



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

Distr.: General  
12 June 2017

Original: English  
English, French and Spanish only

## Committee against Torture

### List of issues prior to submission of the fourth periodic report of the former Yugoslav Republic of Macedonia\*

#### Specific information on the implementation of articles 1-16 of the Convention, including with regard to the Committee's previous recommendations

1. In its previous concluding observations (para. 25),<sup>1</sup> the Committee requested the former Yugoslav Republic of Macedonia to provide further information regarding areas of particular concern identified by the Committee, namely: investigations into all allegations of wrongdoing emerging from the so-called wiretapping affair and allegations of excessive use of force by officials of the State party in response to protests motivated by the revelations of official misconduct (para. 8); the compilation of statistical data on investigations, prosecutions and convictions in cases of torture and ill-treatment, detention conditions and violence against women and ethnic and religious minorities (para. 9); impunity for acts of torture and ill-treatment by law enforcement officials and updated information on the Zuher Ibrahimov case (paras. 11 and 12); and the conditions of detention at the Gazi Baba detention centre (para. 19 (c)). The Committee expresses its appreciation for the response the State party provided on 6 July 2015, but considers that its recommendations have not been fully implemented (see paragraphs 2, 3, 5, 12 and 18, respectively, of the present document).

2. With reference to the Committee's previous concluding observations concerning the wiretapping affair (para. 8), and in the light of the follow-up information provided by the State party,<sup>2</sup> please provide updated information on:

(a) The status of the investigations that have been undertaken by the Special Public Prosecutor's Office<sup>3</sup> into offences relating to the illegal interception of communications (Official Gazette of the former Yugoslav Republic of Macedonia No. 159/2016),<sup>4</sup> including whether any public officials have been convicted of criminal offences as a result of such investigations. Please provide information in response to concerns raised by non-governmental organizations that the Special Public Prosecutor's investigations have been hampered by the court's repeated denial of pretrial detention requests. Please provide information on measures taken to ensure that the Special Public Prosecutor's requests for witness protection are granted;

\* Adopted by the Committee at its sixtieth session (18 April-12 May 2017).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee and issued under the symbol CAT/C/MKD/CO/3.

<sup>2</sup> See CAT/C/MKD/CO/3/Add.1.

<sup>3</sup> Ibid., para. 3.

<sup>4</sup> Ibid., para. 1.



(b) Whether any criminal investigations have been initiated into allegations that police and law enforcement officials used excessive force in responding to mass demonstrations concerning the wiretapping affair, and the outcome of any disciplinary proceedings or trials in connection with those allegations. Please provide the Committee with an update on any investigations into allegations of excessive use of force by law enforcement personnel, as well as failure to take action to protect people, in regard to the demonstrations of April 2017.

3. With reference to the Committee's previous concluding observations in which it expressed regret about the failure of the State party to provide the data requested concerning investigations, prosecutions and convictions in cases of torture and ill-treatment, and of violence against women and ethnic and religious minorities (para. 9), and in the light of the follow-up information provided by the State party indicating that, during the period 2013-2015, three persons were convicted under article 142 of the Criminal Code for torture and other cruel, inhuman or degrading treatment and punishment and that 32 persons were convicted under article 143 for harassment in the performance of their duties,<sup>5</sup> please provide comprehensive statistical data on investigations, prosecutions, convictions and sanctions in cases of torture and ill-treatment during the reporting period.<sup>6</sup>

4. With reference to the Committee's previous concluding observations in which it expressed serious concern at penitentiary conditions, the frequent illegitimate use of force and the high rates of inter-prisoner violence (para. 10), and in the light of the follow-up information provided by the State party and the Ombudsman, please provide:

(a) Updated information on the number of complaints about misconduct directed at inmates received by the State party's authorities during the period under review; the number of resulting investigations; and whether those investigations have led to criminal or disciplinary penalties; and other information relevant to the realization of strategic goal 7 of the country's national strategy for the development of the penitentiary system (2015-2019) to establish more effective mechanisms to deal with cases of ill-treatment of convicted prisoners and minors, including by improving standards of conduct of prison staff, enhancing the zero-tolerance policy for misconduct and corruption, reporting cases of misconduct and conducting information campaigns and awareness-raising campaigns.<sup>7</sup> Please also provide updated information on whether the three prison guards found to have used excessive force against detainees in 2014 received further punishment beyond the disciplinary penalties described in the State party's follow-up report;<sup>8</sup>

(b) Data on the number of incidents involving inter-prisoner violence documented in the State party during the period under review, disaggregated by detention facility, and data on any punishments handed down to perpetrators of inter-prisoner violence, as well as other information relevant to the realization of strategic goal 6 of the national strategy, which concerns the establishment of effective mechanisms for dealing with violence among prisoners and other disturbances,<sup>9</sup> including information on the training provided to prison staff with regard to dealing with violent behaviour of prisoners and intervening in prison riots or disturbances, and information on how the impact of the training is assessed;<sup>10</sup>

(c) Updated information on the implementation of the country's project for reconstruction of correctional institutions<sup>11</sup> and on other measures to improve material conditions at the Idrizovo, Skopje, Kumanovo, Ohrid and Tetovo prisons, the remand sections of the Skopje, Ohrid, Kumanovo and Tetovo prisons and on any measures to improve the reportedly appalling conditions in the detention cells of the Kičevo and Ohrid police stations, including the absence of light and appropriate heating and ventilation, as well as places of remand detention at the prisons in Skopje, Bitola and Prilep;

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<sup>5</sup> Ibid., para. 7.

<sup>6</sup> See CAT/C/MKD/CO/3, para. 9.

<sup>7</sup> See CAT/C/MKD/CO/3/Add.1, para. 20.

<sup>8</sup> Ibid., para. 11.

<sup>9</sup> Ibid., para. 14.

<sup>10</sup> Ibid., para. 14.

<sup>11</sup> Ibid., para. 15.

(d) Data on occupancy rates and capacity for the detention facilities in the State party in response to reports received by the Committee of severe overcrowding that state, for example, that facilities for convicted prisoners are occupied at 147 per cent of their capacity;

(e) Information on progress in the State party's adoption of alternatives to detention,<sup>12</sup> including the impact that the adoption of the Law on Probation has had on detention rates (Official Gazette No. 226 of 25 December 2015),<sup>13</sup> and data on the frequency of use of electronic monitoring equipment;

(f) Data on measures taken in response to complaints of inter-prisoner violence, including actions to protect complainants from reprisals, and information on the number of complaints resulting in disciplinary or criminal measures being taken against prison personnel for failure to act on such complaints.

5. With reference to the Committee's previous concluding observations in which it expressed regret that no persons were prosecuted or convicted of torture between 2009 and 2013 despite the many complaints filed with the Ombudsman and the Sector for Internal Control and Professional Standards of the Ministry of Interior (para. 11), and in the light of the follow-up information provided by the State party, please provide the following:

(a) Updated data on the number of complaints about ill-treatment by police officers received by the Sector for Internal Control and Professional Standards during the reporting period, the number of cases that resulted in prosecutions and the charges brought in each of those cases, the number of those cases that resulted in convictions and the sentences handed down;<sup>14</sup>

(b) Information on whether the State party has taken or is taking any measures to establish an independent external mechanism to oversee police work, as indicated in the State party's follow-up report;<sup>15</sup>

(c) Data on the number of individuals serving suspended sentences for violating article 142 of the Criminal Code, and any measures the State party is taking to ensure that individuals convicted of torture are sentenced to terms of imprisonment commensurate with the gravity of the offence of torture.

6. With reference to the Committee's previous concluding observations (para. 13), please provide data on the number of complaints received during the reporting period and information on investigations into and prosecutions for acts of violence<sup>16</sup> committed against lesbian, gay, bisexual, transgender and intersex (LGBTI) persons,<sup>17</sup> including the attacks against the LGBTI Support Centre in Skopje; please also provide information on efforts to ensure that prosecutions take into consideration any discriminatory motives and that adequate training is provided to law enforcement personnel.

7. With reference to the Committee's previous concluding observations (para. 14), please provide information on the number of complaints received during the period under review of alleged cases of excessive use of force by law enforcement officials against Roma, the number of such cases that resulted in investigation and prosecution, and whether any of those prosecutions led to convictions. Please indicate specifically whether the State party has investigated allegations that police used excessive force against Roma while carrying out a forcible eviction in Kale, Skopje, in August 2016. Please also provide information on any redress provided to victims of excessive use of force by the police against members of ethnic minority groups, including health-care and psychosocial services. In addition, please provide information on any investigations into the deaths in custody of Andrias Redjepov (21 years old) at Idrizovo prison on 11 March 2017 and of Erdal Jusinov (25 years old) at Shtip prison on 22 March 2017.

<sup>12</sup> See CCPR/C/MKD/CO/3, para. 13.

<sup>13</sup> See CAT/C/MKD/CO/3/Add.1, para. 16.

<sup>14</sup> *Ibid.*, para. 22.

<sup>15</sup> *Ibid.*, para. 23.

<sup>16</sup> See CCPR/C/MKD/CO/3, para. 7.

<sup>17</sup> *Ibid.*

8. With reference to the Committee's previous concluding observations regarding the definition of torture (para. 15), please provide information on:

(a) Whether the State party's legislation has been amended with a view to ensuring that the definition of torture contained in article 142 of the Criminal Code reflects all the elements contained in article 1 of the Convention, in particular in relation to acts of torture committed at the instigation of or with the consent or acquiescence of other persons acting in an official capacity;

(b) Whether article 142 of the Criminal Code has been amended to provide for prosecution of those who attempt to commit torture, those who knowingly fail to report instances of torture and those who are complicit in torture, and whether article 143 of the Criminal Code has been applied to members of the police, members of the army, prosecutorial officials or other persons for acts committed in an official capacity.

9. With reference to the Committee's previous concluding observations on the Law on Amnesty (para. 16), please provide information on:

(a) Whether criminal investigations have been opened into the four cases of war crimes allegedly perpetrated during the 2001 conflict to which the Law on Amnesty had been interpreted to apply (the National Liberation Army leadership case, the Mavrovo road workers case, the Lipkovo water reserve case and the Neprošteno case);

(b) Whether the police opened investigations into the alleged abduction of 12 ethnic Macedonians and one Bulgarian national by the Albanian National Liberation Army and into the cases of six ethnic Albanian victims of enforced disappearances at the hands of the police during the 2001 conflict;

(c) Whether the Law on Amnesty has been amended to ensure that allegations of torture are not exempt from investigation and prosecution.

10. With reference to the Committee's previous concluding observations (paras. 9 and 17), please provide the following information:

(a) Comprehensive data on complaints received and investigations undertaken into allegations of violence against women during the period under review, including data on any prosecutions of perpetrators of violence against women and the sentences handed down in such cases, and information on any additional measures taken to prevent, combat and punish violence against women and girls, including domestic violence, during the period under review;

(b) Efforts made to encourage women, including Roma women and women of other ethnic minorities, to report incidents of domestic and sexual violence by raising awareness<sup>18</sup> about the criminal nature of such acts;

(c) Measures taken to ensure the availability of a sufficient number of shelters throughout the country with appropriate financing, including data on the number and capacity of available shelters; and information on training provided to police and other relevant officials to deal with cases of violence against women and domestic violence;

(d) Measures taken to ensure that pregnant women who require therapeutic abortions are able to obtain them.<sup>19</sup>

11. With reference to the Committee's previous concluding observations (para. 18), please provide data on investigations, prosecutions, and punishment or compensation that have resulted from the implementation of the State party's initiatives to combat trafficking in human beings and measures taken to ensure that victims of such trafficking benefit from protection<sup>20</sup> and effective remedies, including access to medical and legal services, psychosocial counselling and safe and adequately funded shelters.

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<sup>18</sup> Ibid., para. 10 (d).

<sup>19</sup> Ibid., para. 11.

<sup>20</sup> Ibid., para. 15.

12. With reference to the Committee's previous concluding observations in which it expressed concern about the conditions of detention of irregular migrants, including unaccompanied minors, and about allegations that it is not possible to challenge denials of applications for refugee status issued on the grounds that the applicant poses a threat to national security (para. 19) and in the light of the follow-up information provided by the State party, please provide information on:

(a) The status of any investigations undertaken into allegations that the State party's police have subjected migrants and asylum seekers to routine abuse at border crossings and in reception centres. Also, please provide information on any criminal prosecutions of officials in that regard;

(b) The number of applications for refugee status received by the State party during the reporting period, the number of claims granted, the number of claims rejected, and the countries to which persons were removed following the rejection of their claims;

(c) Measures taken by the State party to ensure that no person will be returned in violation of article 3 of the Convention, including by ensuring the right of applicants to challenge the denial of refugee status, including denials issued on national security grounds;

(d) Measures taken to improve identification and screening procedures at entry points in respect of persons potentially in need of international protection, and measures to determine the status of persons accommodated in temporary transit centres, including in Vinojug, Tabanovce,<sup>21</sup> Gevgelija and Kumanovo, including in the light of the amendments made to the Law on Asylum and Temporary Protection in 2016;

(e) Measures taken to ensure that persons are detained only as a last resort and for as short a period as possible,<sup>22</sup> and to ensure that stateless persons whose asylum applications have been refused, asylum seekers, irregular migrants and refugees are not held in detention indefinitely, by establishing statutory time limits for detention and granting detainees access to an effective judicial remedy in the form of a review of the necessity of detention;

(f) Measures taken to improve sanitary and other conditions at the Gazi Baba reception centre for foreigners,<sup>23</sup> to ensure the availability of legal aid to persons detained there and to ensure regular access to the detention centre by independent monitors.<sup>24</sup> Please also provide information on progress made in constructing a new facility for foreigners with better conditions;

(g) Measures taken to ensure that unaccompanied minors are not kept in the same facilities as adults<sup>25</sup> and to appoint special guardians for unaccompanied minors who are in regular contact with them and who take measures to provide them with legal aid, including by contacting appropriate humanitarian organizations;

(h) Any cases during the period under review in which the State party has sought diplomatic assurances from another State regarding the return of applicants for asylum and in which there were substantial grounds for believing that the person to be returned would be at risk of being subjected to torture; in addition, please provide updated information on the case of rendition in 2004 of Khaled El-Masri in Skopje, in which Mr. El-Masri is alleged to have been subjected to inhuman and degrading treatment for 23 days before his eventual transfer to Afghanistan, and on any new legislation and the setting up of an ad hoc fact-finding commission in the wake of the El-Masri case.

13. With reference to the Committee's previous concluding observations in which it expressed concern that the Ombudsman was not able to make unannounced visits to all places of detention and that not all agencies and departments implemented the Ombudsman's recommendations (para. 20), please provide information on measures taken during the period under review to strengthen the Ombudsman's ability to independently

<sup>21</sup> See E/C.12/MKD/CO/2-4, para. 21.

<sup>22</sup> CCPR/C/MKD/CO/3, para. 17 (a).

<sup>23</sup> Ibid., para. 17 (c).

<sup>24</sup> See E/C.12/MKD/CO/2-4, para. 22.

<sup>25</sup> See CCPR/C/MKD/CO/3, para. 17 (b).

monitor places of deprivation of liberty by ensuring that the Office of the Ombudsman has access to and can inspect, in law and in practice, all places of detention without prior notice. Please also describe any measures taken to ensure that the Office of the Ombudsman has adequate human, material and financial resources<sup>26</sup> to ensure that it can effectively and independently implement its mandate,<sup>27</sup> which includes its role as the national preventive mechanism, and to ensure that the recommendations of the Ombudsman are implemented by the relevant governmental agencies and departments.<sup>28</sup> Please also provide information on any steps taken to reinstate the practice of monitoring of places of detention by civil society organizations as a supplement to the monitoring carried out by the Ombudsman.

14. Please provide information on whether the State party has rejected, for any reason, requests for extradition by other States of individuals suspected of having committed an offence of torture, and whether it has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

15. With reference to the Committee's previous concluding observations (para. 21), please provide information on:

(a) The introduction of any specific training programmes on the provisions of the Convention;

(b) Measures taken to provide specific regular compulsory training to all professionals involved in the documentation and investigation of torture and ill-treatment, such as forensic doctors, police officers, asylum officers, judges, prosecutors, penitentiary guards and personnel working at reception or detention centres, on how to identify signs of torture and ill-treatment established in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), including by detecting psychological traces of torture and by following gender-sensitive approaches;

(c) Any actions taken to develop methodologies to evaluate the effectiveness and impact of the training provided to law enforcement officials regarding the prevention of torture and ill-treatment and to ensure the regular monitoring of their conduct.

16. With reference to the Committee's previous concluding observations (para. 22), please provide information on:

(a) Specific measures taken during the period under review to improve access to adequate health-care services and sanitary conditions,<sup>29</sup> including full access to mental health-care services, in all prison facilities;

(b) Measures taken to ensure that every newly arrived detainee is afforded the right to be examined by an independent doctor;

(c) Measures taken to increase the number of health-care staff, facilities and equipment, including qualified nurses, at the prisons in Idrizovo and Skopje.

17. Please provide information about the situation of the juveniles who were moved from the educational correctional institution in Tetovo to the prison for juveniles in Ohrid in September 2015 owing to the poor material conditions at the Tetovo facility, and who are therefore currently being treated as convicted juvenile prisoners instead of as juveniles placed in an educational correctional institution. Also, please explain the causes of their poor physical appearance and state of health as reported by the Ombudsman, which could have resulted from ill-treatment, and the reason why almost all children are reportedly given anti-depressant medication on a daily basis. In addition, please indicate whether any steps have been taken to ensure that all juveniles deprived of their liberty are offered a full programme of education, sports, vocational training, recreation and other purposeful and structured activities. Please indicate the time frame foreseen for the completion of the new building of the educational correctional institution.

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<sup>26</sup> Ibid., para. 5.

<sup>27</sup> Ibid.

<sup>28</sup> See E/C.12/MKD/CO/2-4, para. 12.

<sup>29</sup> See CCPR/C/MKD/CO/3, para. 13.

18. With reference to the Committee's previous concluding observations (para. 23), please provide detailed information on:

(a) The number of requests for compensation filed by persons alleging torture or ill-treatment, the number of requests that have been granted and the type and quantity of redress provided. In particular, please indicate whether any redress was provided to Zuher Ibrahimov for the loss of a kidney and his spleen because of the beating he was given by a prison official;

(b) Any specific measures to ensure that all victims of torture obtain redress, including medical and psychological assistance, compensation and the means for full rehabilitation, as outlined in general comment No. 3 (2012) on the implementation of article 14 of the Convention by States parties;

(c) Steps to establish comprehensive programmes for the treatment and rehabilitation, both physical and mental, of victims of torture and ill-treatment.

19. Please provide information on:

(a) Measures taken to investigate allegations of the ill-treatment of patients by staff at the Demir Hisar psychiatric hospital and the Skopje psychiatric hospital, as well as information on any measures to improve living conditions and increase staffing levels, particularly in the afternoon and at night, in both hospitals;

(b) Measures taken to alleviate the overcrowding and improve the environment in both hospitals and ensure that patients get exercise outdoors;

(c) Measures taken to ensure legal safeguards for involuntarily hospitalized patients and to abolish the alleged practice of consent forms being signed involuntarily upon hospitalization;

(d) Any measures to improve the material conditions in social care establishments such as the Demir Kapija special institution.

## **Other issues**

20. Please provide updated information on the measures taken by the State party to respond to any threats of terrorism and please describe if and how those anti-terrorism measures have affected human rights safeguards in law and in practice and how it has been ensured that those measures comply with the State party's obligations under international law, in particular the Convention, and relevant Security Council resolutions, in particular resolution 1624 (2005). Please describe the relevant training given to law enforcement officers; the number of persons convicted under the legislation adopted under such measures; the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice; whether any complaints of non-observance of international standards have been filed; and, if so, the outcome of such complaints.

## **General information on other measures and developments relating to the implementation of the Convention in the State party**

21. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report that implement the provisions of the Convention or the Committee's recommendations. Such information may include institutional developments, plans or programmes, including resources allocated and statistical data or any other information that the State party considers relevant.