

THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA

CAT A/54/44 (1999)

106. The Committee considered the initial report of the former Yugoslav Republic of Macedonia (CAT/C/28/Add.4) at its 366th, 369th and 373rd meetings held on 27, 28 and 30 April 1999 (CAT/C/SR.366, 369 and 373) and adopted the following conclusions and recommendations:

1. Introduction

107. The former Yugoslav Republic of Macedonia as a successor State recognized the obligations of the former Yugoslav Federation and on 12 December 1994 became a State party to the Convention. Accordingly, the former Yugoslav Republic of Macedonia continues to recognize the competence of the Committee against Torture with regard to articles 20, 21 and 22 of the Convention.

108. The Committee was grateful to the State party for the size and quality of its delegation which contributed in a large measure to the fruitful dialogue developed during the consideration of the report.

109. The submission of the initial report of the former Yugoslav Republic of Macedonia was delayed for reasons that were largely outside the control of the State party. The report generally is in conformity with the guidelines of the Committee for the preparation of State party reports.

2. Positive aspects

110. The Committee considers as positive aspects the following:

(a) Article 11 of the Constitution of the former Yugoslav Republic of Macedonia provides that the human right to physical and moral dignity is irrevocable and that any form of torture, or inhuman or humiliating conduct or punishment is prohibited;

(b) It is very important that the Criminal Code defines as a crime the act of a public official who while performing his duty, applies force, threat or some other forbidden method of extorting a confession;

(c) The establishment of a State Commission for the supervision of penal and correctional institutions;

(d) The participation of public officials in seminars on the prohibition of abuse and torture, organized by the Council of Ministers and the Council of Europe;

(e) The evident willingness of the State party to implement the provisions of the Convention;

(f) The commitment of the former Yugoslav Republic of Macedonia to respect the principles and the norms contained in the Convention by including extensive training of police and medical personnel in its system of education and re-education. Of particular note is the country's incorporation of the norms reinforcing the prohibition of torture into its primary and secondary school curricula.

3. Factors and difficulties impeding the application of the provisions of the Convention

111. The Committee recognizes that the current situation in the former Yugoslav Republic of Macedonia puts a considerable burden on the Government but should not prevent the Government from making all efforts to fully implement the provisions of the Convention.

4. Subjects of concern

112. The absence of a specific crime of torture as defined in the Convention.

113. The ambiguity of the provisions in the Criminal Code with regard to elements and penalty. This leads to confusion as to the way in which article 2, paragraph 3 and article 4 of the Convention are implemented.

5. Recommendations

114. The definition of torture as contained in the Convention and torture as a defined crime should be incorporated into the Criminal Code of the former Yugoslav Republic of Macedonia with appropriate penalties attached to it.

115. The State party is urged to investigate complaints of maltreatment by government officials particularly those that relate to ethnic minorities. The investigations should be prompt and impartial and those officials that may be responsible for such maltreatment should be prosecuted.

116. The former Yugoslav Republic of Macedonia, at its borders, should fully comply with its obligations under article 3 of the Convention even in the present situation of a massive influx of refugees from Kosovo.

117. The Committee would like to know, in particular, from the State party what is the specific legal source providing that the justification of superior orders is not applicable to the crime of torture.