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**ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES**

**COMMENTS OF THE GOVERNMENT OF
“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”
ON THE OPINION OF THE ADVISORY COMMITTEE ON THE
IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE
PROTECTION OF NATIONAL MINORITIES
IN “THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”
(received on 10 January 2005)**

The Republic of Macedonia highly values the activities of the Advisory Committee in the process of monitoring the implementation of the Framework Convention and considers that the fulfillment of the obligations under the Convention must be a continued pan-European process.

In respect of the Opinion prepared by the Advisory Committee on the Framework Convention for the Protection of National Minorities, the Republic of Macedonia submits the following observations:

General Remarks

In addition to the obligations under the FCNM, the basic framework of the Government of the Republic of Macedonia in relation to minority policy setting is the commitment to the full implementation of the Framework Agreement in the legislation and practice in the Republic of Macedonia, what is one of the highest political priority goals and tasks of the Government.

The Government of the Republic of Macedonia accepts and shares the views presented at the meeting with the representatives of the Advisory Committee on the Framework Convention for the Protection of National Minorities, in the course of their visit to the Republic of Macedonia on 11 December 2003, that the Macedonian legislation in this field goes beyond the framework set with the Convention, while the country has commenced applying standards higher than those set forth in the Convention. Consequently, the process of consideration and evaluation of the National Report is focused on higher standards that the Republic of Macedonia has accepted or the implementation of the obligations set forth in Ohrid Framework Agreement, while the implementation of the Framework Convention is part of that process. This stands especially if one takes into consideration the fact that most of the provisions of the Framework Agreement, which regulate the status of minorities (or following the wording of the Framework Agreement – the communities), are already part of the country's highest legal act – the Constitution of the Republic of Macedonia amended with the Amendments of 17 November 2001.

Having in mind that the Framework Convention for the Protection of National Minorities presents the common basis for the monitoring of the protection of rights of persons belonging to national minorities, it is of great importance to strike a right balance between the specific situations in member States and the fulfillment of their obligations vis-à-vis the Convention.

The Advisory Committee has paid due attention to the implementation of the Ohrid Agreement, which is considered as a good approach, primarily because of the consistency with the Government's own commitments in the domain of minority's protection. However, we also believe that the primary focus of the Advisory Committee should be the implementation of standards contained in the Framework Convention, which is the legal instrument that provides basis for the monitoring of minorities protection on equal footing for all the State parties.

These Comments are drafted in a specific period, as stated above, at the end of the process of full implementation of the Framework Agreement, which the Committee itself concludes in its General Remarks, which certainly has an impact on the contents of the Comments. The results of the Referendum on the new Law on territorial reorganization, which was carried on 7 November 2004, has opened the way to the full implementation of the set of laws on decentralization, adopted in August 2004.

In this respect, the Government of the Republic of Macedonia welcomes the assessment of the Advisory Committee that the constitutional and legal changes made so far in accordance with the Framework Agreement lay the foundation for greater protection, in such fields as use of languages of the communities, education, and participation in the public administration.

In addition to the above stated commitment of the Macedonian Government to persist with the already commenced process of reforms in the minority field, the Government would like to furthermore express its readiness to consider ways of ensuring additional protection and promotion of the status of the numerically smaller minorities.

The Government recognizes the need for additional activities in the field of advancing the status of Roma, under the existing National Strategy. Priority activities aimed at attainment of the set forth Strategy goals are related to overcoming the existing dissatisfactory situation, primarily in the economic and social sphere.

Furthermore, following the adoption of the constitutional amendments of November 2001, in April 2004 the Government of the Republic of Macedonia the revised declaration to the Framework Convention for the Protection of National Minorities, which replaced the previous two declarations. The new Declaration states as follows: "The term "national minorities" used in the Framework Convention for the Protection of National Minorities and the provisions of the same Convention shall be applied to the citizens of the Republic of Macedonia who live within its borders and who are part of the Albanian people, Turkish people, Vlach people, Serbian people, Roma people and Bosniac people".

As regards the Advisory Committee's conclusion that there are no real institutional channels at governmental level for introducing and monitoring comprehensive policy on minorities the Government would like to underscore that the existing concept of state authorities and the involvement of representatives of communities at all levels of the state authorities (Parliament, Government, local authorities), provide institutional framework for the implementation of minority policy and a dialogue on all relevant matters in this sphere.

As far as the implementation of the Ohrid Framework Agreement is concerned, the Government established a sector for the implementation of the Framework Agreement within the General Secretariat of the Government. The sector consists of five units in which members of smaller minorities are also employed. The main motivation for establishment of this sector was to support the Government in policy setting and to coordinate the implementation of the Framework Agreement.

One should also take into account the work of the Committee for Inter-Community Relations established by Parliament after the November 2001 constitutional amendments. It is composed of 19 members (7 Macedonians and 7 Albanians and 5 representing other communities), which considers issues of importance for inter-ethnic relations, gives opinions on them and proposes the ways for their resolution.

It is also worth mentioning that in May 2004 the Republic of Macedonia ratified Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Comments on specific articles of the Framework Convention

Article 4

With respect to the opinion of the Committee presented in paragraph 34 of the Opinion, the Government would like to inform that there is on going Government procedure for adoption of the Strategy for reform of the judiciary, public prosecutor's office, penitentiary system, ombudsman, lawyers' profession, and the notaries. The Strategy sets as priority goal the implementation of the provisions for use of languages in court proceedings through recruitment of appropriate personnel, continuous training and education of candidate judges belonging to the communities and their recruitment and election for judges.

Citizenship

At its session held on 22 January 2004, the Parliament of the Republic of Macedonia adopted the Law amending the Law on Citizenship of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 8/2004). The Law entered into force and is applied as of 2 March 2004.

With the view of harmonizing the Law on Citizenship of the Republic of Macedonia with Chapter VII State succession and Nationality of the European Convention on Nationality and to establish durable solution for the problems related to de jure and de facto statelessness after the disintegration of former SFRY, again as in the previous cases (Article 26, paragraph 3) the amendments to the Law add a transitional provision according to which nationals of other republic of the former SFRY and nationals of the former SFRY, who on 8 September 1991 had registered residence, and have been permanently residing on the territory of the Republic of Macedonia until the filing of the citizenship application and have genuine and effective ties with the Republic of Macedonia can acquire citizens of the Republic of Macedonia if within two years after the entry into force of this Law they file a citizenship application, if there are no criminal proceedings instituted against them in the Republic of Macedonia for crimes which threaten the security and defense of the Republic of Macedonia and if they fulfill the conditions set forth in Article 7, paragraph 1, subparagraphs 1 (to be 18 years of age) and 6 (to have sufficient Macedonian language proficiency) of the Law. This means that in respect of this category of citizens there has been no additional evidence requested in terms of secured permanent subsistence means, evidence of provided housing etc.

Hence, another opportunity has been provided that persons originating from the former SFRY who have been living for long years in the Republic of Macedonia including at the time of succession and have continued living in the Republic of Macedonia, and who due to various reasons have not regulated their status in the country, exercise their right to acquiring citizenship under facilitated conditions.

The amendments to the Law on Citizenship of the Republic of Macedonia have been positively assessed by the UNHCR and by the Council of Europe that cooperated on the drafting of the text of the amendments. Furthermore, there have been several workshops held in cooperation and with the assistance of the above-mentioned organizations at which issues related to the amendments to the Law on Citizenship were elaborated by experts of these organizations and experts from the Republic of Macedonia and others.

In fact, as of the start of the application of the Law amending the Law on Citizenship of 2 March 2004, there have been advisory meetings held with all employees at the Ministry of the Interior that work on the acceptance and processing the citizenship applications, and applications for release from citizenship of the Republic of Macedonia. All diplomatic and consular missions of the Republic of Macedonia have been timely informed about all amendments to the Law. In cooperation with the UNHCR Office in Skopje, currently the contents of the brochures indented for citizens and describing the procedure and manners of acquiring citizenship of the Republic of Macedonia are being changed in order that new potential applicants could be easily and correctly informed. In order to make the transitional provisions on the supplements to the Law on Citizenship maximally close and familiar to the persons to whom they actually apply the Web site of the Ministry is updated. There is an intense cooperation on this issue with the NGO sector, political parties, media etc.

It is necessary to point out that one of the basic principles of the Law on Citizenship of the Republic of Macedonia is the principle of equality and non-discrimination on any ground and therefore it would not be useful to specifically elaborate or envisage specially facilitated conditions for any ethnic group in the Republic of Macedonia. If such an approach were to be applied it would suspend the said principles, which are undoubtedly incorporated in the European Convention on Nationality, as well. On this occasion it should be underlined that the Law on Citizenship of the Republic of Macedonia or the amendments to the Law do not have discriminating effect on any grounds not only with respect to Albanians and Roma, but also in respect of any other ethnic group. The in-depth analysis of the Law and its long year application demonstrates that the non-discrimination principle is the base of the envisaged conditions and of the approach towards applicants for acquiring citizenship of the Republic of Macedonia.

In the several month application of Article 14, the Ministry of the Interior has consistently and widely applied the provisions of this article. Upon entry into force of the Law amending the Law on Citizenship of the Republic of Macedonia in accordance with the provisions of this Law all procedures instituted before the adoption of the amendments where the conditions allowed so, have been redirected are processed under Article 14.

Identification documents

As regards the issuance of identification documents, mentioned in paragraph 39 of the Opinion of the Advisory Committee, one should take into account that documents are issued to each citizen of the Republic of Macedonia (regardless of the ethnic affiliation) following a legally prescribed procedure and in accordance with laws and bylaws if the conditions set forth in law have been fulfilled. The procedure for issuance of documents for personal identification is instituted and the documents are issued at the regional units of the Ministry of the Interior depending on the place of residence of the citizens. There is no place for bribery or interventions for issuance of a personal document since documents are issued to all citizens fulfilling legally prescribed conditions.

The personal identification documents are issued based on the data entered in the Birth Registry. If the citizens wish to change their personal name they can file an application in accordance with the Law on the Personal Name (Official Gazette of the Republic of Macedonia No. 8/95) and proceed with the change of the name according to their wish.

Article 5

With reference to the comments in paragraph 44 of the Opinion the Ministry of Culture of the Republic of Macedonia would like to state that the basic principles for the protection of cultural heritage are prescribed by the Law on protection of cultural heritage adopted in March this year. In accordance to these principles the cultural heritage is protected according to its values, importance, level of threat exposure, regardless of the period, place and regardless of the manner of establishment, creation, ownership, disposition of the cultural heritage items/facilities, regardless of the secular or religious character and regardless of the confession or regardless whether such items/facilities have been registered or not.

The establishment of the policy of integrated protection as part of the overall measures to secure the preservation of the cultural heritage for purposes of its maintenance in the built or natural setting, and its adjustment to society has contributed that immovable monuments (with the exception of those of sacral character) gain a new purpose and function, which are reasonably adjusted to the modern demands. Thus, the cultural heritage owned by the state is used as live cultural heritage securing its preservation and sustainable development.

There are no cases of changing the purpose or function or renaming the cultural heritage of sacral character.

The Republic of Macedonia has about 976 registered immovable monuments of culture of various artistic types, and periods with extraordinary cultural, historic, scientific, and other values.

In the last period significant results have been achieved for the preservation of the most important monuments of the Islamic architecture, dating from the Ottoman period, especially in the Skopje and Bitola areas.

With reference to the comments in paragraph 45 of the Opinion concerning the Vlach culture, the Ministry of Culture makes efforts to support cultural activities and events aimed at fostering, preserving, and developing the culture of persons belonging to the Vlach community. As an illustration, the Ministry of Culture points out to the allocation of funds from the State budget for events such as: “Old City Vlach Room”-Museum of Macedonia, Skopje, “Vlachs in the Kumanovo region”, Kumanovo Museum, “Vlachs – life and culture and Ethno exhibition of Vlach folk dresses”, Ethno-fair in the Krusevo Museum of History, Krusevo and there has been funding provided for the activities of the Culture and Art Association “Art-Kultura” –Krusevo, (publication of a CD of folk Vlach songs), Association for sustainable development of the village of Malovista and the Pelister villages - “EKE” Bitola (for realization of the II Vlach Ethno Festival in 2003), the Vlach Association of Culture and Art - “Pitu Guli” Skopje (participation in festivals, exhibitions, events).

Regarding the remarks of the Advisory Committee (paragraph 46 of the Opinion) supporting the establishment of a Department for affirmation and promotion of the culture of persons belonging to communities within the Ministry of Culture of the Republic of Macedonia, and proposing that it has specific budget funds to finance the cultural activities of persons belonging to the communities the following should be pointed out:

The field of competencies of the Ministry of Culture has been defined with the Law on organization and work of state administration bodies (Official Gazette of the Republic of Macedonia Nos. 58/2000 and 44/02). According to the Law, the Department for affirmation and promotion of the culture of persons belonging to the communities in the Republic of Macedonia is part of the Ministry of Culture.

The documents for systematization and organization of the Ministry of Culture define the competencies of the Department among which:

- Expert administrative activities to follow the fostering and promotion of the cultural identity of persons belonging to the communities.
- following the presentation and fostering the culture of persons belonging to the communities;
- Encouraging and promoting international cooperation for technical assistance with neighboring and European countries for fostering and promoting the cultural identity of persons belonging to the communities.

Efforts are being made to strengthen the functioning of this particular Department within the Ministry of Culture. In the process of streamlining the activities of the Ministry of Culture with the emphasis on the promotion of the culture of communities, as one of the Ministry's priority tasks, a special attention is paid on avoiding the duplication of competences between various departments. It is believed that all the identified deficiencies in this respect will soon be eliminated.

In accordance with the Governmental policy on decentralization, the process of decentralization of the cultural institutions started a year ago. At its session held on 16 July 2003, the Parliament of the Republic of Macedonia adopted the proposed amendments to the Law on Culture (Official Gazette of the Republic of Macedonia 49/03) which have created basis for prompt start of the processes of decentralization in the sphere of culture. This changes have enabled that part of the national institutions are transferred under the competencies of municipalities, after which there would be an assessment on the necessity for their privatization. The Government of the Republic of Macedonia adopted a Decision determining the network of national institutions in the field of culture (Official Gazette of the Republic of Macedonia No. 84/03) which marked the beginning of the decentralization process. Before this Decision was adopted the guidelines and criteria for determining the network of national institutions in the field of culture were set up.

Turning into practice the governmental policy of bringing the cultural institutions closer to the citizens, considerable work is being done on the creation of local facilities in this domain. Local institutions will be financed under the Budget of the Republic of Macedonia until the municipalities have enhanced their financial capacities. The Ministry of Culture currently undertakes activities to prepare agreements to regulate the transfer of property, equipment, personnel, funds, and other relevant issues related to the transfer of the founding rights to local institutions by the state.

It is worth mentioning that on 15 September 2004, the Parliament of the Republic of Macedonia adopted the Law on Museums, the Law on Libraries, the Law on Memorial Monuments and Plaques. The legal solutions contained in these laws are harmonized with the Constitution of the Republic of Macedonia, the Law on Culture, and the Law on Local Self-Government, but also follow the foreign comparative experiences.

The said laws set forth enhanced competencies of units of local self-government in the museum and library work, and they define the direct competencies of the units of local self-government in respect of the establishment and management of monuments and plaques.

In addition to setting the basis for decentralization, these laws also secure grounds for privatization of the libraries and museums, giving the opportunity that domestic or foreign individuals and legal entities establish a library or a museum.

Article 6

The Government of the Republic of Macedonia closely cooperates with the European Committee against Torture. In February 2003 the Government adopted a number of conclusions in which it reaffirmed its commitment to overcoming the identified problems what is in full compliance with its lasting commitment to the functioning of the rule of law in the Republic of Macedonia. The Ministry of Internal Affairs was tasked to investigate all cases of ill-treatment or inappropriate conducts by officers of the Ministry of Internal Affairs identified in the CPT reports and to act accordingly.

Human rights education is an important segment of the professional training in the Ministry of the Interior. During 2003, in cooperation with the OSCE the total of 2953 police officers were trained in human rights, and 182 in arrest and detention. There is also a wide cooperation on this issue with the civil society sector in the country.

In January 2004 the Minister of the Interior endorsed the Code of Ethics as part of the overall police reform.

One of the strategic goals of the Ministry of the Interior is to continue to build confidence between the police and the population. The concept of community policing serves this end. The Community Advisory Groups, the aim of which is to openly discuss and resolve local problems in the sphere of policing, which were first established in the former crisis regions proceed to be established throughout the country.

Article 9

Regarding paragraph, 62 of the Opinion the following should be taken into consideration: Article 45 of the Broadcasting Law in general terms provides opportunity for broadcasting programs in the languages of the minorities. In addition, Article 37 of the same Law sets the minimum duration of the programs in the languages of the minorities. Thus, the remarks that the Law does not provide any guaranties as to the minimum duration of these programs cannot be accepted. The Government would like to inform that the procedure for adoption of a new Broadcasting Law is under way.

In relation to the remarks contained in paragraph 63, in the last years there has been minor interest shown by private broadcasters in connection with the competitions for concession award. At the 2004 competition for award of concessions, a broadcaster was awarded national concession for broadcasting programs in the Albanian language. It is expected that by the end of 2004 this broadcaster will start its work.

In respect of paragraph 64 of the Opinion, the Government further informs that the 2004 Decision of the Government does not allocate subsidies for the printed media, which has an equal impact on the minority language printed media.

With reference to the remarks contained in paragraph 65, in the realization of various trainings and education seminars all media are involved, without any discrimination on ethnic grounds. Employment of journalists in the mass media is free based on a public competition, regardless of the national affiliation.

Article 12

With the aim of enhancing its institutional capacities, the Department for development and promotion of the education in the languages of the communities has proposed to the Ministry of Education and Science and to the Government of the Republic of Macedonia the following priority activities:

1. Adoption of Law on the Department for development and promotion of education in the languages of the communities;
2. Finalizing the equipping of the Department with personnel, premises, materials, technical facilities and future training of the personnel at the Department in the areas it covers;
3. Drafting amendments and supplements to the Law on Higher Education for purposes of opening desks at the Faculties of Philology in the Republic of Macedonia for studying Serbian, Roma, Vlach, Bosnian languages and literatures and opening desks for teachers in Serbian, Vlach, Roma and Bosnian languages at the Faculties of Pedagogy in the Republic of Macedonia. It is believed that this will also be one of the means to address the observations of the Advisory Committee made in paragraph 77 of the Opinion.

Regarding the up-to-date textbooks in languages other than the Macedonian as mentioned in paragraph 76 of the Opinion, the Bureau for Development of Education has established respective Committees, especially for preparation of history curricula and for drafting history text books in primary education, general secondary education and vocational secondary schools. Experts belonging to all communities in Macedonia are obligatory members of the Committees. It is believed that this positive example will be followed when conducting the general updating of textbooks for various school subjects in languages other than the Macedonian.

In drafting the new curricula and the text books and manuals, great attention is paid to apply European standards and that all stereotypes are eliminated, i.e. that positive historic development, personalities and cultural achievements of importance for the country's history are integrated in the curricula in respect of all ethnic communities of the Republic of Macedonia.

Article 15

The implementation of the Ohrid Framework Agreement concerns all communities who are not in majority in the Republic of Macedonia, what also applies to the principle of equitable representation. The Government of the Republic of Macedonia takes due account that the implementation is all inclusive of all ethnic communities. One of the examples was training of new police officers, conducted in cooperation with the OSCE, where strict attention was paid to equitable representation of all communities.

According to the Ministry of Finance data of July 2004, the number of ethnic communities members employed in the public administration (budgetary users) is as follows:

	Employees		Percentage %
Macedonians	70254	or	81,4%
Albanians	9448		13,4%
Serbs	1172		1,7%
Turks	890		1,3%
Roma	357		0,5%
Vlachs	332		0,5%
Bosniacs	180		0,3%
Other	667		0,9%

In 2004, most state institution adopted annual plans for appropriate and equitable representation of communities' members. The aim of these plans is to set out a long-term implementation policy for equitable representation. These plans incorporate: the actual structure of communities members, the data on the effects of the measures taken previously, the data on new employment and the measures for education and advanced training, related to the implementation of the provision. The application of this provision at the municipal level will be monitored closely in the forthcoming period.

The Law on Local Finance was adopted as part of the decentralization package in August 2004. The implementation of this package is among the top priorities of the Government of the Republic of Macedonia.

Article 16

The Ministry of the Interior undertakes continuous activities to improve the overall security situation in the former crisis regions and to create conditions for the return of internally displaced persons. In this context, and aimed at creating conditions for more efficient police work, there are especially intensive activities for the reconstruction and construction of police stations. In this respect, in some of the regions there are already regular police stations being constructed, and in the other regions the police stations will be constructed following the planed dynamic, i.e. when the necessary funding shall have been secured.

Furthermore, for the purpose of successful cooperation between the police and the local population there have been advisory groups established in these regions, which encompass representatives of the local self-government, local population, police and other relevant ministries and state institutions. These advisory groups review the security problems and agree on measures for their overcoming.