

**Follow-up table to the country visit of the Special Rapporteur on freedom of religion or belief to the former Yugoslav Republic of Macedonia
(26-29 April 2009)**

Recommendations of the Special Rapporteur's mission report (A/HRC/13/40/Add.2)	Follow-up information from UN documents (e.g. Special Procedures, UPR, Treaty Bodies)	Follow-up information from the Government of the former Yugoslav Republic of Macedonia
<p>52. However, some issues of concern remain to be addressed in the former Yugoslav Republic of Macedonia (see paras. 23-48 above). Shortly before the Special Rapporteur's visit in April 2009, several contentious issues arose in the domestic public debate, for example concerning religious instruction in primary schools, the wearing of religious symbols and the construction of places of worship. There is a risk that these issues may be used to divide and polarize the different communities. The Special Rapporteur wishes to remind all actors that religion should not be used to separate the country's society.</p>		
<p>53. In addition, the Special Rapporteur would like to emphasize that, according to the Constitution, religious communities are separate from the State and equal before the law. In view of these constitutional provisions and related obligations under international human rights law, the Government has a delicate role to play: it must ensure that the principles of equality and non-discrimination are upheld and, at the same time, it must allow autonomy to religious communities. It must also have an even-handed approach when granting official status to all communities and yet protect the rights of all individuals, whether they are theistic, atheistic or non-theistic believers. A number of the Special Rapporteur's interlocutors pointed to the perception that the Macedonian Orthodox Church and the Islamic community wield considerable political influence, and that these two largest registered religious communities in the country were able to make inroads to the constitutional concept of separation of State and religion. They also voiced their concern that the links between religion, politics and nationalism were increasingly being stressed in public debate.</p>		
<p>54. Governments have a primary obligation to protect individuals from acts of religious intolerance and discrimination. An informed public opinion needs to be created through monitoring as well as advocacy of human rights. Civil society can also contribute to create awareness on human rights issues, including those concerning freedom of religion or belief. According to the Special Rapporteur's experience throughout her mandate, legislation alone cannot create an atmosphere of social harmony and mutual trust. On the contrary, hasty legislation on matters of freedom of religion or belief may even lead to polarizing society along religious lines.</p>		
<p>55. The Special Rapporteur is conscious of the fact that religious instruction at public schools may raise all forms of controversy in many societies. In this regard, she would like to make a distinction between religious instruction and the teaching of history of religions. From a human rights perspective, the latter is less problematic provided that classes on history of religions are given in a neutral and objective way.</p>	<p>CRC/C/MKD/CO/2 Committee on the Rights of the Child, Concluding observations: The former Yugoslav Republic of Macedonia, June 2010 65. The Committee notes that the right to education of</p>	

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<p>The Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools provide practical guidance for preparing curricula for teaching about religions and beliefs, as well as preferred procedures for assuring fairness in the development of such curricula. However, public education, which includes instruction in a particular religion or belief, is only consistent with article 18, paragraph 4, of the International Covenant on Civil and Political Rights if provision is made for non-discriminatory exemptions or alternatives accommodating the wishes of parents and legal guardians.</p>	<p>all nationals and resident stateless children is guaranteed by law, that efforts have been made to improve the quality of education, and that the State party plans to introduce conditional cash transfers with a view to encouraging enrolment and attendance in secondary schools. The Committee is, nevertheless, concerned that: [...] (f) Religious education may be a factor of division and conflict among children in school and does not sufficiently contribute to a spirit of understanding, tolerance and friendship among all ethnic and religious groups as stipulated in article 29, paragraph 1 (d), of the Convention. [...]</p> <p>66. The Committee recommends that the State party [...] (d) Taking into account its general comment No. 1 (2001) on the aims of education (CRC/GC/2001/1) and article 29, paragraph 1, of the Convention, the Committee recommends that the State party invest in the training of teachers, in the development of curricula, textbooks and other aides for the active promotion of understanding, peace, tolerance and multicultural solidarity and cohesion among the different ethnic and religious communities; [...]</p> <p>(i) Ensure that religious education is optional, taking into consideration the best interests of the child, and is conducted in a manner that contributes to a spirit of understanding, tolerance and friendship among all ethnic and religious groups as stipulated in article 29, paragraph 1 (d), of the Convention.</p>	
<p>56. The Special Rapporteur would like to emphasize that it is vital that the independence of the judiciary be fully respected and that courts be able to adjudicate upon religious matters without fear or favour. In this regard, she wishes to remind those religious leaders and politicians who publicly voiced their outrage about the recent judgement of the Constitutional Court concerning religious instruction in public schools that an independent judiciary is crucial to safeguard freedom of religion or belief and ultimately as a foundation for democratic governance. The Special Rapporteur welcomes the Government's affirmation during the universal periodic review session held in September 2009 that the promotion of the judiciary's</p>		

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independence and efficiency remain its major priorities (A/HRC/12/15/Add.1, para. 36).		
57. With regard to the issue of wearing religious symbols , especially in public schools, the Special Rapporteur would like to emphasize that each case has to be decided according to its own circumstances. In general, however, restrictions on the wearing of religious symbols should not be applied in a discriminatory manner. Limitations must be directly related and proportionate to the specific need on which they are predicated. The burden of justifying a limitation upon the freedom to manifest one's religion or belief lies with the State. The chosen measures should promote religious tolerance and avoid stigmatizing any particular religious community. Furthermore, the principles of appropriateness and proportionality need to be thoroughly respected both by the administration and during possible legal review.		
58. With regard to intra-religious tensions both within the Orthodox Church and within the Islamic community, the Special Rapporteur would like to remind the Government of its obligations to remain neutral and non-discriminatory , especially concerning the registration procedure. As outlined in her report submitted to the Commission on Human Rights (E/CN.4/2005/61, para. 58), registration should not be a precondition for practising one's religion, but only for the acquisition of a legal personality and related benefits. In the latter case, registration procedures should be easy and quick, and not depend on extensive formal requirements in terms of the number of members or the time a particular religious group has existed. Registration should not depend on reviews of the substantive content of the belief, the structure or the clergy. In addition, no religious group should be empowered to decide about the registration of another religious group.	<p>A/HRC/12/15 Report of the Working Group on the Universal Periodic Review, The former Yugoslav Republic of Macedonia, June 2009</p> <p>69. Italy [...] welcomed the entry into force of the law on the legal status of churches, religious communities and religious groups. However, it noted that there were still reports of restrictions and discrimination against certain religious communities that affect their ability to practice their faith. [...]</p> <p>77. In the course of the discussion, the following recommendations were made to the former Yugoslav Republic of Macedonia: [...] 36. Monitor the implementation of the legislation concerning freedom of religion with a view to ensuring full enjoyment of the freedom to practice one's religion by all religious communities and groups in the country (Italy);</p>	
59. Concerning places of worship , the Special Rapporteur would like to refer to General Assembly resolution 55/254, in which the Assembly calls upon States to exert their utmost efforts to ensure that religious sites are fully respected and protected in conformity with international standards and in accordance with their national legislation, and to adopt adequate measures aimed at preventing such acts or threats of violence. Furthermore, States, relevant intergovernmental and non-governmental organizations and the media are encouraged to promote, inter alia, through education, a culture of tolerance and respect for the diversity of religions and for religious sites,		

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<p>which represent an important aspect of the collective heritage of humankind.</p> <p>60. The Special Rapporteur is also concerned at reports received regarding sectarian violence and incitement to religious hatred. In this regard, she would like to distinguish between the expression of opinions even when they are deemed offensive by some believers, and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence. While freedom of expression has to be respected, hate speech must be prohibited by law if it reaches the threshold of incitement to religious hatred described in article 20, paragraph 2, of the International Covenant on Civil and Political Rights. In order to protect the integrity of individuals, hate speech must not be tolerated. However, each case has to be examined on its own merits so that freedom of expression and freedom of religion or belief are not undermined. In this regard, the judiciary plays a vital role in striking a delicate balance on a case-by-case basis. In view of the vague formulation of article 319 of the Criminal Code, the Special Rapporteur would urge the Government to review this provision with a view to prevent any arbitrary interpretation and application by the authorities. Legislation or policies designed to combat religious discrimination should be all-inclusive, carefully crafted and implemented in a non-biased manner to achieve their objectives (A/HRC/10/31/Add.3, para. 24).</p>	<p>A/65/207 Report of the Special Rapporteur on freedom of religion or belief to the General Assembly, July 2010</p> <p>43. [...] As indicated in one of the Special Rapporteur's recent country reports,³⁸ [Report on the mission to the former Yugoslav Republic of Macedonia (A/HRC/13/40/Add.2, paras. 46-48 and 60).] there is a risk that domestic laws prohibiting hate speech may be interpreted loosely and applied selectively by the authorities, which underlines the importance of having unambiguous language and of devising effective safeguards against abuses of the law. She would like to reiterate that legislation on religious issues should not be vague but rather must be all-inclusive, carefully crafted and implemented in a non-biased manner.³⁹ [See the report on the 2008 expert seminar on the links between articles 19 and 20 of the International Covenant on Civil and Political Rights: "Freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence" (A/HRC/10/31/Add.3, para. 24).]</p>	
<p>61. Despite the above-mentioned concerns, the Special Rapporteur remains optimistic that a continuing debate on freedom of religion or belief in the former Yugoslav Republic of Macedonia will contribute to a higher level of understanding and mutual respect between different religious communities and individuals, including non-theistic and atheistic believers.</p>	<p>A/HRC/12/15 Report of the Working Group on the Universal Periodic Review, The former Yugoslav Republic of Macedonia, June 2009</p> <p>65. Kazakhstan noted the constructive cooperation with international human rights institutions and the establishment of the Inter-Religious Council, which plays a positive and important role towards strengthening religious and ethnic dialogue. [...]</p> <p>66. Albania welcomed the reforms and measures taken by the Government following the adoption of the Ohrid Framework Agreement of 2001, which have been endorsed through constitutional amendments that permit not only for respect and promotion of the rights of persons belonging to minorities but also better communication between the communities. It cited the establishment of the Parliamentary Commission on</p>	

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	Inter-Community Relations and the Inter-Religious Council as structures that make a real contribution to the dialogue between different religions and communities.	
62. The Special Rapporteur would like to emphasize the importance of confidence-building measures in order to address the concerns of the different communities. To foster a climate of religious tolerance, political and religious leaders should take a human rights-based approach and clearly affirm the importance of the right to freedom of religion or belief in all its dimensions. In addition to legislation, States have several tools at their disposal to counter religious intolerance, for example by giving space for dialogue, encouraging public figures to make statements denouncing acts of intolerance and providing quality education. These approaches need to be inclusive also in terms of the religions or beliefs covered. Above all, the rule of law and the functioning of democratic institutions are prerequisites for the effectiveness of these strategies, which seek to encourage real dialogue and understanding.		

30 November 2011