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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 42nd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 13 November 2006, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS:

- (a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)
(continued)

Initial report of The former Yugoslav Republic of Macedonia
(E/C.12/MKD/1; E/C.12/MKD/Q/1 and Add.1; HRI/CORE/MKD/2006)

1. *At the invitation of the Chairperson, the delegation of The former Yugoslav Republic of Macedonia took places at the Committee table.*

2. The CHAIRPERSON welcomed the delegation of The former Yugoslav Republic of Macedonia and invited it to introduce the initial report of the State party.

3. Mr. MESKOV (The former Yugoslav Republic of Macedonia), noting that the State party had acceded to the Covenant as one of the successor States to the former Socialist Federal Republic of Yugoslavia on 17 November 1991 and had submitted its initial report in July 2005, said that the report under consideration covered a period longer than usual under the Committee's norms. It revealed the progress made in various fields, such as education, health, participation in political life and the non-governmental sector. There was still a lot to do, especially with regard to employment, social rights, health, and the status of women, in order to implement all the provisions of the Covenant. For that reason dialogue with the Committee, which should reveal clearly the directions that future activities should take to improve the general situation, was of particular importance for the Government. There were several reasons for the delay in submitting the initial report under the Covenant, including the fact that the legal framework was still somewhat incoherent, in places even full of gaps, owing to the period of transition through which the country was passing and the on-going in-depth review of economic, social and cultural rights, the many initial reports that needed to be submitted under the various international instruments and the substantial reforms and challenges that had marked the period under review, especially since 2001.

4. The State party was making steady progress in establishing a democratic society. Recognition of the universality of human rights, which was the keystone of its legal system, found its expression at the legislative and institutional levels. The State party had inherited a situation in 1991 in which human rights had been relatively well respected. It had made significant strides forward in both formal and legal terms, by relying on the relevant international standards, so that the various categories of beneficiaries of those rights would find themselves on equal footing. Unfortunately, because of the extensive weakness in the economy and the continuing high level of poverty, the formal improvements had still not led to improvements on the ground. An institutional framework was still needed in order to ensure operational follow-up to the laws and regulations adopted. Priority in that area had been assigned to harmonizing labour law with the body of European Union law, in particular the Directive on the principle of the equal treatment of men and women with regard to access to employment and vocational training and promotion and working conditions and the Directive on the burden of proof in cases of discrimination based on sex.

5. The State party, which was actively preparing for membership in the European Union, was working to align its institutions and legislation on the European norms by devoting particular attention to human rights matters and fundamental freedoms, as well as by ensuring equal opportunities for all citizens. The State party was aware of the fact that genuine democratization required full and effective enjoyment of economic, social and cultural rights, which in turn required a certain level of economic development, and it was determined to pursue efforts in that field.

6. As part of its efforts to fight unemployment, the Government had prepared a national employment strategy for the period 2006-2010, which sought to integrate the macroeconomic and microeconomic dimensions, deal with social security and social protection and include the employment policies of the revised Lisbon Strategy and the Integrated Guidelines for Growth and Jobs of the European Union. The Strategy had been put into effect through the National Action Plan for employment for 2006 to 2008 and other operational documents, in close collaboration with employers and employees associations, with a view to promoting full employment, quality and productivity in the workplace, as well as social cohesion. The National Action Plan also specified the necessary funds and legislative changes that were required. The national employment strategy and the National Action Plan had been developed in the framework of an expanded partnership that included the ministries responsible for implementing economic and employment policies, namely, the Ministries of Finance, the Economy, Education and Science, Agriculture, Water Courses and Forests, and local autonomous districts, with the participation of the National Employment Agency, the National Statistics Office, the association of autonomous local government units, and the associations of employers and employees. The Plan and the strategy were based on data and analyses furnished by local and national experts, as well as experts from the European Union's Community Assistance for Reconstruction, Development and Stabilisation project entitled "Employment Policy II". The funds allocated by the State party to implement the strategy and the Plan would be supplemented by funds from the European Union and bilateral donors. The programme for 2007, which had been given an estimated budget, defined the type of measures to be taken on behalf of various target groups and designated the various bodies that were to implement them. Several pilot projects, which received support from the United Nations Development Programme, were already producing positive results.

7. The protection of workers, considered in national legislation to be an integral part of the organization of work, was guaranteed to all workers, whatever the nature or difficulty of their work. In the case of employees in the industrial and administrative sectors, the law on protection at work stipulated various obligations concerning the organization, planning and regulation of protection at the work place, vocational training and the acquisition of skills that made it possible for workers to work independently and in complete safety, the monitoring of the safety of tools at work, the monitoring of harmful biological, chemical and physical substances, and mandatory physical examinations for those working in particular situations. The Ministry of Labour and Social Policy intended to develop and adopt several regulations aimed at implementing the European directives in the field.

8. The European Union had been enlarged on 1 May 2004, and the Roma were the poorest minority group in Europe and the one whose population growth was the highest. They numbered between 7 and 13 million, about 2 per cent of the population of the enlarged European Union. About 6 million Roma live in Central

and Eastern Europe and about 5 million of them in the new member States of the European Union. The challenge posed by the economic and social development of the Roma remained one of the most important issues on the agenda of the countries of Central and Eastern Europe and the other countries of the Union. The problem of the Roma was essentially one of poverty, which in turn was due to their low level of education, lack of adequate housing, poor health and high level of unemployment, all of which created a vicious circle of poverty and exclusion. The State party was one of the countries that had shown determination to promote the protection of the rights of the Roma. It was not merely a moral duty but also an obligation incorporated into the law. In the framework of the Decade of Roma Inclusion a working group consisting of representatives of the ministries and of the competent Rom groups had prepared four national action plans, adopted on 31 January 2005, in the fields of employment, education, health and housing focusing on three main themes, namely, poverty, discrimination and equality between men and women. The State party, the only country participating in the Decade to have adopted and adopted operational plans with a view to facilitating speedier and more effective implementation of the national plans, had been designated the lead country for the Decade by the World Bank and the Open Society Institute. In 2004 a strategy for the Roma had been developed. Given the fact that the strategy and the Decade were aimed mainly at integrating the Roma into the national society and at strengthening the Rom community, the goals and activities of those programmes needed to be harmonized with the general reform policy of the State. Bearing in mind the current situation of the Roma, special measures also needed to be adopted to guarantee members of that community equality of opportunity in all fields. The main long-term indicators that would be used to evaluate the success of the strategy and the Decade would be improvements in the quality of life of the Roma and their greater participation in the social life of the country.

9. Anxious to pursue beneficial cooperation with the United Nations system, especially with bodies represented in the country, the Government of the State party hoped that dialogue with the Committee would make it possible to provide complete and relevant responses to the members.

Articles 1 to 5 of the Covenant

10. Mr. RIEDEL, referring to the written reply of the Government to item 4 of the list of issues, asked why the Human Rights Ombudsman had not requested accreditation from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. He also wanted to know whether all of the Ombudsman's recommendations had actually been acted on. Noting that the Inter-Ministerial Human Rights Body had just adopted its own programme of action, he asked how its activities would be coordinated with those of the Ombudsman and whether the Paris Principles would be respected. Finally, he congratulated the State party for its participation in the Working Group on an optional protocol to the Covenant and asked whether the position expressed by the Government during the work on the protocol remained the official position of the current Government.

11. Mr. ATANGANA noted that the independence of the judicial system, although enshrined in the Constitution, was not guaranteed in practice, as the nomination of judges, for example, was sometimes burdened by political considerations.

12. Ms. GHOSE asked whether all Roma could obtain Macedonian nationality and whether the 2004 National Action Plan had had any effect on the economic, social and cultural rights of members of that community. She also requested more exact information on the status of Albanians, Kosovars, Ashkali and the so-called Egyptians in the State party.

13. Mr. MALINVERNI, noting the continuous activity of the Office of the Human Rights Ombudsman and the fact that the Ombudsman was competent to deal with cases dealing with economic, social and cultural rights, asked why, according to the written reply of the Government to item 1 of the list of issues, there had been no court decisions recorded involving direct application of the Covenant provisions in individual cases.

14. He welcomed the fact that article 9 of the Constitution enshrined the principle of non discrimination and that the number of parliamentarians of minority ethnic origin had grown from 1998 to 2002. He wished to know the situation in 2006. Noting that there were quotas for women in Parliament, he asked whether State party planned to introduce quotas for the ethnic communities as well. Citing sources that revealed that the Roma and the Albanians had difficulties in obtaining identity documents, he wished to know why such people had greater difficulties than others in exercising their rights. He quoted other information that stated that the Government was reluctant to grant refugee status to Kosovars who had fled the conflict in their country.

15. Mr. SADI requested information on the participation of non-governmental organizations (NGOs) in the drafting of the report under consideration and wished to know whether the State party distinguished between nationals and foreigners with regard to the exercise of economic, social and cultural rights.

16. Ms. BARAHONA RIERA asked what body had responsibility for implementing the policy to promote equality between men and women and what human and financial resources it had at its disposal in order to accomplish its task. She wished to know whether the State party had adopted a law on the equality of opportunity between men and women and a law that made sexual discrimination at the workplace a crime. She also wished to know more about the situation of rural women, who, according to certain sources, were very disadvantaged.

The meeting was suspended at 3.55 p.m. and resumed at 4.05 p.m.

17. Mr. TODOROV (The former Yugoslav Republic of Macedonia) said that he was unable to furnish information on the Office of the Human Rights Ombudsman, which operated with complete independence and was not required to report to the Government. However, the Ombudsman issued an annual report with statistics on violations of economic, social and cultural rights, which had been used in preparing the Government's written reply. The delegation had no information on the Inter-Ministerial Human Rights Body, which had been established only in March 2006. That body was supposed to prepare periodic reports on human rights in the country, and those reports could be translated and submitted to the Committee if necessary.

18. He noted that, in the past, some judges had been appointed on purely political grounds, but the situation was undergoing radical change with the reform of the judicial system, which had started in December 2005. An independent body would be made responsible for appointing judges. He also confirmed that his country was

in favour of adopting an optional protocol to the Covenant and supported without reservation the work of the Working Group established for that purpose.

19. Ms. KAMBERI (The former Yugoslav Republic of Macedonia) said that her country was one of the few in Europe where the Rom community was officially recognized and exercised the same rights as the other ethnic communities. Wishing to improve the living conditions of the Roma, the State party had, as soon as the Decade of Roma Inclusion 2005-2015 had been launched, adopted four action plans in the fields of employment, education, housing and health. The action plans had been submitted systematically to Rom NGOs for their comments.

20. She said that the Rom community in Macedonia consisted of Ashkali and Egyptians. The Ashkali spoke Albanian, whereas the Egyptians spoke Romany, but neither of them wanted to be recognized as Roma. They were opposed, for example, to having their children receive scholarships for secondary schooling that were reserved for Rom students.

21. Unlike the situation in other countries where the granting of nationality to members of the Rom community posed a real problem, the State party had encountered only about a thousand people who had, unfortunately, been unable to obtain Macedonian nationality. They were usually people born in other, non-former Yugoslav countries who were unable to produce a birth certificate or people born to especially poor families at home, not in a hospital, and had never been registered in the register of births. Roma from Kosovo who requested asylum were not given refugee status but were treated as people needing assistance for humanitarian reasons.

22. She rejected allegations that Albanians encountered difficulties in exercising their rights and in obtaining identity documents.

23. She agreed that the authors of the initial report had not consulted NGOs directly - those organizations were especially active in the country - in drafting the report, but they had taken into consideration information presented in the various reports issued by some of those organizations as well as the relevant statistics they contained. She added that the Government was aware of the need to get NGOs involved in the preparation of periodic reports in the future.

24. Concerning the information on rights and freedoms mentioned in paragraphs 98 to 106 in the report under consideration, she added that the rights and freedoms were the same for "individuals" and "citizens", except for the right to work, the right to social insurance and the right to health.

25. Mr. TODOROV (The former Yugoslav Republic of Macedonia) said that the delegation would, in the future, provide detailed information on the representation of ethnic minorities in State bodies.

26. Mr. MESKOV (The former Yugoslav Republic of Macedonia) said that, after the legislative elections of July 2006, the 120 representatives in Parliament included 29 Albanians, 2 Roma, 2 Turks, 1 Serb, 1 Bosniac and 1 Vlach. Some political parties had proposed the establishment of a quota system for ethnic minorities in Parliament, but the Government did not envisage such a system at the current stage, as the Parliament already included representatives of ethnic minorities.

27. Mr. AVRAMOVSKI (The former Yugoslav Republic of Macedonia) said that in 1999, during the war in Kosovo, his country had received thousands of Kosovar

refugees, who had been sheltered in reception centres and had received medical care and social assistance during the first two years of their stay. Those who obtained refugee status had the right to work, like all other foreigners legally in the country.

28. He added that the fact that courts had not rendered any decisions on cases involving violations of economic, social and cultural rights did not in any way mean that those rights were not guaranteed by the Constitution or not protected by the State.

29. Ms. GROZDANOVA (The former Yugoslav Republic of Macedonia) said that a decision had been taken to set quotas to obtain better representation of women in Parliament and other decision-making bodies, which had contributed to the election of 21 female representatives in the parliamentary elections of 2002, compared to only 9 in 1998. Furthermore, three women had been elected mayors, following an amendment to the law on local elections.

30. She said that the law on equal opportunities between men and women, adopted in May 2006, sought to promote equality between the sexes in the economic and social areas and in employment. With regard to employment the law on professional relations prohibited discrimination based on sex and punished sexual harassment in the workplace.

31. If someone felt that his or her rights had been violated, the matter could be brought to the attention of the competent bodies in the Ministry of Labour and Social Protection, which would launch an investigation, or be reported to the Human Rights Ombudsman, whose functions included receiving complaints. Training courses were also given to those responsible for ensuring respect for the application of the law, including parliamentarians and members of local governments, as well as to journalists.

32. She granted that much remained to be done to make it possible for rural women to join the labour market and participate more in the economic life of the country, in particular by establishing their own businesses. As regards the participation of Rom women in political life, it should be noted that the State party was the first country to elect a Rom woman as a municipal councillor and another as a deputy.

33. In 2004, the Criminal Code had been amended to criminalize discrimination against persons with disabilities, and the law on families had been revised to punish domestic violence and the corruption of minors. A broad ranging campaign had also been launched to make the population aware of the problem of domestic violence, and the Ministry of the Interior had established and funded a hot line to respond to calls from people who were victims of such acts. Seven centres had also been established to shelter such people when the violence to which they had been subjected forced them to leave their family home.

34. Mr. SADI wondered whether the fact that the Covenant had not been invoked directly in courts was due to a lack of knowledge of that instrument on the part of judges. He also asked why one spoke of Turkish or Rom parliamentarians and not rather of Macedonian ones.

35. Mr. PILLAY wished to know whether the State party planned to prepare a framework law on non-discrimination. He also asked what sort of linguistic problems existed that might, as a Council of Europe report suggested, impede access

to justice, and he wondered whether members of ethnic minorities encountered such problems when they tried to use the court system.

36. Ms. GHOSE wished to know what steps the one thousand Roma who had still not obtained Macedonian nationality were required to take in order to regularize their situation. She also asked whether it was possible in the State party to found a political party based on membership in a particular ethnic community and, if so, whether such parties existed. She also requested more information on refugees from Kosovo.

37. Mr. ATANGANA asked what the exact functions of the Office of the Attorney General were, as they seemed to overlap with those of judges.

38. Mr. TODOROV (The former Yugoslav Republic of Macedonia) said that it was quite possible, given the fact that domestic legislation authorized judges and magistrates to rely directly on the provisions of international instruments to support their decisions, that the absence of jurisprudence involving application of the provisions of the Covenant was due to the fact that the officials were not sufficiently familiar with the contents of the instruments.

39. The Civil Procedure Code, the Administrative Procedure Code and the Criminal Procedure Code specified that people who wished to bring an action in court could submit their complaint and all written documentation in their mother tongue. Furthermore, people who belonged to a community that constituted more than 20 per cent of the total population were authorized to use their mother tongue in court, which had then the status of an official language.

40. He then indicated that the Government had no plans at the present time to introduce a framework law on non-discrimination.

41. Replying to Mr. Atangana, he said that under the current law the Attorney General was appointed by the Government and represented one of the organs of the State. The situation was going to change, as a draft law on the subject had been completed by the Ministry of Justice, which would lead to the establishment of an independent Office of the Attorney General, which would be simply a party in trials and no longer a representative of the State.

42. Ms. KAMBERI (The former Yugoslav Republic of Macedonia) said there were 1928 refugees from Kosovo in the country, of whom 1914 were housed in private housing and 14 in shelters, according to figures transmitted by the Office of the High Commissioner for Refugees. She explained that integration of Rom, Ashkali and Egyptian refugees was being carried out, while bearing in mind their rights to social protection, health, access to the labour market and education. The protection of asylum seekers was governed by a law that was in line with the July 2003 directives of the Council of Europe. Refugees from Kosovo enjoyed different rights depending on their status. If they were asylum seekers, they had the right to stay in the country, to have health insurance and to work, but only in the place in which they were staying. If they had the status of refugees, they had the right to stay in the country, to work there, to receive certain allowances and to receive social and medical protection. If they only had the right to humanitarian protection, they had the right to remain in the country, to have health insurance and to receive certain allowances.

43. On the subject of the citizenship of the Roma, she said that about one thousand Roma had not obtained Macedonian nationality for technical reasons. Their cases were currently under review and they were expected to obtain the required documents for citizenship. All of those waiting to obtain those documents, who were being assisted in that matter by the Office of the High Commissioner for Refugees, had been allowed to remain in the country. A veritable network of Rom NGOs had already assisted 500 Roma to obtain Macedonian nationality.

44. Mr. TODOROV (The former Yugoslav Republic of Macedonia) confirmed that the various ethnic groups had a presence even at the level of political parties, which had been the case ever since the independence of the country in 1990-1991. The reality in the country was one of pluralism: the Albanians, for example, had three big political parties, of which one was now in power in the Government; the Turks had two, of which one was a member of the Government coalition; the Roma had six parties, of which five were in the opposition.

Articles 6 to 9 of the Covenant

45. Ms. ALEKSOSKA (The former Yugoslav Republic of Macedonia) said that the law on professional relations prohibited any discrimination at work. It included provisions allowing for greater flexibility in the labour market and regulated the representation of trade unions and employers, with a view to maintaining a social dialogue as a means of promoting the democratic process. Representatives of employers and employees had been involved in the drafting of the law.

46. In 2005 and 2006, various amendments to the laws dealing with employment and unemployment insurance had been introduced with a view to reducing unemployment, which was one of the priority goals of the Government. Certain indicators showed that there had been a favourable evolution in the labour market, with a reduction in the unemployment rate and a rise in the rate of employment.

47. Mr. SAKIRI (The former Yugoslav Republic of Macedonia) said that a draft law on safety and the protection of health at work in line with European Union directives was being drafted. The draft established an obligation on the part of the employer to designate a person who would be responsible for safety on the premises and to inform employees about the safety regulations in force. In accordance with International Labour Organization (ILO) Convention No. 155 (1981) on occupational safety and health and the working environment, the text of the law in question was required to state the obligation of the Government to adopt a national programme in that field.

48. Ms. BRAS GOMES asked the delegation to provide recent statistics documenting the reduction in the unemployment rate since 2003, when it had stood at 36.7 per cent, and to give examples of long-term indicators that revealed how successful the measures adopted to accelerate the implementation of the National Action Plan for employment had been, with particular reference to the Roma and to women. She expressed her surprise at the fact that no cases of sexual harassment in the workplace had been reported in the country, and requested an explanation of that fact. She also wished to know what measures were planned by the Government to regularize the informal sector of the economy.

49. With regard to article 7 of the Covenant, she asked whether the authorities of the State party intended to set a national minimum wage, which would serve as a

guarantee for the protection of the rights relating to work in most of the country, and, if not, why not.

50. With regard to article 9 of the Covenant, she asked about social assistance, which posed two problems for the country: the high cost of programmes, which could be partially due to the fact that they were poorly targeted, and the low level of assistance, which could not ensure the minimum living conditions for recipients. She asked for more precise information as to whether there was a single minimum amount for pensions and whether that minimum was enough to ensure a decent living standard. Finally, she wished to know whether there were plans to establish a genuine paternity leave, as the current paternity leave was available only in cases where there were serious problems on the mother's side, such as sickness, death or abandonment.

51. Mr. RIEDEL requested the Government to determine and transmit to the Committee benchmarks that would enable the Committee to evaluate the impact of the draft law on safety at work over the next five years. He expressed his surprise that the State party had not ratified ILO Conventions No. 117 (1962) on basic aims and standards of social policy, No. 118 (1962) on equality of treatment of nationals and non-nationals in social security and No. 174 (1993) on the prevention of major industrial accidents, and he asked why that was the case. Given the extremely high rate of unemployment in the country, namely 37.7 per cent, and in particular the alarming fact that 85 per cent of that unemployment was long-term, he wished to know what specific measures had been taken by the Government, and, more specifically, what the National Action Plan for employment in 2004 and 2005 had achieved. Finally, the Committee needed to determine whether the human rights situation in the country had improved or deteriorated and therefore needed precise information on various topics, such as the reasons why the number of unemployed receiving training courses had dropped by a half between 2000 and 2003, along with annual statistics on unemployment, broken down by sex, urban vs. rural, and ethnic group, and figures on the amounts actually paid to persons with disabilities as social assistance.

52. Mr. ABDEL MONEIM expressed his surprise at the existence of preferential treatment for employees of the Ministry of Defence, which was a practice that the Committee had encountered in other countries and which he considered to be in violation of paragraph 2 of article 2 of the Covenant, which prohibited States parties from exercising discrimination based on social origin. Citing paragraphs 271 and 272 of the initial report of the State party, he expressed his concern that, in calculating the minimum pension amount, the State party took into consideration only the number of years of pensionable work and not other important factors such as the inflation rate. He pointed out that article 9 of the Covenant needed to be interpreted in the light of article 11, which recognized the right of all to an adequate living standard.

53. Mr. PILLAY, citing information received from the Council of Europe, expressed his surprise that the Roma, in order to receive social assistance, had to submit their electric bills, given the fact that they often lacked basic infrastructure in their housing. It seemed similarly unrealistic to require them to prove that they had completed eight years of school to be allowed to have access to health care services. He asked what the Government was doing to improve that situation.

54. Mr. KOLOSOV expressed his satisfaction with the exhaustive information provided in the initial report on the right to strike but regretted that no mention was made of cooperation between Macedonian trade unions and international federations of trade unions. Noting that the list of restrictions on the right to strike seemed rather excessive, he asked whether the Government intended to shorten that list.

55. Mr. MARTYNOV requested that the delegation submit recent statistics not only on the Roma but also on the other ethnic groups. He asked whether unemployment benefits were in fact paid in the country, in what amount and whether they made it possible to live in decent conditions. He also requested an explanation of the long list of exceptions to the payment of social assistance allowances, in particular ownership of a registered automobile and the fact of having been fired from one's job for cause.

The meeting rose at 6 p.m.