



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

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Committee against Torture

**Consideration of reports submitted by States parties
under article 19 of the Convention**

**Follow-up responses of the former Yugoslav Republic of Macedonia to
the concluding observations of the Committee against Torture
(CAT/C/MKD/CO/2)***

[15 September 2009]

* In accordance with the information transmitted to State parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

1. In accordance with the Committee's rules of procedure, the Republic of Macedonia submits the following information on the Committee's recommendations contained in paragraphs 5, 7, 12 and 19.

Response to the recommendation contained in paragraph 5 of the concluding observations (CAT/C/MKD/CO/2)

2. The activities of the Government of the Republic of Macedonia correspond with the recommendation contained in paragraph 5 of the concluding observations.

3. In February 2008, the International Criminal Tribunal for the former Yugoslavia returned to the Republic of Macedonia four cases of alleged crimes against humanity and international law, stressing that these cases were to be processed by the national courts. These cases have been submitted to the Public Prosecutor's office of the Republic of Macedonia.

4. In one of the cases an indictment has been instituted, and the court proceedings are pending, one of the cases is in the investigation stage, and the other two cases are in the preliminary investigative stage. In the case of Boskoski-Tarculovski there are appeal proceedings under way at the Tribunal.

Response to the recommendation contained in paragraph 7 of the concluding observations

5. As regards recommendation No. 7, the Government informs that for the purpose of implementing the Optional Protocol to the Convention against Torture, ratified by the Republic of Macedonia, the amendments to the Law on Ombudsman are in parliamentary procedure. The Law will strengthen the Ombudsman's role and its financial independence and will create conditions for the performance of the duty of national preventive mechanism under the Optional Protocol. The amendments provide for regular and unannounced visits to places of detention and unimpeded access to documentation and other information. The amendments will also provide for its financial independence in accordance with the Paris Principles.

6. The capacities of the Sector for Internal Control and Professional Standards have been enhanced. In accordance with his legal competences, the Ombudsman performs his duties (direct access to police stations and documentation, conversations with official persons, with persons apprehended, detained or found at the official premises) in an unimpeded manner, and the data and information requested from the Ministry are duly provided.

7. With the adoption of the new Law on Criminal Procedure, the Republic of Macedonia has completely replaced the existing system with an accusatory system of conducting the procedure, in which the public prosecutor will assume the role of key figure in conducting the investigation. The model has been designed in a manner that enables complete control by the Public Prosecutor's Office over the work of the police, from the moment of discovering the committed crime to the filing of charges and thereafter. Briefly, the police become an instrument of the Public Prosecutor's Office, which certainly represents an important, independent control mechanism of police work.

Response to the recommendation contained in paragraph 12 of the concluding observations

8. As regards recommendation No. 12 the Republic of Macedonia took into consideration the September 2002 EU guidelines upon the conclusion of the bilateral agreement with the United States of America for exemption of U.S. citizens from the jurisdiction of the International Criminal Court. The Agreement is concluded on non-reciprocal basis, i.e. it applies only to citizens of the United States of America and does not

affect the obligations that the Republic of Macedonia has assumed ratifying the Rome Statute. The Agreement does not exclude the possibility for court proceedings against the eventual perpetrators of crime to be undertaken in the Republic of Macedonia, or the possibility that such persons are transferred to the United States of America for further proceedings. In pursuance of the EU guidelines, the Agreement envisages the possibility of terminating the Agreement, upon the request of one of the signatories.

Response to the recommendation contained in paragraph 19 of the concluding observations

9. As regards recommendation No. 19, under the Strategy for Reform of the Penal Law, the Ministry of Justice has prepared a Draft Law on Criminal Procedure and a Draft Law amending and supplementing the Criminal Code.

10. The proposed amendments and supplements of the Criminal Code are aimed at its further harmonization with international standards.

11. Furthermore, in accordance with the National Strategy for Protection against Domestic Violence, the Draft Law amending and supplementing the Criminal Code expands the obligations regarding protective supervisions under articles 56 and 57 of the Criminal Code. Namely, it has been established that it is necessary to establish counselling centres to be attended by violent perpetrators who have committed domestic violence crimes.

12. In line with the Committee's recommendations, it has been proposed to extend the duration of the prison sentence for the crimes of "torture and other cruel, inhuman or degrading treatment or punishment" (art. 142 of the Criminal Code) and for the crime of "ill-treatment in the performance of duties" (art. 143 of the Criminal Code).

13. Instead of the prescribed sentence of "one to five years" a sentence of "three to eight years" is proposed for the crime under article 142. Instead of the sentence prescribed in paragraph 2 of this article of "one to ten years", a prison sentence of "at least four years" is proposed, and instead of a prison sentence of "six months to five years" for the crime under article 143, a sentence of "one to five years" is proposed.

14. Furthermore, in accordance with the provisions of the new draft of the Law on Criminal Procedure, vulnerable groups of victims will have a special status in criminal proceedings and they are entitled to specific rights as victims of crimes against sexual freedoms, morals, humanity and international law. In addition, they are entitled to free legal assistance in accordance with the Law on Free Legal Assistance.

15. The Ministry of Labor and Social Policy of the Republic of Macedonia has undertaken the following activities with respect to recommendation No. 19:

16. Aiming at the coordinated and efficient implementation of the 2008-2011 National Strategy for Protection Against Domestic Violence adopted by the Government of the Republic of Macedonia in April 2008, a National Coordination Body has been established, composed of representatives of the relevant in-line ministries that work on issues in the area of domestic violence, as well as representatives of other institutions and civic organizations. This body follows the fulfilment of envisaged strategic measures and activities in the area of prevention, raising the public awareness, education of professional structures and improvement of the system of protection of victims of domestic violence.

17. In the context of facilitating a coordinated multidimensional approach to the protection of victims against domestic violence, a Protocol of activities of all professional structures in the case of domestic violence has been prepared. The Protocol will be submitted to the Government for adoption.

18. A Working Group has been established tasked with the preparation and adoption of normative and operative standards for counselling centres for victims of domestic violence. In respect of this activity, a Pilot counselling centre has been opened for individual and group work with victims of domestic violence, operating as part of the Inter-Municipal Social Work Center of the City of Skopje.

19. As regards the socio-economic reintegration of the victims of domestic violence, in cooperation with the Employment Agency of the Republic of Macedonia, victims of domestic violence are included in the 2009 Operative Employment Plan. This will provide the victims with the possibility for employment, relevant retraining and upgrading of qualifications.

20. Activities have been undertaken for assessment of the existing capacities of the governmental and civil sector which provide services for victims of domestic violence.

21. There have been education and training implemented for professional structures which work on cases of domestic violence. These trainings are continually implemented in accordance with the activities set forth under the Strategy.

22. The activities envisaged in the National Strategy for Protection against Domestic Violence in respect of the revisions and amendments to the methodological operative guidelines in cases of domestic violence by social work centres are currently implemented. More specifically the activities are focused on system of assessment of the needs of the victim, the manner of implementation of the protection measures and of the provisional protection measures.

23. Aiming at raising public awareness regarding the protection and prevention of any form of domestic violence, preparations underway for the organization of a continued campaign both in the printed and in the electronic media.
