



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

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COMMITTEE AGAINST TORTURE

Fortieth session

Geneva, 28 April – 16 May 2008

**List of issues to be considered during the examination of the
second periodic report of The former Yugoslav Republic of MACEDONIA (CAT/C/MKD/2)**

Article 2

1. Please provide further information on the rights of persons detained in police custody, in particular their right of notification of custody, access to a counsel and to a doctor of their choice, to be informed of their rights and to inform their family promptly about their detention.
2. Please comment on the steps taken to improve the effective and timely functioning of the Public Prosecution Office. In this respect, please provide an update on the implementation of the Strategy for Judicial System Reform.
3. Please elaborate on the main features of the new Law on Police and clarify whether it has been finally adopted.
4. Does the State party's domestic law specifically provide that no exceptional circumstances whatsoever, or an order from a superior officer or a public authority may not be invoked as a justification of torture? Please provide examples of the application of this provision by the State party's courts.
5. Please elaborate on the measures taken, if any, to prevent ill-treatment of women in places of deprivation of liberty. Does the State party monitor sexual violence in places of deprivation of liberty, and if so, with what results? Please provide statistical data on the number of complaints received and investigated in this respect during the reporting period, as well as the number of prosecutions and convictions thereof.
6. With reference to paragraph 30 of the State party's report (CAT/C/MKD/2), please elaborate on the disciplinary punishments that may be pronounced by the Chairman of the Chamber in case of disciplinary offences committed by detainees.

Article 3

7. Please indicate whether the State party seeks assurances, including diplomatic assurances, before extraditing or returning an individual to another State as a way of preventing the return to a country where he or she would be in danger of torture. If so, please also indicate whether there is any follow-up mechanism in place to assess if these assurances are honoured.

8. Please clarify whether under the Asylum Law an appeal against an order of expulsion has suspensive effect or not.

Article 4

9. In light of the fact that the crime of torture is punished with imprisonment of one to five years by article 142 of the Penal Code, please inform the Committee on the penalty applied in case of violation of article 143 of the Penal Code, i.e. "ill-treatment in the performance of duties". In this respect, please also clarify the criteria used by the investigative and judicial authorities to legally qualify and distinguish the two crimes in practice.

10. Please clarify whether the attempt to commit torture and the complicity or participation in torture are also punished under the State party's criminal law.

Article 5

11. Please provide information on whether domestic legislation may provide for the establishment of universal jurisdiction for the crime of torture. Please inform on any application of this jurisdiction by the State party's courts, if any.

Article 10

12. With reference to the pilot project mentioned in paragraph 165 and ff. of the State party's report (CAT/C/MKD/2), please clarify whether training is systematically provided for law enforcement officials, staff of the penitentiary system and other public officials with respect to human rights and specifically the treatment of detainees and the measures for the prevention of torture and cruel, inhuman or degrading treatment or punishment. In this respect, please provide more information on the establishment of the Centre for Training of Staff of penitentiary institutions within the framework of the new Law on the Execution of Sanctions.

13. Please indicate further whether there are programs to train medical personnel who are assigned to identify and document cases of torture and assist in the rehabilitation of victims. Is there any training to develop more gender sensitive treatment both in legal and medical institutions?

Article 11

14. Please provide up-dated information on the number of persons and the occupancy rate of all places of deprivation of liberty in the criminal justice system. In particular, please inform the Committee on the measures taken to address the severe overcrowding in Idrizovo, Tetovo and Skopje prisons.

15. Please comment on the information available to the Committee that police at times use excessive force during the apprehension of criminal suspects as well as in detention, and notably against members of the Roma community. In this respect, please provide disaggregated statistical data for the years 2000-2006 regarding reported ill-treatment during or after apprehension according to location of detention, sex, age and ethnicity of the victim. Please also make available detailed information on the results of any investigations undertaken in respect of those allegations.
16. Please provide disaggregated statistical data regarding reported deaths in custody according to location of detention, sex, age, ethnicity of the deceased and cause of death for the years 2000-2006. Please make available detailed information on the results of the investigations in respect of those deaths, and notably alleged suicides, and measures implemented to prevent the reoccurrence of similar violations.
17. Please also provide information on the delivery of timely and adequate health care (including mental health care) for detained persons; including persons with HIV.
18. Please inform the Committee on the facts surrounding the arrest, detention and rendition to a third country of Mr. Khaled-el-Masri, a German citizen of Lebanese origin under suspicion of terrorism. In this respect, please clarify whether the circumstances of his detention and rendition have been thoroughly investigated and what have been the results thereof. Please also inform the Committee on measures taken to prevent the occurrence of similar situations in future.
19. Please inform the Committee of measures taken to protect and guarantee the rights of vulnerable persons deprived of their liberty, notably; women, persons suffering from mental illness and children.

Article 12

20. Please provide information on measures taken to combat impunity, and notably to ensure the integrity of the system of accountability for law enforcement officials in cases of alleged ill-treatment.
21. Please update the Committee on any development concerning the investigation and trial of suspects for the alleged cases of enforced disappearance occurred during the conflict in 2001.
22. With respect to paragraph 189 of the State party's report (CAT/C/MKD/2), please clarify whether there is a body with similar functions to SICPS (Sector for Internal and Professional Standards of the Ministry of Internal Affairs) to monitor and sanction abuse of authority or other misconduct by staff of the Ministry of Justice.
23. Please provide more information on the functioning and the impact of the SOS telephone line (0800 11333) established to report alleged cases of police misconduct and ill-treatment.
24. Please describe measures taken to combat racism and discrimination, in particular racially motivated violence against ethnic minorities, including prompt and impartial investigations into allegations of offences pursuant to articles 1 and 16 of the Convention.

Article 13

25. Please provide data with respect to:

a) The number of reported cases, investigations carried out and persons tried and convicted since the last periodic review, including the type of sanctions imposed disaggregated by crime, for the crimes of torture (article 142 of the Penal Code) and ill-treatment in the performance of duties (article 143 of the Penal Code);

b) The number of complaints filed as to articles 163 to 167 of the Law on Execution of Sanctions concerning alleged ill-treatment by custodial staff in places of deprivation of liberty and the number of disciplinary and /or criminal proceedings initiated as a result of those complaints.

26. Please comment on the reasons why, according to the statistics provided to the Committee, there appears to be a significant increase in the cases processed by SICPS in the years 2004 and 2005, while there is a proportionally substantial decrease in the proposals for submission of criminal charges.

27. Please clarify the role and mandate of the Ombudsman, and notably its power to investigate alleged abuse of power or excessive use of force by law enforcement officials. In case of a finding of violation, how binding are the Ombudsman's decisions for the authorities and what kind of follow up is given to its recommendations? Also, what happens when a case is investigated by both the Ombudsman and SICPS?

Article 14

28. Please provide statistical information on compensation provided to victims of torture or cruel, inhuman or degrading treatment that occurred in the State party for the period between 2000 and 2006. Please indicate how this breaks down according to sex, age and ethnicity.

29. Please indicate whether the right to compensation depends on the existence of a judgment in criminal proceedings ordering compensation. Can compensation be obtained by a victim of torture or cruel, inhuman or degrading treatment the perpetrator of which has been subjected to a disciplinary, but not to a penal, sanction?

30. Please indicate in further detail what services exist for the treatment of trauma and other forms of rehabilitation of torture victims.

Article 15

31. Please specify the legislation and practice relating to the prohibition of derivative evidence and the use of information obtained under torture in proceedings.

Article 16

32. Please provide information, disaggregated by sex, age, ethnicity or origin of victims, on the number of investigations, convictions and sanctions applied in cases of human trafficking and commercial sexual exploitation in the years 2000-2006.

Other

33. Please indicate whether there is legislation in the State party aimed at preventing or prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or cruel, inhuman or degrading treatment. If so, please provide information about its content or implementation. If not, please indicate whether the adoption of such legislation is being considered.
34. Please inform the Committee on whether there is any development about the State party's ratification of the Optional Protocol to the Convention, which the State party signed in September 2006. If so, has the State party adopted measures to set up or designate a national mechanism which would conduct periodic visits to places of detention in order to prevent torture or other cruel, inhuman or degrading treatment?
35. Please update the Committee on measures taken to redress the situation of those internally displaced persons (IDP) who have been unable to return to their pre-conflict homes mostly due to security concerns. Please also comment on the information that IDPs would often be under pressure to leave the collective centres where they have been located.
36. Please inform the Committee on any concrete measure aimed at ensuring that children deprived of liberty are separated from adult.
37. Please provide information on the care, treatment and living conditions of institutionalized children.
38. Please clarify whether the use corporal punishment has been formally abolished in all settings.
