EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX

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FIRST REPORT
ON THE NON-ACCEPTED PROVISIONS OF
THE EUROPEAN SOCIAL CHARTER

"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"

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I. SUMMARY

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions - the Committee of Ministers decided in December 2002 that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned" (Decision of the Committee of Ministers of 11 December 2002).

Following this decision, it was agreed that the European Committee of Social Rights would examine - in a meeting or by written procedure - the level of conformity of the country's situation, in law and in practice, with non-accepted provisions. This review would be done for the first time five years after the ratification of the Revised European Social Charter, and every five years thereafter, to assess the situation on an on-going basis and to encourage States to accept new provisions. Indeed, experience has shown that States tend to forget that the selective acceptance of the provisions of the Charter should be only a temporary phenomenon.

As "The former Yugoslav Republic of Macedonia" ratified the Revised Charter on 6 January 2012, accepting 63 out of 98 paragraphs, the procedure provided by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between the European Committee of Social Rights and representatives of various ministries in Skopje on 8 November 2017.

The meeting focused on the actual situation in ""The former Yugoslav Republic of Macedonia"", in law and in practice, and the possible acceptance of the following provisions:

- **Articles 3§1, 3§3** (*Right to safe and healthy working conditions - Safety and health regulations; Enforcement of safety and health regulations*);
- **Article 4§1, 4§4** (*Right to a fair remuneration - Decent remuneration; Reasonable notice of termination of employment);*
- **Article 7§5** (*Right of children and young persons to protection - Fair pay)*
- **Article 9** (*Right to vocational guidance*);
- **Articles 10§1, 10§2, 10§3, 10§4, 10§5** (*Right to vocational training - Technical and vocational training and access to higher technical and university education; Apprenticeship; Vocational training and retraining of adult workers; Long term unemployed persons; Full use of facilities available*);
- **Article 14§1, 14§2** *(Right to benefit from social services - Promotion or provision of social services; Public participation in the establishment and maintenance of social services);*
- **Article 15§3** *(Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community);*
- **Articles 18§1, 18§2, 18§3, 18§4** *(Right to engage in a gainful occupation in the territory of other States Parties - Applying existing regulations in a spirit of liberality; Simplifying existing formalities and reducing dues and taxes; Liberalising regulations; Right of nationals to leave the country)*
- **Articles 19§2, 19§3, 19§4, 19§7, 19§9, 19§10, 19§11, 19§12** *(Right of migrant workers and their families to protection and assistance - Departure, journey and reception; Co-operation between social services of emigration and immigration States; Equality regarding employment, right to organise and accommodation;*

Equality regarding legal proceedings; Transfer of earnings and savings; Equal treatment for the self-employed; Teaching language of host State; Teaching mother tongue of migrant)

- **Article 22** (*Right of workers to take part in the determination and improvement of working conditions and working environment);*
- **Article 23** *(Right of the elderly to social protection);*
- **Article 25** (*Right of workers to protection of their claims in the event of the insolvency of their employer*);
- **Article 27§1, 27§2** (*Right of workers with family responsibilities to equal opportunity and treatment - Participation in working life; Parental leave);*
- **Article 30** *(Right to be protected against poverty and social exclusion);*
- **Articles 31§1, 31§2, 31§3** *(Right to housing - Adequate housing; Reduction of homelessness; Affordable housing).*

The European Committee of Social Rights proceeded to the examination of the situation on the basis of the information provided by the government during the meeting and in writing (information submitted on 20 December 2017) and considered that there were no major legal obstacles to the acceptance of Articles 3§1, 9, 10§1, 18§1, 18§2, 18§4, 19§7, 19§9, 19§10 and 22. Further clarification of the situation in law and practice would be required with respect to Articles 3§3, 4§1, 4§4, 7§5, 10§2, 10§3, 10§4, 10§5, 14§1, 14§2, 15§3, 18§3, 19§2, 19§3, 19§4, 19§11, 19§12, 23, 25, 27§1, 27§2, 30, 31§1, 31§2 and 31§3 of the Charter.

An exchange of views also took place concerning the 1995 Additional Protocol to the Charter providing for a system of collective complaints.

On 20 December 2017, the authorities of "the former Yugoslav Republic of Macedonia" submitted a written report containing the information presented at the meeting. This report is available here: First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf; The electronic version of the presentation made at the Seminar - 8 Nov 2017 appears in Appendix II.[1]

In view of the conclusions of this report, the Committee wishes to encourage "The former Yugoslav Republic of Macedonia" to consider accepting additional provisions of the Charter and the 1995 Additional Protocol as soon as possible, so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

The European Committee of Social Rights remains at the disposal of the authorities for continued dialogue on the non-accepted provisions.

The detailed programme of the meeting, including the list of speakers, appears in Appendix I.

The situation of "The former Yugoslav Republic of Macedonia" with respect to the Charter appears in Appendix III.

The next examination of the provisions not yet accepted by "The former Yugoslav Republic of Macedonia" will take place in 2022.

[1] The attached documents have been prepared by the authorities of "The former Yugoslav Republic of Macedonia". The Council of Europe is not responsible for their content.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

The meeting was opened by Mila CAROVSKA, Minister of Labour and Social Policy of "The former Yugoslav Republic of Macedonia" and by Monica MARTINEZ, Head of Operations, Council of Europe Programme Office in Skopje; it was chaired by Darko DOCHINSKI, Ministry of Labour and Social Policy (MoLSP) and Lauri LEPPIK, former member and General Rapporteur of the European Committee of Social Rights.

The authorities of "The former Yugoslav Republic of Macedonia" presented the situation in law and in practice relating to the non-accepted provisions. Interventions were made by representatives of the MoLSP (Labour Department, Social Protection Department), Ministry of Education and Science (Unit for Secondary Education), Ministry of Interior (Unit for Foreigners and Readmission), Employment Service Agency of "The former Yugoslav Republic of Macedonia" (ESARM) (Unit for Employment Services) as detailed in the Programme (Appendix I).

The Committee delegation consisted of Lauri LEPPIK, former member and General Rapporteur of the European Committee of Social Rights, and Barbara KRESAL. The Secretariat was represented by Nino CHITASHVILI and Elena MALAGONI. They presented some aspects of the case-law with regard to the non-accepted provisions and the possible acceptance of these provisions by "The former Yugoslav Republic of Macedonia". Full information on the case-law is available in the Digest of the Case-Law of the European Committee of Social Rights.

Article 3§1 *The right to safe and healthy working conditions - Safety and health regulations*

Situation in "The former Yugoslav Republic of Macedonia"
The Government provided information concerning the Law on Occupational Safety and Health which has introduced measures for improved occupational safety and health, and all amendments are made in consultation with social partners. Furthermore, all acts are discussed on regular basis by the social partners through the Economic-Social Council, as a tripartite national body that gives recommendations and advice to the Government of "The former Yugoslav Republic of Macedonia".

The social partners are also part of the Occupational Safety and Health Council – an expert advisory body, established by the Government. The body consists of representatives from the Government, labour unions, employers' associations, occupational safety and health associations, and science representatives.

According to the Government, the 2020 Occupational Safety and Health Strategy, adopted in September 2017, shows the current state of the occupational safety and health system, the anticipated results in 2020, the action areas, the intervention approach, the national priorities, the key challenges, the monitoring, evaluation, reporting and financing of the same. An integral part of the Strategy is the Action Plan for the implementation of the Strategy (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
Under Article 3§1, States Parties undertake to formulate, implement and periodically review a coherent occupational health and safety policy in consultation with social partners.

The main policy objective must be to foster and preserve a culture of prevention in the areas of health and safety at national level, as opposed to a purely curative or compensatory approach.

The policies and strategies adopted must be regularly assessed and reviewed, particularly in the light of changing risks.

A culture of prevention implies that all the partners – authorities, employers and workers – are actively involved in occupational risk prevention, working within a well-defined framework of rights and duties and predetermined structures.

Public authorities must, in order to increase general awareness, knowledge and understanding of the concepts of danger and risk as well as of ways of preventing and managing them. Article 3§1 requires consultation not only for tripartite co-operation between authorities, employers and workers to seek ways of improving their working conditions and working environment but also for the co-ordination of their activities and co-operation on key safety and prevention issues.

Mechanisms and procedures of consultation with employers' and workers' organisations must be set up at national and sectoral level. The right to consultation is satisfied where there are specialised bodies made up of representatives of the government and of employers' and workers' organisations, which are consulted by the public authorities. If these consultations may take place on a permanent or ad hoc basis; they must in any case be efficient with regard to powers, procedures, participants, frequency of meetings and matters discussed, in promoting social dialogue in occupational safety and health matters.

In view of these requirements, the Committee considered that "The former Yugoslav Republic of Macedonia" may be in a position to accept this provision as long as the overall strategy of occupational health and safety has been developed and is being implemented. Additional information would also be necessary as regards risk assessment at company level and coverage of the so-called new risks (e.g. psychological). It accordingly recommended acceptance of Article 3§1.

Article 3§3 ***The r**ight to safe and healthy working conditions - Enforcement of safety and health regulations***

Situation in "The former Yugoslav Republic of Macedonia"
According to the Government, the State Labour Inspectorate (SLI) monitors the implementation and the practical enforcement of the occupational safety and health legislation. The Sector for inspection supervision in the area of occupational safety and health at the SLI is organised in three regions nationwide and includes 37 occupational safety and health inspectors, where 29 of them carry out inspections in the field i.e. in the companies.

The state labor inspectors in the area of occupational safety and health determine, when doing inspections at the employers, whether occupational health and safety measures are met by the employers. In accordance with their mandate, the inspector issue resolutions that order the employer to remove the detected irregularities within a certain period, otherwise a misdemeanor procedure will follow.

The SLI gives preventive measures, educational measures, executive measures, instructing employers and employees on their duties, and introduces an occupation safety and health management system.

According to the SLI's reports in the last three years (2014-2016), inspections were carried out in a significant number of companies with an average annual coverage of around 200,000 employees.

A challenge for the Inspectorate is the small number of occupational safety and health inspectors – insufficient to carry out the existing duties in terms of the inspection supervision in all companies in the country.
Priority for the State remains strengthening the SLI's capacities in terms of human resources and from technical and professional aspect, in order to improve the national occupational safety and health system (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The aim of Article 3§3 is to guarantee the effective implementation of the right to safety and health at work. This implies monitoring development of the number of injuries at work and occupational diseases, checking the application of regulations and consulting employers' and workers' organisations on this subject.

The enforcement of safety and health regulations by measures of supervision is carried out in light of Part III Article A§4 of the Charter, whereby States Parties shall maintain a system of labour inspection appropriate to national conditions.

Frequency and trends in occupational injuries are decisive in assessing the effective implementation of the rights set out in Article 3§3. In this regard, the number of all occupational accidents is monitored (accidents excluding road traffic accidents with more than three days' absence) and the number of such accidents in relation to the workforce (incidence rate per 100 000 workers).

States Parties must provide information on incidence rates of major occupational diseases, although no criteria have been developed as of yet for assessing the conformity of different levels of incidence rates for these diseases.

The collection and presentation of data on occupational accidents and diseases must be reliable and exhaustive [and be] in accordance with accepted statistical methods. States Parties must take measures to combat possible non-reporting and/or concealment of accidents and diseases. An ineffective or failing system of reporting of accidents and diseases may lead to a finding of non-conformity.

The proper application of the Charter "cannot be ensured solely by the operation of legislation if this is not effectively applied and rigorously supervised." Monitoring of compliance with laws and regulations on occupational safety and health, including coercive measures, is a prerequisite for the right guaranteed by Article 3 to be effective.

In the light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in "The former Yugoslav Republic of Macedonia". The Committee underlined that the number of inspectors seemed to be relatively low in comparison with the number of companies and hence the number of visits not adequate. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 4§1 *The right to a fair remuneration - Decent remuneration*

Situation in "The former Yugoslav Republic of Macedonia"
The Government indicated that the Constitution guarantees each individual the right to an adequate wage. As a result of the agreement between the Government and its social partners, at the beginning of 2012, the right to minimum wage and its amount was regulated for the first time in "The former Yugoslav Republic of Macedonia". The law has undergone several changes (the last one was with the Law on Amending the Law on Minimum Wage,

adopted in September 2017). The aim of this amendment was to increase the minimum wage in "The former Yugoslav Republic of Macedonia", to standardize the level of the minimum wage for everyone, and to provide financial assistance for the employers for payment of the minimum wage in a period of 12 months after the adoption of the Law.
With these changes, the minimum wage for each employee in the country is 17,130 denars in gross amount or 12,000 denars in net amount (53.7% of the average net wage paid for 2016) (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. It applies to all workers, including to civil servants and contractual staff in the state, regional and local public sectors, to branches or jobs not covered by collective agreement, to atypical jobs (assisted employment), and to special regimes or statuses (minimum wage for migrant workers).

The concept of "decent standard of living" goes beyond merely material basic necessities such as food, clothing and housing, and includes resources necessary to participate in cultural, educational and social activities.

To be considered fair within the meaning of Article 4§1, the minimum or lowest net remuneration or wage paid in the labour market must not fall below 60% of the net average wage. Beyond 60% the Committee presumes that the situation is fair within the meaning of the Charter. When the net minimum wage is between 50 and 60% of the net average wage, it is for the state to establish whether this wage is sufficient to ensure a decent standard of living. However, a net wage which is less than 50% of the net national average wage will be deemed to be unfair and therefore the situation of the Party concerned will not be in conformity with Article 4§1.

To be considered fair within the meaning of Article 4§1, remuneration must in any event be above the poverty line in a given country.

Remuneration relates to the compensation – either monetary or in kind – paid by an employer to a worker for time worked or work done. It covers, where applicable, special bonuses and gratuities. The assessment is based on net amounts, i.e. after deduction of taxes and social security contributions. Where net figures are difficult to establish, it is for the State Party concerned to conduct the needed enquiries or to provide estimates.

In view of these requirements, the Committee considered that further information was needed to assess if this provision could be accepted by "The former Yugoslav Republic of Macedonia", especially as regards the net values of minimum and average wages. It encouraged the Government to pursue their efforts and to continue considering the acceptance of Article 4§1 in the near future.

Article 4§4 *The right to a fair remuneration – Reasonable notice of termination of employment*

Situation in "The former Yugoslav Republic of Macedonia"
The Government indicated that the employee can terminate his or her contract of employment by a written request. The employer can terminate the contract of employment if there is a justified (valid) reason in relation to the employee's behavior, due to the violation of the working order and discipline, or of the working obligations, or in relation to the operational requirements (business reasons).

The employee and the employer must respect the minimum duration of the period of notice, as defined by the Law, the collective agreement and the contract of employment.

If the employee terminates the employment contract, the notice period is one month. A longer period of notice can be agreed with the employment contract or with collective agreement, but not longer than three months (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
This paragraph forms part of the Article on remuneration, as the main purpose of giving a reasonable notice is to allow the person concerned a certain time to look for other work before his or her current employment ends, i.e. while he or she is still receiving wages.

The concept of "reasonable" notice has not been defined *in abstracto* nor has the Committee ruled on the function of the period of notice or the compensation in lieu thereof. The Committee assesses the situations on a case by case basis. The major criterion for the assessment of reasonableness is length of service. It has concluded, for example, that the following periods of notice and/or compensation in lieu thereof were not in conformity to the Charter:

- five days' notice after less than three months of service;
- one week's notice after less than six months of service;
- two weeks' notice after more than six months of service;
- less than one month's notice after one year of service;
- eight weeks' notice after at least ten years of service;
- twelve weeks' notice for workers dismissed for long-term working incapacity who have five or more years of service.

The right to reasonable notice of termination of employment applies to all categories of workers independently of their status. National law must be broad enough to ensure that no workers are left unprotected. The only exception to the right of all workers to a reasonable period of notice concerns immediate dismissal for serious offences set out in the Appendix to the Charter.

In the light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in "The former Yugoslav Republic of Macedonia", in particular the link between the length of service and the periods of notice. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 7§5 *The right of children and young persons to protection - Fair pay*

Situation in "The former Yugoslav Republic of Macedonia"
According to the Government, the Law on Labor Relations regulates the ability to sign an employment contract with a young person under 18 years of age. A young person (an individual between the ages of 15 and 18, who is not covered by the compulsory education) can sign an employment contract for execution of works that are not dangerous for his/her health and safety. It is forbidden for a child under the age of 15 or a child without compulsory education, except for activities allowed by law but no longer than four hours daily.

The law further regulates the exceptions to these provisions, introduces protection of minors from exploitation, the maximum number of working hours, according to age, etc. However, there are no special provisions in the Law that would regulate the wages of the young people, meaning that the general regulations on labor relations, applicable to all other

persons, would also apply to these persons as well (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
In application of Article 7§5, domestic law must provide for the right of young workers to a fair wage and of apprentices appropriate allowances. This right may result from statutory law, collective agreements or other means. The "fair" or "appropriate" character of the wage is assessed by comparing young workers' remuneration with the starting wage or minimum wage paid to adults (aged 18 or above).

The young worker's wage may be less than the adult starting wage, but any difference must be reasonable and the gap must close quickly. For fifteen/sixteen year-olds, a wage of 30% lower than the adult starting wage is acceptable. For sixteen/eighteen year-olds, the difference may not exceed 20%. The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter. If the reference wage is too low, even a young worker's wage which respects these percentage differentials is not considered fair.

In the light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in "The former Yugoslav Republic of Macedonia". The Committee underlined that there was a close link between this provision and Article 4§1 and invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 9 *The right to vocational guidance*

Situation in "The former Yugoslav Republic of Macedonia"
The Government indicated that vocational guidance within the labour market was provided by the Employment Service Agency (ESARM) in accordance with the Law on Employment and Insurance in Case of Unemployment. Psychologists and career counselors from employment centers, coordinated by the Central Service, provide information, professional orientation and counseling, together with help for career and education choices to unemployed individuals, students and people with disabilities. The Professional Orientation and Career Counseling service is free. Detailed information was provided concerning the development of vocational guidance services in the last few years, the services provided, the number of beneficiaries and budget. Information was also provided concerning the vocational guidance services provided by ESARM in 2017 to primary schools, secondary schools and college graduates (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
Article 9 requires States Parties to set up and operate vocational guidance services within the school system (information on training and access to training) and within the labour market (information on vocational training and retraining, career planning, etc).

Vocational guidance must be provided:
- free of charge;
- by qualified (counsellors, psychologist and teachers) and sufficient staff;
- to a significant number of persons and by aiming at reaching as many people as possible, including non-nationals (no length of residence requirement should apply in respect of nationals of other States Parties);
- and with an adequate budget.

In the light of these requirements, the Committee considered that "The former Yugoslav Republic of Macedonia" seemed to have the necessary legal framework concerning both

vocational guidance in education and in the labour market, and could accept this provision, provided that adequate information could regularly be gathered concerning staff qualifications and numbers, the budget allocated to vocational guidance (disaggregated from the general budget of the labour agency) and the adequacy between supply of vocational guidance services and demand. It accordingly recommended acceptance of Article 9.

Article 10§1 *The right to vocational training - Technical and vocational training and access to higher technical and university education*

Situation in "The former Yugoslav Republic of Macedonia"
According to the Government, in terms of Article 10§1, several reform processes are ongoing, but requiring further work on several open issues in order to reach equal access to education and training for everyone, according to the demands in the labour market. The reform processes include the vocational education and training system, higher education and adult education, as well as formal and informal learning. The Government stated that there are still open issues that require further efforts. The process of reforms in education is an important segment of vocational education. It prepares the students for the labor market. Current analyses show that graduates lack skills to participate directly in the labor market. Besides, there is no single system (database) that would include all information on the vocational education and the labor market, as well as monitoring system that would track the destinations of the graduates. Further development of career services at schools and universities, professional development of teachers as well as the lack of harmonisation in the legal framework, gaps, but also the need for urgent harmonisation of all laws with the Law on National Qualifications Framework, are among other open issues where reforms are currently being implemented (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
In view of the evolution of national systems, which consists in the blurring of the boundaries between education and training at all levels within the dimension of lifelong learning, the notion of vocational training of Article 10§1 covers: initial training - i.e. general and vocational secondary education - university and non-university higher education, and vocational training organised by other public or private actors, including continuing training – which is dealt with under paragraph 3 of the Charter (see infra). University and non-university higher education are considered to be vocational training as far as they provide students with the knowledge and skills necessary to exercise a profession.

At a time of economic recession, the importance of vocational training should be emphasised, and priority should be given to young persons, who are particularly hit by unemployment.

In order to provide for vocational training States Parties must:

- ensure general and vocational secondary education, university and non-university higher education; and other forms of vocational training;
- build bridges between secondary vocational education and university and non-university higher education;
- introduce mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general, technical and university higher education;
- take measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market;

– introduce mechanisms for the recognition of qualifications awarded by continuing vocational education and training.

The main indicators of compliance include the existence of the education and training system, its total capacity (in particular, the ratio between training places and candidates), the total spending on education and training as a percentage of the GDP; the completion rate of young people enrolled in vocational training courses and of students enrolled in higher education; the employment rate of people who hold a higher-education qualification and the waiting-time for these people to get a first qualified job.

In view of these requirements, the Committee considered that "The former Yugoslav Republic of Macedonia" may be in a position to accept this provision, provided that measures have been taken to establish vocational training system. The Committee noted the progress made, as well as measures taken to 'close' a number of open issues identified by the authorities. It also noted that the National Framework of Qualifications has been introduced and different methodologies are being developed to analyse the labour market, create new templates of education in compliance with the national framework of educational development. The Skills Observatory was set up to address the mismatch between the skills acquired and the demands of the labour market. The Committee accordingly recommended acceptance of Article 10§1.

Article 10§2 *The right to vocational training - Apprenticeship*

Situation in "The former Yugoslav Republic of Macedonia"
According to the Government, there are still some open issues as regards apprenticeship, such as, for example, the fact that the practical training in the secondary vocational education and training is regulated by law, however its implementation fails to offer expected results. There is a small number of students who work as interns at companies, while the others carry out practical learning at schools (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
According to Article 10§2, young people have the right to access to apprenticeship and other training arrangements. Apprenticeship can mean training based on a contract of employment between the employer and the apprentice and leading to vocational education; whereas other training arrangements can be based on a school-based vocational training. They both must combine theoretical and practical training and close ties must be maintained between training establishments and the working world.

Apprenticeship is assessed on the basis of the following elements: length of the apprenticeship and division of time between practical and theoretical learning; selection of apprentices; selection and training of trainers; termination of the apprenticeship contract.

In view of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in "The former Yugoslav Republic of Macedonia". In particular, there is no information about the existence of a contract of employment between the employer and the apprentice and the division of time between practical and theoretical learning. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 10§3 *The right to vocational training - Vocational training and retraining of adult workers*

Situation in "The former Yugoslav Republic of Macedonia"
The Government stated that the Employment Service Agency is a public institution that carries out vocational, organisational, administrative and other duties required for employment and insurance in case of unemployment, and assists the participants in the labor market.

The base for training, re-training and further training is given by the Law on Employment and Insurance in Case of Unemployment. The trainings/measures are elaborated in the Operational Plan for Active Programmes and Measures for Employment and Services on the Labour Market.

According to Article 3 from the Law on Employment and Insurance in Case of Unemployment, one of the main tasks of the labour exchange is to refer the unemployed to training, retraining and further training for employment or, in accordance with Article 12, one of the services from the labour exchange of the employers provided by the Agency is assistance to the employer in organising training, retraining or further training of unemployed individuals according their level of education and skills for the needs of the employer.

Training for meeting the demand for specific occupations on the labour market
The training programme will be realised during a period of four months at a verified training provider, with one month of this time intended for practical training in the premises of the company. The training will provide skills for positions required by the labour market, ascertained on the basis of several sources (data about the local labor market, analysis for the skills required by the labor market, a survey of the employers' organization, economic chambers and municipalities, as well as upon request by an employer and the interest shown by the job seekers for such training).

Trainings will be carried out for the following occupations: accounting officer, masseur, makeup artist, home care assistant for elderly persons, car repairman for modern vehicles, locksmith (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
According to Charter, the right to continuing vocational training must be guaranteed to employed and unemployed persons, including young unemployed people. Self-employed persons are also covered by this provision. Article 10§3 takes into consideration only those of the activation measures for unemployed people that strictly concern training, while Article 1§1 deals with general activation measures for unemployed people. The notion of continuing vocational training includes adult education.

For both employed and unemployed persons, the main indicators of compliance with this provision are the types of continuing vocational training and education available on the labour market, training measures for certain groups, such as women, the overall participation rate of persons in training and the gender balance, the percentage of employees participating in continuing vocational training, and the total expenditure.

As regards employed persons, States Parties are obliged to provide facilities for training and retraining of adult workers. The existence of these preventive measures helps fighting against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development.

As regards unemployed people, vocational training must available to them. The activation rate – i.e. the ratio between the annual average number of previously unemployed

participants in active measures divided by the number of registered unemployed persons and participants in active measures - is used to assess the impact of the States Parties' policies.

In the light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in "The former Yugoslav Republic of Macedonia". In particular, information would be needed on the proportion of employed persons who undergo training as well as the activation rate of unemployed persons. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 10§4 *The right to vocational training - Long term unemployed persons*

Situation in "The former Yugoslav Republic of Macedonia"
According to the Government long–term unemployed persons account for 65.6% of all unemployed persons. Employment services for the unemployed provide information, counseling guidance, job search skills, mediation in employment on an individual approach basis as well as group work.

The motivational training includes young unemployed persons up to the age of 29 (with advantage for those with poor qualifications) and long-term unemployed persons from the ESARM's registry of unemployed. The goal of the motivational trainings is to increase the motivation among the unemployed people, to be active job seekers.

The number of trainings carried out by employment centers will be adjusted according to the number of unemployed persons in the Registry for Employment. The participants are involved in the trainings based on the interest expressed by the unemployed persons, following consultation and recommendations from the Individual Plan for Employment of the person, etc. The participants are informed and summoned via letters, telephone, SMS, information on the ESARM's web portal, etc.

The expected outcomes from the completion of these trainings are better information, interest and motivation to participate in the ESARM's services and active measures for employment, and other active job-seeking activities. These effects are long-term and they will contribute towards better motivation of the unemployed to improve their employment skills. The results achieved will be monitored through the number of participants involved in the motivational trainings and their employment status after the trainings (see for details First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
In accordance with Article 10§4, States Parties must fight long-term unemployment through retraining and reintegration measures. A person who has been without work for 12 months or more is long-term unemployed.

The main indicators of compliance with this provision are the types of training and retraining measures available on the labour market, the number of persons in this type of training, the special attention given to young long-term unemployed, and the impact of the measures on reducing long-term unemployment.

In the light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in "The former Yugoslav Republic of Macedonia". The Committee noted that the share of long-term unemployment in the total unemployment is very high. It would like to know what was the impact of training measures on reducing long-term unemployment. The Committee invited "The former Yugoslav

Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 10§5 ***The right to vocational training - Full use of facilities available***

Situation in "The former Yugoslav Republic of Macedonia"
The Government indicated that training programmes are aimed at providing knowledge on the occupations required in the labor market, confirmed by several sources (data about the local labor market, analysis for the skills required by the labor market, a survey by the employers' organisation, economic chambers and municipalities, upon request by an employer, interest by job seekers for such training). Trainings will be carried out for the following occupations: accountant officer, masseur, makeup artist, home care assistant for elderly, auto mechanic for modern vehicles, locksmith.

The training will be implemented by training providers verified by the Center for Adult Education and the Ministry of Education and Science. The participation criteria are defined in the training programs in accordance with the Law on Adult Education. The training providers will receive a maximum of 30,000 denars per trained person. The trainees receive a monthly net amount of 5,043 denars (added to this sum are the personal income and insurance in a case of accident at work and professional disease).

Upon completion of the training and verification of the knowledge and skills acquired, the participants will be awarded a certificate on the skills acquired which will be recorded in the unemployed person's file.

Opinion of the Committee
Paragraph 5 provides for complementary measures which are fundamental to make access effective in practice.

States Parties must ensure that vocational training, as defined in paragraph 1, is provided free of charge or that fees are progressively reduced. Access to vocational training also implies the granting of financial assistance, whose importance is so great that the very existence of the right to vocational training may depend on it.. States Parties must provide financial assistance either universally, or subject to a means-test, or awarded on the basis of the merit. In any event, assistance should at least be available for those in need and shall be adequate. It may consist of scholarships or loans at preferential interest rates. The number of beneficiaries and the amount of financial assistance are also taken into consideration for assessing compliance with this provision.

In the light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in "The former Yugoslav Republic of Macedonia". In particular, information would be needed concerning the availability of financial assistance for training, including the criteria for granting such aid. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 14§1 ***The right to benefit from social services - Promotion or provision of social services***

Situation in "The former Yugoslav Republic of Macedonia"
The Government referred to the Law on Social Protection, as the main legal framework addressing measures, activities and policies to prevent and overcome the basic social risks. It indicated the types of financial allowances available, as well as the network of bodies providing social services. In particular, reference was made to the measures taken to ensure

the quality of the services provided, through the setting up in 2012 of a licensing process for the staff (as of September 2017, a total of 907 professional employees of the Institutions for Social protection received their license) as well as through regular monitoring. The Government also referred to the Day Centres for vulnerable categories of people, in particular children and persons with disabilities, and the network of foster families. It indicated the main lines of development of social protection activities which were being implemented in 2011-2021 in accordance with a specific Programme and stated that a comprehensive reform of the social protection system was envisaged, with a view to improving the use of the resources and increasing the efficiency of the services provided (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee

Article 14§1 guarantees the right to general social welfare services. The right to benefit from social welfare services must potentially apply to the whole population, which distinguishes the right guaranteed by Article 14 from "the various articles of the Charter which require States to provide social welfare services with a narrowly specialised objective".

The provision of social welfare services concerns everybody who find themselves in a situation of dependency, in particular the vulnerable groups and individuals who have a social problem. The Committee therefore verifies that social services are available to all categories of the population who are likely to need them. It has identified the following groups: children, the elderly, people with disabilities, young people in difficulty and young offenders, minorities (migrants, Roma, refugees, etc.), the homeless, alcoholics and drug addicts, battered women and former detainees. The list is not exhaustive as the right to social welfare services must be open to all individuals and groups in the community. It does, however, give an idea of the groups in which the Committee systematically takes an interest because of their more vulnerable situation in society.

The right to social services must be guaranteed in law and in practice. Social services must have resources matching their responsibilities and the changing needs of users. This implies that: (i) staff shall be qualified and in sufficient numbers; (ii) decision–making shall be as close to users as possible; (iii) there must be mechanisms for supervising the adequacy of services, public as well as private.

The Committee took note with interest of the reforms planned and encouraged "The former Yugoslav Republic of Macedonia" to take the requirements of Article 14 of the Charter into account when adopting and implementing the new measures. In this perspective, it invited "The former Yugoslav Republic of Macedonia" to continue its consideration of Article 14§1 of the Charter with a view to its possible acceptance in the near future.

Article 14§2 *The right to benefit from social services - Public participation in the establishment and maintenance of social services*

Situation in "The former Yugoslav Republic of Macedonia"

The Government detailed the existing forms of extra-institutional protection (Day centers; Centers for temporary sheltering; Advisory centers for psycho-social support; Small group home; Housing units (apartments) for organized living with support; Foster families; Therapeutic communities; Day centers for the elderly and Centers for home care. It also referred to specific ongoing measures (concerning in particular children and persons with disabilities). It indicated that the development of social services was partly financed by NGOs, but that the involvement of more stakeholders was needed to improve the quality and the efficiency of the services (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
Article 14§2 requires States to provide support for voluntary associations seeking to establish social welfare services. This does not imply a uniform model, and States may achieve this goal in different ways: they may promote the establishment of social services jointly run by public bodies, private concerns and voluntary associations, or may leave the provision of certain services entirely to the voluntary sector. The "individuals and voluntary or other organisations" referred to in paragraph 2 include, the voluntary sector (non-governmental organisations and other associations), private individuals, and private firms.

The Committee examines all forms of support and care mentioned under Article 14§1 as well as financial assistance or tax incentives for the same purpose. It also verifies that the Parties ensure that private services are accessible on an equal footing to all and are effective, in conformity with the criteria mentioned in Article 14§1. Specifically, Parties must ensure that public and private services are properly coordinated, and that efficiency does not suffer because of the number of providers involved. In order to control the quality of services and ensure the rights of the users as well as the respect of human dignity and basic freedoms, effective preventive and reparative supervisory system is required.

In light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in "The former Yugoslav Republic of Macedonia". In particular, information would be needed concerning the role of the voluntary sector and different NGOs in the establishment and maintenance of social services and modes of support (financial assistance, tax incentives etc.) provided by the State to promote participation of individuals and voluntary/non-governmental sector in social services. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of Article 14§2 of the Charter with a view to its possible acceptance in the near future.

Article 15§3 ***The right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community***

Situation in "The former Yugoslav Republic of Macedonia"
The Government referred to the relevant legislation and ongoing National Strategies. Information was provided in particular on measures taken to facilitate access to public transport and private and public buildings, although it was acknowledged that much remained to be done to ensure the effective implementation of accessibility standards. The Government also provided information on the deinstitutionalisation process under way and indicated that a new Programme for Personal Assistance of People with Physical Disability was being experimented (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The right of persons with disabilities to social integration provided for by Article 15§3 implies that barriers to communication and mobility be removed in order to enable access to transport (land, rail, sea and air), housing (public, social and private), cultural activities and leisure (social and sporting activities). To this purpose, Article 15§3 requires:

- the existence of comprehensive non-discrimination legislation covering both the public and private sphere in fields such as housing, transport, telecommunications and cultural and leisure activities and effective remedies for those who have been unlawfully treated. Such legislation may consist of general anti-discrimination legislation, specific legislation or a combination of the two;

- the adoption of a coherent policy in the disability context: positive action measures to achieve the goals of social integration and full participation of persons with disabilities. Such measures should have a clear legal basis and be coordinated.

People with disabilities should have a voice in the design, implementation and review of such a policy.

To give meaningful effect to this undertaking:
- Mechanisms must be established to assess the barriers to communication and mobility faced by persons with disabilities and identify the support measures that are required to assist them in overcoming these barriers.
- Technical aids must be available either for free or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means. Such aids may for example take the form of prostheses, walkers, wheelchairs, guide dogs and appropriate housing support arrangements.
- Support services, such as personal assistance and auxillary aids, must be available, either for free or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means.

Telecommunications and new information technology must be accessible and sign language must have an official status.

Public transports (land, rail, sea and air), all newly constructed or renovated public buildings, facilities and buildings open to the public, and cultural and leisure activities should be physically accessible.

The needs of persons with disabilities must be taken into account in housing policies, including the construction of an adequate supply of suitable, public, social or private, housing. Further, financial assistance should be provided for the adaptation of existing housing.

In light of these requirements, the Committee took note of the measures already in place or under way, concerning for example the recognition of sign language, the access to public transport and the deinstitutionalisation strategy. It noted however that more detailed information was needed on a number of issues, for example as to whether all relevant sectors of integration (housing, telecommunications, transport, leisure and cultural activities) are effectively covered by the anti-discrimination legislation; whether a coherent policy exists involving persons with disabilities; whether integration obstacles are being assesses and what measures are taken in terms of financial and technical support in order to ensure access in all fields of social life. The Committee encouraged the national authorities to pursue their efforts in order to achieve full integration of persons with disabilities and invited "The former Yugoslav Republic of Macedonia" to continue its consideration of Article 15§3 of the Charter with a view to its possible acceptance in the near future.

Article 18§1 ***The right to engage in a gainful occupation in the territory of other States Parties - Applying existing regulations in a spirit of liberality***

Situation in "The former Yugoslav Republic of Macedonia"
The Government reported that the employment in "The former Yugoslav Republic of Macedonia" of foreign nationals was regulated by the Law on Employment of Foreigners and that work permits were granted on the basis of a quota established by the Government on the basis of recommendations by the ministers in charge of the relevant areas and the ESARM, in accordance with the relevant legislation. The quota for 2017 was in the amount

of 3250 work permits. The Government stated that such quota was regularly above the real needs of the country and the number of refusals of work permits was generally low and usually linked to the lack of necessary documents (see also First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee provided information on aspects of interpretation and case law, pointing out that Article 18 applies to employees and the self-employed who are nationals of States which are party to the Charter, as well as their family, in the framework of family reunion.

Article 18 relates not only to workers already on the territory of the State concerned, but also to workers outside the country applying for a permit to work on the territory.

The assessment of the degree of liberality used in applying existing regulations is based on figures showing the refusal rates for work permits. To this end, the figures supplied must be broken down by country and must also distinguish between first-time applications and renewal applications.
Economic or social reasons might justify limiting access of foreign workers to the national labour market. This may occur, for example, with a view to addressing the problem of national unemployment by means of favouring employment of national workers. Similarly, in view of ensuring free movement of workers within a given economic area of European States, such as the EU or the EEA, a State may give priority in access to the national labour market not only to national workers, but also to foreign workers from other European States members of the same area (for example in the application of the so called "priority workers" rule, provided for by the EU Council Resolution of 20 June 1994 on limitation on admission of third-country nationals to the territory of the Member States for employment). However, the implementation of such policies, limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.

In the light of these requirements, the Committee considered that "The former Yugoslav Republic of Macedonia" could accept this provision. The figures showing the implementation of the quota in practice and the refusal rates for work permits would be essential in assessing the situation in practice. To this aim, there should be efficient data collection mechanisms.

Article 18§2 *The right to engage in a gainful occupation in the territory of other States Parties - Simplifying existing formalities and reducing dues and taxes*

Situation in "The former Yugoslav Republic of Macedonia"
The Government briefly described the existing formalities for granting a work permit to foreign nationals, in conformity with the Law on Foreigners and indicated that it was considering acceptance of this provision, since the requirements of Article 18§2 seemed to be already partially incorporated in the existing legislation: in particular it indicated that a single procedure existed for granting a work and residence permit, that there were reasonable deadlines (30 days if applying from abroad, 15 days if applying on spot) and that the fees corresponded to the administrative costs of the procedure (see also First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee recalled that conformity with Article 18§2 presupposes the possibility of completing residence and working permit formalities in the country of destination as well as in the country of origin and obtaining them at the same time, through a single application and within a reasonable time. It furthermore pointed out that the dues and charges paid

either by foreign workers or by their employers must not be set at a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers. In this respect, States are required to demonstrate that they have taken measures to progressively reduce the level of fees and other charges payable by foreign workers or their employers.

In the light of these requirements, the Committee considered that the applicable procedure seemed to comply with the Charter and that "The former Yugoslav Republic of Macedonia" could accept this provision, provided that the level of fees was reasonable, also in respect of foreigners wishing to access the labour market as self-employed. It accordingly recommended acceptance of Article 18§2.

Article 18§3 *The right to engage in a gainful occupation in the territory of other States Parties - Liberalising regulations*

Situation in "The former Yugoslav Republic of Macedonia"
The Government reported that the Law on Employment of Foreigners provides that the number of work permits which can be granted cannot exceed 5% of the national population that is legally employed. It also indicated that foreigners' access to public administration is limited and that a temporary residence permit issued for work reasons can be terminated if, inter alia, the employment contract ends prematurely (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf). In light thereof, the Government expressed some reservation regarding the acceptance of this provision in the near future.

Opinion of the Committee
The Committee provided information on aspects of interpretation and case law, pointing out that this provision concerned not only employed work but also self-employed work and that under Article 18§3, States are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

– Access to the national labour market:

The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive, in particular with regard to the geographical area in which the occupation can be carried out and the requirements to be met. States Parties may make foreign nationals' access to employment on their territory subject to possession of a work permit but they cannot ban nationals of States Parties, in general, from occupying jobs for reasons other than those set out in Article G of the Charter. The only jobs from which foreigners may be banned therefore are those that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority.

The States Parties' engagement in liberalisation shall include regulations governing the recognition of foreign certificates, professional qualifications and diplomas, to the extent that such qualifications and certifications are necessary to engage in a gainful occupation as employees or self-employed workers. A requirement that foreign worker be in possession of certificates, professional qualifications or diplomas issued only by national authorities, schools, universities, or other training institutions, without opening the possibility of recognising as valid and appropriate substantially equivalent certificates, qualifications or diplomas issued by authorities, schools, universities or other training institutions of other States parties, which have been obtained as a result of training courses or professional careers carried out within other States Parties, would represent a serious obstacle for foreign workers to access the national labour market, and an actual discrimination against non-nationals. For this reason, States Parties must make efforts to liberalise regulations governing the recognition of foreign certificates, professional qualifications and diplomas, progressively reducing the disadvantages for foreign workers to engage in a gainful

occupation due to lack of recognition of foreign diplomas or professional qualifications substantially equivalent to those issued by national authorities, schools, universities or other training institutions.

– Right to engage in an occupation:
A person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as nationals of that country. The restrictions initially imposed with regard to access to employment (which can be accepted only if they are not excessive) must therefore be gradually lifted.

– Rights in the event of loss of employment:
Loss of employment must not lead to the cancellation of the residence permit, thereby obliging the worker to leave the country as soon as possible. In case a work permit is revoked before the date of expiry, either because the employment contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8. In such cases, Article 18 requires extension of the validity of the residence permit to provide sufficient time for a new job to be found.

In the light of these requirements, the Committee considered that the current provisions linking the validity of the residence permit to that of the work permit might raise problems of compatibility with the Charter. Further information would be needed to assess the situation on this point as well as regards the restrictions to foreigners' access to employment in the public administration. The following issues should furthermore be addressed or clarified:

- what conditions apply in respect of foreigners wishing to access the domestic labour market as self-employed;
- Is there any mechanism for the recognition of qualifications obtained abroad?
- is the renewal of residence and working permits (for employed and self-employed) subject to less stringent conditions than those applying when issuing the initial authorisations? After what period of time the restrictions applying to a foreign worker are lifted?

The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 18§4 *The right to engage in a gainful occupation in the territory of other States Parties - Right of nationals to leave the country*

Situation in "The former Yugoslav Republic of Macedonia"
The Government referred to the relevant legislative provisions (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf) and indicated that acceptance of Article 18, paragraph 4, of the Charter could be envisaged.

Opinion of the Committee
The Committee provided information on aspects of interpretation and case law. It noted that "The former Yugoslav Republic of Macedonia" seemed to have the necessary legal framework and could accept this provision, provided that the right of their nationals to leave the country to engage in gainful employment in other Parties to the Charter was not subject to any restrictions, others than those prescribed by law and necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public

interest, national security, public health, or morals. It accordingly recommended acceptance of Article 18§4.

Article 19§2 ***The right of migrant workers and their families to protection and assistance: departure, journey and reception***

Situation in "The former Yugoslav Republic of Macedonia"
The Government referred to the legislative framework governing the migration policy in the country, such as the Resolution on the Migration Policy 2008-2014 with the National Action Plan; Resolution on the Migration Policy 2015-2020 with National Action Plan. These documents provide effective and comprehensive guidelines for addressing migratory movements. They separately analyse the legal migrant flows (emigration and immigration of the population and the labor force); the illegal migrations and the smuggling of migrants; human trafficking; asylum and protection of refugees (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
Article 19§2 of the Charter obliges States Parties to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals to facilitate their departure, journey and reception.
Reception must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures. Reception means the period of weeks which follows immediately from their arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty.

The obligation to "provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey" relates to migrant workers and their families travelling either collectively or under the public or private arrangements for collective recruitment. This aspect of Article 19§2 does not apply to forms of individual migration for which the state is not responsible. In such cases, the need for reception facilities would be all the greater.

In the light of these requirements, the Committee considered that further information is needed concerning whether there is a service for migrant workers that would provide assistance with regard to overcoming difficulties upon arrival. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 19§3 ***The right of migrant workers and their families to protection and assistance - Co-operation between social services of emigration and immigration States***

Situation in "The former Yugoslav Republic of Macedonia"
According to the Government, in terms of cooperation between the social services (public and private) between the countries of emigration and immigration, it is necessary to introduce and ensure contacts and exchange of information between the two countries (the country of origin and the destination country). However, there are no bodies established that would collect data on the overall emigration and immigration that could be exchanged between the country of origin and the destination country (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The scope of Article 19§3 of the Charter extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State. Contacts and information

exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin. Formal arrangements are not necessary, especially if there is little migratory movement in a given country. In such cases, the provision of practical co–operation on a needs basis may be sufficient.

Common situations in which such co-operation would be useful would be for example where the migrant worker, who has left his or her family in the home country, fails to send money back or needs to be contacted for family reasons, or where the worker has returned to his or her country but needs to claim unpaid wages or benefits or must deal with various issues in the country in which he was employed.

In the light of these requirements, the Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 19§4 ***The right of migrant workers and their families to protection and assistance: equality regarding employment, right to organise and accommodation***

Situation in "The former Yugoslav Republic of Macedonia"
The Government referred to Article 4 of the Law on Employment and Work of Foreigners which prohibits direct and indirect discrimination of foreigners in access to employment. It expressed however some reservations as regards acceptance of Article 19§4 in the immediate future, in view of the existing restrictions which might apply to foreigners' access to certain national programs and employments in the public sector (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee recalled that Article 19§4 concerned the situation of migrant workers after their admission in conformity with the state's law.

In particular, this provision guarantees the right of migrant workers to a treatment not less favourable than that of the nationals in the areas of: (i) remuneration and other employment and working conditions, (ii) trade union membership and the enjoyment of benefits of collective bargaining, and (iii) accommodation.

States Parties are required to prove the absence of discrimination, direct or indirect, in terms of law and practice, and should inform of any practical measures taken to remedy cases of discrimination.

Firstly, States Parties are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training and promotion, as well as vocational training.

Secondly, States Parties are required to eliminate all legal and de facto discrimination concerning trade union membership and the enjoyment of the benefits of collective bargaining, including the right to be founding member and access to administrative and managerial posts in trade unions.

In the context of collective bargaining, States Parties have to take action to ensure that migrant workers enjoy equal treatment when it comes to benefiting from collective agreements aimed at implementing the principle of equal pay for equal work for all workers in the workplace, or from legitimate collective action in support of such an agreement, in accordance with domestic laws or practice.

For the period of stay and work in the territory of the host State, posted workers are workers coming from another State and lawfully within the territory of the host State. In this sense, they fall within the scope of application of Article 19 of the Charter and they have the right, for the period of their stay and work in the host State to receive treatment not less favourable than that of the national workers of the host State in respect of remuneration, other employment and working conditions, and enjoyment of the benefits of collective bargaining (Article 19§4, a and b).

States are responsible for the regulation in national law of the conditions and rights of workers in cross-border postings.

The situations of posted workers are often distinct from that of other migrant workers; however it is also clear that in some circumstances they share many of the same characteristics. States must respect the principles of non-discrimination laid down by the Charter in respect of all persons subject to their jurisdiction. Accordingly, in order to conform with the requirements of the Charter, any restrictions on the right to equal treatment for posted workers, which are imposed due to the nature of their sojourn, must be objectively justified by reference to the specific situations and status of posted workers, having regard to the principles of Article G of the Revised Charter (Article 31 of the 1961 Charter).

As regards accommodation, the undertaking of States Parties is to eliminate all legal and *de facto* discrimination concerning access to public and private housing.

There must be no legal or *de facto* restrictions on home–buying, access to subsidised housing or housing aids, such as loans or other allowances.

The right to equal treatment provided in Article 19§4(c) can only be effective if there is a right of appeal before an independent body against the relevant administrative decisions.

In the light of these requirements, the Committee considered that in order to properly assess the situation, further information on the current legal situation and practice was needed, as well as further improvements as regards the existing restrictions to foreigners' employment. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 19§7 *The right of migrant workers and their families to protection and assistance - Equality regarding legal proceedings*

Situation in "The former Yugoslav Republic of Macedonia"
The Government stated that under the domestic legislative framework all citizens are equal before the law, without distinction, and that translation was provided if necessary (see also First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee provided information on aspects of interpretation and case law. It explained that under this provision States Parties must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals. This obligation applies to all legal proceedings concerning the rights guaranteed by Article 19 (i.e. pay, working conditions, housing, trade union rights, taxes).

More specifically, any migrant worker residing or working lawfully within the territory of a State Party who is involved in legal or administrative proceedings and does not have counsel of his or her own choosing should be advised that he/she may appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if he or

she does not have sufficient means to pay the latter, as is the case for nationals or should be by virtue of the European Social Charter. Under the same conditions (involvement of a migrant worker in legal or administrative proceedings), whenever the interests of justice so require, a migrant worker must have the free assistance of an interpreter if he or she cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated. Such legal assistance should be extended to obligatory pre-trial proceedings.

In the light of these requirements, the Committee considered that "The former Yugoslav Republic of Macedonia" could accept this provision. It accordingly recommended acceptance of Article 19§7.

Article 19§9 ***The right of migrant workers and their families to protection and assistance - Transfer of earnings and savings***

Situation in "The former Yugoslav Republic of Macedonia"
The Government referred to the relevant provisions of the Law on Provision of Services and Fast Money Transfer, which provide for some limits to the amounts of money that can be transferred. However, it emerged from the discussion that such limits applied to everybody, foreigners or not (see also First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee indicated that this provision obliges States Parties not to place excessive restrictions on the right of migrants to transfer earnings and savings, either during their stay or when they leave their host country. Migrants must be allowed to transfer money to their own country or any other country. The right to transfer earnings and savings includes the right to transfer movable property.

It clarified that restrictions to the transfer of money were not, per se, incompatible with Article 19§9, as long as they were not applied in a discriminatory way. In the light of these requirements, the Committee considered that "The former Yugoslav Republic of Macedonia" could accept this provision. It accordingly recommended acceptance of Article 19§9.

Article 19§10 The right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed

Situation in "The former Yugoslav Republic of Macedonia"
The Government requested clarifications on the requirements of this provision (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee explained that this provision required States Parties to extend the rights provided for in paragraphs 1 to 9, 11 and 12 to self-employed migrant workers and their families. States Parties must ensure that there is no unjustified treatment which amounts to discrimination, in law or in practice between wage-earners and self-employed migrants; In addition equal treatment between self-employed migrants and self-employed nationals must be guaranteed in the areas covered by this provision. The Committee pointed out that a finding of non-conformity under paragraphs 1 to 9, 11 and/or 12 of Article 19 may lead to a finding of non-conformity under paragraph 10.

In the light of these requirements, the Committee considered that there was no major obstacle to the acceptance of this provision by "The former Yugoslav Republic of Macedonia". It accordingly recommended its acceptance.

Article 19§11 ***The right of migrant workers and their families to protection and assistance - Teaching language of host State***

Situation in "The former Yugoslav Republic of Macedonia"
The Government indicated that there was no national program for teaching, free of charge, the language of "The former Yugoslav Republic of Macedonia" to foreigners. It accordingly expressed some reservations to the acceptance of this provision in the near future (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
Under this provision, States should promote and facilitate the teaching of the national language to children of school age, as well as to the migrants themselves and to members of their families who are no longer of school age. The teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into society. A requirement to pay substantial fees is not in conformity with the Charter. States are required to provide national language classes free of charge, otherwise for many migrants such classes would not be accessible.

Attending school where teaching occurs in the national language is not sufficient to satisfy the obligations under 19§11. States must make special effort to set up additional assistance for children of immigrants, particularly those who have not attended primary school right from the beginning and who therefore lag behind their fellow students.

The Committee took note of the fact that the current legal framework and practice still raised problems of compatibility with Article 19§11, it expressed nevertheless the view that acceptance of this provision might be envisaged, once the necessary measures were taken. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 19§12 ***The right of migrant workers and their families to protection and assistance - teaching of migrants' mother tongue***

Situation in "The former Yugoslav Republic of Macedonia"
The Government referred to the Law on Elementary Education, which explicitly provides that foreign children are entitled to teaching in their native language, in accordance with applicable international agreements. It expressed however some reservations as to the acceptance of Article 19§12 in the near future, on account of the implementation problems still existing in practice (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee recalled that, while Article 19§11 concerned the teaching of the national language to migrants and their families, under Article 19§12 States Parties undertake to promote and facilitate the teaching, in schools or other structures, such as voluntary associations or non-governmental organisations, of those languages that are most represented among migrants within their territory.

It pointed out that the obligation under 19§12 did not concern all possible migrant languages, but covered situations where the number of children concerned was sufficient to warrant lessons in their mother tongue to be organised.

In the light of these requirements, the Committee encouraged "The former Yugoslav Republic of Macedonia" to continue its efforts and ensure the implementation in practice of the existing legal framework, in particular by adopting the necessary by-laws. It accordingly

invited “The former Yugoslav Republic of Macedonia” to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 22 ***The right of workers to take part in the determination and improvement of working conditions and working environment***

Situation in “The former Yugoslav Republic of Macedonia”
According to the Government, the employee must respect the work safety regulations to protect their own life and safety as well as the life and safety of others. It is the duty and right of each employee to look after their own security and the security of their coworkers according to the employer’s instructions, and to be informed and trained about the work safety measures.

The employer must also receive opinion from the labor union or the workers’ representative if there are no unions present. If there is change in the conditions or there is new hazard to the job position and in the working environment for which there was a prior statement prepared, the employer must create a new hazard statement. The employer is obliged by the collective agreement to ensure the exercising of the right of the employees, directly or through the President of the labor union, or the representative of the representative labour union, or the representative of employees where there is no labor union, and the representative of the employees for occupational health and safety, to get involved in the assessment of the gaps and in the improvement of the conditions for work and of the working environment at the employer – this will include all activities of the company or the institution and at all levels.

When planning and ordering work equipment, and when introducing new technology, the employer must consult and cooperate with the employees and the labor union’s president or the representative of the representative labor union, or the representative of employees where there is no labor union, and the representative of the employees for occupational health and safety with regards to the consequences and hazards that might occur from the selected work equipment, and identify what would be the influence of the same on the occupational health and safety, on the working conditions and the working environment.

The employer must allow their employees, labor union’s president or the representative of the representative labor union, or the representative of employees where there is no labor union, and the representative of the employees for occupational health and safety, to participate in the discussions on all occupational safety and health issues in accordance with this law and with other regulations pertaining to occupational safety and health. They must be presented with the safety statement, the occupational safety report and the introduced safety measures. The labor union or the workers’ assembly must be consulted on all measures that would impact the occupational safety and health, the appointment of an expert or an authorized individual or legal entity for safety, the appointment of an authorized health institution, about the safety statement, the planning and organizing of training, and about the informing the employees.

Opinion of the Committee
The Committee recalled that under Article 22 of the Charter workers and/or their representatives (trade unions, worker’s delegates, health and safety representatives, works councils) must be granted an effective right to participate in the decision-making process and the supervision of the observance of regulations in all matters referred to in this provision, such as:

- the determination and improvement of the working conditions, work organisation and working environment;

- the protection of health and safety within the undertaking. The right of workers' representatives to consultation at the enterprise level in matters of health and safety at the workplace is equally dealt with by Article 3 (right to safe and healthy working conditions, see *supra*). For the States Parties who have accepted Articles 3 and 22, this issue is examined only under Article 22;

- the organisation of social and socio-cultural services within the undertaking. The right to take part in the organisation of social and socio-cultural services and facilities only applies in undertakings where such services and facilities are planned or have already been established. Article 22 of the Charter does not require that employers offer social and socio-cultural services and facilities to their employees but requires that workers may participate in their organisation, where such services and facilities have been established.

Workers must have legal remedies when these rights are not respected. There must also be sanctions for employers which fail to fulfil their obligations under this Article.

As regards the situation in "The former Yugoslav Republic of Macedonia", the Committee noted that according to the Law on Labour Relations employer must make sure that workers participate in the determination of the working conditions by consulting trade union organisation or workers council. The Committee recommended acceptance of Article 22.

Article 23 *The right of elderly persons to social protection*

Situation in "The former Yugoslav Republic of Macedonia"
The Government referred to the Law on Social Protection, as regards the right to financial assistance for the elderly persons in need, and to the National Strategy for the Elderly 2010-2020, which was being implemented under the monitoring of the National Coordinative Body. It provided details of the measures taken and under way as regards institutional accommodation (both public and private), pensioners' homes, Day Centers for Elderly Persons and Centers for home care (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee provided information on aspects of interpretation and case law, underlining the fact that Article 23 does not define the notion of "elderly person" with reference to a specific age, it concerns instead retired people and requires States Parties to make focused and planned provision in accordance with the specific needs of elderly persons.

It also stressed that, in the assessment of the adequate level of resources, all available resources, not only pensions, are taken into account. Comprehensive information in this respect would therefore be needed.

The Committee recalled that an adequate legal framework must exist to combat age discrimination not only in employment (as required under Articles 1§2 and 24), but also in a range of areas beyond employment, namely in access to goods, facilities and services, healthcare, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities.

An adequate legal framework must also exist in respect of assisted decision making for the elderly, guaranteeing their right to make decisions for themselves unless it is shown that they are unable to make them. This means that elderly persons cannot be assumed to be

incapable of making their own decision just because they have a particular medical condition or disability, or lack legal capacity. An elderly person's capacity to make a particular decision should be established in relation to the nature of the decision, its purpose and the state of health of the elderly person at the time of making it. Elderly persons may need assistance to express their will and preferences, therefore all possible ways of communicating, including words, pictures and signs, should be used before concluding that they cannot make the particular decision on their own. In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons, also in case of reduced decision making capacity. It must be ensured that the person acting on behalf of elderly persons interferes to the least possible degree with their wishes and rights.

Article 23 also requires States Parties to take appropriate measures against elder abuse. They must take measures to evaluate the extent of the problem, to raise awareness on the need to eradicate elder abuse and neglect, and adopt legislative or other measures.

Under Article 23, the State should adopt or encourage, either directly or in co-operation with public or private organisations appropriate measures with a view to enabling elderly persons to remain full members of society for as long as possible. Such measures relate respectively to the provisions of adequate resources and of information on services and facilities.

The primary focus of the right to adequate resources is on pensions. Pensions and other state benefits must be sufficient in order to allow elderly persons to lead a 'decent life' and play an active part in public, social and cultural life. The Committee compares pensions with the average wage levels and the overall cost of living. Pensions must be index-linked. The Committee also takes into consideration the cost of transport as well as the cost of medical care and medicine, as well as the existence of a carer's allowance for family members looking after an elderly relative.

However when assessing adequacy of resources of elderly persons under Article 23, all social protection measures guaranteed to elderly persons and aimed at maintaining an income level allowing them to lead a decent life and participate actively in public, social and cultural life are taken into account. In particular, pensions, contributory or non-contributory, and other complementary cash benefits available to elderly persons are examined. These resources are then compared with the median equivalised income.

As regards services and facilities, the Committee examines not only that information in this respect is available to elderly people, but also the services and facilities themselves. In particular, information is sought on the existence, extent and cost of home help services, community based services, specialised day care provision for persons with dementia and related illnesses and services such as information, training and respite care for families caring for elderly persons, in particular, highly dependent persons, as well as cultural leisure and educational facilities available to elderly persons. Additionally States Parties must have a system for monitoring the quality of services and a procedure for complaining about the standard of services. Insufficient regulation of fees for services may amount to a violation of Article 23.

The needs of elderly persons must be taken into account in national or local housing policies. The supply of adequate of appropriate housing for elderly person must be sufficient. Housing law and policy must take account of the special needs of this group. Policies should help elderly persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of homes.

In the context of a right to adequate health care for elderly persons Article 23 requires that health care programmes and services (in particular primary health care services including

domiciliary nursing/health care services) specifically aimed at the elderly must exist together with guidelines on healthcare for elderly persons. In addition, there should be mental health programmes for any psychological problems in respect of the elderly, and adequate palliative care services. Nutrition issues for elderly people should also be given appropriate attention, any information in this respect would be useful.

Elderly persons living in institutions should be guaranteed the right to appropriate care and adequate services, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain personal contact with persons close to the elderly person and the right to complain about treatment and care in institutions. There should be a sufficient supply of institutional facilities for elderly persons (public or private), care in such institutions should be affordable and assistance must be available to cover the cost. All institutions must be licensed or approved and an independent inspection mechanism must exist to examine, in particular, the quality of care delivered. In particular, information would be needed as regards the monitoring of private social care providers.

Issues such as the requirements of staff qualifications, staff training and the wage levels of staff, compulsory placement, social and cultural amenities and the use of physical restraints are also examined under this provision.

In view of these requirements, the Committee noted that a number of measures were already in place or being developed, but considered that more detailed information on specific issues remained needed to assess the compatibility of the situation in “The former Yugoslav Republic of Macedonia” with Article 23 requirements. In particular, further information was needed to clarify:

- whether anti-discrimination legislation effectively covers non-discrimination on grounds of age in access to goods and services, either explicitly in the law or through its interpretation in the case-law, thus ensuring also the existence of effective remedies;
- whether there are appropriate safeguards against elderly abuse and arbitrary interference and deprivation of autonomous decision making in case of reduced capacity.

As regards the reforms of the pension system, referred to at the meeting, the Committee pointed out that the measures taken should not have the effect of bringing the level of the minimum pension below the poverty threshold corresponding to 50% of the median equivalised income.

The Committee also noted that further information was needed in respect of the services and facilities addressed at elderly people, in order to assess whether such services are sufficiently numerous, qualitatively adequate, affordable and accessible and whether effective remedies exist to complain in this respect. Specific information is required as regards not only in respect of elderly people living in institutions (as to whether they get appropriate care and services, whether there is a sufficient supply of affordable care and whether the quality of the services is monitored) but also in respect of those living at home (as to the housing and healthcare measures taken to ensure that they can continue living home as long as possible). The Committee invited “The former Yugoslav Republic of Macedonia” to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 25 ***The right of workers to protection of their claims in the event of the insolvency of their employer***

Situation in "The former Yugoslav Republic of Macedonia"
According to the Government, the issue of the protection of workers' rights in case of the employer's insolvency is not regulated in the country, and therefore, having in mind the complexity of this problem, a specific Law on Protection of Workers' Rights in Case of Insolvency of their Employer is planned to be adopted in the period ahead. During the drafting of the law, the Directive for Protection of Workers in Case of Insolvency of the Employer 2008/94/OC will be transposed.

Opinion of the Committee
The Committee recalled that Article 25 of the Charter guarantees individuals the right to protection of their claims in the event of the insolvency of their employer. States Parties having accepted this provision benefit from a margin of discretion as to the form of protection of workers' claims and so Article 25 does not require the existence of a specific guarantee institution.

However, the protection afforded, whatever its form, must be adequate and effective, also in situations where the assets of an enterprise are insufficient to cover salaries owed to workers. Guarantees must exist for workers that their claims will be satisfied in such cases. The protection should also apply in situations where the employer's assets are recognised as insufficient to justify the opening of formal insolvency proceedings.

A privilege system, on its own cannot be regarded as an effective form of protection in situations where there is no alternative to it and alone it cannot provide effective guarantee of protection, due to the fact that the employer has no assets.

The Committee has found that a privilege system where workers' claims were ranked below mortgage obligations, foreclosure on property and bankruptcy costs did not amount to an effective protection under the Charter.

In order to demonstrate the adequacy in practice of the protection, States Parties must provide information, inter alia, on the average duration of the period from a claim is lodged until the worker is paid and on the overall proportion of workers' claims which are satisfied by the guarantee institution and/or the privilege system.

States Parties may limit the protection of workers' claims to a prescribed amount. However, such prescribed amount must be of a socially acceptable level, namely not less than three months wage under a privilege system and eight weeks under a guarantee system. The workers' claims covered should also include holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred.

Certain categories of employees may, exceptionally, be excluded from Article 25 protection because of the special nature of their employment relationship. The assessment of the conformity of such exclusion is done on a case-by-case basis.

In the light of this information, the Committee took note with interest of the Government's plans to draft a special law dedicated to the protection of workers in the event of the insolvency of their employer and encouraged "The former Yugoslav Republic of Macedonia" to take the requirements of Article 25 of the Charter into account when preparing, enacting and implementing the new law. In this perspective, the Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 27§1 ***The right of workers with family responsibilities to equal opportunity and treatment - Participation in working life***

Situation in "The former Yugoslav Republic of Macedonia"
According to the Government, the Law on Labor Relations contains such provisions, which prohibits all forms of discrimination at the work place due to pregnancy, birth or parenthood, regardless of the duration and type of the labor relation entered into according to law.

The prohibition of the discrimination includes access to employment, working conditions and all labour relations rights, including termination of the employment contract for employees who are pregnant or exercise birth and parenthood rights.

Hence, the employer can ask the potential employee, during the recruitment process, to submit only the proofs that show that the requirements are met by the candidate, in relation to future work duties, and not information on the employee's family or marital status and family planning – in other words, to request from the candidate provision of other documents and proofs that are unrelated to the labour relation. This prohibition includes demanding pregnancy tests or proof of such a test when signing an employment contract with female employee, regardless of the job position for which the labour contract is signed.

Among the unjustified reasons for employment contract termination, the Law also includes absence due to pregnancy, birth and parenthood, for care for a family member and unpaid parental leave.

At the end of the parental leave, the employee has the right to return to the same work place or, if that is not possible, to an adequate work place in accordance with the employment contract (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
Under Article 27§1a of the Charter, States Parties should provide people with family responsibilities with equal opportunities in respect of entering, remaining and re-entering employment since these persons may face difficulties on the labour market due to their family responsibilities.

Therefore, measures need to be taken by States Parties to ensure that workers with family responsibilities are not discriminated against due to these responsibilities and to assist them to remain, enter and re-enter the labour market, in particular by means of vocational guidance, training and re-training.

Actions must be taken to promote training aimed at facilitating the remaining and the reintegration of workers with family responsibilities in the employment market. However, when the quality of standard employment services is adequate, there is no need to provide extra services for people with family responsibilities.

States Parties should pay particular attention to the problem of unemployment of part-time workers.

The aim of Article 27§1b is to take into account the needs of workers with family responsibilities in terms of conditions of employment and social security.

Measures need to be taken concerning the length and organisation of working time. Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment. There measures should apply equally to men and women.

The type of measures cannot be defined unilaterally by the employer but should be provided by a binding text (legislation or collective agreement).

Periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes or in the determination of pension rights.

The aim of Article 27§1c is to develop or promote services, in particular child day care services and other childcare arrangements, available and accessible to workers with family responsibilities.

In the light of this information, the Committee considered that in order to properly assess the situation further information on the current legal situation and especially actual situation in practice was needed. The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 27§2 ***The right of workers with family responsibilities to equal opportunity and treatment - Parental leave***

Situation in "The former Yugoslav Republic of Macedonia"
According to the Government, the Law on Labor Relations provides the right to unpaid parental leave. In other words, after the end of the leave due to pregnancy, birth and parenthood, the female worker is entitled to unpaid parental leave of up to three months, in the period until her child turns three, in maximum three parts, for the purpose of care for the child. It is unpaid leave during which all rights of labour relations of the mother are put on hold, except the payment of the health insurance contributions.

Opinion of the Committee
Article 27§2 provides for the right to parental leave which is distinct from maternity leave.

Article 27§2 requires States Parties to provide the possibility for either parent to obtain parental leave, as an important element for the reconciliation of professional, private and family life. The duration of parental leave should be determined by States Parties.

Domestic law should entitle men and women to an individual right to parental leave on the grounds of the birth or adoption of a child. With a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent.

The States Parties are under a positive obligation to encourage the use of parental leave by either parent.

States shall ensure that an employed parent is adequately compensated for his or her loss of earnings during the period of parental leave. The modalities of compensation is within the margin of appreciation of the States Parties and may be either paid leave (continued payment of wages by the employer), a social security benefit, any alternative benefit from public funds or a combination of such compensations.

In the light of this information, , the Committee considered that in order to properly assess the situation, further information on the development of the legal situation and practice was needed, and especially further improvements as regards the right to parental leave which should be at the disposal of both parents (i.e. that the law provides the possibility for either parent to obtain parental leave) and properly compensated, as well as there should be measures in place to promote/encourage the use of parental leave by either parent. The Committee invited the Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 30 ***The right to protection against poverty and social exclusion***

Situation in "The former Yugoslav Republic of Macedonia"

The Government indicated that "The former Yugoslav Republic of Macedonia" is experiencing continuous reduction of the poverty and inequality; however the level of poverty remains high, thus addressing these issues and challenges and improvement of the situations that directly contribute to the poverty remain one of the key priorities of the Government.

According to the latest published statistical data (Laeken indicators on poverty) by the State Statistical Office, obtained on the basis of the Survey on Revenues and Living Conditions (SILC), the poverty rate in "The former Yugoslav Republic of Macedonia" in 2015 amounted 21.5%.

The main strategic objective of the National Strategy for Reduction of Poverty and Social Exclusion 2010-2020 (revised) is reduction of the poverty and the social exclusion in "The former Yugoslav Republic of Macedonia" by better utilization and strengthening of the available human and material resources, improvement of the conditions for life, work and of the social conditions for all citizens, systematic and institutional cooperation for faster development and a higher living standard, better quality of life and development of mechanisms for social inclusion of the vulnerable categories of citizens in local context.

This strategic document includes measures and activities for reduction of poverty and of social exclusion in the following areas:

- Employment and strengthening of the entrepreneurship
- Adaptation of the education to the labor marker
- Social and child protection, establishment of a new social model
- Promotion of health care and long-term care
- Transport, communication and housing
- Activation and strengthening of local governments
- Support for vulnerable groups

A mechanism for monitoring of the implementation via the National Coordinative Body for monitoring and evaluation of the implementation of the Strategy is established, where representatives from all relevant ministries, institutions and NGOs are members.

In order to successfully implement the Strategy, the relevant ministries prepare their own Operational Plans for implementation of the measures foreseen by the Strategy, which are later incorporated into an Operational Plan by the Ministry of Labor and Social Policy as a presiding institution.

In terms of reduction of poverty and social exclusion, one of the measures that was implemented until recently in order to provide better social security for the poorest families is the continuous increase of the amount of the financial assistance (social financial assistance and permanent financial assistance) by 5% in 2013, 2014 and 2016; and 10% in 2015. Additional measures are also undertaken for better protection against social exclusions by introducing new financial rights to social protection and continuous development of the social services in the community.

However, according to the Government, the main challenge in this regard is still the insufficient coordination and inter-institutional cooperation on both central and local level, as well as the insufficient means for implementation of the National Strategy for Reduction of Poverty and Social Exclusion.

Opinion of the Committee
The Committee provided information concerning interpretation and case law, drawing attention to the fact that, while Article 30 is closely linked to other provisions of the Charter (in particular Articles 1, 9, 10, 12, 13, 14 and 31 as well as Article E), which are accordingly taken into account when assessing conformity with Article 30, yet a separate assessment takes place under this provision.

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion Article 30 requires States Parties to adopt an overall and coordinated approach, which shall consist of an analytical framework, a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights as well as monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and exclusion. It must link and integrate policies in a consistent way moving beyond a purely sectoral or target group approach. Normally, some sort of coordinating mechanisms, including at the level of delivery of assistance and services to those living in or at risk of poverty, should be provided. At the very least, States Parties should demonstrate that poverty and social exclusion reduction is an embedded aspect of all the relevant strands of public policy.

The measures taken for such a purpose must promote and remove obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance. The measures should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions. Positive measures for groups generally acknowledged to be socially excluded or disadvantaged must be adopted by States Parties. Access to fundamental social rights is assessed by taking into consideration the effectiveness of policies, measures and actions undertaken.

As long as poverty and social exclusion persist, adequate resources should be deployed and increased to make social rights possible. The economic crisis should not have, as a consequence, a reduction in the protection of vulnerable persons. The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned. In this respect the definitions and measuring methodologies applied at the national level and the main data made available are systematically reviewed. The at-risk-of-poverty rate before and after social transfers (Eurostat), is used as a comparative value to assess national situations.

In view of these requirements, the Committee considered that “The former Yugoslav Republic of Macedonia” still faces some challenges as regards the requirements of this provision, one of them being insufficient coordination and insufficient financial means. The Committee invited “The former Yugoslav Republic of Macedonia” to continue its consideration of this provision with a view to its possible acceptance in the near future.

Article 31§1 *The right to housing - Adequate housing*

Situation in “The former Yugoslav Republic of Macedonia”
The Government provided information on the legislation concerning housing of vulnerable groups (including Roma) and indicated that a new Law on Social Housing was being drafted. (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee provided information on aspects of interpretation and case law, recalling that this provision requires States Parties to guarantee to everyone the right to adequate housing. They should take positive measures and promote access to housing in particular in respect of the different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems as well as Roma people.

The law should define adequate housing, notably as:
- a dwelling which is safe from a sanitary and health point of view, i.e. that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc. and where specific dangers such as the presence of lead or asbestos are under control;
- a dwelling which has a size suitable to the number of persons and the composition of the household in residence;
- a dwelling with secure tenure supported by the law (this issue is covered by Article 31§2).

The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock. It must also be applied to housing available for rent as well as to housing owner occupied housing.

It is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for landlords. Public authorities must also limit against the interruption of essential services such as water, electricity and telephone.

Even if under domestic law, local or regional authorities, trade unions or professional organisations are responsible for exercising a particular function, States Parties to the Charter are responsible, under their international obligations to ensure that such responsibilities are properly exercised. Thus, ultimate responsibility for policy implementation, involving at a minimum supervision and regulation of local action, lies with the Government which must be able to show that both local and national authorities have taken practical steps to ensure that local action is effective.

The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers must have access to affordable and impartial judicial or other remedies. Any appeal procedure must be effective.

In view of these requirements, the Committee considered that further information on the current legal situation and practice was needed to allow it to properly assess the situation. It encouraged “The former Yugoslav Republic of Macedonia” to pursue the adoption of a law on social housing which would respect the criteria set out under Article 31 of the Charter, in view of its possible acceptance in the near future.

Article 31§2 *The right to housing - Reduction of homelessness*

Situation in “The former Yugoslav Republic of Macedonia”
The Government referred to the setting up of a Center for Homeless Persons, which provides temporary accommodation to homeless people, in addition to the Center for Urgent Sheltering of Homeless Persons, managed by the Red Cross. It also indicated that special accommodation measures were taken in winter time and that the further measures to ensure emergency accommodation at regional level were envisaged but their implementation still encountered some problems (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee provided information on aspects of interpretation and case law, pointing out that States must take action to prevent categories of vulnerable people from becoming homeless. They must set up procedures to limit the risk of eviction, i.e. the deprivation of housing which a person occupied due to insolvency or wrongful occupation. To this effect, evictions should be carried out in accordance with rules of procedure sufficiently protective of the rights of the persons concerned. Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties affected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction.

When evictions do take place, they must be carried out under conditions which respect the dignity of the persons concerned. The law must prohibit evictions carried out at night or during the winter period. When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned. Domestic law must provide legal remedies and offer legal aid to those who are in need of seeking redress from the courts. Compensation for illegal evictions must also be provided. States should foresee sufficient places in emergency shelters and the conditions in the shelters should be such as to enable living in keeping with human dignity.

In view of these requirements, the Committee considered that further information was needed to assess if this provision could be accepted by "The former Yugoslav Republic of Macedonia". It encouraged the Government to pursue their efforts and to continue considering the acceptance of Article 31§2 in the near future.

Article 31§3 *The right to housing - Affordable housing*

Situation in "The former Yugoslav Republic of Macedonia"
The Government provided information on the measures taken in the field of social housing, notably through the provision of financial assistance to certain vulnerable or low-income categories of persons (see First Report - NON ACCEPTED Provisions - MKD (2017) EN.pdf).

Opinion of the Committee
The Committee provided information on aspects of interpretation and case law, emphasizing that, under this provision, an adequate supply of affordable housing must be ensured.

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other costs (utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located. In particular, states must show that the affordability ratio of the poorest applicants for housing is compatible with their level of income.

They are furthermore required to:
- adopt appropriate measures for the construction of housing, in particular social housing;
- ensure access to social housing for all disadvantaged groups of people. Measures to reduce waiting times which are very long must be adopted. Legal remedies must be available in the event of excessive waiting times.
- introduce housing benefits for low-income and disadvantaged sections of the population. Housing allowance is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.

Equal treatment with respect to housing (Article E) must be guaranteed, in particular, to the different groups of vulnerable persons, particularly low-income persons, the unemployed, single parent households, young persons, persons with disabilities including those with mental health problems as well as Roma or travellers.

In the light of these requirements, the Committee considered that further information would be needed in order to properly assess the situation in "The former Yugoslav Republic of Macedonia". In particular, information would be needed on the waiting periods for accessing social housing and on legal or other remedies available in case such waiting periods are excessive. Information would furthermore be needed on the measures taken to ensure that no discrimination apply in respect of vulnerable persons (such as Roma). The Committee invited "The former Yugoslav Republic of Macedonia" to continue its consideration of this provision with a view to its possible acceptance in the near future.

III. EXCHANGE OF VIEWS ON THE COLLECTIVE COMPLAINTS PROCEDURE

Lauri LEPPIK and Barbara KRESAL provided an overview of the collective complaints procedure, which had been so far accepted by 15 member States, including 14 states party to the European Union.

They noted that the collective complaints procedure, which came into force in 1998 under an Additional Protocol to the European Social Charter, complemented the judicial procedure under the European Convention of Human Rights. However, it was not a system of individual applications.

The aim of the procedure was to increase the effectiveness and the speed of the implementation of the European Social Charter and also to increase the role of the Social partners and NGOs by giving them a more prominent role in enabling them to directly apply to the Committee when they consider that the Charter is not correctly applied in a country.

The complainant organisation is not necessarily a victim and there is no obligation to exhaust domestic remedies.

The organisations entitled to lodge collective complaints are as follows:

– the European social partners: European Trade Union Confederation (ETUC), for employees; Business Europe and International Organisation of Employers (OIE), for employers;
– certain international non-governmental organisations (INGOs) holding participatory status with the Council of Europe;
– social partners at national level.

Furthermore, any State may grant representative national non-governmental organisations (NGOs) within its jurisdiction the right to lodge complaints against it. So far, only Finland has done so.

A complaint may be declared admissible even if a similar case has already been submitted to another national or international body. The fact that the substance of a complaint has been examined as part of the Charter supervision procedure based on government reports does not constitute an impediment to the complaint's admissibility.

The fact that a complaint relates to a claim already examined in the context of a previous complaint is not in itself a reason for inadmissibility; the submission of new evidence during

the examination of a complaint may prompt the Committee to re-assess a situation it has already examined in the context of previous complaints and, where appropriate, take decisions which may differ from the conclusions it adopted previously.

Decision on the merits

If the complaint is declared admissible, the Committee asks the respondent State to make written submissions on the merits of the complaint within a time limit which it sets. The President then invites the organisation that lodged the complaint to submit, on the same conditions, a response to these submissions. The President may then invite the respondent State to submit a further response. It is a real adversarial procedure.

International organisations of employers and trade unions are invited to make observations on complaints lodged by national organisations of employers and trade unions or by non-governmental organisations. The observations submitted here are transmitted to the organisation that lodged the complaint and to the respondent State.

The Committee may also invite any organisation, institution or person to submit observations. Any observation received by the Committee is transmitted to the respondent State and to the organisation that lodged the complaint.

In the course of the examination of the complaint, the European Committee of Social Rights may organise a hearing. The hearing may be held at the request of one of the parties or on the Committee's initiative. The hearing is public unless the President decides otherwise.

Following deliberation, the Committee adopts a decision on the merits of the complaint. It decides whether or not the Charter has been violated. The decision is notified to the parties and the Committee of Ministers.

Insofar as they refer to binding legal provisions and are adopted by a monitoring body established by the Charter and the Protocol providing for the system of complaints, the decisions of the European Committee of Social Rights must be taken into consideration by the States concerned; however, they are not enforceable in the domestic legal system. In practice, this means that when the Committee rules that the situation in a country is not in compliance with the Charter, the complainant organisation cannot require the committee's decision to be enforced in domestic law as would be the case with a ruling by a court in the State concerned.

The decisions of the Committee – like its Conclusions in the reporting system - are declaratory; in other words, they set out the law. On this basis, national authorities are required to take measures to give them effect under domestic law. In this connection, domestic courts could declare invalid or set aside domestic legislation if the Committee has ruled that it is not in compliance with the Charter, depending on the internal legal system of the State.

In the event of violation of the Charter, the State is asked to notify the Committee of Ministers of the Council of Europe of the measures taken or planned to bring the situation into conformity.

The Committee of Ministers may adopt a resolution, by a majority of those voting. The resolution takes account of the respondent State's declared intention to take appropriate measures to bring the situation into conformity. The Committee of Ministers' decision is based on social and economic policy considerations not on legal considerations.

If the State in question does not indicate its intention to bring the situation into conformity, the Committee of Ministers may also adopt a recommendation to the State. In view of the importance of this decision, a two-thirds majority of those voting is required here. In the case of both resolutions and recommendations, only States party to the Charter may take part in the vote.

The European Committee of Social Rights' decision on the merits of the complaint is made public at the latest four months after the report is transmitted to the Committee of Ministers and is published on the Council of Europe website.

Ultimately, it falls to the Committee to determine whether the situation has been brought into compliance with the Charter.

The Committee's findings of violation in the framework of the complaints procedure are not intended to be decisions against states. The spirit and purpose of the procedure, as the Committee understands it, is not to put the State on trial for its lack of implementation of the Charter. It is rather to put the normative provisions of the Charter to the test of specific and concrete situations. It is to assess what a State has to do or to prevent in order to guarantee the application of rights of the Charter in specific situations. In other words, the purpose is to give an additional opportunity to states parties to bring the situation into conformity and to prevent possible further violations of the Charter.

There are other added values of the procedure: the complaints procedure is also important because it opens the Charter to the civil society, to its very beneficiaries, those who are directly concerned with the implementation of the Charter and who are the best guardians of these rights.

Furthermore, accepting the procedure now produces an advantage to the States concerned in terms of reporting burden under the Charter: States having accepted the complaint procedure are exempted from some reporting obligations under the Charter.

Experience has shown that, since the introduction of the procedure, the number of complaints over time had been relatively limited and has not created an undue burden on governments.

It was also recalled that, in the framework of the Turin process started in 2014, reinforcement of the collective complaints procedure was a priority and all member States had been called on to ratify the Protocol. It provided a legal tool for guaranteeing the full enjoyment of fundamental social and economic rights and had important implications for improving democracy through the involvement of civil society as actors.

APPENDIX I – Programme of the meeting on the non-accepted provisions of the European Social Charter

PROGRAMME

MEETING ON THE NON-ACCEPTED PROVISIONS OF THE EUROPEAN SOCIAL CHARTER

organised by

Department of the European Social Charter, DG I
Council of Europe,
Ministry of Labour and Social Policy
of "the former Yugoslav Republic of Macedonia"

Skopje, 8 November 2017

Venue: **Hotel "ARKA"**, Skopje (*Ul. Bitpazarska 90/2, Skopje 1000*)

Working languages: English and Macedonian

The meeting is organised in the framework of the procedure provided for by Article 22 of the Charter on "non-accepted provisions". It will consist of an exchange of views and information on the provisions not accepted by "the former Yugoslav Republic of Macedonia" as well as on the collective complaints procedure.

9.00 **Opening of the meeting**

- **Ms Mila CAROVSKA**, Minister of Labour and Social Policy
- **Ms Monica MARTINEZ**, Head of Operations, Council of Europe Programme Office in Skopje

Exchange of views on the provisions of the European Social Charter not yet accepted by the country

- **Mr Darko DOCHINSKI**, Ministry of Labour and Social Policy (MoLSP)
- **Mr Lauri LEPPIK**, former member and General Rapporteur of the European Committee of Social Rights, Council of Europe

9.15 **Article 9** (*Right to vocational guidance*)
Article 10§1, 10§2, 10§3, 10§4, 10§5 (*Right to vocational training* - *Technical and vocational training and access to higher technical and university education; Apprenticeship; Vocational training and retraining of adult workers; Long term unemployed persons; Full use of facilities available*)
Article 3§1, 3§3 (*Right to safe and healthy working conditions* - *Safety and health regulations; Enforcement of safety and health regulations*)

- The situation in law and in practice in the country – presentations by:
  (Article 9) **Ms Veljka JURAN**, Head of the Unit for Employment Services, Employment Service Agency of the Republic of Macedonia (ESARM)
  (Article 10§1, 10§2) **Ms Dana BISHKOSKA**, Head of the Unit for Secondary Education, Ministry of Education and Science
  (Article 10§3, 10§4, 10§5) **Ms Frosina VELKOVSKA**, Head of the Unit, ESARM
  (Article 3) **Ms Mirjanka ALEKSEVSKA**, Head of the Labour Department, MoLSP
- Presentations by:
  (Article 9) **Ms Elena MALAGONI**, Department of the European Social Charter, Council of Europe
  (Article 10) **Ms Nino CHITASHVILI**, Department of the European Social Charter, Council of Europe
  (Article 3) **Mr Lauri LEPPIK**, former member and General Rapporteur of the European Committee of Social Rights, Council of Europe
- Discussion

10.15	**Coffee break**

10.45 **Article 4§1, 4§4** (*Right to a fair remuneration - Decent remuneration; Reasonable notice of termination of employment*)
Article 7§5 (*Right of children and young persons to protection - Fair pay*)
Article 22 (*Right of workers to take part in the determination and improvement of working conditions and working environment*)
Article 25 (*Right of workers to protection of their claims in the event of the insolvency of their employer*)
Article 27 (*Right of workers with family responsibilities to equal opportunity and treatment - Participation in working life; Parental leave*)

- The situation in law and in practice in the country – presentations by: (Articles 4, 7, 22, 25 and 27)
  Ms Mirjanka ALEKSEVSKA, Head of the Labour Department, MoLSP
  Ms Maja PAPATOLEVSKA, Associate in the Labour Department, MoLSP
- Presentations by:
  (Article 4) **Ms Barbara KRESAL**, member of the European Committee of Social Rights
  (Article 7) **Mr Lauri LEPPIK**, former member and General Rapporteur of the European Committee of Social Rights, Council of Europe
  (Article 22) **Ms Nino CHITASHVILI**, Department of the European Social Charter, Council of Europe
  (Articles 25 and 27) **Ms Barbara KRESAL**, member of the European Committee of Social Rights
- Discussion

12.00 **Article 14§1, 14§2** (*Right to benefit from social services - Promotion or provision of social services; Public participation in the establishment and maintenance of social services*)
Article 15§3 (*Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community*)
Article 23 (*Right of the elderly to social protection*)
Article 30 (*Right to be protected against poverty and social exclusion*)
Article 31§1, 31§2, 31§3 (*Right to housing - Adequate housing; Reduction of homelessness; Affordable housing*)

- The situation in law and in practice in the country – presentations by: (Articles 14, 15, 23, 30 and 31) **Ms. Sofija SPASOVSKA**, Deputy Head of the Social Protection Department, MoLSP
- Presentations by:
  (Article 14) **Ms Barbara KRESAL**, member of the European Committee of Social Rights
  (Article 15 and 23) **Ms Elena MALAGONI**, Department of the European Social Charter, Council of Europe
  (Article 30) **Ms Nino CHITASHVILI**, Department of the European Social Charter, Council of Europe
  (Article 31) **Mr Lauri LEPPIK**, former member and General Rapporteur of the European Committee of Social Rights, Council of Europe
- Discussion

13.15	Lunch

14.30 **Article 18§1, 18§2, 18§3, 18§4** (*Right to engage in a gainful occupation in the territory of other States Parties* - *Applying existing regulations in a spirit of liberality; Simplifying existing formalities and reducing dues and taxes; Liberalising regulations; Right of nationals to leave the country*)

Article 19§2, 19§3, 19§4, 19§7, 19§9, 19§10, 19§11, 19§12 (*Right of migrant workers and their families to protection and assistance* - *Departure, journey and reception; Co-operation between social services of emigration and immigration States; Equality regarding employment, right to organise and accommodation; Equality regarding legal proceedings; Transfer of earnings and savings; Equal treatment for the self-employed; Teaching language of host State; Teaching mother tongue of migrant*)

- The situation in law and in practice in the country – presentations by: (Article 18 and 19)
  Mr Dejan IVKOVSKI, Head of Unit, Social Protection Department, MoLSP
  Mr Goce STRASHESKI, Head of Unit for Foreigners and Readmission, Ministry of Interior
- Presentations by:
  (Article 18) **Mr Lauri LEPPIK**, former member and General Rapporteur of the European Committee of Social Rights, Council of Europe
  (Article 19§2-3) **Ms Nino CHITASHVILI**, Department of the European Social Charter, Council of Europe
  (Article 19§4) **Mr Lauri LEPPIK**, former member and General Rapporteur of the European Committee of Social Rights, Council of Europe
  (Article 19§7, 19§9-12) **Ms Elena MALAGONI**, Department of the European Social Charter, Council of Europe
- Discussion

15.45	Coffee break

16.15 **The collective complaints procedure**
- Introduction by **Mr Lauri LEPPIK** and **Ms Barbara KRESAL**
- Comments by the country authorities

17.00 **Concluding remarks**
Mr Darko DOCHINSKI, Ministry of Labour and Social Policy
Mr Lauri LEPPIK

Closing of the meeting

APPENDIX II – Electronic version of the presentation made at the meeting on the non-accepted provisions - Skopje 8 November 2017

Presentations
Seminar - 8 Nov 201

APPENDIX III – Situation of "The former Yugoslav Republic of Macedonia" with respect to the European Social Charter

Signatures, ratifications and accepted provisions

"The former Yugoslav Republic of Macedonia" ratified the European Social Charter on 31/03/2005, accepting 41 of the Charter's 72 paragraphs. It ratified the Amending Protocol to the Charter on 31/03/2005.

"The former Yugoslav Republic of Macedonia" ratified the Revised Charter on 6 January 2012, accepting 63 of the Charter's 98 paragraphs.

It has signed but not ratified the Additional Protocol to the Charter and it has neither signed nor ratified the Additional Protocol providing for a system of Collective Complaints.

The Charter in domestic law

Automatic incorporation into domestic law based on the Constitution, Article 118: "The international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law".

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3						Grey = accepted provisions				

Monitoring the implementation of the European Social Charter [1]

I. Reporting system [2]

Reports submitted by "The former Yugoslav Republic of Macedonia"

Between 2007 and 2017 "The former Yugoslav Republic of Macedonia" has submitted 6 reports on the application of the 1961 Charter and 3 reports on the application of the Revised Charter.

The 4th report, which was submitted on 7/3/2017, concerns the accepted provisions relating to Thematic Group 2 "Health, social security and social protection" (Articles 3, 11, 12, 13, 14, 23, 30 of the Revised Charter).
In addition, the report provides the information required by the Committee in the framework of Conclusions 2015 relating to Thematic Group 4 "Children, families, migrants" (Articles 7, 8, 16, 17, 19, 27, and 31 of the Revised Charter), in the event of non-conformity for lack of information.

Conclusions in respect of these provisions will be published in January 2018.

The 5th report, to be submitted by 31 October 2018, should concern the accepted provisions relating to Thematic Group 3 "Labour Rights", namely:

- the right to just conditions fo work (Article 2),
- the right to a fair remuneration (Article 4),
- the right to organise (Article 5),
- the right to bergain collectively (Article 6),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22),
- the right of dignity at work (Article 26),
- the right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28),
- the right to information and consultation in collective redundancy procedures (Article 29).

Conclusions with respect to these provisions will be published in January 2019.

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[1] The European Committee of Social Rights ("the Committee") monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».
Further information on the procedures may be found on the HUDOC database and in the Digest of the case law of the Committee.

[2] Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.
Following a decision taken by the Committee of Ministers in April 2014, States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.
Detailed information on the Reporting System is available on the relevant webpage. The reports submitted by States Parties may be consulted in the relevant section.

Situations of non-conformity [3]

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions 2016

► *Article 1§1 –- Right to work - Policy of full employment*
The employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

► *Article 1§2 – Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*
Restrictions on employing foreign nationals of other States Parties to the Charter in the public service are excessive, which constitutes a discrimination based on nationality.

► *Article 1§4 - Right to work - Vocational guidance, training and rehabilitation*
It has not been established that the right of persons with disabilities to mainstream education and training is effectively guaranteed.

► *Article 15§1 - Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Education and training for persons with disabilities*
It has not been established that the right of persons with disabilities to mainstream education and training is effectively guaranteed.

Thematic Group 2 "Health, social security and social protection" – Conclusions 2017

► *Article 12§1 - Right to social security - Existence of a social security system*
- it has not been established that the existing social security schemes cover a significant percentage of the population;
- the minimum duration of payment of unemployment benefits is too short;
- the minimum amount of unemployment benefit, calculated on the basis of the minimum wage in certain sectors, is inadequate.

► *Article 12§4 - Right to social security - Social security of persons moving between States*
- equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;
- it has not been established that the retention of accrued benefits is guaranteed to nationals of all other States Parties;
- it has not been established that the right to maintenance of accruing rights is guaranteed to nationals of all other States Parties.

► *Article 13§1 - Right to social and medical assistance- Adequate assistance for every person in need*
- the level of social assistance paid to a single person without resources is not adequate;
- nationals of States Parties lawfully resident are subject to a length of residence requirement of five years for entitlement to social assistance.

Thematic group 3 "Labour rights" – Conclusions 2014

► *Article 2§1 – Right to just conditions of work – Reasonable working time*
The hours spent in preparedness for work of medical staff are regarded as a period of rest.

► *Article 6§1 – Right to bargain collectively - Joint consultation*
It has not been established that joint consultation takes place in the public sector, including the civil service.

[3] Further information on the situations of non-conformity is available on the HUDOC database.

Thematic group 4 "Children, families and migrants" - Conclusions 2015

► *Article 7§1 – Right of children and young persons to protection – Prohibition of employment under the age of 15*
The daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.
► *Article 7§3 – Right of children and young persons to protection – Prohibition of employment of children subject to compulsory education*
The duration of working time for young persons still subject to compulsory education is excessive and therefore cannot be qualified as light work.

► *Article 7§9 – Right of children and young persons to protection – Regular medical examination*
A full medical examination of young workers under 18 at recruitment is not guaranteed by national laws or regulations. The interval between the medical examinations for young workers during employment is too long.

► *Article 7§10 – Right of children and young persons to protection – Special protection against physical and moral dangers*
It has not been established that all children under the age of 18 are protected against all forms of sexual exploitation.

► *Article 8§2 – Right of employed women to protection of maternity – Illegality of dismissal during maternity leave*
it has not been established that reinstatement or adequate compensation is provided for in cases of unlawful dismissal during pregnancy or maternity leave.

► *Article 16 – Right of the family to social, legal and economic protection*
Family benefits do not cover a significant number of families; equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured because the length of residence requirement is excessive.

► *Article 19.6 – Right of migrant workers and their families to protection and assistance – Family reunion*
Family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.

The Committee has been unable to assess compliance with the following provisions and has invited the Government of "The former Yugoslav Republic of Macedonia" to provide more information in the next report:

Thematic Group 1 "Employment, training and equal opportunities"

► Article 1§3 - Conclusions 2016
► Article 15§2 - Conclusions 2016
► Article 20 - Conclusions 2016
► Article 24 - Conclusions 2016

Thematic Group 2 "Health, social security and social protection"

► Article 3§2 - Conclusions 2017
► Article 13§3 - Conclusions 2017

Thematic group 3 "Labour rights"

► Article 4§2 - Conclusions 2014
► Article 4§3 - Conclusions 2014
► Article 4§5 - Conclusions 2014
► Article 6§2 - Conclusions 2014
► Article 21 - Conclusions 2014
► Article 26§1 - Conclusions 2014
► Article 26§2 - Conclusions 2014
► Article 28 - Conclusions 2014
► Article 29 - Conclusions 2014

Thematic Group 4 "Children, families, migrants"

► Article 8§1 - Conclusions 2015
► Article 17§1 - Conclusions 2015
► Article 17§2 - Conclusions 2015
► Article 19§1 - Conclusions 2015
► Article 19§8 - Conclusions 2015
► Article 27§3 - Conclusions 2015

II. Examples of progress achieved in the implementation of rights under the Charter

(update in progress)

Employment and equal opportunities

► The upper limit on the amount of compensation in cases of discrimination was repealed in August 2008 following the adoption of the amended version of the Law on Labour Relations. The amount of compensation is now determined case by case.

► The Law on Prevention of and Protection against Discrimination (the Anti-Discrimination Law), adopted in 2010, prohibits any direct or indirect discrimination on grounds including disability in areas such as education, science and sport.

► The law on combating the gender pay gap was adopted on 22 April 2012 and requires measures to combat the wage gap to be negotiated at inter-occupational, sectoral and company level.

► The Labour Relations Act was amended in October 2009. The new Section 122(a) provides that workers engaged in especially hard, demanding and harmful tasks, whose harmful effect to the health or working capability cannot be fully removed with protective measures, are entitled to reduced working hours proportionate to the harmful effect to their health, or working capability, in accordance with the law and
collective agreements.

► Section 111 of the Labour Relations Act of 22 July 2005 (No. 65/2005), as amended and supplemented by Law No. 39/2012 of 20 March 2012, restricts deductions from wages solely to cases provided for by law.

► Following the amendment of Section 201 of the Labour Relations Law in 2009 (Official Gazette No.130/2009), the termination of the activities of a trade union or an employers' association is exclusively regulated by the rules autonomously established by the organisations concerned.

► Following an amendment introduced in 2009, the Labour Relations Law (Official Gazette No. 62/2005, as amended), the criteria for granting representativeness has been modified.

► The Labour Relations Law of 2010 (Official Gazette No. 124/10) harmonised the national legislation with the European Union law in respect of the right of workers to be informed and consulted.

► Section 162 of the Labour Relations Act, as amended in 2013 (Official Gazette No. 13/13), provides that pregnant women and mothers until one year after the birth should not perform any work which would expose them to increased risks for their health or their child's health.

Health

► According to the Law on Health Insurance of April 2011 all persons who do not have other basis for health insurance shall be covered and exercise the right to health and are no longer be obliged to register as unemployed persons in the Employment Service Agency.

Children

► According to the Child Protection Act of 12 February 2013: corporal punishment is prohibited in alternative care settings (foster care, institutions, places of safety, emergency care, etc).

APPENDIX IV - Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter

(Adopted by the Committee of Ministers on 12 October 2011 at the 1123rd meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe,

Considering the European Social Charter, opened for signature in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996 ("the Charter");

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated;

Stressing its attachment to human dignity and the protection of all human rights;

Emphasising that human rights must be enjoyed without discrimination;

Reiterating its determination to build cohesive societies by ensuring fair access to social rights, fighting exclusion and protecting vulnerable groups;

Underlining the particular relevance of social rights and their guarantee in times of economic difficulties, in particular for individuals belonging to vulnerable groups;

On the occasion of the 50th anniversary of the Charter,

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;

2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;

3. Recognises the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;

4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;

5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;

6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.