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Meeting: 1318th meeting (June 2018) (DH)

Item reference: Action plan (11/04/2018)

Communication from "the former Yugoslav Republic of Macedonia" concerning the case of EL-MASRI v. "the former Yugoslav Republic of Macedonia" (Application No. 39630/09)

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Réunion : 1318e réunion (juin 2018) (DH)

Référence du point : Plan d'action

Communication de « l'ex-République yougoslave de Macédoine » concernant l'affaire EL-MASRI c. « l'ex-République yougoslave de Macédoine » (Requête n° 39630/09) ***(anglais uniquement)***

Skopje, 11 April 2018

REVISED ACTION PLAN

El-Masri v. MACEDONIA

Application no. 39630/09

Grand Chamber judgment of 13 December 2012

I CASE DESCRIPTION

1. The European Court in this case established that in 2004 the applicant was the victim of a secret "rendition" operation during which he was arrested, held in isolation, questioned and subjected to inhuman and degrading treatment in a Skopje hotel for 23 days, then transferred to CIA agents at Skopje airport who brought him to a secret detention facility in Afghanistan, where he was further ill-treated for over four months.

2. The Court found the following violations:

- the lack of an effective investigation into the applicant's allegations of ill-treatment by state agents and their active involvement in his subsequent rendition by CIA agents (a procedural violation of Article 3);

- the treatment that the applicant was subjected to contrary to Article 3 while in the hotel and at the airport in Skopje (a substantive violation of Article 3);

- the applicant's transfer to the custody of the US authorities exposing him to a real risk of further treatment contrary to Article 3 of the Convention (a substantive violation of Article 3);

- the applicant's abduction and arbitrary detention in the hotel as well as his subsequent captivity in Afghanistan amounting to "enforced disappearance" (a substantive violation of Article 5);

- lack of effective investigation into the applicant's allegations of arbitrary detention (a procedural violation of Article 5);

- the State's actions and omissions in respect of the applicant's ill-treatment and deprivation of liberty amounting to an interference with his right to respect for his private and family life which was not "in accordance with the law" (a violation of Article 8);

- the lack of an effective remedy in respect of the applicant's complaints (violations of Article 13, taken in conjunction with Articles 3, 5 and 8).

II INDIVIDUAL MEASURES

3. The measures have been taken to bring the violations to an end and to redress the applicant for their negative consequences. Details are set out below.

A. Applicant's current situation

4. It is recalled that the applicant was released by unidentified persons near the Albanian borders with "the former Yugoslav Republic of Macedonia" and Serbia on 28 May 2004 (*El-Masri,* § 32). He is currently living in Germany (*El-Masri,* § 15).

B. Reopening of the impugned criminal investigation

5. It is recalled that the applicant lodged a criminal complaint in October 2008 with the Skopje public prosecutor's office against unidentified law-enforcement officials on account of his unlawful detention and abduction. In December 2008, the public prosecutor rejected the applicant's criminal complaint as unsubstantiated (*El-Masri,* §70).

6. The criminal prosecution has however become time-barred (DH-DD(2015)1219). In its decision adopted at its 1243rd DH meeting (December 2015), the Committee of Ministers

> "*noted with regret that due to the passage of time the criminal investigation into the facts of this case has become time-barred and that other measures are therefore called for to provide redress to the applicant".*

C. Issuing an apology

7. In response to the outrageous violations found by the European Court in this case and in response to the Committee of Ministers' decision mentioned above, the authorities reflected on other measures called for to provide redress to the applicant.

8. To this end, the authorities considered that an apology to the applicant issued by a high-ranking official would be capable of providing redress to the applicant. The Committee of Ministers agreed with this view, including in its last decision adopted at its 1302nd DH meeting (December 2017), in which it

> "*strongly urged the authorities at the highest level of the State to issue a public apology to the applicant without further delay and to inform the Committee of the steps taken in this respect*".

9. The authorities have taken steps to comply diligently with the Committee's indications. In particular, the Government has an honour to inform the Committee of Ministers herewith that on 26 March 2018 the Minister of Foreign Affairs H.E. Mr Nikola Dimitrov issued an apology to the applicant on behalf of the Government. The apology has been transmitted to the applicant without further delay via his legal counsel. It is enclosed to this submission.

10. In his letter, the Minister of Foreign Affairs H.E. Mr Nikola Dimitrov expressed his sincere apologies and unreserved regrets to the applicant for the distress caused to him in 2004 as a result of improper conduct of the Macedonian authorities which have led to the violations found by the European Court. He stated expressly that his Government is deeply aware of the facts that the events of 2004 inflicted tremendous suffering and damage to the applicant. Therefore, the Minister conveyed the most sincere apologies for the immeasurable and painful experiences and grave physical and psychological wounds that the applicant and his family had suffered. In doing so, the Government had clearly recognised that no statement can undo the damage that was done, but it might, however, help to reaffirm the principles that should guide the State's future and uphold the rule of law. The Minister in particular highlighted that

> *"The Macedonia Government expresses sincere commitment to adhere to the path of human rights protection in compliance with the relevant European standards and the policy of zero*

tolerance to human rights violations, including but not limited to the acts of torture and other forms of ill-treatment".

11. The Government would like to highlight that the above apology has been widely echoed in leading world's media headlines and welcomed by renowned NGOs, including, *inter alia,* by Euronews, The New York Times, Washington Post and the Open Society Foundation. Sample links:

- www.euronews.com/2018/04/04/fyr-macedonia-apologises-to-german-man-over-cia-rendition,
- www.nytimes.com/aponline/2018/04/04/world/europe/ap-eu-macedonia-cia-apology.html,
- www.washingtonpost.com/world/the_americas/macedonia-apologizes-to-german-snatched-for-cia/2018/04/04/b52953f2-3813-11e8-af3c-2123715f78df_story.html?utm_term=.06f543b5ff3e,
- www.opensocietyfoundations.org/press-releases/macedonia-issues-apology-involvement-torture-cia

12. James A. Goldston, executive director of the Open Society Justice Initiative, which represented the applicant before the European Court in this matter, stated *expressis verbis*: "We welcome the FYROM government's apology to El-Masri, and its recognition that its security personnel violated the European Convention on Human Rights."

13. In view of the above, the Government considers that the apology constitutes public acknowledgment of the impugned facts and acceptance of the State's responsibility as well as that it complies entirely with the Committee of Ministers' indications to this end.

D. Civil action brought by the applicant for non-pecuniary damage

14. It is recalled that on 24 January 2009 the applicant lodged a civil action in respect of non-pecuniary damages with the Skopje Court of First Instance against the State and the Ministry of the Interior on account of his alleged unlawful abduction and ill-treatment (*El-Masri,* §72).

15. It is recalled that initially the Skopje Court of First Instance had dismissed the applicant's claim for non-pecuniary damages on the ground that the European Court had already established the key facts and awarded damages. Following several remittals, most recently, on 24 October 2017, the Skopje Court of First Instance upheld the applicant's claim for non-pecuniary damages in the symbolic amount of 1 EUR relying on the facts already established by the European Court. The decision is currently examined on appeal before Skopje Appellate Court. What is crucial however is that the domestic judicial authorities therefore consider that the facts of these violations have been clearly established and set out in substance in the Court's judgment.

E. Just satisfaction as a means of redress for the applicant

16. The applicant claimed EUR 300,000 in respect of non-pecuniary damage for the suffering, anguish and mental breakdown linked to his ill-treatment, unacknowledged detention, uncertainty about his fate, the refusal of the Government to acknowledge the truth and the impossibility of restoring his reputation. On the other hand, he did not claim just satisfaction in respect of pecuniary damage (*El-Masri,* §267).

17. Regard being had to the extreme seriousness of the violations of the Convention of which the applicant was a victim, and ruling on an equitable basis, as required by Article 41 of the Convention, the Court awarded the applicant EUR 60,000 in respect of non-pecuniary damage.

18. The applicant did not claim just satisfaction in respect of pecuniary damage sustained before the European Court domestic judicial or other authorities. To this end, it is indicated that the national legislation provides the applicant with a concrete and practical avenue to claim any damage in this respect. Pursuant to the Obligations Act, the applicant had 5 years from the date when the damage occurred (objective time-limit) and 3 years from the date when he learned about the damage (subjective time-limit) to initiate civil proceedings in respect of pecuniary damage sustained. The deadline for bringing such civil action therefore expired in May 2009 i.e. five years after the last impugned event had taken place in May 2004.

***

19. In light of the above and deeply regretting the appalling violations that occurred, the authorities consider that the individual measures taken are capable of bringing the violations to an end and redressing the applicant.

III GENERAL MEASURES

20. In response to the European Court's findings in the present case, the authorities took a number of measures to prevent similar violations.

A. Measures aimed at preventing violations of Article 3 in its substantive limb

21. Following the facts of this case, the authorities took measures to prevent similar substantive violations of Article 3 in hands of law enforcement officials. They are set out below.

(i) The legal framework as regards ill-treatment/torture in hands of law enforcement

22. In order to prevent abuse of power in form of ill-treatment in hands of law enforcement officials and special police units, the authorities envisaged harsher criminal sanctions in respect of acts of torture or other inhuman treatment.

23. At the time when the events occurred, Articles 142 and 143 of the Criminal Code provided penalties up to five years imprisonment for officials, who in performing their duties ill-treated the victim. If the actions resulted in severe physical or mental suffering of the victim, the offender was to be punished with imprisonment of at least one year.

24. Following the facts of the case, in 2004 and 2009 respectively, the Criminal Code was amended by imposing harsher penalties for ill-treatment/torture in the hands of law enforcement officials. The maximum penalty in Article 142 of the Criminal Code was increased from five to eight years imprisonment, while the punishment for severe form of ill treatment was increased to at least four years of imprisonment.

(ii) Introduction of inspectors for preventing ill-treatment/torture in the hands of law enforcement officials

25. Following the facts of the case, the Ministry of the Interior (the "MOI") in 2008 introduced inspectors for preventing ill-treatment into the internal structure of all levels and units within MOI, including the counter-intelligence service, border police and the special units. The aim of the measure is to strengthen the preventive police work by ensuring effective cross control over the members of the counter-intelligence service, border police and special units in direct contact with the detainees.

(iii) Increasing staff in the Department for Control and Professional Standards ("the DCPS") within the Ministry of Interior

26. Pursuant to a law adopted in 2009 the number of employees in the DCPS was increased from 40 to 60 persons. The same year, new technical equipment for independent documentation of criminal offences committed by counterintelligence service, border police or special units has been put in place within DCPS.

27. The amendments strengthen the effectiveness of the DCPS responsible for internal control over the acts undertaken by the state agents.

(iv) Targeted trainings and awareness-raising measures

28. The authorities have furthermore ensured that members of special force, intelligence services and border police are continuously trained and made aware that ill-treatment, torture and arbitrary detention are intolerable.

(v) Clear message of zero tolerance

29. Following the last decision adopted by the Committee of Ministers in December 2017, the authorities conveyed a clear message of zero tolerance for arbitrary detention, ill-treatment and torture, including within the framework of secret rendition operations.

30. In response to the Court's findings and bearing in mind the recommendation of an earlier CPT report (CPT/Info(2016)8, §13) the authorities considered it necessary to address a clear

message from the highest level as to the inadmissibility of and zero tolerance for arbitrary detention, torture and secret rendition operations to the intelligence and security involved in this case.

31. To this end, on 28 March 2018, the Minister of the Interior H.E. Mr Oliver Spasovski addressed a binding instruction to all organisational units of the Ministry of Interior, Bureau for Public Security, the Organisational units of the Bureau for Public Security, Sectors for Internal Control, Regional Centres for Border Affairs, Office of Security and Counter Intelligence and all sectors of this office on the territory of Macedonia. The Minister of the Interior clearly and strenuously reiterated the message of zero tolerance of ill-treatment and torture of persons deprived of their liberty in hands of the law enforcement agents and of secret rendition operations. In this Instruction the Minister of the Interior highlighted that:

> "*In discharging their work tasks and duties the employees of the Ministry of the Interior have an obligation to act in accordance with the applicable laws and international agreements ratified and accepted by Republic of Macedonia.*
>
> *At the same time, any treatment and action based on any form of discrimination, excessive use of force and torture in respect of other persons is strictly forbidden.*
>
> *Unlawful, inhuman and degrading treatment and discriminatory conduct shall be punished in accordance with the law."*

32. Members of the above-mentioned institutions within the Ministry of the Interior have therefore been made aware of the Minister of the Interior's instruction above and are required to adhere to it strictly. It is highlighted to the above instruction is binding upon all services and departments which acted in breach of the Convention in the present case. The Minister of the Interior therefore gave full effect to the Court's indications and took specific and adequate steps to ensure that similar violations are prevented.

33. The above strenuous message of zero tolerance of ill-treatment and torture of persons deprived of their liberty in hands of the law enforcement agents has been endorsed at the top political level.

34. On 16 and 17 March 2018, the Fifth Regional Rule of Law Forum in Southeast Europe was held in Skopje. The Forum focused on the prohibition of torture, inhuman and degrading

treatment or punishment and full adherence to requirements of Article 3 of the Convention. The Forum brought together over 150 top level judges from national Supreme Courts and Constitutional Courts, presidents of the Judicial Councils, directors of Judicial Academies, Government Agents and NGOs from the region.

35. The Minister of Justice H.E. Mr Bilen Saliji and the Prime Minister H.E. Mr Zoran Zaev addressed the Forum highlighting the need to ensure full and unconditional observance of requirements of Articles 3 and 5 of the Convention in the region. In a public speech transmitted on the national channel and made in front of the participants of this Forum and the Prime Minister, the Minister of Justice H.E. Mr Bilen Saliji affirmed the message of zero tolerance of ill-treatment and torture in hands of the law enforcement agents at the political level. The Minister of Justice stated the following:

> *"In this context, in capacity of Minister of Justice, allow me to express strong and sincere assurance that we remain committed and loyal to the efforts for respecting and protecting human rights in accordance with the European standards and, in particular, with the policy of zero tolerance towards acts of torture and other forms of inhuman and degrading treatment.*
>
> *Lastly, I would like to express sincere regrets for the violations of the human rights in the abovementioned judgments of the European Court of Human Rights* [finding violations of Article 3 of the Convention].
>
> *I am fully aware that these words of sincere regrets and compassion cannot undo the suffering of these persons, but I am confident that they can contribute towards reaffirming of the principles that guide our future and towards strengthening of the rule of law. "*

B. Measures aimed at preventing violations of Article 3 in its procedural limb

36. Following the facts of this case, the authorities took a number measures to prevent similar procedural violations of Article 3.

(i) Introduction of prosecutorial investigation

37. Following the facts of the case, a new Criminal Procedure Code (CPC) has been adopted in 2010. The new CPC established significantly wider powers of the public prosecutor in the investigations against unknown members of the police forces. In response to the case at

hand (*El-Masri,* § 70, 87 and 189), the new model envisages establishing a separate judicial police subordinated to the Public Prosecutor. The judicial police discharge its responsibilities under direct supervision and control of the public prosecutor, and is held accountable to the public prosecutor.

38. Pursuant to the provisions of the CPC, prosecutors now have an obligation to take a decision on a criminal complaint within three months, and applicants have the right to appeal the prosecutor's decision to a higher prosecutor.

(ii) Change of working methods in the public prosecution office aimed at preventing impunity for ill-treatment/torture on the part of the state agents

39. In response to the judgment rendered, the Prosecutor General in 2013 issued a binding instruction to all his subordinates for compulsory reporting to his office of high profile cases including cases where state agents are involved in ill-treatment.

40. The aim of the instruction is to supervise all investigations involving allegations of torture or ill-treatment and to prevent any ineffective prosecution of the members of the special police units.

41. Since 2013 the Prosecutor General regularly transmits these binding instructions to prosecutors nationwide with a view to preventing similar violations.

42. The Prosecutor General therefore gave full effect to the Court's indications and took specific and adequate steps to ensure that similar violations are prevented.

(iii) Establishment of the external mechanism

43. It is recalled that in response to the present judgment, the Government intends to step up external supervision of the intelligence and security services to prevent similar violations.

44. The Government has therefore been developing an appropriate mechanism within the framework of the Council of Europe project "Support to the establishment of an External Oversight Mechanism".

45. In April 2016, the Government decided to establish the "Prosecutor Plus" model of external oversight mechanism. This model aims at creating a specialised unit within the Public Prosecution Service in charge of prosecuting ill-treatment by the police and establishing a new civil review body comprised of independent external members without any affiliation with the police or other law-enforcement agencies.

46. Within the framework of the Council of Europe and the European Union project "Enhancing human rights policing" launched on 21 September 2016, the authorities prepared legislative measures to establish an external oversight mechanism (the "Prosecutor Plus" model).

47. It is recalled in this respect that the Committee of Ministers

> "*noted with interest that the authorities of the respondent State have envisaged stepping up external supervision of the intelligence and security services through the establishment of a new supervisory body by 2016 and invited them to provide further information on the content of the relevant legislative amendments*" (decision adopted at the 1230th DH meeting (June 2015), §3).

48. In its last decision, the Committee of Ministers furthermore

> *"strongly urged the authorities to inform the Committee about the progress made in the implementation of general measures envisaged for the execution of this judgment" (*decision adopted at the 1302nd DH meeting (December 2017), § 4).

49. In response to the Committee's decisions above, the Government prepared a set of legislative measures aimed at establishing the external oversight mechanism. To this end, in 2017 the Government prepared and approved the following draft laws:

- Draft amendments to the Law on Courts,
- Draft amendments to the Law on Public Prosecution Office,
- Draft amendments to the Law on Internal Affairs,
- Draft amendments to the Law on the Police,
- Draft amendments to the Law on Execution of Sanctions, and
- Draft amendments to the Law on the Ombudsman.

1. Legislative amendments adopted

50. The above-mentioned draft legislative amendments were tabled to national Parliament for adoption.

51. In January and February 2018 Parliament adopted amendments to the Law on Internal Affairs, the Law on the Police, the Law on Execution of Sanctions and the Law on the Ombudsman. The key features of legislative amendments adopted with a view to preventing similar violations are set out below.

52. Pursuant to the amendments introduced to the Law on Internal Affairs and to the Law on the Police, if the Ministry of the Interior shall become aware of any criminal misconduct, including ill-treatment, torture and other cruel, inhuman and degrading treatment in hands of a law enforcement agent, including members of the police, security and intelligence services, it shall now have an obligation to file a complaint with a special investigation unit to be set up shortly within the prosecution authority. To this end, the Ministry of the Interior shall have an obligation to provide information available on the criminal misconduct, the perpetrator and the victim and other relevant information at its disposal.

53. Albeit the prison authorities have not been involved in the present case, the Government finds opportune to note that pursuant to the amendments introduced to the Law on Execution of Sanctions, a similar obligation has now been put on shoulders of prison authorities and the Directorate for Execution of Sanctions should they become aware of any criminal misconduct, including ill-treatment, torture and other cruel, inhuman and degrading treatment in hands of prison staff.

54. Pursuant to the amendments introduced to the Law on Ombudsman, a special unit has been set up as a mechanism of civil control to monitor investigations into complaints of alleged ill-treatment and torture in hands of law-enforcement agents. This unit shall provide a substantial safeguard in investigations of alleged wrongdoings by law enforcement agents amounting to violations of Article 2 and 3 of the Convention. The special unit shall comprise three representatives from the ranks of the NGO. Its primary task will be to monitor and review the procedures aimed at investigating and holding accountable law-enforcement agents for any wrongdoing amounting to ill-treatment or torture in their hands. The unit will be in charge of

efficient and transparent review of the actions taken by the law enforcement officials which constitute criminal offences, including ill-treatment in their hands.

55. The selection of NGOs to sit at this special unit shall be carried out by Parliament following an annual public call. The selected three NGOs will then nominate one representative to discharge the functions of an external member of the unit set up within the Ombudsman with a one year term.

56. Pursuant to the amendments, the Ombudsman is now vested with powers to take the following actions and measures:

- to observe and monitor the actions by the authorities involved in similar cases,
- to access and review documents of the internal police investigations, to obtain evidence, to conduct its own interviews with victims, witnesses and offenders,
- to visit the authorities involved in the cases and propose reopening of a particular proceedings before a competent body, including the public prosecution authorities,
- to provide legal support for the victims and their families,
- to issue an early alert to law enforcement agents to prevent Convention breaches;
- to observe and monitor that the applicable laws and Convention are strictly adhered to by law enforcements agents and in case of a gap identified in the applicable legislation to file a motion for legislative amendments to bring the national legislation in this field in compliance with Convention and other relevant international instruments standards.

57. The Ombudsman constituting a civil control mechanism over the operations and actions of law enforcement agents might initiate proceedings following a request made by a victim or a member of his/her family, the NGO, as well as on its own motion after becoming aware of possible ill-treatment or torture in hands of law enforcement agents or of a hearsay to that

effect. The legislative amendments secured that the Ombudsman shall have access to classified documents.

58. The Government would particularly highlight the new powers vested with the Ombudsman that is to propose to the prosecution authorities to reopen investigation in cases concerning alleged ill-treatment or torture in hands of law enforcement agents. In the statement of reasons for the above legislative amendment the Government pointed that this power will constitute “an additional safeguard in the system of investigation in respect of criminal offences perpetrated by the law enforcement agents”.

59. The Government considers that the establishment of the abovementioned external control will allow for more effective supervision over the police conduct by carrying out independent inquires of alleged torture or ill-treatment in hands of law-enforcement agents, including the competence to initiate criminal prosecution against the perpetrators. The Government further notes that the external mechanism will enhance the efficiency and effectiveness of investigations into cases concerning ill-treatment and torture in hands of law-enforcement agents and eradicate impunity among them for such crimes.

2. Outstanding legislative measures: amendments remaining to be adopted

60. The adoption of the amendments to two laws, namely to the Law on Public Prosecution Office and to the Law on Courts, is currently pending in the Parliament.

61. Pursuant to the draft amendments to the Law on Public Prosecution Office, a special unit shall be set up for investigation of crimes committed by law-enforcement agents. This unit will be a part of the Basic Public Prosecution Office for Prosecution of Organised Crime and Corruption. The term of prosecutors attached to this unit will not be less than four years. These prosecutors shall have at their disposal sufficient qualified professionals to help them deal with cases expeditiously and adequately in line with Convention standards.

62. Pursuant to the draft amendments to the Law on Courts, a special unit shall be set up within the Basic Court Skopje I – Skopje. This unit will be in charge of administering justice in cases of ill-treatment and torture in hands of law-enforcement agents. This solution will increase efficiency and will streamline procedures put in place to prosecute such agents and bring them to justice.

63. In March 2018, the Government prepared an action plan setting out activities to be implemented to bring the establishment of the external mechanism to an end. These activities concern various organizational issues, staffing, public procurements, trainings and awareness-raising measures. On 03 April 2018 the Government adopted this plan. According to the plan, it is expected that the external mechanism will be established by September 2018 at the latest.

64. The authorities consider that the adopted legislative amendments in conjunction with the draft amendments pending before national Parliament will be capable of preventing similar violations. A combined set of legislative amendments will be conducive to efficient and streamlined dealing with any wrongdoings by law enforcement agents, including their efficient prosecution for ill-treatment and torture should these occur.

(iv) Training and awareness-raising measures

65. In 2018 the Academy for Training of Judges and Public Prosecutors carried out four trainings to make public prosecutors aware of Convention standards on investigations concerning ill-treatment and torture by the police and the Court's case law. In 2016 and 2017 the Academy carried out 11 such trainings. The authorities consider that these trainings will be conducive in raising awareness of the public prosecutors on the need to comply with the European Court's findings in the present case.

C. Measures aimed at preventing substantive violations of Article 5

66. In 2013, in co-operation with the European Commission and the Council of Europe, the authorities started implementing the project "Capacity building of law enforcement institutions for appropriate treatment of persons detained or deprived of their liberty". The project was aimed at strengthening the compliance of law enforcement officials with Convention requirements, in particular as regards detention. The project also highlighted the inadmissibility of arbitrary detention in unaccounted places outside the framework of formal prison system and police stations. Under the auspices of this project, a main strategic document defining the vision and mission of the country's police on human rights in ten years to come starting in 2013 was prepared. The document will continue to serve as a reference document for preparation of the training of police officers.

67. A pool of national trainers was established through a Training of Trainers ("ToT") sessions and a significant number of police officers received in-service training on human rights and the police ethics.

68. A total of 10 assessment missions, 25 round tables, numerous working groups' and experts' meetings and more than 140 workshops and training sessions, six study visits and seven Steering Committee meetings were implemented under the auspices of the above-mentioned project. During the project lifespan, a total of 65 consultants/experts were involved, namely 38 international consultants/experts and 27 national consultants/experts. Under the Project Components, a total of 2 950 copies of 13 publications (strategies, training manuals, treatment programs, etc.) were prepared and distributed to beneficiaries and professionals. In addition, leaflets and brochures promoting the project's outputs were disseminated to beneficiaries and relevant national stakeholders.

69. In addition, in 2012, the MOI posted on a visible place in police stations throughout the country posters explaining detainees' rights during their detention. These posters are translated into Macedonian, Albanian, English, French, German, Romani, Turkish and Russian.

D. Measures aimed at preventing procedural violations of Article 5

70. The measures taken or envisaged to be taken under the heading of Article 3 in procedural aspect are relevant under this head.

E. Measures aimed at preventing violations of Article 8

71. The Government considers that the measures referred above are also relevant under this heading.

F. Measures aimed at preventing violations of Article 13

72. In order to reduce arbitrariness in the decision making process of the public prosecutor and, at the same time, to enhance the prosecutorial actions in pending criminal complaints, the new CPC introduced a right to appeal to a higher prosecutor as a distinct right. According to the

legislation, the decision of the public prosecutor not to prosecute has to be served on the victim, who is empowered to appeal it before the higher prosecutor. The higher prosecutor may instruct his subordinate to continue the prosecution/investigation if an appeal is granted.

73. These amendments reinforced the prosecutorial system in general, and afforded an effective remedy to the victims regarding the alleged inactivity or arbitrariness of the public prosecutor.

74. It is recalled that the preceding Government envisaged amending the Constitution to introduce the right to lodge a constitutional complaint in cases of human rights abuses. However, the incumbent Government would like to inform the Committee that it has abandoned this idea as it considers that the external mechanism, once operational, will be capable of ensuring that effective, adequate and accessible remedy is available for potential victim of similar violations within the scope of the dedicated judicial review.

G. Publication and dissemination measures

75. On 28 December 2012, the Government Agent transmitted the Court's judgment translated into Macedonian together with an explanatory note on the violations found in this case to the following authorities: the Constitutional Court, the Supreme Court; four Appellate Courts; the Skopje Court of First Instance criminal and civil benches; the Judicial Council of the Republic of Macedonia; the State Public Prosecutor's Office, Offices of the four higher public prosecutors, Office of the Basic Public Prosecutor in Skopje, Office of the Public Prosecutor for Organised Crime and Corruption, the Council of Public Prosecutors, Office of the Ombudsman, Office of the State Attorney, the Academy for Training of Judges and Public Prosecutors, the Macedonian Judges' Association, the Macedonian Bar Association, the Association of Public Prosecutors, and the Ministry of the Interior. The Ministry of the Interior further forwarded the judgment to the counter-intelligence service, border police and other special units within the Ministry.

76. The full text of the judgment was posted and is made available on the web page of the Ministry of Justice (www.pravda.gov.mk) in Macedonian and English versions.

IV JUST SATISFACTION

77. The Government ensured that the just satisfaction awarded to the applicant in respect of non-pecuniary damage sustained has been disbursed on 1 February 2013. The payment has been therefore made within the time-limit set by the Court.

V CONCLUSIONS

78. The Government that the applicant was provided full redress for the violation sustained. Deeply regretting the horrific violations in this case, the Government notes that individual measures taken ensured that the violations were brought to an end and the applicant redressed.

79. The Government furthermore considers that the general measures taken and those envisaged will be capable of preventing similar violations.

80. In view of the above, the Government considers that adoption of an interim resolution as set out in the last decision adopted by the Committee has become obsolete and unnecessary.

ANNEX: Apology.

РЕПУБЛИКА МАКЕДОНИЈА
МИНИСТЕРСТВО ЗА НАДВОРЕШНИ РАБОТИ
REPUBLIC OF MACEDONIA
MINISTRY OF FOREIGN AFFAIRS
Министер / Minister

TO
Mr. KHALED EL-MASRI

Skopje, 26 March 2018

Mr. El-Masri,

On behalf of the Macedonian Government, I would like to express our sincere apologies and unreserved regrets for the distress caused to you in 2004 as a result of improper conduct of our authorities, which have led to the violations found by the European Court of Human Rights in its judgment of 13 December 2012.

It is true that a considerable period of time has elapsed since these acts took place.

However, the Macedonian Government is deeply aware of the fact that the events of 2004 inflicted tremendous suffering and damage to you and your family and were a grave affront to your physical and moral integrity and your personal dignity. Therefore, we would like to convey our most sincere apologies for immeasurable and painful experiences and grave physical and psychological wounds you suffered.

Recognizing that no statement can undo the damage that was done, it may, however, help to reaffirm the principles that should guide our future and uphold the rule of law. The Macedonia Government expresses sincere commitment to adhere to the the path of human rights protection in compliance with the relevant European standards and the policy of zero tolerance to human rights violations, including but not limited to the acts of torture and other forms of ill-treatment.

Hoping that you will accept our apologies I remain,

Respectfully yours,

Nikola Dimitrov