



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Concluding observations on the third periodic report of the
former Yugoslav Republic of Macedonia**

Addendum

**Information received from the former Yugoslav Republic of
Macedonia on follow-up to the concluding observations***

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* The present document is being issued without formal editing.



Responses by the Republic of Macedonia relating to paragraphs 8, 9, 10, 11,19 (c), of the recommendations of the United Nations Committee against torture (CAT/C/MKD/CO/3)

1. Regarding the recommendation in paragraph 8, on 15 September 2015 the Parliament passed the Law on Public Prosecutor's Office for prosecuting offenses related to and arising from the content of the illegal interception of communications (Official Gazette of the Republic of Macedonia no. 159/2016).
2. This law regulates the competence, establishment, abolition, organization, and functioning of the Public Prosecutor's Office for crimes related to and arising from the contents of unauthorized interception of communications, the grounds for appointment and dismissal of the Public Prosecutor for prosecution of crimes related to and arising from the contents of unauthorized interception of communications and other issues related to the work of this prosecution. Pursuant to the provisions of this Law, "Unauthorized interception of communications" is defined as the unauthorized interception of all communications made between 2008 and 2015, including but not limited to audio recordings and transcripts submitted to the Public Prosecutor's Office before 15 July 2015.
3. Given these legal provisions, on 15 September 2015 the Council of Public Prosecutors of the Republic of Macedonia elected the Public Prosecutor who manages the Public Prosecutor's Office for crimes related arising from the contents of unauthorized interception of communications. In addition, on 14 October and 4 November 2015, 12 public prosecutors were selected as assistants to this Public Prosecutor.
4. This Public Prosecutor is responsible for her work before the Assembly of the Republic of Macedonia and the Council of Public Prosecutors of the Republic of Macedonia. According to Article 7 of the relevant Law, the Public Prosecutor submitted to the Assembly of the Republic of Macedonia a report on the first six months for the activities undertaken, i.e., for the period from 15 September 2015 until 15 March 2016.
5. Considering the above-mentioned provisions, this Public Prosecutor initiated investigative and preliminary proceedings concerning unauthorized interception of communications.
6. Regarding the recommendation in paragraph 9, in 2011 the Court statistics methodology was adopted, which contains statistics on the work of the courts. To implement the Methodology, which contains 11 indicators for the analysis of statistical data, a software application for collecting and processing statistical data on the work of the courts was developed and installed in the Judicial Council of the Republic of Macedonia.
7. For the crime under Article 142 "Torture and other cruel, inhuman or degrading treatment and punishment," 3 persons were convicted in the period from 2013 to 2015. For the crime under Article 143 "Harassment while performing duty," 32 persons were convicted in the same period.

In terms of recommendation in paragraph 10:

(a)

8. In connection with the recommendation to put an end to the ill-treatment in the prison system, the Directorate for Execution of Sanctions informs that it treats this issue with great seriousness and is one of the priorities of the Directorate for Execution of Sanctions.
9. In the part relating to the recommendation that all guards in the Idrizovo Prison who unlawfully make use of force against prisoners be the subject of proceedings for suspension, investigation, prosecution and penalties appropriate to the gravity of their actions, we notes that each employee in the prison system, without exception, if there are

allegations of improper treatment of inmates, is processed in accordance with legal regulations.

10. In that context, during 2015, 38 complaints from prisoners were sent to the Directorate for Execution of Sanctions, of which five (5) refer to bad treatment, or misconduct by prison staff; upon checking the allegations, it was determined that they were groundless.

11. Moreover, under the existing legislation, all penitentiary and educational-correctional facilities must submit reports to the Directorate for Execution of Sanctions concerning any use of force and means of coercion against prisoners. In 2015, 35 reports were submitted; in two cases it was found out that excessive force had been used, i.e., an action contrary to the provisions regulating this matter. Both cases related to the Idrizovo Prison, where a prison guard was given a disciplinary penalty in the form a pecuniary fine for a period of six (6) months, while another prison guard was given a disciplinary penalty in the form of a pecuniary fine for a period of three (3) months. These cases were reported to the authorities in the Ministry of the Interior and the competent Public Prosecutor's Office for their further processing.

12. As it was previously informed, like in the past whenever there are allegations of misconduct against inmates, without exception, concrete measures are taken to penalize the prison staff in proportion to the severity of exceeding their powers. In that context, in 2014 three prison guards were punished, whereby two guards had their employment contract cancelled, and one was fined.

13. One case of ill-treatment by a prison guard relates to the case of Zuher Ibrahimov in the Idrizovo Prison, while the other relates to the Gevgelija Prison where a prison guard was suspended because of overstepping of authorization in the exercise of official duty, i.e., due to abusive and violent behavior and repeated disciplinary violations, having his employment contract canceled. The third case was detected in the "Tetovo" educational and correctional institution; upon extra check made by the Directorate for the Execution of Sanctions, the Directorate asked that a procedure be initiated for determining disciplinary liability and verifying allegations of ill-treatment of a minor in the said educational and correctional institution. After conducting disciplinary proceedings, a disciplinary liability was established for an employee in this institution and he was given a disciplinary penalty in the form of a pecuniary fine for a period of three (3) months.

14. Regarding the recommendation to define a national strategy to combat inter-prisoner violence in Idrizovo and Skopje prisons, the Ministry notes that this activity is one of the strategic objectives of the National Strategy for the Development of the penitentiary system in the Republic of Macedonia (2015-2019), which was adopted on 12 May 2015 by the Government of the Republic of Macedonia. Specifically, this recommendation is contained in the Strategic Objective No. 6 defined as: Establish effective mechanisms for dealing with violence among prisoners and other disturbances in the penitentiary and educational-correctional facilities. To achieve this strategic objective, numerous activities for dealing with violence among prisoners and other prison disorders have been provided for. Activities have been planned in order to meet the eight outcomes that are defined as: an introduced standardized system for collecting, transmission and recording information for effective risk management; made assessment of the need for establishing trained teams to intervene in case of riot and disturbance in prison facilities; enhanced system of video surveillance in the penitentiary and educational-correctional facilities; introduced standardized system for taking action in case of general unrest and natural disasters in the penitentiary and educational-correctional facilities; trained prison staff for dealing with violent behavior of prisoners; established system of dynamic security in penitentiary and educational-correctional facilities; introduced program for the treatment of prisoners with violent behavior; and an increased number of prison security guards. Some activities have been started and will be implemented according to the established time frames in the forthcoming period ending in 2019.

(b)

15. Regarding the progress of “the Project for reconstruction of correctional institutions in the Republic of Macedonia,” the project would continue to take place in two parts. The completion of the first part by the end of 2018 would offer fully built facilities of the first construction phase of the Idrizovo Prison, while a new building would be constructed for the needs of the “Tetovo” educational-correctional institution. The second part of the implementation of the project, which will be implemented in the 2019-2022 period, provides for construction/reconstruction of premises of the closed ward and the female ward in Idrizovo Prison and construction/reconstruction of the premises in Skopje Prison. The current state of implementation of the project is as follows:

- The construction of the Kumanovo Prison has been finished; this prison is fully equipped according to European standards. Since November 2013, it operates as a semi-open facility with a capacity for 226 persons (ward for convicts - 178 persons; and detention ward - 48 people).
- The first phase activity of construction of Idrizovo Prison is in progress, which has begun in April 2014 and includes: open ward, semi-open ward, treatment plant, and reconstruction of the administration building and training center. Thus far, reconstruction of the training center has been finished, while construction of the open ward and the semi-open ward is in progress. The training center is fully equipped with the support of IPA Project 2009 “Strengthening the capacity of law enforcement for proper treatment of detained and convicted persons”; as part of this project supply has been made of IT equipment, equipment for simultaneous translation, kitchen and furniture for the rooms of the building. Construction of buildings, and equipping should be completed by the end of 2018.
- Building a new “Tetovo” educational-correctional institution is also in progress, whose construction has begun in March 2014. All facilities have been built, closed with windows, covered with galvanized plastic metal sheet and efforts are in progress to finish the internal plumbing and sewage system, together with electrical and mechanical engineering work, while placing ceramic tiles and thermal isolation on the facade. Construction of buildings, and equipping should be completed by the end of 2018.

(c)

16. For the recommendation concerning the strengthening of measures to reduce overcrowding in the prison system through the introduction of alternative sanctions, or by creating a probation service, the measures taken in this regard are in line with international standards in this area. In terms of progress on the introduction of probation service in the Republic of Macedonia, through the assistance of the IPA Project 2010 “Further support for independent, responsible, professional, and efficient judiciary and promotion of the probationary service and alternative sanctions” the following activities have been implemented:

- The Law on Probation was adopted by the Assembly of the Republic of Macedonia in December 2015, (“Official Gazette of the Republic of Macedonia” No. 226 dated 25 December 2015);
- 400 bracelets with GPS transmitters, and other IT equipment were purchased to conduct electronic monitoring of persons who would be sentenced to house arrest/probation;
- From 9 to 15 September 2015 training for trainers on the use of electronic monitoring equipment took place. The training was attended by 8 officers of the Directorate for Execution of Sanctions; and
- The preparation of bylaws needed to complete the legislative framework for the establishment of a probation service in the country is in progress.

(d)

17. In order to increase the prevention and control of possible ill-treatment against prisoners and detainees, as well as in cases of violent behavior among them, the procedure for recording the signs of violence among prisoners and detainees is regulated by specific instructions. Specifically, separate instructions regulate the procedure of conduct of the medical staff of the institution in cases of physical, psychological or sexual abuse of prisoners and detainees, observed during their admission in the institution or while serving the prison or detention sentence.

18. Among other things, all penitentiaries have introduced standardized records of cases of use of force by staff against detainees and prisoners in order to reduce cases of excessive use of force. All institutions have introduced a Book of records for registering the wounds of prisoners and detainees identified at admission to the institution or while serving their prison or detention sentence, and in addition, there is an obligation for immediate reporting of cases of ill-treatment to the authorities for further action.

19. Also, in the area of prevention of cases of improper treatment of prisoners, during the month of March 2015 extra check and supervision was conducted in all penitentiary and educational-correctional institutions in context of the procedure for the use of physical force and coercion means, i.e., whether it is conducted in accordance with legal and bylaw provisions governing this area. At the same time, authorized officials in the penitentiary and educational-correctional facilities were provided with recommendations for how to proceed in cases where it is necessary to have the use of force and means of coercion, while respecting the rights of prisoners and detainees.

20. Furthermore, the future measures will be taken in order to establish more effective mechanisms for dealing with cases of ill-treatment of convicted, detained and minors that are strategically planned in the National Strategy for Development of the penitentiary system in the Republic of Macedonia. Specifically, the Strategic Goal No. 7 contains activities relating to: improving the standards of conduct of prison staff, activities to improve the policy of zero tolerance for misconduct and corruption, information campaign to raise awareness of prison staff, preparation of procedures for recording and reporting of cases of misconduct, and conducting training of prison staff to prevent this kind of cases.

Regarding the recommendations in paragraph 11 and 12:**(a)**

21. The Unit for Internal control, criminal investigations, and professional standards in the Ministry of Interior processes all reported cases of ill-treatment by police officers by conducting swift and thorough investigations. In cases where during the investigation it establishes that there is reasonable doubt of criminal offences, having been committed, it files corresponding criminal charges. In 2013 and 2014 the Unit filed two criminal charges for the crime of "Torture and other cruel inhuman or degrading treatment or punishment", punishable under Article 142 of the Criminal Code of the Republic of Macedonia, against three police officers; in the first case the competent Public Prosecutor's Office managed to have the police officer get a suspended prison sentence, while in the second case the criminal charges against the two involved police officers were dropped.

22. In 2014 and 2015 the Unit filed three criminal charges for the crime of "Mistreatment while exercising official duty", as punishable under Article 143 of the Criminal Code of the Republic of Macedonia, against five police officers; in the first case involving three police officers the proceedings before the competent Public Prosecutor's Office are in progress; in the second case involving a police officer court proceedings are in progress, while in the third case where a police officer has been reported, the competent Public Prosecutor's Office made a decision to dismiss the complaint. In addition to this, in one case after a report on unnecessary use of force was filed against a police officer, the

competent Public Prosecutor's Office has treated this as criminal charges for the crime of "Mistreatment while exercising official duty" and the proceedings are in progress.

23. Furthermore, from 1 December 2015 to 30 April 2016, the Ministry of Interior implemented the project "Support for the establishment of an independent external oversight mechanisms of police work," carried out by the Council of Europe with financial support from the Netherlands.

24. The project aimed to provide support to national institutions in the process of identifying and introducing an independent and effective mechanism for external control of the police.

25. In context of continuation of the project "Support for the establishment of an independent external oversight mechanisms of police work," as part of The Horizontal Program for the Western Balkans and Turkey funded by the European Union/Council of Europe, a logical framework for the project activity "Strengthening human rights in policing in the Republic of Macedonia" was prepared.

26. The project is scheduled to commence implementation in June 2016 and should take 18 months while several activities like roundtable, workshops, study visits and so on would be organized.

27. The aim is introduction of effective supervision over police work by establishing an external control mechanism and improve human rights by strengthening preventive protection against police misconduct, while also strengthening the internal control mechanism of the police.

(b)

28. Regarding the case of Zuher Ibraimov as detected in Idrizvo Prison, immediately upon the incident the involved prison guard was reassigned to work as a driver, without having contact with prisoners; after he received a prison sentence, his employment contract was cancelled. Once this person had been found guilty, he was sent to serve his sentence to another institution - Prison Skopje, where he endured imprisonment and today he no longer works in the prison system of the country.

29. Regarding the recommendation contained in paragraph 19-C, the temporary detention of foreigners in the Reception Center for Foreigners of closed type does not represent a measure of punishment but a temporary measure that is undertaken in conditions and with purpose prescribed by national legislation.

30. In the March-June 2015 period, when the number of detained foreign nationals increased sharply and exceeded the capacity of the Reception Center for Foreigners, a temporary use of another object, a building owned the Ministry of Labor and Social Policy, was introduced to alleviate the situation; this in turn increased the capacity and improved partly the living conditions that were exacerbated by the large number of migrants who were to be accommodated simultaneously.

31. Since mid-2015 and onwards no more than 30 foreign nationals stay per day at the Reception Center for Foreigners, which is far below the capacity of the center. In the second half of 2015, the Center got renovated toilets, new electrical wiring and heating system, while damaged windows and doors were replaced and the building itself was repainted. The Center is continuously maintained, and in conditions when even one-third of its capacity is not filled, the Ministry cannot agree with the conclusion that the conditions of detention are "inhuman and degrading." Furthermore, there is an ongoing project that foresees relocation of the Reception Center for Foreigners, i.e., a construction of a facility to a new location, which will provide better conditions for the staff, and stay of foreigners.