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FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES

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Comments of the Government of "the former Yugoslav Republic of Macedonia" on the Fourth Opinion of the Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities by "the former Yugoslav Republic of Macedonia"

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Republic of Macedonia
Ministry of Foreign Affairs

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the Fourth Opinion of the Advisory Committee on the implementation of
the Framework Convention for the Protection of National Minorities
by the Republic of Macedonia

Introduction

The Government of the Republic of Macedonia highly values the work of the Advisory Committee in ensuring the full implementation of the Framework Convention for the Protection of National Minorities and in monitoring the performance of its States parties in regard to the implementation of its provisions. The authorities of the Republic of Macedonia had an excellent exchange with the Advisory Committee during their visit to the Republic of Macedonia carried out from 7 to 11 December 2015.

Since the adoption of the Advisory Committee Third Opinion, a variety of actions have been taken to improve the protection of persons belonging to the ethnic communities in all spheres of life in the Macedonian society. We note that only some of the achievements are reflected in the Fourth Opinion of the Advisory Committee.

The comments of the Republic of Macedonia on a number of findings and recommendations contained in the Opinion of the Advisory Committee have been prepared by the Ministry of Foreign Affairs, in cooperation with the relevant ministries and other state institutions involved in the implementation of the Framework Convention. However, it should be noted that a number of comments by the Advisory Committee, especially those related to the political situation and the refugee/migrant crisis in the Republic of Macedonia go beyond the mandate of the Advisory Committee.

Article 4

Legal and institutional framework for the promotion of equal access to rights of persons belonging to national minorities

Paragraph 19, 20 and 22

In keeping with the Law on the Prevention of and Protection against Discrimination, the Commission for Protection against Discrimination (CPD) operates as an independent body, while the fact that some of the members who formed part of its previous composition for the period ending in 2015 were simultaneously full-time employees of government institutions does not automatically impact the work and the ability of the CPD to function independently. Moreover, the public announcement for recruiting members of the Commission is open for all eligible candidates and

does not and cannot impose any kind of limitation as to who can or cannot apply. The members of the Commission in its previous composition ending its term in 2015 functioned completely independently from their professional profiles in the public institutions they are employed in and worked in the Commission outside of the working hours at their respective employers.-

With regard to the issue of a professional service, i.e. a Secretariat for the Commission for Protection against Discrimination, it should be noted that professional service composed of three professionals transferred from other institutions is already operating under and for purposes of the Commission.

Paragraphs 21 and 23

The Amendments to the Law on the Ombudsman were adopted in September 2016 in order to further improve the system of human rights protection and promotion in the Republic of Macedonia in compliance with international human rights standards.

The amendments aim at achieving the following:

- Full compliance with the Paris Principles on National Human Rights Institutions,
- Introducing the promotion of human rights as part of the mandate of the Ombudsman's Office,
- Greater pluralism and strengthening of the independence in its functioning, and
- Further alignment of the law with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which requires functional and operational independence of the National Preventive Mechanism.

The Ombudsman's Office of the Republic of Macedonia in October 2011 upon an application for accreditation to the International Coordinating Committee of National Human Rights Institution received status B. Then it was determined that the institution partially met the criteria for National institution with status A. In its evaluation, the Subcommittee on Accreditation determined that improvements were needed in regard to the: defined mandate of the institution of Ombudsman of the Republic of Macedonia, the appointments, composition and the pluralism of the Ombudsman's Office, its funding in relation to the functioning as a National Preventive Mechanism, as well as its interaction with the international human rights system.

Therefore, Article 2 of the amendments extends the mandate of the Ombudsman by including the promotion of human rights and freedoms into its competence and envisages that the Ombudsman monitors the respect of human rights and indicates the need for their protection, conducts relevant research, organizes educational activities, timely and regular information to the public, cooperates with civil society, international organizations and academia, and initiates harmonization of legislation with international and regional human rights standards. Furthermore the amendments allow the possibility for the promotion to be conducted through the Public Broadcasting Service which is also charged with the task to contribute towards the respect and promotion of human rights, as well as to raise awareness.

In order to implement the recommendations of the Subcommittee on Accreditation related to the selection process and the pluralism of the Ombudsman Office, the adopted amendments also make a requirement for a public vacancy announcement both for the position of the Ombudsman and the Ombudsman's Deputies, whereby due account should be taken for the principle of gender –

balance. It also provides for a greater diversity by prescribing that one of the Deputies to the Ombudsman can be selected among candidates with a university education not related to law.

The adopted amendments also regulate in more details the functioning and the competences of the Ombudsman as a National Preventive Mechanism, thus making further alignment with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Regarding the funds for the work, the amendments provide that there should be an allocation of resources for the functioning of the Ombudsman as National Preventive Mechanism by establishing a special budgetary program.

Continued challenges to the effective equality of person belonging to national minorities Paragraphs 26 and 29

The Ministry of Labour and Social Policy, the Ministry of Justice- Civil Registry Department, the Ministry of the Interior, Roma non-governmental organizations, Roma Information Centres, the UNHCR and the UNICEF undertake actions for registering persons in the Birth Register, i.e. activities have been undertaken with respect to persons who have not been registered at birth. In this context it is necessary to underline that applicable laws regulating this matter (primarily the Law on Registering the Place of Residence and Stay of Citizens and the Law on the Identity Cards) do not contain a single provision, which grants a privileged status to any person on any grounds, and no application may be rejected only because the applicant belongs to a certain ethnic or minority group.

Paragraphs 27 and 30

The allegations contained in the referred to surveys are not correct, in light of the fact that according to Article 4 of the Law on Border Control, the said Law equally applies to all persons crossing the state border of the Republic of Macedonia, regardless of their social, economic status or religious or ethnic affiliation. According to Article 8, paragraph 3 of the Law on Border Control (Official Gazette of the Republic of Macedonia No. 171/10) in the performance of border control checks police officers must not discriminate on grounds of gender, racial or ethnic affiliation, colour of skin, age, nationality, social origin, religion, disability, sexual orientation, property, and social status.

The right to equality and the right to freedom of movement are guaranteed by the Constitution of the Republic of Macedonia and it must be taken into consideration that when a person intends to leave the territory of the country, the conditions for entry and the right to freedom of movement on the territory of the Member-States of the European Union must be taken due account of, as they are defined in Article 17 (1) of the Schengen Agreement, the Schengen Borders Code and the EU Directive 38/2004 of 29 April 2004.

According to Article 5 of the Schengen Borders Code, an unimpeded exit from the territory of the Republic of Macedonia and then entry into an EU Member-State do not require only possession of a biometric passport, but other conditions are also to be fulfilled and other documents, i.e. certificates are to be presented, as envisaged under Annex 1 of the above referred

to EU Regulation, that justify or prove the motives and purposes of the travel and stay in EU Member-States.

Measures to promote full and effective equality of persons belonging to national minorities
Paragraphs 32, 34, 35

Concerning the adoption of the Roma Strategy 2015–2020, the process of adopting the strategy and developing the action plans was conducted through participative meetings between the civil society and the national institutions.

Over the course of the entire process, the civil society participated actively in producing the documents and most of their proposals and recommendations were accepted and incorporated in the current official documents.

For instance, the adoption of the strategy and the education action plan involved not only representatives of the Ministry of Education and Science, but also 18 representatives of the civil society and representatives of the Ministry of Labor and Social Policy which is the central ministry in charge of the overall Strategy implementation.

As far as the budgeting of action plans is concerned, each individual Ministry in charge has earmarked resources for their implementation.

Article 8

Right to manifest one's belief and to establish religious organisations

Paragraphs 52 and 54

According to the Law on the Organization and Work of the State Administration, the state body that is responsible for the relations between the religious communities and the state bodies is the Commission for Relations with Religious Communities and Religious Groups.

The religious rights and freedoms of the citizens of the Republic of Macedonia and the rights of all churches, religious communities and religious groups that exist and operate legally on the territory of the Republic of Macedonia are established by the Constitution of the Republic of Macedonia and the Law on the Legal Status of a Church, Religious Community and a Religious Group (Official Gazette of the Republic of Macedonia No. 113/07).

The Law on the Legal Status of a Church, Religious Community and a Religious Group (Official Gazette of the Republic of Macedonia No. 113/07) more specifically governs the establishment and legal status of a church, religious community and a religious group, the religious services, prayers, rites, religious instruction and educational activities, revenues and other issues related to churches, religious communities and religious groups.

Under the said law, a church, religious community or religious group acquires legal personality upon registration in the Single Court Register of Churches, Religious Communities and Religious Groups (SCR). In order to be registered in the SCR, they need to file an application accompanied by documents listed in Article 12 of the Law. If the conditions set by Articles 12 and 14 of this Law are met, the relevant court keeping the register is obliged to enter the church, religious community or religious group in the SCR within eight days from the day of the application.

Paragraph 53

The Opinion *inter alia*, states that “The registration of four other Orthodox religious groups are similarly reported to have been rejected in 2014”. The applications of these religious groups were denied or rejected because they had not fulfilled the conditions set forth under Articles 12 and 13 of the Law on Legal Status of a Church, Religious Community and Religious Group. In this respect it is underlined that the Religious Community of Orthodox Christian Albanians in the Republic of Macedonia was registered in 2015.

Article 9

Access to broadcast and print media

Paragraphs 55-59

As regards the broadcasting of TV content in the languages of the communities, it is important to note that in the Republic of Macedonia there have always been broadcasting companies that have broadcast multiethnic programming, i.e. programming in several languages. The public broadcasting company has for decades broadcast one radio and one television channel in 6 languages of the ethnic communities that live in the Republic of Macedonia.

Since 2006 there has been a Bosniak desk in the Public Broadcaster. The time reserved for broadcasting shows of the Bosniak desk is the same as for those of the desks of the other communities. Furthermore, all desks also broadcast radio shows in their respective languages two hours per week each.

Since 2014, the number of such media in the commercial sector has also increased. In January 2016, there were 12 TV stations that broadcast programming in both the Albanian and the Macedonian language; four TV stations with programming in the Macedonian, Albanian and Turkish languages; three TV and two radio stations in the Macedonia and Serbian languages; two TV stations in the Macedonian and Bosniak languages; and one TV station in the Roma and Macedonian languages. Furthermore, there is an impression that national TV stations that have obtained licences for broadcasting via operators of electronic communication networks that do not use a limited resource (cable television companies) and started operating in 2015 add new quality in ensuring political pluralism. There data refute the claims that there is absolute national and ethnic fragmentation in media content.

The role of the Agency for Audio and Audiovisual Media Services in protecting human rights in the programming of the broadcasting companies, as well as all other competences and activities of the regulatory body, is defined by the Law on Audio and Audiovisual Media Services. The Macedonian regulatory framework on “hate speech” follows the human rights guidelines of the European Commission in order to enable legal regulation of “hate speech” through administrative, civil and criminal codes. Still, the Agency acts upon complaints from citizens or *ex officio*, although there are no sanctions set by the Law on Audio and Audiovisual Media Services. The Agency has no punitive measures at its disposal that it can take in cases of discriminatory language or hate speech, inciting armed conflict, military aggression, overthrowing the constitutional order or threatening national security. If the Agency establishes remarks in its analyses, the broadcasting company is sent a written report containing the violations identified in the analyses of their programming. If it is established that other bodies may be competent to act, the report, together with a request for

further processing, may also be sent to the Public Prosecutor's Office of the Republic of Macedonia, the Commission for Protection of Discrimination and the Council of Media Ethics, which is a self-regulatory body. Aiming to raise the awareness of the need for finding a balance between the constitutionally guaranteed freedom of speech and its reverse – "hate speech" – among all stakeholders, in 2014 the Agency published the Guide to Monitor "Hate Speech". The Guide consists of two documents: Guidelines for Monitoring Contents with Hate Speech in Audiovisual Media Services and Review of Practices of Other Regulatory Bodies in Monitoring Hate Speech. The principles and standards in reporting and avoiding hate speech also form an important part of the Methodology for Monitoring Election Media Coverage through Radio and Television Programme Services during the Election Processes.

Article 12

Integrated education

Paragraphs 67, 68 and 70

Concerning the Strategy for Integrated Education, all primary and secondary schools have formed teams for interethnic integration in education, which are responsible for including interethnic integration school activities in the school's annual programme and implementing them.

- The School Quality Work Indicators, which national education inspectors use to conduct an integral evaluation of schools, have been amended to include criteria for following planned and implemented activities for interethnic integration in education.
- Under the Project for Interethnic Integration in Education, some schools hold joint regular classes in English and visual arts
- A working group for following interethnic integration activities under the Plan for Assessing Achievements has been established at the Ministry of Education and Science.
- The Centre for Vocational Education and Training has adopted Guidelines for Developing Programmes for Extracurricular Classes at Schools in Integrated Vocational Education and has approved over 20 programmes for extracurricular classes (upon selection, such classes become mandatory) in secondary vocational education on the principles of interethnic integration in education.
- The Building Bridges Fund, which supports activities through grants for primary schools for the purpose of promoting interaction, mutual understanding and integration in the school environment, has been opened for the third successive year.

The Ministry of Education and Science has earmarked a total of MKD 2 000 000 from the 2016 budget for activities under the Integrated Education Strategy. For the year 2017, the proposed allocation is MKD 3 000 000.

The latest amendments to the Law on Primary Education and the Law on Secondary Education govern the obligation of the Ministry of Education and Science to each year publish a call for projects by schools related to integrated education. The Ministry of Education and Science is obliged to select the best projects.

Paragraphs 69 and 71

Concerning the remarks on textbook content, it is important to note that the Republic of Macedonia has an institutional system that functions excellently with respect to inconsistencies or offensive textbook content. The Commission for Protection against Discrimination and the Ombudsman are particularly active in this regard. We would like to hereby provide an example of how the system operates.

In 2011, the Commission for Protection against Discrimination received a complaint from complainant E.Sh., tutor at the Goce Delcev Primary School in Tetovo, who had worked on a project for improving education of Roma children. The complainant alleged that in 2009 the Ministry of Education and Science, by decision No. 10-1589/1, approved and brought into use a textbook for nine-year primary education, subject Macedonian language for the IV (fourth) grade, with discriminatory content in the text entitled "Orchestra". The complainant alleged that the existence of a textbook with such content, where Roma are called "Gypsies", contributes to intolerance among students from different communities that are educated together. The Commission for Protection against Discrimination established that the disputed textbook content constitutes harassment, causes a feeling of humiliation and violates the dignity of a group of people, which stems from a discriminatory basis. The Ministry of Education and Science, through the National Commission for Assessing Textbooks, adopted Conclusion No. 22-1407/1, dated 18 June 2012, recommending teacher not to use this text. The Conclusion was published on the website of the Ministry of Education and Science and entered into force on the day of adoption. (Commission for Protection against Discrimination, case E.Sh. vs. the Ministry of Education and Science, 2012, Regular Annual Report of the Commission for Protection against Discrimination for the Year 2012.)

Furthermore, concerning the training of history and religious education teachers, the Republic of Macedonia is a secular state and, according to the Constitution and the relevant laws, religious education is not allowed in the educational system.

Article 12

Equal access to education

Paragraphs 72 and 74

As regards the claim on completely segregated schools (footnote 77), it must be noted that there is no segregation in primary schools in the municipalities of Bitola, Prilep, Bardovci (Skopje) and Stip. The table below shows the data on ethnic composition of students in the mentioned towns and there is no case where 100 % of students are Roma.

Data on the ethnic composition of students at primary schools in the 2015/16 school year

Municipality	School	Roma	Macedonians	Albanians	Turks	Bosniaks	Serbs	Vlachs
Stip	Gjoso Vikentiev	50	662		18			39
	Dimitar Vlahov	86	827		45			36
	Goce Delcev	234	385		37			11
	Vanco Prke	59	1004		44			21

Prilep	Dobre Jovanovski	758	305					
	Clement of Ohrid	25	757					
Bitola	Gjorgji Sugarev	447	128	6	5			
Gjorce Petrov	Gjorce Petrov	33	191	9	14	45		
	Straso Pindjur	149	456					
	Mirce Acev	14	735		10	7	13	

Concerning the education of children with special needs and the Roma, in 2015 the Government of the Republic of Macedonia set up a special working group on the education of Roma children with special educational needs composed of representatives of the Ministry of Education and Science, the Ministry of Labour and Social Policy and the Ministry of Health .

An expert commission on assessing the capabilities of such children has also been established. This commission has recently completed the review of all Roma children enrolled in special schools, which aimed to establish whether those children should study at special schools or should be transferred to regular schools. Appropriate measures will be taken based on the findings of the final report.

At the same time, a new categorization rulebook is being prepared.

Concerning the statistics, since the 2014/15 school year, 26.5 % of the total number of students at special schools are Roma, while the percentage of Roma students in special classes for children with special needs at regular schools is 37.8 %. That is why the review of all of these children was conducted, in order to establish their correct diagnosis.

Furthermore, in November 2015, a Unified Form for Enrolment, Development Following and Removal of Primary and Secondary School Students was piloted at 3 primary and 3 secondary schools for children with difficulties. Following the preliminary analysis and the improvement of the content, it is envisaged to be applied at all primary and secondary schools for students with difficulties.

The Law on Primary Education and the Law on Secondary Education have been amended recently. Under the amendments, schools must set up an inclusive team composed of the school pedagogue, i.e. the school psychologist, a teacher of the student, the parent, i.e. guardian of the student, a defectologist if there is one at the school and, if need be, the doctor of the student for students with special educational needs at regular primary and secondary schools. The inclusive team devises an individual educational plan for each student with difficulties.

In cooperation with the UNICEF, 12 teams have been trained as model schools thus far. The number of such teams is planned to be increased in future.

Paragraph 73

Concerning the scholarships for Roma secondary school and university students, the Ministry of Education provides 600 scholarships per year from its budget to Roma secondary school students and in 2015 granted a total of 32 scholarships to Roma students, giving advantage to candidates who study at faculties or departments that educate future teaching staff. The Roma Education Fund joined at the start of 2009 by providing financial support for scholarships for Roma

secondary school students. Since 2014, the Ministry of Education and Science has granted all 600 scholarships from its budget.

Article 14

Education in and of minority languages

Paragraph 75

In accordance with the concept of nine-year primary education, primary education lasts nine years, not ten, as stipulated in the report.

Concerning the Vlach language and its inclusion in the regular curriculum in the Municipality of Krusevo, to date the Ministry of Education and Science has not received an application for its inclusion in the regular curriculum according to the set criteria and conditions. To date, members of the Vlach community from the Municipality of Krusevo have only expressed interest in the optional subject Vlach language and culture.

Concerning the footnote 79, the minimum number of students required to form a class for both regular and optional classes is 15, not 20-25 as stipulated in the footnote.

Concerning the remark that there is insufficient staff in the languages of the communities, the Roma and Vlach languages were introduced as optional courses at the Faculty of Philology in Skopje in the 2013 school year.

Paragraph 76

The remark that the selection of optional classes, including Romani language and culture for Roma parents, is done during the summer is incorrect. The notification and selection of optional classes for all students, including Roma students and the optional class Roma language and culture, is done in May, before the end of the school year.

It is also incorrect that the costs for optional classes are covered by the municipalities. The costs for salaries and resources for the overall curriculum, including optional classes, are covered by the Ministry of Education and Science through the central budget.

Articles 17 and 18 of the Framework Convention

Bilateral and regional co-operation

Paragraph 97

The Border Police respect and apply international obligations assumed by the Republic of Macedonia and fully respect human rights and refugee rights. Foreign nationals are treated in line with relevant national legislation, which in terms of border management, has been almost entirely harmonized with the EU legislation in this area.

All asylum seekers in the Republic of Macedonia and all persons requiring temporary protection are treated in accordance with international standards and conventions.

In the context of migrants who wish to use the territory of the Republic of Macedonia only as a transit on their way to Western European countries, the Border Police act in accordance with the Law on Border Control, while respecting human rights of such persons. Measures undertaken at the Macedonian-Greek border were not unilateral, but were undertaken as part of concerted

measures undertaken by countries along the route, especially by countries that were the end destination.

Therefore, provisional closures of the border were not a result of unilateral decisions of the national authorities, but were instead a consequence of the temporary closures on other points, i.e. in other countries along the route caused by various reasons (technical problems, transport problems, problems with the registration systems, introduction of new measures and procedures, etc).

Furthermore, criteria as to which migrants were to be allowed to transit through the Republic of Macedonia, including the criterion to allow transit only of persons coming from war torn areas, were not unilaterally defined in unilateral decision of the national authorities, but were instead set up after the national authorities had received notification from other countries that in the future such countries would allow entry of migrants coming only from certain areas.

It is once again underlined that these measures were not applied to foreign nationals that fulfilled criteria for entry into the country and to foreign nationals requesting international protection from the authorities of the Republic of Macedonia. Every foreign national has the right to seek asylum in the Republic of Macedonia and all persons who have applied for asylum in the Republic of Macedonia have been treated in accordance with relevant national legislation (Law on Asylum and Temporary Protection) and in accordance with international standards and such persons have been provided with access to the temporary protection mechanism.

In connection with the consideration according to which "In February 2016, a fence is being constructed to seal off the border with Greece", it is underlined that this consideration is not correct. The protective fence, as technical means, was set up only on parts of the state border, identified as critical points used for illegal crossing of the border, or for migrant smuggling and for other types of cross-border crime. The purpose was to improve the control of the state border, by having enhanced control of persons transiting through the Republic of Macedonia on their way to Western European countries, another goal being to prevent illegal crossings of the border outside points at the border officially designated for border crossing, as well as for reception, registration and provision of initial assistance to migrants.

The Ministry of the Interior would like to once again emphasize that the above referred to measures apply to migrants wishing to transit through the territory of the Republic of Macedonia, and are not applied to foreign nationals who apply for asylum and temporary protection in the Republic of Macedonia and who fulfil the conditions for entry in the country.

The Ministry of the Interior furthermore underscores that undertaken measures were aligned with European efforts to deal with the migrant crisis. In addition, as of 21 December 2015, foreign police officers, coming from regional countries and from EU Member-States, are continually involved and participate in the undertaking of activities on the Macedonian-Greek border, while as of 1 March 2016, under a decision of the European Commission, the management of the country's southern border is supported by the European Union through the implementation of a relevant project.