup>19</sup> International Bank for Reconstruction and Development/The World Bank (2011) p. 102

<sup>20</sup> Frishchik, Jasminka and Duarte, Marianna (2007), p. 4

<sup>21</sup> European Commission (2012), p. 15

<sup>22</sup> Family Law, Article 40

<sup>23</sup> ESE (2005), p. 71

<sup>24</sup> Council of Europe Treaty Office (2013)

**Domestic violence** is an offence under the Criminal Code.<sup>25</sup> The Criminal Code defines domestic violence as ‘abuse, rude insults, threatening of the safety, inflicting physical injuries, sexual or other physical and psychological violence which causes a feeling of insecurity, being threatened, or fear towards a spouse, parents or children or other persons which live in a marital or other community or joint household, as well as towards a former spouse or persons which have a common child or are have close personal relations’.<sup>26</sup>

However, in its Concluding Observations, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) Committee expressed concern that family violence is criminalised as an aggravating circumstance only, and that specific legislation criminalising domestic violence and other forms of violence against women has not been adopted.<sup>27</sup>

Domestic violence is also covered under amendments made in 2004 to the Family Law which defines domestic violence as any conduct by a family member who by applying force, threat or intimation causes bodily injury, emotional or sexual abuse and material, sexual or labour exploitation.<sup>28 29</sup> However, in its Concluding Observations, the CEDAW Committee noted that the clauses in the Family Law relating to domestic violence do not protect all victims of violence within the home because it does not specify who is and who is not covered.<sup>30</sup>

Protection orders can be issued for up to a year in cases of domestic violence, barring the perpetrator from approaching the victim’s home, workplace, and other areas (such as schools).<sup>31</sup> The police have a duty to record and investigate all cases of domestic violence.<sup>32</sup>

According to the Council of Europe report, there is a governmental coordinating body to oversee implementation and evaluation of legislation pertinent to violence against women.<sup>33</sup> However, the Emancipation, Solidarity, and Equality of Women of the Republic of FYROM (ESE) note that there is no financial plan in place to oversee the implementation of the 2012-2015 National Strategy for Prevention of Domestic Violence; the previous National Strategy (2008-2011) was reliant on external donor funding.<sup>34</sup>

The Association for Emancipation, Solidarity, and Equality of Women of the Republic of FYROM (ESE) report that the legal provisions on domestic violence are poorly implemented in practice; for instance, there is insufficient support available for victims of domestic violence outside the capital, and law enforcers in some areas are not aware that they can issue restraining orders in cases of domestic

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<sup>25</sup> Criminal Code, Article 122. United Nations (n.d.)

<sup>26</sup> Criminal Code, Article 122

<sup>27</sup> CEDAW (2013), p. 5

<sup>28</sup> United Nations (n.d.)

<sup>29</sup> United Nations (n.d.)

<sup>30</sup> CEDAW (2013), p. 5

<sup>31</sup> WAVE (2011)

<sup>32</sup> Hagemann-White, Carol (2010), p. 40

<sup>33</sup> Hagemann-White, Carol (2010), p. 35

<sup>34</sup> ESE (2012), p. 6

violence.<sup>35</sup> The Women Against Violence Europe network (WAVE) note that in practice, protection orders are rarely issued in domestic violence cases.<sup>36</sup>

A report by USAID notes that many in FYROM view domestic violence as a private family matter, and that few women report domestic violence because of shame and stigma, fear of reprisal from the abuser, and the lack of alternative living arrangements. Rates of domestic violence are thought to be particularly high among members of the country's ethnic minority groups. USAID notes that among Roma women, awareness of legal protection from domestic violence and services for survivors are very low, again acting as a barrier to reporting.<sup>37</sup>

Data from 2006 shows that 18% of women reported experiencing physical and/or sexual violence by an intimate partner in their lifetime.<sup>38</sup> National criminal statistics indicate that in 2012 there were 507 cases of domestic violence against women investigated by the police.<sup>39</sup>

According to the European Roma Rights Centre, Roma women are reluctant to report domestic violence to the police, due to mistrust, and incidents where women reporting violence have been subjected to further abuse at the hands of the police.<sup>40</sup> The US Department of State Human Rights report states that police are often reluctant to investigate reports of domestic violence, but provides no further details.<sup>41</sup>

**Rape** is a criminal offence in FYROM.<sup>42</sup>

The definition of rape in the Criminal Code does not specifically include spousal rape; however, it also does not include marriage as a mitigating circumstance in cases of rape.<sup>43</sup>

There is nothing in the Criminal Code to indicate that a perpetrator can escape prosecution by marrying the victim.

The penalties for rape are between one and ten years' imprisonment, depending on the severity of the attack.<sup>44</sup>

The US Department of State notes that police and prosecutors are often reluctant to prosecute cases of spousal rape.<sup>45</sup> No further information was found regarding the implementation of rape laws in practice. The ESE reports that there is no established system in place for the prevention of rape or protection and support for victims.<sup>46</sup>

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<sup>35</sup> ESE (2012), p. 6

<sup>36</sup> WAVE (2011)

<sup>37</sup> Cozzarelli, Catherine (2010), p. 26

<sup>38</sup> OECD (2014), Gender, Institutions and Development Database, <http://stats.oecd.org>

<sup>39</sup> WAVE (2012)

<sup>40</sup> European Roma Rights Centre (2013), p. 4

<sup>41</sup> US Department of State (2013)

<sup>42</sup> Criminal Code, Article 186

<sup>43</sup> Mickovska Raleva, Ana and Dimitrijevska, Tamara (2013), p. 6

<sup>44</sup> Criminal Code, Article 186

<sup>45</sup> US Department of State (2013)

<sup>46</sup> ESE (2012), p. 6

In its Concluding Observations, the CEDAW Committee expressed concern that sexual violence remains widely underreported in FYROM, FYR.<sup>47</sup> The US Department of State notes that fear of social stigma stops many women from reporting rape.<sup>48</sup>

**Sexual harassment** is addressed under the Law on Equal Opportunities, the Law on Prevention and Protection against Discrimination, and under the Law on Labour Relations.<sup>49, 50</sup> In addition, abusing a position of influence to coerce someone into sexual intercourse or another sexual act is a criminal offence under the Criminal Code (Article 189).<sup>51</sup>

The Law on Equal Opportunities covers the fields of employment and labour, education, social security, culture, and sport.<sup>52</sup> The Law on Prevention and Protection from Discrimination is more wide-ranging, and covers: all state bodies, bodies of local self-government, legal persons with public authorities and legal and natural persons in the area of work and labour relations; education, science and sport; social security; judiciary and administration; housing; public informing and media, and; access to goods and services<sup>53</sup>

According to the US Department of State, sentencing guidelines for cases of sexual harassment in the workplace are 3 months to 3 years.<sup>54</sup> Under the Law on Prevention and Protection from Discrimination, fines can be imposed on perpetrators.<sup>55</sup> Under the Criminal Code, abusing a position of influence to coerce sex can be punished by a minimum of five years imprisonment.<sup>56</sup>

The ESE reports that sexual harassment is not regularly reported in FYROM; according to its figures, 17% of women experiencing sexual harassment had reported it.<sup>57</sup> The ESE's statement that there are few state measures in place to prevent this form of violence would indicate that the law is not effectively implemented.<sup>58</sup>

In 2012, an online platform called "REACT" was launched to enable women to make reports of sexual harassment and sexual assault in public spaces in Skopje, the capital. Users can report incidents anonymously using Twitter, email, and text messaging. Women can also use the platform to share their stories and relate the local authorities' responsiveness to such incidents.<sup>59</sup>

According to a report published by the Council of Europe in 2010, sexual harassment is incorporated into the national action plan on violence against women.<sup>60</sup> According to USAID, members of the judiciary

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<sup>47</sup> CEDAW (2013), p. 7

<sup>48</sup> US Department of State (2013)

<sup>49</sup> Law on Equal Opportunities, Article 3. Law on Prevention and Protection from Discrimination Article 7. Law on Labour Relations, Article 9

<sup>50</sup> Mickovska Raleva, Ana and Dimitrijevska, Tamara (2013), p. 7

<sup>51</sup> Council of Europe (2009), p. 106

<sup>52</sup> Law on Equal Opportunities, Article 3

<sup>53</sup> Law on Prevention and Protection from Discrimination, Article 4

<sup>54</sup> US Department of State (2013)

<sup>55</sup> Law on Prevention and Protection from Discrimination, Articles 42-45

<sup>56</sup> Council of Europe (2009), p. 106

<sup>57</sup> ESE (2012), p. 7

<sup>58</sup> ESE (2012), p. 7

<sup>59</sup> Parry, Jacob (2012); <http://react-besafe.mk/>

<sup>60</sup> Hagemann-White, Carol (2010), p. 34

receive basic training on how to deal with cases of violence against women, but this does not include specific coverage of sexual harassment.<sup>61</sup>

The ESE reports that sexual harassment remains a taboo subject in FYROM.<sup>62</sup>

There is no evidence to suggest that **female genital mutilation** is practised in FYROM.

### **More**

**Abortion** is available on demand in FYROM.<sup>63</sup> However, a new law introduced in June 2013 restricts access to abortion after the tenth week of pregnancy.<sup>64</sup> Women seeking an abortion will now have to submit an application to the Ministry of Health, and confirm that they have attended counselling, met with a gynaecologist, and informed their partner of their decision to have an abortion. In addition, women will also be banned from having a second abortion within a year of their first.<sup>65, 66</sup>

## **3. Son bias**

The male/female **sex ratio** for the working age population (15-64) in 2013 is 1.02 while the sex ratio at birth is 1.08.<sup>67</sup> There is evidence to suggest that FYROM is a country of low concern in relation to **missing women** due to elevated child sex ratios.

According to data provided by UNICEF, there is a slight gender gap in pre-primary education in the detriment of males. A bigger gender gap benefiting boys is documented in primary education.<sup>68</sup> In regards to secondary education, data from 2010 indicates a small gender gap in detriment of girls.<sup>69</sup>

## **4. Restricted resources and assets**

Women and men have the same right to **own and access land**, under Articles 8 and 30 of the Constitution.<sup>70</sup> Articles 8 and 30 also protect women's equal rights to **own and access property other than land**.<sup>71</sup>

Unmarried women and men, and married women and men, have equal rights in regard to property ownership.<sup>72</sup> Within marriage, under the Law on Property, any property purchased before the marriage remains the property of the individual spouse, while property purchased after the marriage has taken place is considered to be joint property. Both spouses have the right to administer and dispose of their

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<sup>61</sup> Cozzarelli, Catherine (2010), p. 41

<sup>62</sup> ESE (2012), p. 7

<sup>63</sup> United Nations Department of Economic and Social Affairs, Population Division

<sup>64</sup> Law on Termination of Pregnancy

<sup>65</sup> Stracansky, Pavel (2013)

<sup>66</sup> Gaydazhieva, Stanislava (2013)

<sup>67</sup> CIA World Fact Book

<sup>68</sup> UNICEF

<sup>69</sup> UNICEF

<sup>70</sup> CEDAW (2004), p. 118

<sup>71</sup> CEDAW (2004), p. 118

<sup>72</sup> International Bank for Reconstruction and Development/The World Bank (2011), p. 102

joint property, by mutual consent. The couple may declare in writing who is responsible for administering their joint property and who can dispose of it.<sup>73</sup>

Customary and religious law are not considered valid sources of law under the constitution, in regard to land and property rights or any other matters.<sup>74</sup>

USAID reports that most land and property in FYROM is owned by men. The report notes that this is due to 'traditional cultural practices' that see land and property ownership as a male concern.<sup>75</sup> The 2004 Convention on the Elimination of all forms of Discrimination against Women (CEDAW) report notes that women in practice have limited opportunities to acquire and manage land and other forms of property, because property is usually registered in the husband or another male relative's name, particularly in rural areas.<sup>76</sup> Elsewhere, the Association for the Emancipation, Solidarity, and Equality of Women of the Republic of FYROM (ESE) notes that traditional values and women's lack of property act as a barrier to the realisation of women's economic empowerment, particularly in rural areas.<sup>77, 78</sup>

The 2005 shadow report to the CEDAW Committee submitted by the ESE states that women do not face any legal restrictions on their right to access **credit and bank loans**.<sup>79</sup>

According to USAID, Women's lack of ownership of land, property, and other assets makes it difficult for them to obtain credit, as they are not able to offer collateral.<sup>80</sup>

Financial inclusion data held by the World Bank indicates that in 2011, 72% of women in FYROM had a bank account, compared to 76% of men. In the same year, 11% of adults had taken out a loan with a financial institution (defined as a bank, credit union, microfinance institution, or another financial institution such as a cooperative); these data were not disaggregated by gender.<sup>81</sup>

According to the Microfinance Information Exchange, women accounted for 46.57% of recipients of micro-credit in 2012.<sup>82</sup>

## 5. Restricted civil liberties

Concerning **access to public space**, under the constitution (Article 27) women can obtain a passport, and travel within and outside the country in the same way as men (laws not specified).<sup>83, 84</sup>

According to Amnesty International, legal restrictions on the right to leave the country are in place affecting refugees and migrants; border officials most often targeted Roma and ethnic Albanians, whose passports were marked to prevent them leaving the country again. This would inevitably affect the

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<sup>73</sup> CEDAW (2004, p. 118

<sup>74</sup> International Bank for Reconstruction and Development/The World Bank (2011), p. 102

<sup>75</sup> Cozzarelli, Catherine (2010), p. 46

<sup>76</sup> CEDAW (2004), p. 8

<sup>77</sup> ESE (2012), p. 10

<sup>78</sup> European Commission (2012), p. 15, 46-47

<sup>79</sup> ESE (2012) p. 8

<sup>80</sup> Cozzarelli, Catherine (2010), p. 47

<sup>81</sup> World Bank (n.d.)

<sup>82</sup> Microfinance Information Exchange (2013) Database

<sup>83</sup> CEDAW (2004) , p. 120

<sup>84</sup> International Bank for Reconstruction and Development/The World Bank (2011), p. 102

freedom of movement of women belonging to these categories.<sup>85</sup> Anti-discrimination legislation does not cover discrimination on the grounds of sexual orientation and gender identity, potentially limiting the free access to public space of lesbian, gay, bisexual, transgender, and intersex (LGBTI) women.<sup>86</sup>

Roma women face discrimination in FYROM, particularly in regard to accessing healthcare, education, and employment.<sup>87</sup>

Regarding **quotas**, under the Electoral Code of 2002, one in every three places on a candidate list must be reserved for the 'less represented sex' for elections to the parliament. In 2004, this was also applied to local elections. If this stipulation is not met, the candidate list will be rejected.<sup>88</sup>

There was a significantly small number of women candidates for mayoral positions in the local elections in 2013; however in the previous mandates of the local self-government units that had no mayors at all, there was an increase in 2013 of the number of women mayors elected: 4 women were elected as mayors.<sup>89</sup>

According to a report by the Konrad Adenaur Stiftung, as of 2009, women accounted for 27.6% of municipal councillors, but no mayors.<sup>90</sup>

### **More**

A study commissioned by the National Broadcasting Council in 2012 found that women were underrepresented in the broadcast **media**, except in entertainment programmes, where they were often portrayed in a sexist manner.<sup>91</sup> In its Concluding Observations, the CEDAW Committee expressed concern at the portrayal of women in the FYROM media, which was 'persistently stereotyped and sometimes degrading'.<sup>92</sup>

Concerning **workplace rights**, discrimination on the basis of gender is prohibited under the Constitution (Article 32) and the Law on Labour Relations.<sup>93</sup> Amendments made to the Law on Labour Relations in 2012 explicitly prohibit discrimination against women workers during pregnancy, maternity, and parenthood.<sup>94</sup>

Pregnant women are entitled to nine months' paid **maternity leave** in FYROM.<sup>95</sup> The 2004 CEDAW report states that salary compensation is 'to the amount defined by the employment and health care regulations', but gives no further details.<sup>96</sup> Paid maternity leave financing is regulated with the Law on Health Protection.<sup>97</sup>

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<sup>85</sup> Amnesty International (2013) p. 166

<sup>86</sup> CEDAW (2013), p. 3

<sup>87</sup> European Roma Rights Centre (2013), p. 3

<sup>88</sup> Electoral Code, Articles 64, 67; quotaProject (2013)

<sup>89</sup> Mangova et. Al (2013)

<sup>90</sup> Mickovska Raleva, Ana and Dimitrijevska, Tamara (2013), p. 5

<sup>91</sup> Institute of Social Sciences and Humanities Skopje (2012)

<sup>92</sup> CEDAW (2013), p. 5

<sup>93</sup> CEDAW (2011), p. 34

<sup>94</sup> CEDAW (2013) p. 2

<sup>95</sup> Law on Employment, Articles 58 – 68

<sup>96</sup> CEDAW (2004), p. 13

<sup>97</sup> Council of Europe (2009), p. 53

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