

Ohrid Framework Agreement Review on Social Cohesion

Skopje, 2015

Executive Summary

The Government of the Republic of Macedonia is committed to the Ohrid Framework Agreement. It recognizes the Agreement's full implementation as an important factor for intercommunity peace and as a crucial step in achieving an inclusive multiethnic society. Intercommunity peace and an inclusive multiethnic society are prerequisites for social cohesion and the sustainable prosperity of the country. The strengthening of social cohesion gains special urgency in times of political and economic crisis.

The Ohrid Framework Agreement was signed in 2001, almost 15 years ago. Important achievements have been made in its implementation. However, the quantitative and qualitative implementation of the Ohrid Framework Agreement is a long term process. The promotion of social cohesion needs continuous effort and has to be adapted to changing realities and citizens' expectations, sometimes going beyond the requirements explicitly provided for in the Ohrid Framework Agreement.

Social cohesion and the implementation of the Ohrid Framework Agreement need continuous monitoring. In 2012, the Government adopted a report on the status of the implementation of the Ohrid Framework Agreement, which included the suggestion to continue the review process and to define clear policy recommendations. Intercommunity relations and the Ohrid Framework Agreement are an aspect of the 2015 Przino agreements. The continuation of the review is an element of the 2015 Government's Action Plan on Reform Priorities. The review process takes up 'Urgent Reform Priorities' as identified by the European Commission and is coordinated with the High Level Accession Dialogue with the European Commission. In addition, the review process is contributing to fulfilling conditions and recommendations of the 2015 European Commission Progress Report.

The Government of the Republic of Macedonia invited OSCE and the European Institute of Peace (EIP) to support it in the review. The review process was participatory in nature. Data collection and analysis and initial policy recommendations were provided by six thematic working groups. These working groups prepared reports. The main findings of these reports were then presented and discussed in a round of consultations with civil society organizations, academia and political parties in October and November 2015.

This review report was prepared by the Secretariat for the Implementation of the Ohrid Framework Agreement SIOFA for submission to the Council of Ministers. The review report is the outcome of the review process and incorporates input received during all stages of the process. It is based on data collected by the working groups and puts a special focus on qualitative assessments. The report analyses the actual and potential contribution of the Ohrid Framework Agreement to the overall goal of social cohesion. It identifies achievements as well as room for improvement in the implementation of the Ohrid Framework Agreement in particular and for promoting social cohesion in general.

The major findings and recommendations are the following:

On decentralization: The Republic of Macedonia made significant strides towards decentralized governance as one aspect of a vibrant democracy and as a contributing factor for social cohesion. However, in particular fiscal decentralization remains critical, i.e. the decision-making space of local self-governments on spending priorities remains limited and the transparent and equitable allocation of funds to the units of local self-government is challenging. The current practices do not seem sufficient for promoting balanced development and promoting comparable service-delivery among municipalities. Whenever such imbalances among and within municipalities coincide with settlement patterns of communities this can have negative impact on social cohesion. Potential mechanisms for dialogue and participation on the attribution of funds are not fully utilized.

Main recommendations:

Improve transparency as basis for accountability and as a pre-requisite for monitoring the equitable distribution of public funds

⇒ Ensure the availability of data disaggregated by sector and unit of local self-government for all grants and capital investments provided from central budget.

Improve transparency and support the central Parliament as a forum for constructive political dialogue and representation, enhance discussions on the budget in parliament in line with comments in the 2015 Progress Report (p. 7, 8, 11).

⇒ Consider introducing the adoption of central budget allocations to municipalities by double majority voting (the Badinter mechanism) and to ensure meaningful consultations of units of local self-governments.

Promote the equitable and balanced attribution of funds to units of local self-government.

⇒ Ensure the full commitment of the Government of the Republic of Macedonia to realize the legally foreseen 1% of GDP for regional development through the municipalities.

⇒ Allocate capital grants from central to Units of Local Self-Government via objective formulas that encompass for instance the Index of Regional Development among other factors. Consider foreseeing the involvement of the Council for Regional Development in decision-making for capital investments and ensure representation of the SIOFA in the Council.

⇒ Introduce financial equalization mechanisms for units of local self-government that take the units' fiscal capacity and specific needs into account, including the needs of rural and multilingual units of local self-government.

Allow units of local self-government to set their own policy priorities in line with effective decentralization, and address the relatively low level of non-committed funds of units of local self-government

⇒ Increase the total municipal expenditures to 14% of GDP (the average regional standard) while ensuring the increase of capacities of Units of Local Self-Government to collect local taxes.

⇒ Increase the amount of financial resources available to units of local self-government that are unconditional and non-earmarked so as to increase their space of discretionary decision-making, for instance by increasing the share of VAT and/or Personal Income Tax allocated to units of local self-government

⇒ Starting in the area of culture, sports, and social protection of boys and girls of pre-school age, move from financing of institutions and facilities to financing of competencies/policy areas.

Ensure that units of local self-government in their allocation of funds within the municipality are transparent and apply participatory approaches.

⇒ Consider strengthening the local Committees for Intercommunity Relations by adapting and clarifying their mandate, composition, organization and financing.

⇒ Consider the application of double majorities (Badinter requirement) for the allocation of resources within the municipality.

⇒ Restore the status of legal person to the neighborhood committees and ensure their inclusive composition in order to strengthen them as arenas for direct citizens' participation.

On equitable representation: Over the years there have been achievements in respect to equitable representation. However all non-majority communities, including the ethnic Albanian community, remain underrepresented. There are decisive variations among public bodies, a more serious underrepresentation of numerically smaller non-majority communities as well as significant

underrepresentation of all non-majority communities in managerial positions. The new legal framework for the employment of civil and public servants might bring some improvements in methodologies in respect to equitable representation but these methodologies do not apply to all institutions. Language competencies in non-majority languages are still not valorized in the employment process and there is limited effort to increase the language competence of the administration in view of social cohesion at the work place and the communication with citizens. A significant number of employed members from non-majority communities have not yet been integrated into the workforce but are part of a pool within the SIOFA waiting for transfers to different state institutions. So far there are no policies for encouraging enterprises of national importance to adopt policies of equitable representation.

Main recommendations:

Use the merit principle for improving the representativeness of the administration and its actual language capacities as basis of improved understanding and communication and element of social cohesion. This recommendation is in accordance with the emphasis of the 2015 Progress Reports on safe-guarding the merit principle in employment (p. 5, 10)

- ⇒ Within the testing, selection, employment and promotion procedures prominently include the knowledge of other languages of non-majority communities, at central and local level, (next to the Macedonian language) as valuable merit (at least on par with foreign languages), in particular for managerial positions. Promote language capacities of man and women.
- ⇒ In a longer-term perspective, make the basic knowledge of a second language spoken in Macedonia mandatory for managerial positions as well as for positions with frequent direct contact with citizens.
- ⇒ Have MISA monitor the impact of the consideration of the Shanghai List on the Ranking of Universities on the employability of members from underrepresented communities, male and female, and change the application of the list if needed.

Increase the effectiveness of equitable representation and cost-effectiveness of the whole administration by ensuring that those employed, male and female, are actually integrated into the workforce and have meaningful positions. This recommendation takes up a concern of the 2015 Progress Report: reduction of the number of public employees not required to turn up to work (p. 10).

- ⇒ Phase out the employment pool within SIOFA by transferring persons to all state institutions.
- ⇒ Implement the methodology for equitable representation as foreseen in the Law on Administration and provide for the application of equivalent methodologies for all state institutions.
- ⇒ Develop methods for integration in the workplace and diversity management.
- ⇒ Develop special measures for members (male and female) of those communities that are highly under-represented.

Ensure equitable representation, access to justice, and a judiciary that is perceived as representative and non-biased by all communities.

- ⇒ Improve trust in the judiciary by addressing the strong under-representation of non-majority communities, male and female, ensuring equitable representation without jeopardizing the merit principle, e.g. by additionally valorizing knowledge of languages spoken by non-majority communities, by introducing courses on the Macedonian legal language, to work towards enlarging the pool of qualified candidates from non-majority communities, and targeted affirmative action.

- ⇒ Maintain an empty-chair policy for the judiciary if there are not enough qualified candidates from non-majority communities, as long as this does not negatively impact on the effectiveness of the judiciary.
- ⇒ Improve the quality of legal education in Albanian, to enable a stronger basis for members of the ethnic Albanian community to compete successfully in entrance exams and professional competitions, on par with the ethnic Macedonian applicants.

Broaden the application of the principle of equitable representation to the whole public sphere, as foreseen in the Ohrid Framework Agreement, including to companies with national licenses that provide services to the citizens.

- ⇒ Extend the legal obligation to establish equitable representation of all communities (and affirmative action thereto) to large companies of national significance and public utilities (like water, electricity and telecommunication) as part of the conditions for licensing, certification and government tenders.

On the use of languages: The current legislative framework and the implementation practice of certain authorities does not fully realize the language rights of non-majority community members guaranteed in the constitution, in particular the legislation introduces a requirement of territoriality for addressing central institutions, and certain authorities demand a request for the issuance of bilingual documents instead of automatically issuing them. In addition, the legislative framework adopts a relatively restrictive interpretation of linguistic rights and does not stipulate for the translation of secondary legislation and chairing the parliamentary sessions in a language spoken by at least 20% of the citizens. The application of the law on the use of languages at the central level is more consistent than at the local level. In different words, there are more variations in the application of the use of official languages among municipalities than among different central institutions. Nevertheless, at the central level, in many cases the constitution and the laws are interpreted in a narrow sense. In contrast, at least some units of local self-government demonstrate the willingness to broaden the use of languages at the local level as the voluntary introduction of additional official languages show. The current system of using other official languages only next to the Macedonian language generates the need for qualified translators, which puts financial burdens, in particular on multilingual units of local self-government.

Main recommendations:

Fully implement the Ohrid Framework Agreement and the constitution and acknowledge language as an important element of identity and as a tool for strengthening the identification with the state and fostering inter-community understanding

- ⇒ Adopt a new comprehensive law on languages and with it clarify the meaning of Amendment V to Art 7 of the Constitution.
- ⇒ Allow all citizens to address central institutions in the Macedonian language and the language spoken by at least 20% of citizens in the country irrespective of their place of residence, provide for the translation of secondary legislation into Albanian, ensure the automatic issuance of personal documents in the official languages for citizens of the Albanian community, allow for the chairing of parliamentary sessions in Albanian, clarify language provisions in the law of local self-government to include the City of Skopje, standardize the use of official languages for all public signs, ensure the full implementation and promotion of language rights in the judicial sector.
- ⇒ Ratify the European Charter for Regional and Minority Languages.
- ⇒ Proactively inform citizens on their language rights and promote a culture of multilingualism.

⇒ Work towards the development of a comprehensive language policy, including monitoring and oversight mechanisms for its implementation, for instance by re-establishing an inter-ministerial working group.

Increase the attractiveness of a career as a translator and interpreter for women and men and ensure the quality of translation and interpretation

⇒ Establish specialized certification for interpreters and translators as well as career opportunities within the administration.

⇒ Introduce vocational training for translators on the secondary level, embedded within existing local educational structures (like the Economy profile) in order to create a wide, cost-effective, functional pool of generalist translators, in particular for use at the local level

⇒ Integrally incorporate specialized translation / interpretation within the existing regular curriculum of the faculty of philology, presently offering only a choice of becoming either a “language teacher” or “translator” without further specialization.

⇒ Activate and/or more clearly promote high quality and easily accessible post-graduate specializations within this faculty of philology, and consider extension to also the SEE and Tetovo University.

Provide a cost-effective and efficient support to local governments in fulfilling their citizens’ language rights and support them financially

⇒ Establish regional centers of translators and interpreters to support local authorities remotely (through e-government).

⇒ Support municipalities with more than one official language for instance by introducing separate budget lines in the national budget, or a portion of the VAT collected in the units of local self-government, to enable the full implementation of the law on the use of languages.

On education: Education in the mother tongue at primary and secondary level for the Albanian and Turkish community is by and large realized; for other communities additional efforts are needed. Preschool education opportunities are limited and children of non-majority communities are underrepresented. Education remains highly divided (little to no interaction between children from different language communities) and is at times considered divisive, e.g. in respect to curricula and textbooks. In general, pupils have little knowledge of the history, culture and customs of other communities and there continues to be reluctance to learn languages of other communities. In particular rural municipalities are facing challenges of assuming the costs for primary and secondary education. The allocation of block grants for primary and secondary education to municipalities and within municipalities is perceived as of limited transparency.

Main recommendations:

Strengthen equal opportunities to quality education for girls and boys from all communities, including for preschool education in line with comments of the 2015 Progress Report (p. 66, 67)

⇒ Improve access to preschool education for girls and boys in line with EC Report levels; ensure equal opportunities for enrolment of all communities throughout the country. Transfer responsibilities for pre-schooling from the Ministry of Labor and Social Policy to the Ministry of Education.

⇒ Address the relatively high student/teacher ratio at the University of Tetovo by creating job opportunities for persons with a PhD.

Use education as a means towards social cohesion and ensure sustainable funding, in line with comments in the 2015 Progress Report (p. 60, 61, 66)

- ⇒ Take further concrete steps towards integrated education by introducing considerable, earmarked budget lines thereto, focusing on structural government funding for curricular and extra-curricular activities fostering interaction and understanding among communities, as well for quality textbooks promoting the same.
- ⇒ Prevent stereotyping and divisive content in textbooks by fully implementing procedures for developing textbooks and consider including these procedures in amendments to the law instead of in secondary legislation. Ensure transparent selection of textbook authors. Review the quality of translations of textbooks. Ensure the printing of textbooks for numerically smaller communities, for instance by obliging publishing houses to also print small editions of textbooks.
- ⇒ Strengthening interpersonal, intercultural, social and civil abilities of teachers in a multiethnic environment through trainings on inter-ethnic integration, promote modern and interactive teaching methods
- ⇒ In the determination of block grants for education, consider the particular needs of units of local self-government so that all units of local self-government have adequate resources for primary and secondary education.
- ⇒ Remove administrative and other challenges (availability of teachers, lack of transport) to ensure that non-majority communities are able to fully exercise their right to mother-tongue instruction and culture.

Promote understanding and communication among communities for better social cohesion

- ⇒ Introduce for all children, in addition to their mother tongue, language instruction in at least one other language in official use somewhere in the country. Consider giving preference to those languages within the municipality in which the school is located that are spoken by at least 20% of the local population. Adapt the training of teachers accordingly. Support the measure with sufficient information to parents and schools.
- ⇒ Promote joint degrees and mobility of university students within the Republic of Macedonia and encourage them to do parts of their studies in another language of Macedonia.

Improve transparency and support local and central parliaments as a forum for constructive political dialogue and representation, enhance discussions on the budget in parliament, in line with comments in the 2015 Progress Report (p. 7, 8, 11).

- ⇒ Assess the implications and practicalities of introducing all issues that are submitted to the Badinter procedure at the central level also to Badinter at the local level, including education and local budget allocations therein.
- ⇒ Seek to enhance the transparent allocation of block grants for education from central to local level by establishing an expert group to assess the implications of introducing the central budget in Badinter in Parliament.

On non-discrimination: In the perception of citizens there is discrimination based on ethnicity. Non-harmonization of Macedonian legislation, the lack of capacities in judicial and quasi-judicial institutions, the limited willingness to implement provisions on hate speech and hate crime, the lack of targeted programs to eradicate inequalities in the employment market, including gender inequality, but also the delay in adopting a law regulating the rights of victims of the 2001 conflict impede effective action against discrimination or public perceptions thereof.

Main recommendations:

Increase transparency, raise awareness and create the basis for non-discriminatory application of the principle of equitable representation

- ⇒ provide for gender disaggregated data on equitable representation and in other fields related to the implementation of the Ohrid Framework Agreement and on social cohesion.

Work towards removing inequalities in the access to the labor market

⇒ Review current employment programs and special measures and target them so as to include particular, vulnerable groups, including ethnic Roma, women from non-majority communities and men and women from rural areas.

Prevent and adequately prosecute hate speech and hate crime

⇒ Seriously address hate speech and hate crime by promoting implementation of existing provisions. Further consider amending the Criminal Code's definitions and sanctioning, as well as the Law on audio and audio-visual services, to explicitly provide for authorization of the agency for these services to determine hate speech and impose an initial reprimand (and / or a fine) as well as to suspend broadcasting licenses after repeated reprimands/fines.

Strengthen institutions that help ensure the non-discrimination of citizens, in line with comments in the 2015 Progress Report (p. 56).

⇒ Strengthen the office of the Ombudsperson as well as the CPD, by increasing their resources and competences and by adopting legislation in line with the Paris principles, including the creation of secretariat services of the CPD.

⇒ Strengthen the capacity of the police, the prosecution and the judiciary to address discrimination and hate speech/hate crimes.

Overcome the effects of the 2001 conflict

⇒ Promote projects of social cohesion, reconciliation and confidence-building measures in different fields including all segments of society

⇒ Regulate the status of all persons disabled and families of victims from the 2001 conflict as proposed in the first 2012 OFA Review report that was adopted by Government and subsequently mentioned in the 2012 EC Progress Report.

On communities forming less than 20% of the population: In deviation of the text proposed for the preamble of the constitution in the Ohrid Framework Agreement, the present Constitution includes a preamble that enumerates 7 different communities instead of promoting a more general, civic concept of the State. Numerically smaller communities are represented in political institutions through the ordinary election process. The Committees for Inter-Community Relations at both central and local level provide for some representation but are of limited effectiveness. There have been attempts to create special institutions for the concerns of numerically smaller communities. The Agency for Community Rights Realization (ACRR, mainly focused on the protection of minorities representing less than 20 % of the population) still struggles with an inadequate mandate, insufficient budget and a lack of support from relevant institutions. The Directorate for education in communities' languages and the Directorate for the promotion of culture of the communities also continue to be inadequately funded and staffed. They are not regularly included in relevant consultations. In addition, separate funding mechanisms for CSOs of numerically smaller communities have been introduced but lack resources.

Main recommendations:

Fully implement the Ohrid Framework Agreement and strengthen the civic identity of the country and its citizens.

⇒ Revert the Constitution's Preamble to the originally foreseen one in the OFA that emphasized civic instead of ethnic identity and refrain from mentioning only 7 communities by name.

⇒ Consider a comprehensive and all inclusive debate about the national symbols.

Strengthen parliament as a forum for constructive political dialogue and representation in line with comments of the 2015 Progress Report (p. 7)

- ⇒ Amend articles 41 and 55 in the Law on Local Self Government in order to address legal gaps in the framework regulating local CICRs and to finally enable relevance to these potentially very effective conflict prevention and resolution tools on the ground.
- ⇒ In this process, capitalize on the existence of a Parliamentary CICR for the purpose of developing more constructive interethnic relations and foster a continual debate and consensus on interethnic relations and the integration of society, not just by the way of emergency interventions during tensions.
- ⇒ Consider broadening the composition of the Parliamentary Committee on Inter-community Relations (P CICR) in order to also provide room to the numerically smallest communities (category of “others” in the preamble).

Ensure that the public has access to objective and accurate reporting and a variety of viewpoints through the mainstream media, particularly the public sector broadcasters in line with comments of the 2015 Progress Report (p. 21). Promote multiculturalism and social cohesion through the media.

- ⇒ Provide for equitable broadcasting of programs in the languages and interest of all non-majority communities as agreed in the working groups
- ⇒ Consider in particular providing for equitable broadcasting of programs in the languages and interest of smaller non-majority communities at both MRT 1 and 2 both vertically (in overall programming time allotted) and horizontally (in overall programming time at all timeslots, including prime time).
- ⇒ MRT to put a focus on the promotion of social cohesion among communities, including gender aspects in its program concept, to regularly broadcast multicultural media programs, which aim at promoting social cohesion, mutual respect and understanding as well as intercultural dialogue, and to make emissions accessible to audiences from other language communities – through translation and/or subtitling.
- ⇒ Strengthen the human, financial, and technical capacity of the editorial desks in the public information service for multilingual and programs in non-majority languages.
- ⇒ Provide training opportunities for active media personnel engaged with the editorial desks, especially on issues related to intercultural communications, cultural and democratic pluralism, standards of professional reporting, gender mainstreaming, which among other, should involve ethical values related to respect for diversity and inclusion, human rights, and non-discrimination.

On further aspects: Responsibilities for the implementation of the Ohrid Framework Agreement are dispersed and overlapping. Institutions, including SIOFA and ACRR face recurrent challenges in accessing data necessary for targeted policy making and monitoring. SIOFA and ACRR have no effective means for providing incentives or imposing sanctions to foster the implementation of the Ohrid Framework Agreement. SIOFA and ACRR are perceived and/or mandated to cater mainly to specific communities. The ACRR is considered as relatively isolated and is for instance not regularly consulted on relevant government decision, as is the SIOFA. The SIOFA has a strong overrepresentation of ethnic Albanian staff and at times is perceived as representing predominately interests of the Albanian community while the other bodies by law focus on communities with less than 20% share of the overall population. In addition, currently there is no body in charge of developing an overall policy of social cohesion. Mechanisms for inter-community relations provided for in the Ohrid Framework Agreement (double majorities (Badinter requirement) and Committees for Inter-Community Relations can be further strengthened in view of consistency and accountability.

Main recommendations:

Strengthen the institutional set-up for the implementation of the Ohrid Framework Agreement and for the development and implementation of policies of social cohesion.

⇒ Merge SIOFA and the ACRR into a single new Ministry on Political System and Inter-Community Relations (Министерство за политички систем и односи меѓу заедниците) that is composed based on the principle of equitable representation and proactively includes all communities. Provide the new Ministry with direct and automatic access to all disaggregated data relevant for the monitoring of implementation of the Ohrid Framework Agreement. Provide it with the powers to develop a comprehensive policy of social integration as well as powers to monitor, inspect and enforce.

As an alternative:

- ⇒ Clearly designate institution(s) for centralized and unified data collection to ensure continuous collection of disaggregated data, including gender disaggregated, as well as ensure the automatic/immediate availability of such data to relevant bodies (SIOFA, ACRR) in charge of policy-making and monitoring as well as to the public, for instance by establishing a separate Ohrid Framework Agreement Sector within the State Statistical Office (SSO) with separate departments for Education, Languages, Equitable Representation, Decentralization, Anti-Discrimination and Smaller Communities. The SSO has mandatory authority to collect data from state institutions.
- ⇒ Formalize a coordination mechanism / cooperation between SIOFA, ACRR, the General Secretariat and MISA.
- ⇒ Provide clear tasking, mandates and deliverables to inspectorates of Ministries in order to inspect the implementation of all measures related to the Ohrid Framework Agreement and social cohesion in a non-politicized way.
- ⇒ Enlarge the mandate, increase resource allocation, staffing and support to the ACRR
- ⇒ Establish a central governmental unit (e.g. at the PM Office) to develop comprehensive policies promoting social cohesion and societal integration with clear definitions of roles and tasks, coordination and monitoring mechanisms, costing of measures, as well as targets and indicators for implementation.

Strengthen the inter-community related mechanisms provided for the Ohrid Framework agreement in order to safe-guard the interests of all citizens and communities and improve accountability and consistency.

- ⇒ Form an expert/working group to further explore possibilities to strengthen inter-community related mechanisms (Badinter requirement and CICRs).
 - Consider applying the Badinter requirement to budget allocations in those areas where it is applied to policies or to the whole budget.
 - Assess the implications and practicalities of introducing all issues submitted to Badinter centrally also to Badinter locally, including education.
 - Assess harmonizing the mandate of the CICRs with the applicability of the Badinter requirement.