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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventieth session

SUMMARY RECORD OF THE 1798th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 26 February 2007, at 3 p.m.

Chairperson: Mr. de GOUTTES

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fourth to seventh periodic reports of the Former Yugoslav Republic of Macedonia (CERD/C/MKD/7; CERD/C/MKD/CO)

1. At the invitation of the Chairperson, the members of the delegation of the Former Yugoslav Republic of Macedonia, took places at the Committee table.
2. Ms. GELEVA (Former Yugoslav Republic of Macedonia) said that since signing the Ohrid Framework Agreement with Albanian representatives on 13 August 2001, her Government had carried out comprehensive reforms for the protection and promotion of the rights of minorities. A number of amendments had been made to regulations concerning the rights of minorities, in particular to allow them to use the languages and symbols of their communities, to aspire to equal representation and decision-making within State bodies and public institutions, and to have access to elementary and secondary education in their mother tongues.
3. Since submitting its previous periodic report, her Government had adopted 67 laws, including the latest, the Law on Police, which provided stronger protection of human rights irrespective of race, nationality or gender, and required local authorities to appoint police officers. In May 2006, the Government had introduced new legislation to offer equal opportunities to men and women and combat dual discrimination against minority women. In October 2006, a committee of ministers had been set up to monitor and coordinate activities aimed at promoting equal participation of minorities in government services and public enterprises. In January 2007, the Government had adopted a strategy to promote the equitable representation of members of ethnic communities, allocating more than three times as many funds for that purpose as in previous years. That should lead to the hiring of 250 new civil servants from non-majority communities by March 2007. At the same time, a new law had introduced new national holidays that included important days for members of the minorities, such as two Muslim religious holidays and Albanian Language Day. Finally, a Human Rights Commission had been set up in 2006 to coordinate State action in the field of human rights.
4. Turning to question 1 of the list of issues raised by the Rapporteur in connection with her country's fourth to seventh periodic reports (CERD/C/MKD/7), she said that since 2003, 2,521 applications for asylum had been submitted, mainly by nationals of the Republic of Serbia. By the end of 2006, 1,389 people had been granted asylum, either as refugees or as persons protected for humanitarian reasons. Of that number, 267 would not have their status renewed after their current status ended next year, while 1,122 would. The Government had rejected 530 applicants.
5. As to question 2, in two cases the Constitutional Court had directly referred to the International Convention on the Elimination of All Forms of Racial Discrimination, pursuant to article 118 of the Constitution. One case concerned a complaint about the violation of article 9 of the Constitution and the other pertained to a decision to rescind an article in the Law on Public Gatherings. In another case, the Supreme Court had quashed sentences imposed pursuant to

article 10 of the European Convention on Human Rights. Most recently, on 29 January 2007, on the basis of article 14 of the Convention, the Ombudsman had recommended instituting criminal charges against companies discriminating against Roma.

6. There was a general definition of discrimination in article 9 of the Constitution, though not one of racial discrimination as specifically defined in article 1 of the Convention (question 3). However, in view of the fact that the Convention formed part of her country's legal system, the Convention definition could be directly applied.

7. The anti-discrimination clause of article 9 of the Constitution should be read in conjunction with article 28, paragraph 1, which provided for foreigners in the Former Yugoslav Republic of Macedonia to enjoy freedoms and rights guaranteed by the Constitution under conditions defined by the law and international agreements (question 4). Account should also be taken of article 1, paragraph 2, of the Convention, under which the Convention did "not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens". In that regard, the distinction made under chapter 2 of the Constitution between citizens and other individuals was legitimate and consistent with international human rights legislation. In any event, on the basis of article 1, paragraph 1, of the Convention, article 9 of the Constitution was applicable to non-citizens.

8. There were in the Former Yugoslav Republic of Macedonia two different schools of thought on whether to adopt a general anti-discrimination law: one favoured the adoption of a specific law, while the other favoured the incorporation of anti-discrimination provisions in existing legislation (question 5). Her Government was of the opinion that any such legislation must first be carefully examined before any decision on further action.

9. In 2006 a new mechanism for regular monitoring of government actions had been set up to provide better follow-up on the Ombudsman's requests and recommendations (question 6). That quarterly reporting system had yielded the following data: from January to March 2006, 168 requests had been submitted and the Ombudsman had received responses to 122 from the bodies concerned; from April to June, 219 requests had been submitted to various ministries, which had responded in 171 cases; from July to September, 219 requests had been submitted, of which 170 had been processed; in the last quarter of 2006, 311 requests had been submitted.

10. The Committee for Inter-Community Relations, established to promote dialogue between the country's different communities, focused in particular on preparatory work with a view to the adoption of legislation relating to the interests of minorities (question 7). Forty-seven local committees for inter-community relations had been set up, even though, under article 55 of the Law on Local Self-Government, their establishment was mandatory in only 26 municipalities and voluntary in the other municipalities. The deliberations of those committees covered a wide range of issues arising in the everyday life of municipalities. A recent issue had been the controversial erection of a monument to Skender-bay, a legendary Balkan warrior, in the municipality of Chair in Skopje.

11. The main accomplishment of the National Strategy on Roma was the involvement of the Roma community in the identification of its own specific needs (question 8). The chief obstacle to implementation of that Strategy was insufficient funding, due to the country's economic situation.

12. Her country was a party to the European Convention on Nationality, which was a recent international instrument that had incorporated all relevant principles of the Convention on the Reduction of Statelessness (question 9). National legislation had been amended to fully integrate the prevention of cases of statelessness, and practice had shown that the Macedonian authorities did their best to prevent them. The Government therefore did not consider it necessary to ratify the Convention.

13. She gave the following figures for cases of incitement to racial or inter-ethnic hatred and discrimination under different articles of the Criminal Code: article 137, 18 reported, 2 charged and none sentenced; article 138, none; article 319, 5 reported; 417, 1 reported (question 10).

14. Her country had ratified the Additional Protocol to the Convention on Cybercrime concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems (question 11), and the Constitution had been amended accordingly. Its article 144 now provided for a sentence of up to five years' imprisonment for anyone who, by means of a computer system, threatened to commit criminal offences involving discrimination against ethnicity, nationality or religion. Also, a code of ethics for journalists had been established to prevent the dissemination of information tending to jeopardize human rights and freedoms, particularly by encouraging hate speech and violence.

15. In order to promote the use of non-majority languages in civil, criminal and administrative proceedings, a provision had been added to the court rules of procedures to ensure that judicial documents were also issued in Albanian or relevant languages other than Macedonian (question 12). Moreover, in 2005, 99 members of non-majority communities had been trained as translators and interpreters over nine months. After the course, 61 had been employed in ministries and other State bodies, and 38 in the country's courts.

16. Under article 7, paragraph 3, of the Criminal Procedure Code, participants in legal proceedings were advised of their right to the services of a translator, a fact which had to be entered in the records. Moreover, pursuant to article 18 of the Law on General Administrative Procedure, the court had to make allowances for ignorance or lack of education on the part of any person taking part in the proceedings and ensure that they were properly informed.

17. Following the amendment of the Law on Citizenship, as of 21 February 2007 6,044 foreign nationals had been naturalized (question 13). More than half of them were Albanians; most of the others were Serbs, Muslims, Roma, Bulgarians, Croatians, Turks or Montenegrins. Five hundred and seventeen applications had been rejected, of which more than half had been filed by Albanians. Another 2,403 applications for citizenship were pending. The Ministry of the Interior had taken measures to encourage foreign residents of the country to acquire the nationality of the Former Yugoslav Republic of Macedonia, including the publication of information brochures on that right.

18. Replying to question 14, she said that housing was one of the priorities of the National Strategy on Roma. The Government had adopted a national action plan that focused on the legalization of Roma settlements, urban planning, and general improvements in housing conditions and infrastructure. Legislation providing for the legalization of Roma settlements was currently being drafted. The Government's social housing programme provided, inter alia, for the construction of 363 apartments in Suto Orizari, a predominantly Roma municipality of

Skopje. The Roma would also benefit from a project funded by the Council of Europe Development Bank, which involved the construction of housing for vulnerable groups. In 2006, several projects had been launched for the rehabilitation and construction of water and sewage infrastructure in Roma settlements.

19. The number of mixed marriages had increased, especially since 2004 (question 15). Relevant data were contained in the written replies.

20. Religious marriages were without civil effect (question 16). The minimum age for marriage was 16, subject to parental consent. Legislation provided for the free choice of a spouse, although the practice of arranged marriages persisted in some traditional communities.

21. Violations of article 6 of the Law on Legal Status of Religious Communities and Religious Groups were punishable under article 319 of the Criminal Code (question 17). The provision had been applied in one reported case only, the perpetrator being sentenced to 18 months' imprisonment and released after 8 months. New legislation on the matter which contained less restrictive provisions regarding the registration of religious organizations was currently being drafted.

22. The Law on Labour Relations had been introduced only recently and no pertinent information was yet available (question 18).

23. She drew the Committee's attention to statistics on the ethnic affiliation of children in primary and secondary education contained in the written replies (question 19). The "Education for All" project, implemented with UNICEF support, provided for a range of actions to prevent dropout, especially among children from ethnic Albanian or Roma communities. Measures had been taken to improve the functioning of educational establishments and to identify factors contributing to dropout. On the basis of those findings, special curricula had been developed and were currently being piloted in several schools. Additional human resources and technical and logistical support had been made available to pilot schools. Extracurricular activities had been introduced in a total of 20 ethnically-mixed primary and secondary schools in order to reduce dropout rates.

24. Under the National Strategy on Roma, efforts had been made to facilitate access to scholarships and promote adult education. Five schools had been approved as adult education establishments and a project had been implemented for the inclusion of Roma children in preschool education. State and local scholarships had been introduced for children from disadvantaged families. Parents were actively being encouraged to send their children to school; failure to do so was punishable. The Ministry of Education and Science organized teacher-training courses in community languages and had stepped up efforts to promote Macedonian-language courses for children belonging to ethnic communities and thereby facilitate their integration in the education system.

25. Replying to question 20, and summarizing the aims of the Law on Culture, she said that responsibility for providing institutional and financial support for cultural institutions and projects and related activities lay with the municipalities. Detailed information on the Law on Culture was contained in the written replies. Details of legislation adopted to regulate activities relating to the protection of cultural heritage were also contained in the written replies.

26. The Ministry of Culture provided funding for cultural activities and the protection of the cultural heritage of the different ethnic communities. The Ministry held an annual competition, in the course of which public and private entities working in the area of culture could apply for project funding. Details of the selection process were provided in the written replies. The annual funding programme was published to ensure transparency.

27. She described the key activities of the Ministry of Culture, which included decentralization, balanced support for the preservation of the cultural heritage and modern creative work, improvement of cultural management, and the promotion of the cultural identity of ethnic communities (question 21). The Ministry worked closely with NGOs, the international community and neighbouring States. Newly enacted legislation enhanced the competence of local authorities in the establishment and functioning of libraries, museums, etc.

28. No recorded cases of racially-motivated violence had been brought before the courts (question 22). In the case of Jasar v. the Former Yugoslav Republic of Macedonia, the European Court of Human Rights had found no violation of article 3 of the European Convention on Human Rights in terms of ill-treatment by the police. The Court had, however, found a violation concerning a lack of effective investigation into the allegations of ill-treatment, and Mr. Jasar had been awarded compensation.

29. Both civil and criminal law remedies were available to victims of racial discrimination (question 23). Compensation claims in criminal proceedings might concern compensation for material or non-material damage, the return of items or annulment of a particular legal decision. The criminal court might also advise the injured party to institute civil proceedings to obtain compensation.

30. Ministry of the Interior staff comprised 80.4 per cent Macedonians, 15.12 per cent Albanians, 1.8 per cent Serbs, 0.57 per cent Turks, and 0.64 per cent Roma; 1.45 per cent belonged to other ethnic communities (question 24). Compared with the earlier data provided in the report, there had been a notable increase in the ethnic diversity of Ministry staff.

31. Replying to question 25, she drew attention to legislation adopted in 2005 which provided for the establishment of an academy for the training of judges and prosecutors. The written replies contained a detailed description of the academy's purpose and curricular activities, which included training in domestic and international human rights instruments. The establishment of the academy formed part of far-reaching reforms of the judiciary. European Court of Human Rights case law was being translated into the Macedonian language for reference purposes.

32. In 2002, the Directorate for Execution of Sanctions attached to the Ministry of Justice, in cooperation with the Organization for Security and Co-operation in Europe (OSCE), had launched a pilot project for the training of prison staff. Between 2002 and 2004, three 10-day training courses had been conducted on topics such as the United Nations Standard Minimum Rules for the Treatment of Prisoners. The 2005 Law on Execution of Sentences provided for continuing training programmes and supervision of prison staff through the above-mentioned Directorate.

33. Following the signing of the Ohrid Framework Agreement, the Ministry of the Interior had been instructed to provide training for serving police officers, in cooperation with the Ministry of Foreign Affairs, international partners and NGOs. Additional courses varying from 3 to 12 months had been held with a view to establishing a multi-ethnic police force. The police academy had held six-month training courses for police inspectors belonging to different ethnic communities. In order to enhance cooperation with the non-governmental sector, the Ministry of the Interior, together with a local NGO, had organized workshops on “the police in a multi-ethnic environment”.

34. According to a recent UNDP poll, only 8 per cent of ethnic Macedonians and 1.3 per cent of ethnic Albanians viewed inter-ethnic relations as a cause for concern.

35. Mr. LINDGREN ALVES, Country Rapporteur, thanked the delegation for its high-quality periodic report and its informative, comprehensive replies to the questions on the list of issues. He commended the State party for its success in establishing a viable multi-ethnic State, despite the difficulties arising from the ethnic and religious tensions that had afflicted the region. Giving a brief overview of the history of the Republic of Macedonia since independence, he highlighted some of the principal problems and the country’s efforts to address them.

36. Many of the measures described in the report had been adopted in order to implement the Ohrid Framework Agreement, which was directly relevant to the Convention. Those measures strove to create a delicate balance between the various communities that constituted the Macedonian population. He commended the State party for adopting the term “communities” rather than “minorities”; it was appropriate to the country’s two main groups, and created no obligations with which the State party could not comply. A few minor incidents apart, that balance was currently working well and could serve as a model to other States in the region and elsewhere.

37. He asked what had prompted the inclusion of genocide and crimes against humanity in the Criminal Code and whether any such cases had been tried under the relevant domestic legislation. It was difficult to understand why Macedonian was the only official language of criminal proceedings. It was unclear whether the situation was different for civil proceedings. He requested clarification concerning the official languages of Macedonia. He failed to understand the rationale behind the Law on the Use of Flags, and wished to know whether ethnic Albanians in Macedonia had the right to fly the Albanian flag as their national symbol while retaining their status as loyal citizens of the State party.

38. He asked whether the arms devolution programme had ended and whether the Government believed that most weapons had been given in. It would be useful to learn whether the reporting State had ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. What legal basis had been used for the reported “rendition” of Mr. Khaled al-Masri in 2003?

39. Additional information on the integration of the different communities would be useful. In particular, he asked whether an ethnic Albanian could live without risk in a Slavic Macedonian community or whether a Slavic Orthodox Macedonian could live among ethnic Muslim Albanians without feeling threatened. The delegation should clarify how the visa

mentioned in paragraph 142 of the periodic report differed from the exit visas that many Communist regimes had formerly required of their citizens. He also requested further details of the readmission agreements mentioned in paragraph 143.

40. It was unclear whether the Law Amending the Law on Citizenship was correct in adopting the European Convention definition of nationality as the legal bond to the State, rather than ethnic identity. In that context, he questioned the wisdom of referring to the communities of Macedonia as “national communities”. He requested further information on the enforcement of the Law on Religious Communities and Religious Groups.

41. Mr. AVTONOMOV said that, while the size of the delegation indicated the importance the State party attached to the Convention, the periodic report had provided insufficient information on the enforcement of recently adopted legislation.

42. He asked what status the Ohrid Framework Agreement had in the domestic legal system, and in particular whether it was set forth in enforceable legislation. If so, the delegation should indicate whether it had greater legal force than acts of parliament or the Constitution. Could the Agreement be directly invoked before domestic courts?

43. He requested additional information on the origin of the Egyptian refugees to whom the delegation had referred.

44. Mr. VALENCIA RODRÍGUEZ commended the State party for the 17 constitutional amendments it had made in order to protect the right of members of communities, and on its implementation of many international human rights instruments, including the Convention. He requested additional information on the scope of the recommendations made by the Office of the Ombudsman. It would be useful to know whether the Ombudsman was competent to hear complaints from members of communities. Further information on the activities of the Committee for Inter-Community Relations should be provided. He would appreciate an indication of the results of the measures that had been taken to integrate the Roma into society and to improve their living conditions. He requested additional information on the implementation of legislation prohibiting acts of discrimination. The reporting State should provide specific examples of cases in which the Code of Police Ethics had been implemented. He recommended that police officers should receive specific training on the provisions of the Convention.

45. He asked whether a child born on Macedonian territory to one Macedonian parent and one foreign parent had an automatic right to Macedonian nationality. It would be interesting to learn whether in such a case it was a problem if the foreign parent was not legally resident in the State party. It was unclear whether Macedonian nationality could be obtained by marriage. The reporting State should indicate what measures it had taken to reduce the school dropout rate, particularly among the Roma community. Further details of any complaints by the communities about restrictions on access to education would also be welcome.

46. Mr. CALITZAY asked whether the Roma integration policy addressed poverty reduction, particularly among Roma women. It would be useful to learn whether that policy formed part of a broader framework of human rights protection, including the elimination of

racial discrimination. He expressed concern at the reported plight of some 300 refugees who faced deportation from the State party because they did not possess adequate identity papers. It would be useful to have additional information on those refugees, and in particular to know which ethnic group they were from.

47. Mr. PILLAI commended the State party for making a declaration under article 14 of the Convention, its efforts to strengthen its ethnic fabric, and the investigations into complaints of abuses by police officers. He asked the delegation to comment on reports the Committee had received asserting that the Roma possibly accounted for up to 6.6 per cent of the total population, thus forming the third largest ethnic community in the country. Given that many reports had provided information on the unsatisfactory socio-economic conditions of the Roma, he wished to know how the Government planned to address that question.

48. The Committee had also been informed that although efforts had been made by Albanian and Macedonian journalists to promote inter-ethnic relations, political and religious leaders, intellectuals and media representatives were exacerbating ethnic divisions. He requested further information on that problem, and measures being taken to address it. He would particularly welcome the delegation's views on reports of an increasing gap between ethnic Macedonians and ethnic Albanians; according to those reports, the two communities had separate places for socializing and debate, and separate media, schools, organizations and political parties. He asked how many discrimination cases had been handled by the Ombudsman.

49. Mr. TANG Chengyuan requested further information on measures being taken under the Roma Decade initiative in collaboration with neighbouring countries. He asked what changes the Government expected to result from the Roma Decade. The Committee had been informed that police officers and law enforcement officials involved in illegal acts had not been subject to timely and thorough investigation. He wished to know what was being done to rectify that situation, and to improve the handling of cases involving such officials.

50. Mr. YUTZIS said that the Committee had been informed about different ethnic groups having an influence over the media in Macedonia. He asked how that issue was being addressed, and whether there had been any times when action had been called for in regard to media content. He asked what was being done to redress the disproportionately low representation of the Roma in the judiciary, and requested statistics on Roma representation in primary and secondary education, employment and housing. What measures were being taken to rectify the underrepresentation of the Roma in university education, and what were the enrolment rates of Roma in preprimary, primary and secondary education?

51. Mr. THORNBERRY asked whether Roma representatives participated in the development of initiatives for their integration into society. He wondered to what extent schools constituted a comfortable environment for Roma children, since in many countries purportedly neutral education systems had a structure that was based on the cultural perspectives of certain groups. He enquired whether the cultural and religious traditions of minorities were affecting children's attendance at schools, and whether the way in which schools were organized, teachers trained and curricula drafted was contributing to the high dropout rates among Roma children. He wondered what references were made to the Roma community in school textbooks. He wished to know whether there were mediators between the Roma community and the education

authorities, and whether there were any examples of intra-community education where teachers worked within the Roma community, or whether there was a system of peripatetic teaching for mobile communities.

52. He asked about the meaning of “through an information system” in paragraph 64 (d) of the State party report relating to legislation introducing the crime of approval or justification of genocide, crimes against humanity and war crimes. He requested further information on the application of that legislation, since the approval of genocide could not be abstract but must be in reference to specific situations. The crime would need an actus reus, such as the negation of a genocide, and there would need to be proof beyond reasonable doubt that such a crime had occurred, and a mens rea, such as intent to incite hatred. He asked to what extent the courts would rely on the findings of international tribunals to establish whether a genocide had occurred.

53. The CHAIRPERSON commended the State party for making a declaration under article 14 of the Convention and welcomed the information contained in the annexes to the periodic report. The Committee appreciated the consideration given to indirect discrimination in employment in Macedonian legislation. He wished to know whether any cases had been brought before the courts under the legislation prohibiting the manifestation of religious belief for political purposes. He also requested further information on efforts to prevent discrimination against the Roma population, which remained a subject of concern.

54. Ms. GELEVA (Former Yugoslav Republic of Macedonia) said that the European Union had played a leading role in the negotiations leading to the conclusion of the Ohrid Framework Agreement. Her Government was aware that international instruments and legislation alone would not be effective in combating discrimination; a spirit of compromise and willingness was needed on the ground. It recognized that there were a number of problems relating to the Roma population, who were subject to various forms of indirect discrimination. Action for Roma advancement was required and resources would be mobilized to that end. The Roma community was involved in the relevant activities under the Roma Decade initiative. Although there was speculation about the size of the Roma population, a census had been held, and there was no evidence to suggest that the Roma had not participated or had been put under pressure to register as Macedonians or Albanians.

The meeting rose at 5.50 p.m.