



January 2018

## **European Social Charter**

European Committee of Social Rights

Conclusions 2017

**“THE FORMER YUGOSLAV REPUBLIC OF  
MACEDONIA”**

*This text may be subject to editorial revision.*



The following chapter concerns "the former Yugoslav Republic of Macedonia", which ratified the Charter on 6 January 2012. The deadline for submitting the 4th report was 31 October 2016 and "the former Yugoslav Republic of Macedonia" submitted it on 7 March 2017.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerns the following provisions of the thematic group "Health, social security and social protection":

- the right to safe and healthy working conditions (Article 3),
- the right to protection of health (Article 11),
- the right to social security (Article 12),
- the right to social and medical assistance (Article 13),
- the right to benefit from social welfare services (Article 14),
- the right of elderly persons to social protection (Article 23),
- the right to protection against poverty and social exclusion (Article 30).

"The former Yugoslav Republic of Macedonia" has accepted all provisions from the above-mentioned group except Articles 3§1, 3§3, 23 and 30.

The reference period was 1 January 2012 to 31 December 2015.

The conclusions relating to "The former Yugoslav Republic of Macedonia" concern 13 situations and are as follows:

- 8 conclusions of conformity: Articles 3§4, 11§1, 11§2, 11§3, 12§2, 12§3, 13§2 and 13§4,
- 3 conclusions of non-conformity: Articles 12§1, 12§4 and 13§1.

In respect of the other 2 situations related to Articles 3§2 and 13§3 the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by "the former Yugoslav Republic of Macedonia" under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

\* \* \*

\*

In addition, the report contains also information requested by the Committee in Conclusions 2015 in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right of children and young persons to protection – special protection against physical and moral dangers (Article 7§10),
- the right of employed women to protection of maternity – illegality of dismissal during maternity leave (Article 8§2).

The Committee examined this information and adopted 2 conclusions of conformity relating to these Articles.

\* \* \*

\*

The next report will deal with the following provisions of the thematic group "Labour Rights":

- the right to just conditions of work (Article 2),
- the right to a fair remuneration (Article 4),
- the right to organise (Article 5),
- the right to bargain collectively (Article 6),
- the right to information and consultation (Article 21),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 22),
- the right to 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).

The report should also contain information requested by the Committee in Conclusions 2016 in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right to work – vocational guidance, training and rehabilitation (Article 1§4),
- the right of persons with disabilities to independence, social integration and participation in the life of the community – vocational training for persons with disabilities (Article 15§1).

The deadline for submitting that report was 31 October 2017. The report was registered on 15 January 2018. Conclusions on the Articles concerned will be published in January 2019.

\* \* \*

\*

Conclusions and reports are available at [www.coe.int/socialcharter](http://www.coe.int/socialcharter) as well as in the HUDOC database.

**CONCLUSIONS RELATING TO ARTICLES  
FROM THE THEMATIC GROUP**

**‘Health, social security and social protection’**

### **Article 3 - Right to safe and healthy working conditions**

#### *Paragraph 2 - Safety and health regulations*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

#### **Content of the regulations on health and safety at work**

The Law on Safety and Health at Work was adopted in 2007 (Official Gazette No. 92/07). According to the report, the law is completely harmonised with the EU legislation, and establishes the basic principles and minimum requirements on safety and health of the employees in accordance with the EU Framework Directive 89/391/EEC on introducing measures to enhance the safety and health of the worker at work. It also prescribes new solutions as obligations of the employer and employees in the implementing the safety and health measures at work. Pursuant to the Law, the employer shall be obliged to organise and implement the safety and health at work, especially by assessing the risk on any workplace, to remove the identified risks and hazards, and to undertake measures to remove the risk of injuries and diseases, information, training, and consultations with workers.

According to the report, the Law on Safety and Health at Work contains a foundation for adoption of bylaws i.e. rulebooks on more detailed and precise regulation of certain areas and for further transpositions of specific EU directives in this area. The report gives a list of the health and safety adopted rulebooks, transposing 25 EU individual directives on health and safety at work, which relate primarily to the use of work equipment; personal protection equipment; signs for safety and health at work; protection of workers in manual handling of loads; temporary and mobile construction sites; safety and health at work of employees exposed to risk of noise, mechanical vibrations, explosive atmospheres, exposure on chemical and biological substances, asbestos, cancerous, mutagenic or substances toxic for the reproduction system.

The report indicates that this law has created a legal basis for adopting the National Strategic Document for further development in the field. It also established a Council for Safety and Health at Work, as a consultative and expert body of the Government, reviewing and assessing conditions, policies and strategic documents in the area of safety and health at work.

Pursuant to Article 4 of the Law on Safety and Health at Work, the Government shall adopt a Programme for Safety and Health at Work which determines the strategic directions for development of safety and health at work, and then, a strategy and action plans for safety and health at work for the period of five years shall be prepared on this basis.

The Committee notes that the Government adopted the 2011-2015 National Strategy for Safety and Health at Work along with the Action Plan for its implementation in May 2011. The Strategy enabled the perception of the current state in this area and provided strategic directions for including all actors an achieving modern, effective and efficient safety and health system at work, which should contribute to reduction of accidents at work as well as occupational diseases.

According to the report, occupational safety and health policy is based on relevant international regulations and documents such as ILO Conventions (74 Conventions were ratified), EU Directives and the Community Strategy 2007-2012 on Safety and Health at Work, as well as the WHO Global Plan of Action on Workers' Health 2008-2017. ILO Conventions No. 136 on Benzene (1971), No. 148 on Working Environment (Air Pollution, Noise and Vibration) (1977) and No. 155 on Occupational Safety and Health (1981) are in force.

The Committee points out that under the terms of Article 3§2 of the Charter, regulations concerning health and safety at work must cover work-related stress, aggression and violence specific to work, and especially for workers under atypical working relationships

(Statement of Interpretation on Article 3§2 of the Charter, Conclusions 2013). It requests the next report to contain this information.

The Committee asks that the next report provide full and detailed information on the legislation and regulations, including any amendments thereto adopted during the reference period, which specifically govern the risks listed in the general introduction to Conclusions XIV-2. It also asks for an explanation on the relevance of the respective legislation, regulations and standards within the legal system.

### ***Levels of prevention and protection***

The Committee examines the levels of prevention and protection for by the legislation and regulations in relation to certain risks.

### ***Establishment, alteration and upkeep of workplaces***

The report lists various regulations, which incorporate the Community *acquis* on the establishment, alteration and upkeep of workplaces: the Rulebook on protective measures for work with display screens (Official Gazette No. 115/05) to incorporate Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment; the Rulebook on safety and health in use of work equipment (Official Gazette No. 116/07) to incorporate Directive 89/655/EC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work; the Rulebook on signs for safety and health at work (Official Gazette No. 127/07) to implement Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment, etc. The Committee notes that ILO Convention No. 119 on Guarding of Machinery (1963) is in force, whereas ILO Convention No. 120 on Hygiene (Commerce and Offices) (1964) is not.

In order to determine, whether the level set by the international reference standards has been reached, the Committee asks for information on the Government's intent to ratify or implement ILO Conventions No. 167 on Safety and Health in Construction (1988); No. 176 on Safety and Health in Mines (1995); and No. 184 on Safety and Health in Agriculture (2001). It also asks for more detailed information on the implementation of preventive measures geared to the nature of risks, on the provision of information and training for workers, as well as on a schedule for compliance.

### ***Protection against hazardous substances and agents***

The report indicates that the reduction and limitation of exposure to asbestos is implemented by the Regulation on minimum requirements for safety and health of workers concerning the risks related to exposure to asbestos at work (Official Gazette No. 50/09), as well as the Rulebook on minimum requirements for safety and health at work of workers concerning the risks related to exposure to carcinogens, mutagens or substances toxic for the reproductive system (Official Gazette No. 110/10). ILO Conventions No. 139 on Professional Cancer (1974) and No. 162 on Asbestos (1986) are in force.

The report provides no information on the protection of workers against ionising radiation. However, the Committee notes that ILO Convention No. 115 on Radiation Protection (1960) is not in force.

The Committee takes note of this information. It asks that the next report provide detailed information on exposure limit values, on the ban of production and sale of asbestos and products containing it, and on the incorporation of the requirements of the International Commission on Radiological Protection Recommendation (No. 103, 2007). It asks whether the authorities have considered drawing up an inventory of all contaminated buildings and materials. Bearing in mind the importance of this question in the light of the right to health of the population (Article 11), the Committee asks the next report to provide specific information

on steps taken to this effect. It asks whether the authorities have considered drawing up an inventory of all contaminated buildings and materials. Bearing in mind the importance of this question in the light of the right to health of the population (Article 11), the Committee asks the next report to provide specific information on steps taken to this effect. It asks whether workers are protected up to a level at least equivalent to that set in the Recommendations by the International Commission on Radiological Protection (ICRP Publication No. 103, 2007).

The Committee also asks the next report to provide information on the specific provisions relating to protection against risks of exposure to benzene.

### ***Personal scope of the regulations***

The report provides information neither on the protection of workers in fixed-term employment, agency and temporary workers; nor on the protection of self-employed, home and domestic workers.

Recalling that all workers, all workplaces and all sectors of activity must be covered by the regulations on occupational health and safety, the Committee asks the next report to provide information on how the above categories of workers are protected effectively and without discrimination, including against risks related to successive periods of exposure to dangerous substances when working for different employers, and through the prohibition of the use of non-permanent and temporary workers for some particularly dangerous tasks, is implemented in the laws and regulations. It asks for details about the access of the above categories of workers to information and training regarding occupational safety and health, as well as to medical surveillance and representation at work.

### ***Consultation with employers' and workers' organisations***

The report indicates that according to the Law on Safety and Health at Work, the Government established a Council for Safety and Health at Work in 2009 as an expert advisory body. It is comprised of 15 members, representatives of the Government, employer organisations, trade unions, educational institutions performing its activity in the field of safety and health at work, labour medicine, and representatives of the associations of experts in the safety at work.

According to the report, the 2011-2015 Strategy for Safety and Health at Work and the Action Plan for its implementation were prepared in cooperation with all relevant institutions, non-governmental sectors and social partners. Both documents were also considered within the Council for Safety and Health at Work during their preparation.

The report also indicates that, pursuant to Article 11 of the amended Law on Safety and Health at Work performed, (Official Gazette No. 158/14), each employer must prepare and provide a statement on safety for each job position, stating the manner and measures to be undertaken. After the statement on safety is prepared, the employer shall be obliged to obtain an opinion of the trade union organisation or employee representative.

The Committee asks the next report to provide information on how employers' and workers' organisations are consulted in the preparation of regulations on safety and health at work.

### ***Conclusion***

Pending receipt of the information requested, the Committee defers its conclusion.

### **Article 3 - Right to safe and healthy working conditions**

#### *Paragraph 4 - Occupational health services*

The Committee takes note of the information contained in the report submitted by "The former Yugoslav Republic of Macedonia".

This is the first time the Committee examines the framework on occupational health services.

The report indicates that, pursuant to Article 20 of the Law on Safety and Health at Work, primary tasks of the authorised health institutions in which occupational medicine activity is performed, are, among others, conducting preventive health examinations of employees, providing medical services for employees with occupational diseases, providing proposals and measures to the employers on health protection of workers exposed to great danger of injury or health damage, participating in each risk, safety and health at work and environment assessment and introducing the employees into the risks related to their work. According to the report, the Government Decree on Type, Manner, Volume and Pricing of Medical Examinations of Employees (Official Gazette No. 60 on 24 April 2013) also contains legal operation of employers and health institutions in which the occupational medicine activity is performed.

In addition, the report indicates that the WHO Plan on Workers' Health 2008-2017, one of whose strategic goals is promotion of quality and availability of occupational medicine services, shall be implemented by mutual inter-sectoral cooperation between the State Labour Inspectorate and the authorised health institutions in the field of occupational medicine. ILO Convention No. 161 on Occupational Health Services (1985) is in force.

The State Labour Inspectorate in the area of safety and health at work and the State Sanitary and Health Inspectorate conduct coordinated inspection supervisions in health institutions that perform the occupational medicine activity (147 authorised health institutions were supervised in 2015). According to Article 22 of the Law on Safety and Health at Work, employers must provide medical examinations for the employees. In 2014, the State Labour Inspectorate in the area of safety and health at work conducted 16 735 inspection supervisions (17 412 in 2015), where it has been determined that out of the 235 999 covered employees (262 425 in 2015), 212 546 (236 144 in 2015) were provided with medical examinations by their employers.

The Committee recalls that, in accepting Article 3§4 of the Charter, States Parties undertake to ensure that all workers have access to occupational health services in all sectors of activity and in all business enterprises. It asks that the next report provide existing strategies or incentives to foster access, especially for workers from small and medium-sized enterprises, to occupational health services. It also asks for information about access to occupational health services for interim workers, temporary workers or workers on fixed-term contracts; self-employed workers and domestic workers.

#### *Conclusion*

Pending receipt of the requested information, the Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 3§4 of the Charter.

## **Article 11 - Right to protection of health**

### *Paragraph 1 - Removal of the causes of ill-health*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

### **Measures to ensure the highest possible standard of health**

The Committee notes from WHO that life expectancy at birth stood at 75.7 in 2015 (compared to 74.5 in 2009 and 75.1 in 2010). The life-expectancy rate is below that of other European countries. For instance, according to Eurostat, the average life expectancy at birth in the EU-28 was estimated at 80.6 years in 2015.

The report indicates that the principal causes of death remain the cardiovascular diseases and malignant neoplasms. The report provides information on the measures undertaken during the reference period, such as the Cardiovascular Disease Programme and the Programme for Transplantation. The Committee asks to be kept informed on the measures taken to address the main causes of premature death.

With regard to infant mortality rate (per 1 000 live births) the Committee noted previously that it decreased from 11.74 in 2009 to 7.5 in 2011 (Conclusions XX-2 (2013)). The data provided in the current report indicate that the infant mortality rate stood at 9.7 in 2012, 10.2 in 2013, 9.9 in 2014 and 8.6 in 2015. According to Eurostat, the average EU-28 rate was of 3.6 per 1,000 live births in 2015. The report adds that congenital anomalies and perinatal causes were the main causes of infant mortality (0-12 months). The Committee takes note of the detailed figures on the infant mortality rates according to regions, the education level and the ethnicity of the mother, as well as the measures taken during the reference period to improve the health of mothers and children. The Committee asks for updated information on the infant mortality rate in the next report and on the impact of the measures carried out in practice.

The report indicates that the maternal mortality rate oscillated during the reference period between 4.2 in 2012 and 4.4 in 2013 to 12.7 in 2014. The Committee notes that, according to World Bank indicators, the maternal mortality rate stood at 8 deaths per 100, 000 live births and remained stable during the reference period (2012-2015). The Committee takes note of the detailed information on the measures undertaken during the reference period to improve the maternal health/ sexual and reproductive health. It asks that the next report provide updated figures on the maternal mortality rate and information on the impact of such measures in practice.

### **Access to health care**

The Committee took note of the characteristics of the healthcare system in its previous conclusions (Conclusions XIX-2 (2010) and Conclusions XX-2 (2013)).

The Committee takes note of the strategies and action plans adopted during the reference period, such as the National Strategies on HIV and Tuberculosis Control, Third Action Plan for Food and Nutrition, and the Immunisation Strategy 2012-2012.

The report indicates that with a view to improving the quality of health protection and the conditions of stay in healthcare facilities, the Ministry of Health purchases new modern medical equipment for the public health institutions. The implementation of the project for upgrading and reconstruction of health institutions is ongoing, and activities for construction of new Clinical Hospital in Shtip and the Clinical Centre Skopje have started. The report indicates that the budget for implementation of the public health programmes continued to increase in 2015 and it amounted to approximately € 64.5 million compared to 2012 when it amounted to approximately € 42.8 million. The Committee asked for figures on health expenditure as a percentage of GDP (Conclusions 2013). The Committee notes from World Bank figures that the public health expenditure represented 4.1% of GDP in 2014. The same

source indicates that the out-of-pocket health expenditure represented 36.7% of the total health expenditure.

The Committee recalls that the health care system must be accessible to everyone. The right of access to care requires *inter alia* that the cost of health care should be borne, at least in part, by the community as a whole (Conclusions I (1969), Statement of Interpretation on Article 11) and the cost of health care must not represent an excessively heavy burden for the individual. Out-of-pocket payments should not be the main source of funding of the health system (Conclusions 2013, Georgia). The Committee asks for updated information in the next report on the public health expenditure as a share of GDP and out-of-pocket payments as a share of total health expenditure, as well as measures taken to reduce the out-of-pocket payments.

The Committee noted previously that at the end of 2011, a pilot project was launched aimed at the introduction of an electronic keeping of the list of appointments and interventions through the web application which is maintained by the Ministry of Health (Conclusions 2013). The Committee wished to be informed on average waiting times for specialist and hospital treatment (Conclusions 2013). The report indicates that for the development and improvement of integrated health information system, a Department for electronic health as a body within the Ministry of Health was established. According to the data from the last 6 months, the general average waiting time from the moment of appointment to the realisation of the specialised examination is 7 days. The report further provides detailed information on the concrete waiting time for most individual specialties as provided by the Department for Electronic Health. The Committee takes note that according to the Euro Health Consumer Index 2015, the country has made a remarkable breakthrough in electronic booking of appointments – since July 2013, any GP can call up the booking situation of any specialist or heavy diagnostic equipment in the country in Real Time with the patient sitting in the room, and book anywhere in the country.

In reply to a general question addressed by the Committee to all states on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments (Conclusions XIX-2 (2010) and Conclusions XX-2 (2013)), the report indicates that the treatment for the drug addicts is available throughout the country, with over 12 centres for prevention and treatment of drug abuse and other psychoactive substances, and the Clinic for Toxicology and Emergency Medicine (which offers treatment only with buprenorphine). The treatment is available for all arrested and detained persons. The report adds that the funds for providing substance therapy (methadone and buprenorphine) for around 1400 persons each year is provided through the Annual Programme for Treatment of Addiction Diseases. The treatment system includes daily in-patient treatment, in-patient treatment, detoxification and substance treatment. Most drug users that are treated are receiving daily in-patient treatment, where they get a substitution treatment, psycho-social interventions, individual or group counselling and social psychotherapy. Moreover, the report lists several facilities for rehabilitation, re-entry in society and re-integration for addicted persons which were set up through the cooperation between the NGO sector, the local self-government and the government sector.

The Committee asks that the next report contain information on the availability of mental health care and treatment services, including information on the prevention of mental disorders and recovery measures.

The Committee asks that the next report contain information on dental care services and treatments (such as who is entitled to free dental treatment, the costs for the main treatments and the proportion of out-of-pocket paid by the patients).

As regards the right to protection of health of transgender persons, the Committee previously asked whether the legal recognition of transgender persons requires (in law or practice) that they undergo sterilisation or any other invasive medical treatment, which may impair their health or physical integrity (Conclusions 2013). The report indicates that there are no legal

provisions requiring any medical treatment for transgender people. It adds that in "the former Yugoslav Republic of Macedonia" there are no medical interventions for sex change. The Committee takes note of the submissions by Transgender Europe and the International Lesbian and Gay Association (European Region) (ILGA) on the implementation of the European Social Charter in the current cycle stating that the process of legal gender recognition is based on three procedures under different laws. The same submissions state that there are no regulations setting out the criteria according to which the Directorate for Registration (the "relevant institution") authorises changes to the registry, resulting in arbitrary decisions. The Committee asks for comments on the above matters.

#### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 11§1 of the Charter.

## **Article 11 - Right to protection of health**

### *Paragraph 2 - Advisory and educational facilities*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

### ***Education and awareness raising***

As regards public information and awareness-raising, the report indicates that each year of the reference period around 25,000 lectures on vaccinations, proper nutrition, hygiene maintenance, prevention of addiction illnesses – alcohol addiction, drug addiction, smoking, preventing cardiovascular diseases, malignant neoplasms, diabetes, osteoporosis, Chronic Obstructive Lung Disease (COLD) and other chronic non-contagious diseases were organised. Moreover, on average around 2000 workshops were organized yearly, on family planning, maintaining a hygiene-dietetic regime, i.e. the primary sanitary minimum, early cancer detection and other contents regarding health promotion and disease prevention, as well as 5,000 courses on average regarding first aid, taking care of proper nutrition and proper growth and development of children, etc.

The Committee takes note of the promotional actions and campaigns listed in the report which were carried out during the reference period such as "Save A Life", campaigns on raising awareness on prevention of malignant neoplasms, promoting sexual and reproductive health of women, on diseases caused by the hepatitis virus, and for promoting rational use of antibiotics. The report mentions that a large number of articles have been published in professional and scientific magazines and daily newspapers and numerous health promotional materials – posters, brochures, instructions, etc. in Macedonian and in Albanian languages. The Government sector works with the NGOs in organising and implementing numerous forums and conferences with presentations and other kinds of activities dedicated to the Roma population, the health of children and mothers, sexual and reproductive health, road safety, etc. The Committee takes note of the information provided in the report on the measures taken in to prevent obesity and promote healthy nutrition. It also notes that activities for education of different groups, students and the general population are continuously organised as part of the preventive public health activities of the Public Health Institute and the Public Health Centres, as well as through the activities of the NGO sector involved in the HIV/AIDS Programme funded by the Global Fund.

As regards health education in schools, the Committee took note previously of the subjects taught at schools, such as 'life skills' and 'biology' (Conclusions XX-2 (2013)). The report indicates that the country is a member of the network 'Healthy Schools in Europe', and at universities more and more attention is paid to introducing subjects and topics that refer to promotion of health of the population. For example, a curriculum was created in 2014 that introduced the subject 'Health Promotion' for general medicine students at the Faculty of Medicine in Skopje and the subject 'Promotion of Health and Health Education' is taught at the University of Shtip, Faculty of Medical Sciences.

### ***Counselling and screening***

The Committee noted previously that counselling and testing services for the population are carried out through the activities of the public health programmes which are adopted each year in the framework of the Law on Health Care (Conclusions XX-2 (2013)). The report indicates that free preventive examinations are provided within the programme 'Health for All' which is implemented throughout the country including in rural areas and includes blood pressure and blood sugar/fats checks as well as free counselling on health, diet and healthy lifestyles.

The report indicates that the programme for free health examinations and general medical examinations for pupils (aged 6-18 years) and students in their first year of university studies continues.

The report further indicates that free services – tests are provided through the Programme for early detection of malignant diseases, such as breast cancer and uterine cancer, as well as through the Programme for HIV/AIDS and through the Programme for measures to prevent tuberculosis.

The Committee takes note of the information provided in the report on the measures taken in the field of sexual and reproductive health. For example, through the National Programme for Public Health, within the activities of Counselling Centres for Sexual and Reproductive health of the 10 Public Health Centres, a total of 3 091 persons received education and counselling on topics for family planning, birth control, protection against sexually transmitted infections within the period 2012 – 2015.

The report indicates that since 2010, the annual programme for early detection of malignant diseases has been implemented, which marked the commencement of activities for implementing a pilot screening for uterine and breast cancer. As part of the programme, a free Pap smear was provided for women in their reproductive age and in the period from 2012 to 2015, on average 30 000 women were given tests per year, and 2.6% of women annually were detected with cell abnormalities. As a result of the screening measures undertaken, the mortality rate of women from cervical cancer is not increasing and on average it is around 4 women who die out of 100 000 women. The strategy for safe motherhood is implemented through activities established in the Programme for active healthcare of mothers and children focused on reducing the mortality rate and morbidity rate with pregnant women and new-borns, through which since 2015 free folic acid and iodine are provided for every pregnant woman in the country. In 2015, a National Centre for Reproductive Health was established, and a database of the state of reproductive health of pregnant women and new-borns was created.

#### *Conclusion*

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 11§2 of the Charter.

## **Article 11 - Right to protection of health**

### *Paragraph 3 - Prevention of diseases and accidents*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

#### **Healthy environment**

With regard to water quality, the report indicates that the Public Health Centres, in accordance with the National Annual Programme on Public Health in the Republic of Macedonia, each year performs continuous monitoring and evaluation of the sanitary-hygienic condition of the water supply for the population, of water supply facilities and of the safety (quality and health accuracy) of the drinking water, as well as the water for bathing and recreation. The report provides information on the activity of the Public health care offices with regard to health correctness of the drinking water for the period 2012-2015.

Concerning air quality, the report indicates that under the Law on Health Protection and the Law on Ambient Air Quality, the public health institutions, namely the Public Health Centres, are obliged to organise and perform monitoring of the air quality in the populated areas. The report further indicates that the total aero-sediment is monitored at 81 measuring spots, in Veles they monitor the presence of Pb, Cd, Zn, Ni and Fe in aero-sediment, in Kumanovo the presence of Pb, Cd and Zn in aerosediment; in Skopje and Veles floating particles (smoke) and SO<sub>2</sub>-sulphur dioxide is monitored, and the presence of CO is also monitored in Skopje.

The report further states that during the period of 2012-2015, according to the program tasks for public health, the level of noise has been monitored in the towns Bitola, Kichevo and Kumanovo by the regional Public Health Centres, in the periods defined with the Law on Environmental Noise Protection (Official Gazette of The former Yugoslav Republic of Macedonia No. 79/07). In accordance with the results obtained from the measurements, in those cases with registered increased level of noise, recommendations are given for overcoming the determined deficiencies in order to prevent the risk of occurring negative health effects due to exposure to increased noise level.

Concerning asbestos, the report indicates that in 2014, an asbestos profile was prepared with data regarding the asbestos presence in the construction and other materials and, thus, prevention measures have been proposed. During 2014, the Public Health Institute implemented the first study on human biomonitoring in "the former Yugoslav Republic of Macedonia". The Committee asks to be kept informed of any developments in this field.

With regard to food safety, the report provides detailed figures on the results of laboratory tested food samples for each year of the reference period. For example, in 2015, the analysis of the health safety of the food products shows the highest percentage of defective products from trade and domestic production in relation to additives and microbiological safety (1.5%). The additive incorrectness is higher with the analysed products from domestic production (2%) in comparison with the incorrectness with the analysed samples from import, whose percentage is significantly lower (0.6%). All 5 254 tested samples of food products for presence of pesticide residues corresponded to the legal regulations on food safety. The Committee takes note of the detailed information and data in the report related to the monitoring of food safety in educational institutions, schools, kindergartens and health institutions.

The Committee takes note of the detailed information in the report with regard to the measures taken in relation to protection from radioactivity and climate change.

The Committee asks for updated information in the next report on the concrete measures taken, as well as on the levels and trends with regard to air pollution, waste management, water quality, food safety, noise pollution, asbestos.

### ***Tobacco, alcohol and drugs***

The Committee takes note of the measures taken during the reference period to combat smoking, alcoholism and drug addiction.

The report indicates that the Law on Protection against Smoking stipulates a prohibition of smoking in public places and a prohibition of selling cigarettes to minors. It also regulates advertising and sponsoring. The Law on Tobacco sets forth quality standards, the levels of tar and nicotine, health warnings and graphic warnings. In 2013, the Law on Protection against Smoking has been amended. The amendments provide a wider scope of the inspection services, which will be able to penalize for smoking in places where it is forbidden to smoke. In accordance with the new amendments, inspectional supervision may also be performed by the Public Revenue Office – PRO (Tax Authority) and the Ministry of Interior – Mol. In 2013, the State Sanitary Health Inspectorate performed around 2,000 regular supervisions in public and private health institutions, in which cases it was concluded that there is compliance with the law. In 2014, the Counselling Centres for stopping smoking started their activity at 10 Public Health Centres (PHC). Within these centres, educational lectures are provided, which are focused on presenting the harmful effects of smoking on smokers' health and the harmful effects of tobacco smoke on the environment. For example, the number of people that were provided with counselling in the first half of 2015 was 153 in the Counselling Centres for stopping smoking.

In reply to a question of the Committee on trends in consumption, the report indicates that according to the results of the Study on behaviour of children of school age to health, conducted in 2014/2015, there is a visible trend of decline of everyday smoking, i.e. tobacco use by pupils aged 15, and also a trend of decline of the prevalence of weekly use of alcohol by these pupils. The same study indicates that there are no improvements in terms of the use of marijuana by 15 year old children. The Committee asks for updated information on the prevalence of adult smokers (over 15 years old).

The report provides data on the average annual quantities of alcoholic beverages (expressed in litres) per household/per household member. The report further indicates that during the last several years, statistics show that there is an increase in the number of persons who died from reasons linked to alcohol psychosis and cirrhosis. Mortality as a consequence of alcohol use is most common for age groups aged between 45 and 54.

The Committee takes note of the measures taken with regard to drug consumption. In 2014, a National Strategy on drugs 2014 – 2020 was adopted, which deals with issues of coordination and organisation of various sectors that are involved in this area and it establishes measures and activities for reducing the consumption and demand of drugs. The Committee wishes to be kept informed on the implementation of the Strategy and on trends in drug consumption.

The Committee asks that the next report contain updated figures on the tobacco, alcohol and drug consumption and trend of such consumption.

### ***Immunisation and epidemiological monitoring***

The Committee takes note of the measures taken during the reference period in the field of epidemiological monitoring. The report indicates that the immunisation in "The former Yugoslav Republic of Macedonia" is mandatory and free for all children aged 0 – 18. Mandatory vaccinations are also implemented for persons exposed to communicable diseases – after epidemiological indications, as well as active immunisation after epidemiological and clinical indications, also for travellers in international traffic. Mandatory vaccination is provided against tuberculosis, type B hepatitis, type B haemophilus influenza, polio, diphtheria, tetanus, pertussis (whooping cough), smallpox, rubella, measles, and diseases caused by Human Papilloma Viruses (HPV). In accordance with the Strategy for Immunisation, polyvalent vaccines were introduced in the Immunisation Calendar. A vaccine

was provided against *Streptococcus pneumoniae*, for children with clinical indications and following a recommendation from a paediatrician.

The Committee notes the coverage rates for the mandatory vaccinations during the reference period which were high (between 88.6% and 91.8% in 2015 with the exception of HPV of 42.2%). The Committee wishes to be kept informed on the coverage rates for the mandatory vaccinations in the next report.

### ***Accidents***

The report indicates that there have been no changes in the sense of new activities and new statistical data since the previous national report of 2012 (6<sup>th</sup> national report). The Committee recalls that under Article 11§3, States Parties must take steps to prevent accidents. The main sorts of accidents covered are road accidents, domestic accidents, accidents at school and accidents during leisure time. The Committee asks for updated information in the next report on the measures taken to reduce injury and death by accidents as well as trends in the number of accidents.

### ***Conclusion***

Pending receipt of the information requested, the Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 11§3 of the Charter.

## **Article 12 - Right to social security**

### *Paragraph 1 - Existence of a social security system*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

In the case of **family** and **maternity benefits**, the Committee refers to its conclusions on, respectively, articles 16 and 8§1 (Conclusions 2015).

### ***Risks covered, financing of benefits and personal coverage***

The Committee refers to its previous conclusions for a description of the social security system in "the former Yugoslav Republic of Macedonia", and notes that it continues to cover the traditional risks (medical care, sickness, unemployment, old age, work accidents/occupational diseases, family, maternity, invalidity and survivors). The system also continues to rest on collective funding: it is funded by contributions (employers, employees) and by the State budget.

The report indicates that there have been no changes as regards **healthcare** legislation. The Committee had previously found that healthcare coverage was satisfactory inasmuch as a mandatory insurance covered all employees and self-employed persons, pensioners, beneficiaries of unemployment benefits or social assistance, detainees, and people earning less than a certain income. In addition, certain categories of persons who cannot be insured on any other ground (children and young people in education, elderly persons, unemployed women during pregnancy and confinement) are also covered.

As regards the other branches, the Committee had however asked for updated figures concerning the percentage of persons insured out of the total active population and indicated that, should this information not be provided, there would be nothing to establish the situation's conformity with the Charter. In this respect, the Committee notes from official statistics that the active population in 2015 was 954 924 persons, of which 705 991 were employed and 248 933 were unemployed persons. The report states however that no data is available concerning the number of insured persons out of the total number of the active population (workers and unemployed persons). The Committee notes from Missceo that **sickness** insurance covers all employed and self-employed persons. A compulsory insurance for **work accidents and occupational diseases** covers employees, the self-employed, farmers, persons/students engaged in practical or voluntary work and unemployed during professional and vocational retraining. As regards **old age**, all employed, self-employed and farmers are covered by a compulsory insurance and, according to the report, in 2015 there were 182 954 recipients of old age pensions. All employed, self-employed and farmers, as well as persons engaged in practical or voluntary work, unemployed/students during professional and vocational training and prisoners are covered by compulsory **invalidity** insurance and the number of beneficiaries in 2015 was 39 814. Both employed and self-employed persons are covered by **unemployment** insurance. The report indicates that in 2015 the average number of unemployment benefits recipients was 11 243 persons. The Committee takes note of the information provided, in the absence however of the requested data concerning the percentage of the active population covered, it is not in a position to assess whether the coverage of the population is adequate. The Committee asks that the next report provide update data concerning the total population, the active population, the number of persons covered respectively in respect of healthcare; sickness; work accidents and occupational diseases; old age, disability and death as well as unemployment. In the meantime, it considers that it has not been established that the existing social security schemes cover a significant percentage of the population.

### ***Adequacy of the benefits***

According to Eurostat data, the median equivalised annual income was €2120 in 2015, or €177 per month. The poverty level, defined as 50% of the median equivalised income, was

€1060 per year, or €88 per month. 40% of the median equivalised income corresponded to €71 monthly. The report indicates that the minimum (net) wage was MKD9590 (€155) and that the minimum net wage in the sector of textile, clothes and leather production was MKD8050 (€130), while the national average (net) wage was MKD21904 (€353) and the average gross wage was MKD32171 (€519).

According to Missceo, employed and self-employed persons who have been insured for at least six months are entitled to **sickness** cash benefits in the amount of 70% of the average salary prior to the sickness (85% in case of a malignant disease), but not more than four times the national average monthly salary paid in the previous year. On the basis of the minimum wage, the Committee notes that the amount is adequate (€109-€91). This also applies to the benefits paid in case of **work accidents or occupational diseases**, which correspond to 100% of the average salary.

The report indicates that the reform of old age and disability pensions continued during the reference period. The conditions for entitlement to **old age** pension remain however the same, i.e. having reached the age of 64 (for men) or 62 (for women) with contributions of at least 15 years. According to the report, the lowest old-age pension amount in 2015 was MKD8241 (€133), which is above the poverty level and is therefore in conformity with Article 12§1 of the Charter. As regards **invalidity** pensions, the Committee notes from Missceo that the minimum invalidity benefit is respectively 37.60% (for men) and 43.40% (for women) of the calculation basis, that is the average net earnings over the entire insurance period. The actual amount is however determined according to the individual's working period and invalidity level. The Committee asks the next report to indicate the minimum amount of invalidity pensions. If no legal minimum is set, the Committee asks what is, for example, the minimum amount of an invalidity pension payable to a man with at least 80% permanent invalidity (not resulting from work accidents) and 15 years of contributions at minimum salary. It reserves in the meantime its position on this point.

The Committee previously found the duration of payment of **unemployment** benefits to be too short (Conclusions 2009, 2013), insofar as persons satisfying the minimum requirements for entitlement (9 months of uninterrupted employment or 12 months employment insurance out of the last 18 months) are only entitled to one month unemployment benefits (up to 12 months for persons with more than 25 years of employment insurance, or unlimited duration for persons near the retirement age). According to the report, in 2015 only 54 persons, i.e. 0.5% of the total number of beneficiaries, were granted unemployment benefits for one month (they constituted 0.3% in 2011). As the situation has however not changed in this respect, the Committee maintains its findings of non-conformity.

The Committee furthermore notes from Missceo that the payment of unemployment benefits can be suspended for one year, inter alia, in case of refusal of a job offer. The Committee asks the next report to clarify whether this sanction is applied only in case of refusal of a job offer which is considered to be adequate, whether the law defines what constitutes an "adequate" job offer, and after what period a jobseeker may be requested to accept a job offer not corresponding to his/her qualifications. It furthermore asks the next report to indicate what remedies are available to contest a decision to suspend or withdraw unemployment benefits.

The amount of unemployment benefits corresponds to 50% of the reference earnings (that is, the average monthly net salary paid to the worker over the last 24 months of employment) during the first 12 months and 40% of the reference earnings in the remaining time period. On the basis of the general minimum wage (€155), the Committee notes that the level of unemployment benefits (€78) falls between 40% and 50% of the median equivalised income and asks therefore whether there are additional benefits which might be added. The level of unemployment benefits (€65) is on the other hand too low in respect of persons earning the minimum wage in the sector of textile, clothes and leather production. The situation is therefore not in conformity with Article 12§1 of the Charter on this point.

The Committee asks the next report to provide updated information concerning the minimum wage and the minimum levels of income-replacement benefits (sickness, work accidents and occupational diseases, unemployment, old age and disability).

### *Conclusion*

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 12§1 of the Charter on the grounds that:

- 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 - Right to social security**

*Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

The Committee notes that "the former Yugoslav Republic of Macedonia" has not ratified the European Code of Social Security. Therefore the Committee cannot take into consideration other sources such as the resolutions of the Committee of Ministers on application of the Code and has to make its own assessment based on the information received in the report.

The Committee recalls that Article 12§2 obliges states to establish and maintain a social security system which is at least equal to that required for ratification of the European Code of Social Security. The Code requires acceptance of a higher number of parts than ILO Convention 102 on Social Security (Minimum Standards), as six of the nine contingencies must be accepted although certain branches count for more than one part (medical care counts as two and old age counts as three).

The Committee notes that "The former Yugoslav Republic of Macedonia" has ratified ILO Convention N° 102 and has accepted Parts II to VI, VIII and X. Part VI is no longer applicable as a result of the ratification of Convention No. 121 on Employment Injury Benefits.

The Committee recalls that in order to assess whether the social security system is maintained at a level at least equal to that necessary for the ratification of the Code, it has to assess the information regarding the branches covered, the personal scope and the level of benefits.

The Committee refers to its assessment under Article 12§1 where it notes that the social security system continues to cover the traditional risks (medical care, sickness, unemployment, old age, work accidents/occupational diseases, family, maternity, invalidity and survivors). The Committee refers to its conclusion under Article 12§1 that it has not been established that the social security schemes cover a significant percentage of the population and its request under Article 12§1 that the next report provides updated data in this respect.

The Committee also refers to its conclusion under Article 12§1 that the minimum duration of payment of unemployment benefits is too short and the minimum amount of unemployment benefit, calculated on the basis of the minimum wage in certain sectors, is inadequate. With regard to invalidity pension, the Committee in its assessment under Article 12§1 requests more detailed information and reserves its position on this point. It takes into account that the level of benefits in the remaining branches appear to be at a satisfactory level, at least equal to that necessary for ratification of the European Code of Social Security.

The Committee notes that the 2017 Report of the ILO Committee of Experts on Application of Conventions and Recommendations does not refer to any observation or direct request to the Government with regard to ILO Conventions 102 and 121.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 12§2 of the Charter.

## **Article 12 - Right to social security**

### *Paragraph 3 - Development of the social security system*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

It refers to its previous conclusions for a description of the national social security system and in particular the three pillars pension system. As regards changes concerning family and maternity benefits, the Committee refers to its conclusions on, respectively, articles 16 and 8§1. As regards other branches of social security, the Committee takes note of the legislative developments during the reference period. In particular, the report mentions the following improvements:

- the increase in the pensions' amounts, in accordance with the increase of average salaries and the index of living costs, all through the reference period (see details in the report);
- the modernisation of the pension system, by setting up electronic means allowing a quicker management of pensions (as from 2012) and easier access for insured persons to their own contributory data (as from 2015).
- the setting up, in 2015, of a Social Security Council, with the aim of reviewing topics related to social insurance and social protection. The Council includes representatives from the Union of Pensioners' Association, other relevant NGOs, the Red Cross, the Pension and Disability Insurance Fund, the Ministry of Health, the Health Insurance Fund, the Ministry of Labour and Social Policy etc. The Committee asks the next report to clarify whether this body has an advisory role or can also take decisions in the field of social security.

Other measures are mentioned in the report whose impact in terms of personal coverage and benefits' levels does not appear to be clear. The report refers for example to further developments in the field of old-age insurance, in relation with the implementation, as from 2014, of the Law on Payment of Second and Third Pillar Pensions. The Committee notes in particular that the right to minimum pension amount is guaranteed if the sum of the pension from the first pension pillar and the amount of the pension paid from the second pension pillar is less than the minimum pension amount. It also notes that the Agency for Supervision of the Fully Funded Pension Insurance is no longer under Government's control but is independent, under the control of the Parliament. The report refers to other measures taken in respect of other branches, for example the adoption of a number of employers' incentives to promote employment and the introduction of different rates of disability pensions in relation to the degree of impairment.

The report does not explain, however, what is the impact of all these measures in terms of categories and numbers of persons concerned and the minimum level of income replacement benefits. The Committee accordingly asks that this information be systematically provided under the heading of changes introduced during the reference period, in order to assess compliance of the situation with Article 12§3. The Committee recalls in this respect that Article 12§3 requires States Parties to improve their social security system, for example by expanding schemes, protecting against new risks or increasing the level of benefits. The improvements should lead to a gradual raising of the social security system of the country in question above the level required by International Labour Convention No. 102 (Statement of Interpretation on Article 12§3, Conclusions III (1973)).

### *Conclusion*

Pending receipt of the requested information, the Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 12§3 of the Charter.

## **Article 12 - Right to social security**

### *Paragraph 4 - Social security of persons moving between States*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

### ***Equality of treatment and retention of accrued benefits (Article 12§4)***

#### ***Right to equal treatment***

Equal treatment between nationals and nationals of other States Parties in respect of social security rights shall be ensured through the conclusion of bilateral or multilateral agreements or through unilateral measures.

The Committee notes from its previous conclusion (Conclusions 2013) that the country's own nationals and nationals of other countries, who are employed or self-employed in the State, are all covered by the mandatory pension and disability insurance in accordance with the Law on pension and disability insurance. The other benefits (i.e. health insurance, healthcare, maternity, rights in case of accidents at work and occupational disease, temporary unemployment) are, however, covered by bilateral social security agreements concluded by "the former Yugoslav Republic of Macedonia". The Committee notes from the report that "the former Yugoslav Republic of Macedonia" concluded social security agreements with Albania and the Slovak Republic during the reference period. Agreements with Denmark, Hungary and Italy have been signed and ratified by "the former Yugoslav Republic of Macedonia" but still need to be ratified by the others States parties concerned. The report also states that negotiations with the Russian Federation and France are carried out.

The Committee takes note of this information but notes, however, that there are still no agreements with Andorra, Armenia, Azerbaijan, Cyprus, Estonia, Finland, Georgia, Greece, Iceland, Ireland, Latvia, Lithuania, Malta, the Republic of Moldova, Portugal, Spain and Ukraine. It asks whether such agreements or any unilateral measures, whether legislative or administrative are planned and, if so, on what timescale. It also asks the next report to provide information on cases brought by migrant workers to the Commission for Protection against Discrimination, the Office of the Ombudsman, the competent authorities, and the courts with respect to access to social security benefits, and the outcome of these cases.

The Committee notes from ILO that section 88 of the Law on Foreigners provide that holders of a permanent residence permit shall enjoy the same rights as those of citizens, unless laws otherwise provide, including with respect to, for example, social protection and support. Section 4 of the Law on the Prevention and Protection against Discrimination prohibits direct and indirect discrimination with regard to inter alia social security and housing in respect of a number of grounds, including citizenship or any other ground established by the law or by ratified international agreements. However, the Committee notes that section 14(1) of the Law allows for different treatment of persons which are not citizens of "the former Yugoslav Republic of Macedonia". The Committee asks the next report to provide further information on this matter and, in the meantime, considers the situation to be not in conformity with the Charter on this point.

In respect of payment to family benefits, the Committee considered that the requirement for the child to reside in the territory of the paying State is in conformity with Article 12§4 (Statement of Interpretation on Article 12§4, Conclusions XVIII-1 (2006)). However, since not all countries apply such a system, States Parties applying the 'child residence requirement' are under the obligation, in order to secure equal treatment within the meaning of Article 12§4, to enter, within a reasonable period of time, into bilateral or multilateral agreements with those States which apply a different entitlement principle (Conclusions 2006, Cyprus).

As regards unilateral measures undertaken by the "the former Yugoslav Republic of Macedonia", the Committee notes from the report that family benefits, in particular child allowances, are granted for a child citizen of the "former Yugoslav Republic of Macedonia" to one of his or her parents citizen of the "former Yugoslav Republic of Macedonia" with permanent residence in the territory of "the former Yugoslav Republic of Macedonia" (Article 16 of the Law on Child Protection). It notes however that foreign nationals living in "the former Yugoslav Republic of Macedonia" can also apply for child allowances in accordance with the Law on Children Protection and ratified international treaties. It further notes that similar citizenship requirement apply for the "one-off financial assistance for new-born child". In this regards, it asks the next report to provide comprehensive information on the conditions that foreign nationals are required to meet under the Law on Children Protection for the payment of Child allowances and one-off financial assistance for new-born child as well as the number of foreign nationals who received or have been receiving such allowances.

As regards bilateral agreements concluded with other States Parties, the report states that all bilateral agreements concluded by "the former Yugoslav Republic of Macedonia" cover family benefits except for those concluded with Austria and Germany. The Committee also notes that no agreements covering family benefits exist with Andorra, Armenia, Azerbaijan, Cyprus, Estonia, Finland, Georgia, Greece, Iceland, Ireland, Latvia, Lithuania, Malta, the Republic of Moldova, the Russian Federation Portugal, Spain and Ukraine. It requests the next report to indicate whether such agreements are foreseen with the above States Parties, with the exception of the Russian Federation, and, if so, on what timescale. In the meantime, the Committee reserves its position on this point.

#### ***Right to retain accrued benefits***

The Committee previously noted (Conclusions 2009 and 2013) that the retention of accrued social security benefits is guaranteed in all the agreements concluded by "the former Yugoslav Republic of Macedonia". It notes that the report is once again silent as to whether nationals of States Parties not bound by bilateral agreements may also retain accrued social security benefits. In the absence of information, the Committee considers that it has not been established that the retention of accrued benefits for persons moving to a State Party which is not bound by an agreement with "the former Yugoslav Republic of Macedonia" is guaranteed. Should the next report not provide any information in this respect, there will be nothing to establish that the situation is in conformity with the Charter on this point.

#### ***Right to maintenance of accruing rights (Article 12§4b)***

The Committee previously noted (Conclusions 2009 and 2013) that the accumulation of employment periods and the pro rata calculation of benefits are guaranteed where a bilateral agreement has been negotiated. It notes that the report continues not to provide information as to whether and how the principle of aggregation of accruing social security rights is implemented for nationals of States Parties that are not bound by bilateral agreements with "the former Yugoslav Republic of Macedonia". In the absence of information, the Committee considers that it has not been established that nationals of States Parties which are not covered by an agreement with "the former Yugoslav Republic of Macedonia" can accumulate periods of insurance or employment completed in other countries.

### *Conclusion*

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 12§4 of the Charter on the grounds that:

- 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 - Right to social and medical assistance**

### *Paragraph 1 - Adequate assistance for every person in need*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

### ***Types of benefits and eligibility criteria***

In its previous conclusion (Conclusions 2013) the Committee asked for clarification regarding the length of the period during which social assistance benefits may be withdrawn in response to the refusal to fulfil the work obligation (active employment measures, seasonal work, public works).

During 2013, a change in the engagement of social financial assistance beneficiaries in public work was made by increasing the engagement period to 90 days in a calendar year. The person who rejected the work engagement shall be excluded from using the right to social financial assistance in the next 12 months, while the household may continue to exercise this right. The Committee notes from MISSCEO in this regard that unemployed social assistance beneficiaries must be registered as active job seekers with the Employment Service Agency. They must report every month and accept any suitable job assignment (seasonal work, temporary tasks etc), as well as training, qualification etc. offered by the Employment Agency. Social assistance will be suspended for 6 months if the beneficiary refuses to accept suitable job or training twice. During the year, social assistance beneficiary may spend up to 90 calendar days in public works/seasonal work/temporary employment organised either by municipalities or public institutions, or private or state-run companies.

The Committee asks the next report to clarify whether social assistance may be suspended for 6 months or twelve months and whether suspension of benefits may deprive a person of his/her means of subsistence. The Committee holds that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity with the Charter.

In its previous conclusion the Committee asked for confirmation that health insurance contributions for the persons without resources are financed from the state budget. The Committee notes from MISSCEO in this regard that persons in need are entitled to health insurance, which is provided through Health Insurance Fund. All members of the household are covered for healthcare. Contributions for health insurance are paid from the State Budget. Beneficiaries of permanent financial assistance are also exempted from the participation when using health care services.

The Committee also takes note of the Law on One-Time Write-off of the Citizens' Debts as well as of the National Strategy for the Elderly 2010-2020.

Since "The former Yugoslav Republic of Macedonia" has not accepted Article 23, the Committee also examines the situation as regards the minimum level of pension benefit under Article 13. The Committee notes that permanent social assistance is paid to persons incapable of work, including the elderly. The Committee asks whether this is the social assistance that is paid to the elderly persons without resources.

### ***Level of benefits***

To assess the situation during the reference period the Committee takes note of the following information:

- Basic benefit: the Committee takes note of the evolution of the basic financial assistance. It notes that in 2015 the amount was increased by 10% and stood at MKD 2,696 (€ 43) for a single person. The amount of permanent financial assistance was also increased by 10% and stood at MKD 4,045 in 2015 (€ 65).

- Additional benefits: the Committee notes from MISSCEO that the right to financial assistance for social housing is granted to persons who are considered in social risk and who do not have a home. Financial assistance for social housing is funded by the State budget and the amount of the benefit depends on the material and family status of the beneficiary. According to MISSCEO the costs for rent of a housing facility are covered in the amount of MKD 4,156 (€ 67) for an individual. The costs for utilities (electricity, heating, water and waste) are covered in the amount of MKD 1,559 (€ 25) for an individual. The Committee asks the next report to provide an estimate of an average *monthly* amount of all additional benefits that would be paid to a single persons, recipient of social assistance.
- Poverty threshold defined as 50% of median equivalised income and calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at € 88 in 2015.

The Committee notes that the level of social assistance benefits has increased steadily during the reference period. However, their amounts, both as regards financial assistance and permanent financial assistance fall below the Eurostat poverty indicator and are, therefore, not adequate. The Committee reiterates its previous finding of non-conformity on this ground.

### ***Right of appeal and legal aid***

In its previous conclusion the Committee wished to be informed about the nature and number of social assistance-related complaints lodged before the administrative court. It notes in reply that the administrative court provides legal protection within the independent court system. The Committee takes note of the numbers of complaints filed relating to the right to financial assistance, permanent financial assistance as well as one-time financial assistance.

### ***Personal scope***

The Committee recalls that, under Article 13§1, States are under the obligation to provide adequate medical and social assistance to all persons in need, both their own nationals as well as nationals of States Parties lawfully resident within their territory, on an equal footing. In addition, with reference to its Statement of Interpretation of Articles 13§1 and 13§4 (Conclusions 2013) regarding the scope of Articles 13§1 and 13§4 in terms of persons covered, the Committee considers that as regards emergency social and medical assistance, foreign nationals in an irregular situation in the territory of the State concerned are also covered under Article 13§1, rather than under Article 13§4, which was previously its practice.

The Committee henceforth examines whether the States who have accepted Article 13§1 ensure the right to:

- adequate social and medical assistance for their own nationals and for nationals of other States Parties lawfully resident within their territory on an equal footing;
- emergency social and medical assistance to foreign nationals unlawfully present in their territory.

### ***Nationals of States Parties lawfully resident in the territory***

In its previous conclusion the Committee found that the situation was not in conformity with the Charter on the ground that social financial assistance and permanent financial assistance were granted to nationals of States Parties only subject to an excessive length of residence requirement (five years).

The Committee notes from the report in this respect that social assistance beneficiaries are nationals as well as nationals of States Parties, holders of permanent residence. The latter

requires five years of residence in the territory. The Committee notes that there has not been any changes to the situation which the Committee has previously found not to be in conformity with the Charter.

### ***Foreign nationals unlawfully present in the territory***

As regards the right to emergency social and medical assistance for unlawfully present persons, the Committee previously noted that they are placed in the Reception Centre for Foreigners (*Gazi Baba*) where they are given food, clothing, shelter and medical assistance until such time as they can be returned to their country of origin. The Committee asked whether there were situations where this category of persons could receive emergency social assistance outside the reception centre. It notes in reply that pursuant to Article 48 paragraph 2 of the Law on Asylum and Temporary Protection, as amended, after he/she has been placed in the Reception Centre, the asylum seeker can apply to the Ministry of Labour and Social Policy to reside outside the Reception Centre at his own expense. In terms of access to social protection rights with the regulations concerning the provision of one-time financial assistance, when submitting an application for the exercise of this right to the locally competent Centre for Social Work, the person shall submit personal documents to determine the status, place of residence and the personal identification number. The Ministry of Labour and Social Policy shall ensure the subsistence and health care of asylum seekers while they reside in the Reception Centre or other place of accommodation assigned by this Ministry.

In this connection, the Committee recalls that persons in an irregular situation must have a legally recognised right to the satisfaction of basic human material need (food, clothing, shelter) in situations of emergency to cope with an urgent and serious state of need. It likewise is for the States to ensure that this right is made effective also in practice (*European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands*, Complaint No. 86/2012, decision on the merits of 2 July 2014, §187).

The Committee cannot accept the necessity of halting the provision of such basic emergency assistance as shelter, guaranteed under Article 13 as a subjective right, to individuals in a highly precarious situation. The Committee has considered that even within the framework of the current migration policy, less onerous means, namely to provide for the necessary emergency assistance while maintaining the other restrictions with regard to the position of migrants in an irregular situation, remain available to the Government with regard to the emergency treatment provided to those individuals, who have overstayed their legal entitlement to remain in the country (*Confederation of European Churches (CEC) v. the Netherlands*, decision on the merits of 1 July 2014, §123).

The Committee asks the next report to confirm that the legislation and practice comply with these requirements. In the meantime, it reserves its position on this issue.

### ***Conclusion***

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 13§1 of the Charter on the grounds that:

- 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.

## **Article 13 - Right to social and medical assistance**

### *Paragraph 2 - Non-discrimination in the exercise of social and political rights*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

In its previous conclusion (Conclusions 2013) the Committee asked that the next report contain up-dated information on whether being in receipt of social assistance could lead to a diminution of political or social rights.

In reply the Committee notes from the report that Article 3 of Law on Prevention and Protection against Discrimination expressly prohibits direct or indirect discrimination.

The Committee takes note of the legislative framework providing protection against discrimination in the context of social and political rights detailed in the report, such as the Law on Labour Relations which provides guarantees of a general nature for non-discrimination on the ground of social status.

The Committee asks the next report to confirm that provisions enshrining the principle of equality and prohibiting discrimination in the exercise of political or social rights are interpreted in practice in such a way as to prevent discrimination on the basis of receipt of social or medical assistance.

### *Conclusion*

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 13§2 of the Charter.

### **Article 13 - Right to social and medical assistance**

#### *Paragraph 3 - Prevention, abolition or alleviation of need*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

The Committee notes from the report that the Minister of Finance in association with the Ministry of Labour and Social Policy organised training for the Centres for Social Services regarding assistance to citizens who submitting their requests for assistance.

The Committee further recalls that Article 13§3 concerns free of charge services offering advice and personal assistance specifically addressed at persons without adequate resources or at risk of becoming so. The social services covered by Article 13§3 must play a preventive, supportive and treatment role. This means offering advice and assistance to make those concerned fully aware of their entitlement to social and medical assistance and how they can exercise those rights. In assessing national situations under this provision the Committee specifically examines whether there are mechanisms to ensure that those in need may receive help and personal advice services free of charge and whether such services and institutions are adequately distributed on a geographical basis. The Committee asks the next report to provide updated information regarding the activities of the Centers for Social Services as regards advice and personal help provided to to persons without resources in order to prevent, abolish or alleviate their need.

#### *Conclusion*

Pending receipt of the information requested, the Committee defers its conclusion.

## **Article 13 - Right to social and medical assistance**

### *Paragraph 4 - Specific emergency assistance for non-residents*

The Committee takes note of the information contained in the report submitted by "the former Yugoslav Republic of Macedonia".

The Committee refers to its conclusion under Article 13§1 (personal scope) and recalls that Article 13§4 from now on will cover emergency social and medical assistance for nationals of States Parties lawfully present (but not resident) in the territory.

The Committee recalls that States Parties are required to provide non-resident foreigners, without resources, with emergency social and medical assistance. Such assistance must cover accommodation, food, clothing and emergency medical assistance, to cope with an urgent and serious state of need (without interpreting too narrowly the 'urgency' and 'seriousness' criteria). No condition of length of presence can be set on the right to emergency assistance (Complaint No 86/2012, European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, decision on the merits of 2 July 2014, §171).

In its previous conclusion the Committee requested clarification as to whether one-off assistance guaranteed in accordance with Section 15 of the Law on Social Protection also extended to those who are lawfully present in the territory without residing there so as to meet any need for shelter, food and clothing (or whether such need is met pursuant to other provisions of the law).

In reply to the Committee' question the report states that the Law on Health Care, as amended, stipulates that foreign nationals are provided with emergency care and other health services at the request of the beneficiary. In addition, foreign citizens bear the costs themselves for the given emergency care or other health services, unless otherwise provided by law or international agreement. The health institution that provided the foreign citizen with an urgent medical assistance is obliged to enable him to make contact with the relevant diplomatic or consular mission or the bank where the foreign citizens has the financial means in order to pay the fee for the given emergency care.

If the health institution does not charge for the provided emergency care, because the foreigner has no funds, it is obligated in order to collect these funds from the state budget. In order to materialise the compensation for the provided emergency care to the foreigner, the health institution submits a request to the Ministry of Foreign Affairs within 60 days of the day of the provided services. Along with the request, the medical institution also attaches the bill with specification for the services rendered in duplicate, as well as evidence that there it attempted to recover the costs. After the payment of compensation to the medical institution which provided the emergency care to the foreigner, the Ministry of Foreign Affairs takes measures through the relevant diplomatic authority of the foreign citizen to collect for the service, in favour of the budget.

### *Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 13§4 of the Charter.



**CONCLUSIONS RELATING TO CONCLUSIONS OF NON-  
CONFORMITY DUE TO A REPEATED LACK OF INFORMATION IN  
CONCLUSIONS 2015**

## **Article 7 - Right of children and young persons to protection**

### *Paragraph 10 - Special protection against physical and moral dangers*

In application of the reporting system adopted by the Committee of Ministers at the 1196<sup>th</sup> meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by "the former Yugoslav Republic of Macedonia" in response to the conclusion that it had not been established that all children under the age of 18 are protected against all forms of sexual exploitation.

### ***Protection against sexual exploitation***

In its previous conclusion (Conclusions 2013) Committee could not establish that all acts of sexual exploitation, including trafficking of children were prohibited with all children under the age of 18, irrespective of the lower national age of sexual consent or the consent of the minor to be engaged in such activities.

The Committee notes from the report that the Criminal Code in its Article 122, paragraph 2 (item 22) provides for the definition of a child victim that complies with international standards on the definition of a child: a child victim of crime is a minor under 18 years of age. The Committee further notes that Article 191 of the Criminal Code, paragraph 1 incriminates recruiting, inducing, encouraging or enticing a person to prostitution or participation in any way in handing over a person to someone else for prostitution. According to the report 191a (child prostitution) and 192 (procuring and enabling sexual acts) have been repealed by the amendments to the Criminal Code.

The Committee takes note of Article 418-g (Trafficking with a child) of the Criminal Code, as amended, which provides in paragraph 1 that whosoever induces a child to sexual activities or enables sexual activities with a child or persuades, transports, transfers, buys, sells or offers for sale, obtains, supplies, harbours or accepts a child for the purpose of exploiting him/her in sexual activities for money or other forms of compensation or other forms of sexual exploitation, pornography, forced work or servicing, begging or exploitation for an activity prohibited by law, slavery, forced marriage, forced fertilisation, illegal adoption, or forces consent as a mediator for child adoption, illegally transplants human organs, shall be sentenced to imprisonment of at least eight years. According to paragraph 7 of Article 418-g, the consent of the child for the actions anticipated in paragraph 1 is not significant to the existence of the crime in the meaning of paragraph 1.

The Committee understands that the Criminal Code criminalises all acts of sexual exploitation of children, including child pornography (and simple possession) and child prostitution until the age of 18. The Committee notes that this situation is in conformity with the Charter and asks the next report to provide updated information regarding relevant legislative amendments.

### *Conclusion*

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 7§10 of the Charter.

## **Article 8 - Right of employed women to protection of maternity**

### *Paragraph 2 - Illegality of dismissal during maternity leave*

In application of the reporting system adopted by the Committee of Ministers at the 1196<sup>th</sup> meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by "the former Yugoslav Republic of Macedonia" in response to the conclusion that it had not been established that reinstatement or adequate compensation is provided for in cases of unlawful dismissal during pregnancy or maternity leave.

The Committee recalls in this connection that, under Article 8, paragraph 2 of the Charter, the reinstatement of employees unlawfully dismissed during pregnancy or maternity leave should be the rule and that, where this is not possible (e.g. if the enterprise has closed down or the employee concerned does not wish to be reinstated), adequate compensation must be available. Domestic law must not prevent courts from awarding a level of compensation that is sufficient both to deter the employer and fully compensate the victim of dismissal.

In particular, the Committee had asked for detailed information on the applicable provisions concerning the procedures available to the employee to contest a dismissal during pregnancy and maternity leave and how such provisions are interpreted in the domestic case-law.

It had furthermore asked:

- whether the law provided for reinstatement of employees unlawfully dismissed during pregnancy or maternity leave;
- whether it provided for adequate compensation of such employees, particularly when the reinstatement cannot take place;
- whether there was a ceiling on the amount that can be awarded as compensation to the employee and, if so, whether this upper limit covered both pecuniary and non-pecuniary damage or whether the victim could also seek unlimited non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation);
- whether pecuniary and non-pecuniary damage were awarded by the same courts and how long did it take on average for courts to award compensation;
- whether the same regime applied to women employed in the public sector.

In response to the Committee's questions, the report indicates that the labour inspection can suspend the contested dismissal (Section 262 of the Labour Relations Act) pending a final court decision, if the employee files a labour dispute. The report does not provide however any example of case-law in this respect. The Committee accordingly reiterates its request.

According to the report, Section 102 of the Labour Relations Act provides for the reinstatement of the employee, if the court finds that the employment was illegally terminated. In addition to the reinstatement, "the employer shall pay the employee the gross salary she was receiving when she was at work, in accordance with the law, collective agreement and the employment agreement, reduced by the amount of the income the employee earned from work, after the termination of the employment".

If the reinstatement is not possible, the report refers to the fact that this could be considered a form of discrimination and that, in accordance with Section 10 of the Labour Relations Act, the dismissed employee could claim damages under the Law on Obligations.

As regards the amount of compensation, the Committee understands from the report that there is not a predefined limit to compensation, but that the level of the amounts of material and non-material damage are decided by the court. The report explains that if material and non-material damages are claimed in the framework of the same procedure, this claim is

decided by the same civil court. Under the Law on Civil Procedure, labour disputes are emergency procedures, therefore the court is expected to complete the procedure within a reasonable time.

The report furthermore confirms that the Labour Relations Act, the Law on Civil Procedure and the Law on Obligations apply equally to all employees, whether they are employed in the public or private sector.

The Committee recalls that the situation concerning other aspects covered by Article 8§2 will be examined in the framework of the regular reporting cycle (Conclusions 2019) and asks that relevant and updated information be provided in that context.

#### *Conclusion*

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is in conformity with Article 8§2 of the Charter.