



CPT/Inf (2003) 3

**Report to the Government of
"the former Yugoslav Republic of Macedonia"
on the visit to "the former Yugoslav Republic of
Macedonia" carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 21 to 26 October 2001

The Government of "the former Yugoslav Republic of Macedonia" has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2003) 4.

Strasbourg, 16 January 2003

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Copy of the letter transmitting the CPT's report

Strasbourg, 22 March 2002

Dear Ms Zografaska-Krsteska,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of "the former Yugoslav Republic of Macedonia" drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to "the former Yugoslav Republic of Macedonia" from 21 to 26 October 2001. The report was adopted by the CPT at its 47th meeting, held from 5 to 8 March 2002.

The CPT requests the authorities of "the former Yugoslav Republic of Macedonia" to provide **within six months** a response containing an account of action taken by them to implement the Committee's recommendations and setting out their reactions and replies to its comments and requests for information. The recommendations, comments and requests for information are listed in Appendix I.

The CPT would ask, in the event of the above-mentioned response being forwarded in Macedonian, that it be accompanied by an English or French translation. It would also be most helpful if the authorities of "the former Yugoslav Republic of Macedonia" could provide a copy of the response in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours sincerely,

Silvia CASALE
President of the European Committee for the
Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

Ms Sanja ZOGRAFSKA-KRSTESKA

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention"), a delegation of the CPT carried out a visit to "the former Yugoslav Republic of Macedonia" from 21 to 26 October 2001.¹ The visit was one which appeared to the CPT "to be required in the circumstances" (cf. Article 7, paragraph 1, of the Convention).

The principal purpose of the visit was to examine the treatment of persons deprived of their liberty by the law enforcement agencies (Ministry of the Interior).

2. The visit was carried out by the following members of the CPT:

- Silvia CASALE, Head of the Delegation
- Davor STRINOVIĆ.

They were assisted by:

- Dan DERMENGIU, Associate Professor, Chair of Forensic Medicine Department, Medical Faculty "Carol Davila", Bucharest, Romania (expert)
- Mark KELLY, Director, Human Rights Consultants, Dublin, Ireland (expert)
- Emil ANGELOV (interpreter) (from 21 to 26 October 2001)
- Nevenka GRČEVA (interpreter) (from 21 to 26 October 2001)
- Fatmir KOVAČI (interpreter) (from 24 to 25 October 2001)
- Natalija KUNOVSKA (interpreter) (from 21 to 26 October 2001)
- Ermira MEHMETI (interpreter) (23 October 2001)

and were accompanied by Bojana URUMOVA and Michael KELLETT of the CPT's Secretariat.

¹ This was the second time a CPT delegation had visited "the former Yugoslav Republic of Macedonia". The first visit, which was of a periodic nature, took place from 17 to 27 May 1998. The report on this visit and the Government's responses were published on 11 October 2001 (CPT/Inf (2001) 20 and 21).

B. Establishments visited

3. The delegation visited the following places of detention:

Police stations

- Kočani Police Station
- Kumanovo Police Station
- Bit Pazar Police Station, Skopje
- Čair Police Station, Skopje
- Centar Police Station, Skopje
- Gazi Baba Police Station, Skopje
- Karpoš Police Station, Skopje
- Kisela Voda Police Station, Skopje
- Štip Police Station
- Tetovo Police Station.

The delegation also went to the remand sections of Skopje and Štip Prisons in order to gather further information relating to deprivation of liberty by the police.

C. Context of the visit

4. In the report on its first visit to "the former Yugoslav Republic of Macedonia" in May 1998, the CPT concluded that "physical ill-treatment of persons deprived of their liberty by the police in 'the former Yugoslav Republic of Macedonia' is relatively common" (cf. paragraph 17 of CPT/Inf (2001) 20).

In the intervening years, the CPT continued to gather information from a variety of sources regarding the manner in which persons are treated by the police. As had previously been the case, that information included a significant number of allegations of physical ill-treatment of detained persons by police officers, both at the time of arrest and during their time in police custody.

5. The general situation took a dramatic turn at the beginning of 2001, with the outbreak of an armed insurgency. The crisis constituted the most serious threat to this State's sovereignty since its independence in 1991. Operations by armed groups have directly targeted government security forces, including army personnel and police officers, but also civilians through expulsions, kidnappings, and destruction of personal property; in many cases, this has resulted in the brutal and indiscriminate killing of State officials. In this climate of violence, support was voiced from various quarters for an equally violent crackdown. The ensuing mobilisation led, inter alia, to deployment of a number of untrained personnel, e.g. police reservists, to the front lines and in police stations.

The CPT began to receive reports according to which certain persons suspected of involvement with the armed groups referred to above may have been subjected to torture or other forms of ill-treatment by Government security forces. Certain of those reports expressed concern that abuses may have been perpetrated against various persons leaving combat zones in the Kumanovo region in May 2001. By letter of 1 June 2001, the President of the Committee requested the national authorities to provide their observations regarding those reports; this request was made under Rule 30 (1) of the CPT's Rules of Procedure. Subsequently, the Bureau of the Committee organised high-level talks in Skopje on 24 and 25 July 2001, in order to discuss the matters raised in the President's letter and related issues of concern.

6. In the light of the most recent information available, the CPT decided to carry out an ad hoc visit to "the former Yugoslav Republic of Macedonia" in order to re-examine the treatment of persons deprived of their liberty by the law enforcement agencies under the authority of the Ministry of the Interior, and to review specific police-related issues which had been the subject of recommendations following its first visit to the country. To this end, it visited several police establishments and interviewed a considerable number of persons who had recently been in police custody. In addition, it examined the efficacy of existing legal remedies in cases involving allegations of ill-treatment.

As during the CPT's 1998 visit to "the former Yugoslav Republic of Macedonia", consultations were held with representatives of international and non-governmental organisations, in addition to those held with national authorities and various local officials. A list of the authorities and organisations with which the delegation held consultations is set out in Appendix II to this report.

D. Cooperation between the CPT and the authorities of "the former Yugoslav Republic of Macedonia"

1. Consultations at central level

7. In the course of its visit, the delegation met Ilinka MITREVA, the Minister for Foreign Affairs, as well as senior officials from the Ministries of Justice, the Interior, and Foreign Affairs. In particular, fruitful discussions on police matters were held with the following officials from the Ministry of the Interior: Goran MITEVSKI, Director of the Bureau for Public Security, General Risto GALEVSKI, Head of the Police Division, Slavko CVETKOVSKI, Head of the Internal Control Department, and Božidar KULEVSKI, Head of the Police Academy. The CPT would also stress the cooperative attitude of Viktor GABER, Under Secretary at the Ministry of Foreign Affairs, who chaired the end-of-visit talks and indicated his resolve to address certain problems of cooperation at local level which were encountered by the delegation (cf. paragraphs 10 to 18 below).

The delegation also met three judges from the Supreme Court - Fidančo STOEV, Liljana RISTOVA-INGILIZOVA, and Aleksandar BOŠNJAKOVSKI - as well as the Prosecutor-General, Stavre DŽIKOV.

8. Having regard to Article 8(2)(d) of the Convention,² the delegation sought access to files held by the Prosecutor-General's Office on the cases of M. S. (cf. paragraphs 22 to 24) and persons deprived of their liberty in the course of or after the operation by Government security forces in the village of Ljuboten (cf. paragraphs 27 to 30). The Prosecutor-General undertook to provide those files during the visit, but his Office failed to honour that commitment (cf. also in this regard paragraph 58).

9. The CPT wishes to express its appreciation for the assistance provided before, during, and after the visit by its principal liaison officer, Mirjana LAZAROVA-TRAJKOVSKA, Head of the Human Rights Department of the Ministry of Foreign Affairs, and to acknowledge the efforts made by the other liaison officers to assist the delegation.

2. Cooperation at local level

a. places of detention

10. The delegation experienced an uneven degree of cooperation in the police establishments visited. In several police stations, staff appeared to be aware of the possibility of a visit and had some knowledge of the CPT's terms of reference; they provided rapid access to the premises and the required information. Elsewhere, delays and obstruction were encountered. On one occasion (Kisela Voda Police Station), the circumstances of the delay were such that they led to a suspicion that persons who may have been detained on the premises were moved before the delegation was granted access. At Kumanovo Police Station, attempts were made to mislead the delegation and stall its activities when it sought access to premises used by the Directorate for Security and Counterintelligence (UBK)³ on the top floor of the station (with a view, inter alia, to interview any persons deprived of their liberty on those premises) and to meet the officials present. After a two-hour delay, the delegation was finally allowed on the UBK premises; by that time, the area had been vacated.

Diversions of the kind described above are flagrant violations of the provisions of Article 8, paragraph 2 (subparagraphs c and d) and paragraph 3 of the Convention and the general principle of cooperation set out in Article 3. The CPT has noted that the authorities of "the former Yugoslav Republic of Macedonia" intend to take appropriate steps in respect of those incidents.⁴ **The objective should be to ensure that there is no repetition of such violations of the Convention; steps taken should include providing full information to all relevant local authorities on the CPT's mandate and their related obligations.**

11. The authorities in charge and the staff at Skopje and Štip Prisons, where the delegation went in order to gather further information relating to deprivation of liberty by the police, were very cooperative. Nevertheless, on 25 October 2001, the delegation encountered serious obstructions to its work in the remand section of Skopje Prison; since these arose through no fault of the prison's management or staff, they will be addressed in the following sub-section.

² Article 8(2)(d) reads: "A Party shall provide the Committee with ... other information available to the Party which is necessary for the Committee to carry out its task. In seeking such information, the Committee shall have regard to applicable rules of national law and professional ethics."

³ In Macedonian, the Directorate is called *Uprava za bezbednost i kontrarazuznavanje*.

⁴ Cf. page 2 of the response to the delegation's immediate observations made under Article 8, paragraph 5, of the Convention.

b. judicial authorities at the Basic Courts in Skopje

12. The delegation encountered two serious problems of cooperation at the Basic Courts (I and II) in Skopje: the refusal, at Basic Court II, by its President and other senior judges to provide the delegation access to certain information necessary for it to carry out its task; and the instruction given by a judge from Basic Court I to the Director of Skopje Prison to restrict the delegation's access to remand prisoners. These issues will be addressed in turn.

13. It should first be recalled that Article 8 (2) (d) of the Convention obliges Parties to provide the Committee with information available to them which is necessary for the Committee to carry out its task. This includes access to detained persons' files held by police or judicial authorities and/or medical records of detainees. Such information can clearly be of great relevance to the Committee's work, in particular when it seeks to assess the activities of the authorities empowered to conduct official investigations and bring criminal charges in cases involving allegations of ill-treatment (cf. also paragraphs 56 to 58).

When seeking information, the Committee is obliged to have regard to rules of national law and professional ethics. This might have implications as regards the precise manner in which the information sought is provided to the Committee. However, nothing can justify an outright refusal to grant access to information which is relevant to the Committee's activities, or access under conditions which would be tantamount to a refusal.

14. Since one of its objectives was to examine the efficacy of legal remedies in cases involving allegations of ill-treatment, the CPT's delegation sought to meet with the relevant judicial and prosecuting authorities. There was a written indication to this effect in paragraph 5 of the letter dated 12 October 2001 by the President of the CPT notifying the authorities of "the former Yugoslav Republic of Macedonia" of the CPT's intention to carry out a visit.

On 22 October 2001, the delegation requested court records for thirteen persons who had been taken from Kisela Voda and Karpoš Police Stations to Basic Court II on 13 and 14 August 2001. Although the Clerk of Basic Court II had initially indicated that he was prepared to comply with this request, he subsequently informed the delegation that the President of the Court had decided to deny the delegation access to those records. The attempts made by the liaison officers and senior Ministry of Justice officials, as well as the Minister of Justice, to resolve the situation met with an intransigent attitude at Basic Court II, as did the considerable time and effort spent by the delegation to reiterate to the relevant judges their obligations under international law, incorporated into the internal legal order through Article 118 of the Constitution. The delegation did not obtain access during the visit to the records it sought.

The delegation brought the foregoing matters to the attention of the Minister for Foreign Affairs and to the authorities present at the end-of-visit talks. In her letter of 27 November 2001 to the Minister of Foreign Affairs which enclosed the text of the end-of-visit statement, the President of the CPT recalled the delegation's request for specific information/documents relating to certain cases before Basic Court II in Skopje. The CPT is pleased to note that the information and documents requested were finally forwarded to the Committee on 14 February 2002, together with the responses to the immediate observations made by the delegation under Article 8, paragraph 5, of the Convention (cf. paragraph 19).

15. As already indicated (cf. paragraph 12), the second serious problem of cooperation with judicial authorities emanated from Basic Court I. On 25 October 2001, the delegation was informed that a judge from that court had instructed the Director of Skopje Prison to deny the delegation access to remand prisoners, unless a list of such prisoners were submitted to the relevant court, which would then decide upon the issue of granting access in each individual case. Such an approach constitutes a clear violation of Article 8, paragraph 3, of the Convention, which empowers the Committee to interview in private persons deprived of their liberty. The Convention allows for no restrictions to be placed on the manner in which this power may be exercised.

It should be stressed that prior to the above-mentioned instruction being given, the Director of Skopje Prison had provided the delegation with all of the facilities and information it required to carry out its task. In particular, members of the delegation had already been able to interview remand prisoners in private at Skopje Prison on 23 October 2001. The Ministry of Justice eventually resolved the immediate problem by issuing an order to the Director of the Prison to grant the delegation access to remand prisoners.

16. **The CPT recommends that the authorities of "the former Yugoslav Republic of Macedonia" take the necessary steps to ensure that all authorities concerned - including the relevant judicial and prosecuting authorities - act in a way which is in conformity with the obligations accepted by the State when it ratified the Convention.** In this connection, the CPT has taken note of the information provided by the Ministry of Justice in response to the delegation's immediate observations, to the effect that the State Judicial Council "will review the work of the [investigating] judge and his eventual responsibility." **The CPT would like to be informed, in due course, of the outcome of that review.**

- c. the Institute of Forensic Medicine and medical professionals at hospitals in Skopje

17. The cooperation extended by the Director and staff of the Institute of Forensic Medicine in Skopje was excellent.

18. The delegation also went to the State and City Hospitals in Skopje with a view to obtaining medical information relating to persons brought to those hospitals by the police and/or or who were admitted to the hospitals following a period in police custody. Although the delegation's doctors were eventually granted access to most of the data they required at each establishment, at times they were faced with delays, in particular at State Hospital. With reference to Article 8 (2) (d) of the Convention, and to the undertaking by the Ministry of Health to form a Committee for the implementation of the Convention in the field of health care, **the CPT trusts that the relevant authorities will take the necessary steps to avoid such problems in the future.**

E. Immediate observation under Article 8, paragraph 5, of the Convention

19. At the end-of-visit talks on 26 October 2001, the delegation presented its remarks on ill-treatment and conditions of detention as an immediate observation under Article 8, paragraph 5, of the Convention. It requested the authorities of "the former Yugoslav Republic of Macedonia" to provide, within three months, an account of the measures taken to address the issues raised by the delegation.

By letter of 14 February 2002, the authorities of "the former Yugoslav Republic of Macedonia" informed the CPT of the "activities undertaken" by the Ministries of the Interior, Justice and Health following the delegation's end-of-visit remarks. Some of these matters are commented on in the relevant sections of the report.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Torture and other forms of ill-treatment

1. Preliminary remarks

20. The delegation collected information from a variety of sources concerning ill-treatment allegedly inflicted upon persons deprived of their liberty by security forces under the authority of the Ministry of the Interior, including regular police, criminal police (including from the Department of Illegal Trade and Smuggling, or NTS),⁵ personnel from the Directorate for Security and Counterintelligence (UBK) and, in some cases, police reservists. In many cases, the ill-treatment alleged was of such a severity that it could be characterised as torture.

The information included numerous allegations of beatings, some of them severe or sustained enough to induce repeated loss of consciousness and/or lasting sequelae. Apart from allegations of punches and kicks on various parts of the body, there were many allegations of beatings with batons, metal rods, wooden sticks and baseball bats. As in 1998, certain persons alleged that they had been repeatedly struck on the palms of their hands and/or the soles of their feet. Some persons also alleged that they had been threatened with the infliction of other forms of grievous bodily harm, including castration, or had been subjected to mock executions.

In a significant number of cases, the delegation's doctors made direct medical observations and/or examined medical documents which were consistent with allegations received, evidence of beatings on the back and the gluteal region being particularly abundant. Moreover, in two of the cases they examined following reports of ill-treatment made by third parties, the information gathered by the delegation's doctors clearly suggested that the persons concerned had been beaten to death.

21. The sections which follow constitute a selection of illustrative cases encountered and/or investigated by the delegation. Broadly speaking, they have been arranged in chronological order based on the time the alleged ill-treatment occurred; all date from 2001.

The CPT wishes to stress that the information gathered indicates that ill-treatment is not confined to persons suspected of any one category of offence. On the contrary, the delegation found evidence of ill-treatment of persons who have come into contact with the law enforcement agencies under a variety of circumstances.

⁵ In Macedonian, this department is called *Nedozvolena trgovija i šverc*.

2. The case of M. S.

22. In the course of the high-level talks held with the President and Second Vice President of the CPT in Skopje on 24 and 25 July 2001, the Director of the Bureau of Public Security made reference to a case involving "greater abuse" of a person deprived of his liberty by the law enforcement agencies in February 2001. The matter had been investigated by the Internal Control Department of the Ministry of the Interior.

During a meeting on 25 October 2001 between the Head of the Internal Control Department⁶ and members of the CPT's delegation, it was confirmed that the person concerned - M. S. - was arrested on 8 February 2001 and taken to Gazi Baba Police Station in Skopje, where he was interviewed by a group of senior UBK officers. The complete file on the M. S. case furnished by the Ministry of the Interior contained, inter alia, the handwritten Official Notes on the questioning of M. S. prepared individually by the relevant UBK officers.⁷ In their Official Notes, two of the officers - both Chief Inspectors - indicated that there had been a "minimal" or "insignificant" use of force, described in one case as "hit 2 or 3 times on the palm and on the soles of his feet" and in the other as "2 to 3 blows on the soles, in order to calm him." Effectively, the two Chief Inspectors have indicated that they had resorted to falaka during their questioning of M.S..

Following his release from the station - where his detention had not been recorded - M. S. was admitted to the Trauma Ward of City Hospital in Skopje on 9 February 2001 because of injuries to the head. The doctor on duty had indicated to investigators that M. S. claimed the injuries had resulted from punches during a beating by police officers. According to the medical record completed at the time of his admission, he displayed visible bruises on the back of the neck, back, buttocks, both arms and legs, as well as excoriations on the right knee, swollen palms and swollen feet. The function of his kidneys was found to be "drastically deteriorated" due to the use of physical force on his back, and he was placed on dialysis equipment as well as respiratory aid equipment because of breathing difficulties. The overall assessment noted on the medical record was that he had sustained "severe physical injuries", and the relevant doctors had indicated to investigators that M. S. was not fit to be conversed with or contacted until 18 February 2001 at the earliest.

23. The Internal Control Department, which determined that "many" punches and blows had been inflicted upon M. S., recommended that all four of the UBK officers involved in ill-treating him be disciplined, together with their immediate hierarchical superior, the Head of the Skopje Administration of UBK. In their individual objections⁸ to the decisions to suspend them as of 13 February 2002,⁹ each of the four officers stated: "I have violated no provision of the Law on Internal Affairs or the Ministry of the Interior Collective Agreement, unless threatening so as to obtain a truthful statement and to calm the aggression of the suspect is regarded as violence at all, and without the same, can one expect any success at all in the investigation of this kind of criminal offence?"

⁶ Under the new framework for internal accountability in the Ministry of the Interior, the Internal Control Department is to be re-named as the Unit for Professional Standards (in Macedonian, *Edinica za profesionalni standardi*, or EPS).

⁷ The Official Notes are dated 10 February 2001.

⁸ The objections were dated 19 February 2001.

⁹ The decisions were signed by the Interim Director of the Skopje Administration of UBK.

24. Under the final decision of the Minister of the Interior, the penalty imposed on the officers consisted of dismissal, this sanction being immediately commuted to a 15% reduction in salary for six months (three months in the case of the superior). There is no specific reference in the case file to the potential criminal liability under sections 142 (prohibition of torture) and 143 (ill-treatment whilst performing a duty) of the Criminal Code¹⁰ of the officers concerned (cf. in this regard paragraphs 63 and 64), and the Head of EPS informed the delegation that this case had not been referred to the Crime Sector of the Ministry of the Interior. However, the Higher Public Prosecution Office in Skopje had taken an interest in the case by requesting, on 14 February 2001, the UBK to provide information on M. S.'s apprehension and police custody.

The elements set out above clearly suggest that M. S. was severely ill-treated by law enforcement officials whilst held in a police station. **The CPT would like to be informed of the decision taken in respect of this case by the Higher Public Prosecution Office in Skopje, and of the reasons on which that decision was based.**

3. Cases relating to Kumanovo Police Station¹¹

25. The delegation investigated a number of cases of persons allegedly ill-treated by the police following their apprehension during the course of police operations in the Kumanovo-Lipkovo crisis region in May and June 2001 (cf. also paragraph 5); the ill-treatment alleged consisted essentially of severe beatings to various parts of the body, in particular the arms, hands, buttocks and soles of the feet. Many, but not all, of the persons concerned were charged under section 313 of the Criminal Code (terrorism).

Case 1

According to a local non-governmental organisation, this person - a minor - had been ill-treated by the police in Kumanovo in May. According to the relevant prison medical file, when he arrived in Skopje Prison on 29 May 2001, he displayed haematomas on the left auricle, the entire back region, buttocks, right upper leg, and left sole. By the time of the delegation's visit, the person concerned was no longer in Skopje Prison. However, the delegation was able to verify that he had been held at Kumanovo Police Station from 28 to 29 May.

In the view of the delegation's doctors, the injuries recorded are consistent with the person having sustained a heavy beating.

¹⁰ The Criminal Code prescribes a sentence for a period not less than three months nor more than five years for persons convicted of the offence of torture. As for those convicted of ill-treatment whilst performing a duty, the Code prescribes a sentence for a period not less than six months nor more than five years.

¹¹ All cases in this section involve persons in respect of whom the Basic Court in Kumanovo ordered remand imprisonment.

Case 2

This was another person who, according to a local non-governmental organisation, had been ill-treated by the police in Kumanovo in May. The entry dated 29 May 2001 in his prison medical file at Skopje Prison recorded haematomas on both upper and lower legs, along the entire back region, in the gluteal region and on both soles of his feet, as well as scratches on the forehead and on the face. On 31 May, a fracture on the 8th left rib and acute renal insufficiency were diagnosed, and the person was placed on dialysis until 20 June 2001. Although this person had also since left Skopje Prison, the delegation was once again able to verify that he had been held at Kumanovo Police Station from 28 to 29 May.

In the view of the delegation's doctors, the injuries recorded are consistent with the person having sustained a heavy beating, and severe enough to be life-threatening.

26. The two cases which follow are more recent than the preceding ones, and involve persons charged with ordinary criminal offences.

Case 3

A prisoner alleged that he was assaulted by seven police officers in an office at Kumanovo Police Station on 5 September 2001; the officers reportedly kicked, punched, and struck him with a baseball bat. He further claimed that he was taken to a cell where an officer came three times during the night and beat him again.

The prisoner's medical file at Skopje Prison recorded that on examination on 7 September 2001, he displayed excoriations on the forehead and nose, and haematomas on the back and on the lumbar and gluteal regions.

When examined by one of the delegation's forensic doctors on 23 October 2001, the person displayed:

- a barely perceptible trace of dark violet haematomas (3 x 2 cm) on each side of the gluteal region;
- 2 streak-like elongated scars measuring 5 x 1 cm, light rose in colour, in the left shoulder area, and 2 similar scars (2 x 1 cm and 3 x 2 cm) on the right shoulder;
- a barely perceptible light greyish 10 x 1.5 cm mark in the frontal chest region;
- traces of excoriations (brown tinged with red) on the right part of the forehead (5 x 2 cm), above the right brow (3 x 2 cm), and on the left part of the forehead (2 x 1.5 cm);
- a 2 x 1 cm scar in the front middle part of the left lower leg and an equivalent scar lower to the right;
- a light grey excoriation measuring 2 x 1 cm on the lateral side of the right upper leg.

In the view of the delegation's doctor, all of those injuries are consistent with the person's allegations of having been beaten in the manner which he described.

Case 4

Another remand prisoner claimed that on 2 October 2001 he had been beaten with a shovel handle by police officers at Kumanovo Police Station before being placed in a cell.

The medical record dated 4 October 2001 at Skopje Prison indicated that, upon arrival, he displayed haematomas around the left eye, on the back and on both buttocks.

When examined by one of the delegation's doctors on 23 October, he displayed:

- dark blue palm-sized bruises, undergoing reabsorption, on both buttocks;
- a rosy scar on the left upper eyelid;
- a minor groove-like recess measuring 3 x 1 cm on the upper lateral third of the left upper arm.

In the view of the delegation's doctor, the injuries observed are consistent with the person's allegations of being beaten in the manner which he described.

4. The Ljuboten cases

27. The CPT's delegation examined a series of cases of alleged ill-treatment emerging in the aftermath of an operation by Government security forces in the village of Ljuboten near Skopje on 10 to 12 August 2001.¹² The delegation focused its attention on the treatment of those persons who had been deprived of their liberty by the police in the course of or after the Ljuboten operation. It had been alleged that villagers had fled their homes during and immediately after the security operation and were stopped at a police checkpoint on the road to Skopje, where the men were separated from the women and children. The men, some 100 of them, were allegedly beaten close to the checkpoint and then taken to three police stations in the capital, where the beatings increased in severity. In addition to the other information-gathering activities it undertook to this end - e.g., visits to Čair, Karpoš and Kisela Voda Police Stations and examination of prison and medical records - the delegation held lengthy discussions with senior officials of the Ministry of the Interior, including the Director of the Bureau of Public Security, the Head of the Police Division, and the Head of the Internal Control Department. The delegation also raised the Ljuboten cases with the Prosecutor-General and with judicial authorities (cf., however, paragraphs 8 and 14).

¹² The operation in question was undertaken following attacks on Government forces: the explosion of two anti-tank landmines which killed eight soldiers and wounded several others on a road in the Skopska Crna Gora mountain above the village of Ljuboten on 10 August 2001, and an ambush by the "National Liberation Army" which claimed the lives of ten soldiers in Karpalak near Tetovo on 8 August 2001.

The Ministry of Interior officials confirmed that certain persons who had fled Ljuboten on 12 August 2001 in the direction of Radišani and Skopje were apprehended by security forces, and that a total of 73 residents of Ljuboten were deprived of their liberty during the period in question. Further, documents provided by those officials indicated that each of those persons had been taken to at least one of the following police stations in Skopje: Čair, Karpoš, Kisela Voda and Mirkovci. Of the detainees, 27 were charged under section 313 of the Criminal Code (terrorism) and were remanded in custody by order of Basic Court II in Skopje.¹³

28. The case file from Basic Court II was furnished to the CPT by the letter of 14 February 2002 (cf. paragraph 14); it contained information on the 17 persons (16 adults and one minor) in respect of whom a criminal investigation was initiated. According to the case file, during their initial appearance before two different investigating judges in Basic Court II on 14 and 15 August 2001, four of the persons alleged that they had been beaten whilst in a police station; one of those persons also stated that he had witnessed the ill-treatment of two of his fellow detainees. In one case, the record of the preliminary appearance of a detainee before the court took note of a "bruise-swelling under the right eye and bruises on the legs and back."

In this connection, it should be noted that the response by the Ministry of Justice to the delegation's immediate observations under Article 8, paragraph 5, of the Convention relayed the following statement from Basic Court II: "The Court underlines that there has been no decision in respect of instituting court procedure against maltreatment by the law enforcement organs." Given that the information set out in the preceding sub-paragraph can be said to amount to *prima facie* evidence that ill-treatment may have occurred, **the CPT would like to be informed of the reasons for the absence of a decision to institute a court procedure "against maltreatment," as well as to receive the views of the relevant public prosecutor on this matter.**

29. On 13 August 2001, the Minister for the Interior set up an ad hoc Committee in order to "examine the circumstances and analyse the activities undertaken by the security forces of the Ministry of the Interior to repel the armed attacks by terrorist groups, on 12 August 2001, in the village of Ljuboten - Skopje area". The ad hoc Committee expressed its opinion in a document dated 4 September 2001 addressed to the Minister for the Interior that "the activities undertaken by the Ministry for the Interior ... are well-founded, justified, and legitimately implemented, though it has been noted that there was a negligible or tolerable degree of individual deviation from the limits of authorised action, on the part of a small number of members of the Ministry of the Interior, who actively participated in the operation in question."

For its part, the Ministry of Justice has also informed the CPT by the letter of 14 February 2002 that it is in the process of establishing an independent expert body to examine "the allegations for possible cases of torture after the events...in Ljuboten" and to prepare a report, a copy of which is to be submitted to the CPT. The CPT welcomes this undertaking **and looks forward to receiving a copy of that report in the near future.**

30. Notwithstanding the assessment by the ad hoc Committee of the Ministry of the Interior, medical evidence collected by the delegation was consistent with allegations of ill-treatment of the persons deprived of their liberty in the context of or following the operation of Government security forces in Ljuboten. Examples follow:

¹³ On 7 September 2001, an indictment had been brought by the Basic Public Prosecution Office in Skopje against 17 of the detainees under section 322 of the Criminal Code (serving in an enemy army).

Case 5

A remand prisoner claimed that, at the time of his apprehension in Ljuboten on 12 August 2001, he was kicked on various parts of the body by "special" police officers. He alleged that officers continued to kick him and strike him with the butts of their firearms on the way to the police station in Mirkovci, and that the ill-treatment continued at that establishment. He also stated that at one point, "special" police carved a shape of a cross into his back with a bayonet.

The delegation verified that on 13 August 2001, the person concerned was taken to the City Hospital in Skopje. His hospital record indicated that he was admitted to the Trauma Ward for cerebral concussion, facial excoriations, and several rib fractures: 2 to 8 on the left, and 7 and 8 on the right. He was transferred out of the hospital on 15 August 2001 and admitted to Skopje Prison on the same day.

An unusual feature of the person's record at City Hospital was that under the heading "reasons given by the patient for seeking medical attention" the typed phrase "he was beaten by the police" could be discerned underneath the row of x's which had been typed over it. In the space above the x's, the words "for pain in the chest and in the abdomen" had been typed. The delegation found that certain other medical records at this hospital contained similar alterations (by overtyping with x's) of an initial entry reading "he was beaten by the police" under the heading "reasons given by the patient for seeking medical attention". **The CPT would like to receive the comments of the relevant authorities on these attempts to obliterate, in medical records, references to alleged police ill-treatment.**

The person displayed the following on examination by one of the delegation's doctors on 23 October 2001:

- a scar in the shape of a cross, 25 cm in length and 15 cm in width (each of the marks being 0.5 wide) in the middle part of the lower back region;
- streak-like scars on both sides of the chest (at the level of ribs 9 to 10), 3 x 2 cm in size;
- a 2.5 cm scar on the right upper eyelid;
- rosy scars laterally on the right lower leg and in the middle part of the left lower leg, appearing to be 2 to 3 months old.

In the view of the delegation's doctor, all of those injuries are consistent with the person's allegations of ill-treatment.

Case 6

A remand prisoner alleged that he was beaten on his apprehension in Ljuboten and during his subsequent detention in Mirkovci Police Station. The entry dated 15 August 2001 in his prison medical record indicated that, upon arrival, he displayed excoriations on the forehead and face, as well as redness on the back and in the gluteal region. On examination by one of the delegation's doctors on 23 October 2001, he displayed rosy, barely perceptible scars 2 cm above the right eye and 3 cm below the right ear, and visible tooth roots where his two lower front teeth had apparently been knocked out.

In the opinion of the delegation's doctor, those injuries are consistent with the person's allegations of ill-treatment.

Case 7

A remand prisoner who had been arrested on 12 August 2001 and subsequently brought to Kisela Voda Police Station alleged that he had been beaten by police officers in the corridor of that establishment. The entry dated 15 August 2001 in his medical file at Skopje Prison indicated that he displayed haematoma around both eyes and on the back; by the time he was examined by one of the delegation's doctors on 23 October 2001, these injuries had healed. Nevertheless, the delegation's doctor concluded that the injuries recorded are consistent with the person's allegations of ill-treatment.

Case 8: A. Q.

Reference should also be made to the case of Ljuboten resident A. Q. who, according to reports by a non-governmental organisation, was taken into police custody in mid-August. According to the information provided to the delegation's doctors by the relevant medical and administrative staff, A. Q. had been found on a street and brought to City Hospital in Skopje, where he was admitted to the Trauma Ward at 5 am on 13 August 2001. His hospital file indicated inter alia that, on arrival, he was in a "[s]uperficial coma (awake but sluggish responses to stimuli)" and that he "died suddenly at 1.30 pm by cardiac arrest (recorded on ECG)".

The notes of the relevant autopsy dated 15 August 2001 from the Institute of Forensic Medicine recorded extremely numerous external injuries (excoriations, bruises, haematomas on forearms, arms, thighs and calves, posterior thorax and lumbar region) of a shape and topography which indicate their cause to be repeated blows with hard objects. The autopsy revealed a number of internal injuries: haemorrhagic infiltration of the right temporal muscle; linear fracture of the skull base (frontal bone); fronto-temporo-parietal sub-dural haematoma (0.2 cm thick); left fronto-temporal sub-arachnoid haemorrhage; sub-arachnoid haemorrhage on the left cerebellar hemisphere; cerebral oedema; fractures of ribs 2 to 9 on an oblique line (from para-sternal to medio-clavicular line) on the left hemi-thorax, and of rib 7 on the scapular line, left hemothorax; and blood in the calices and renal pelvis (left kidney). The forensic pathologist concluded that the cause of A. Q. 's death was "traumatic shock".

In the view of the delegation's doctors, the deceased would appear to have been beaten to death.

By letter of 27 November 2001 addressed to the Minister for Foreign Affairs, the President of the CPT recalled the delegation's request for certain information relating to the A. Q. case, including inter alia an account of any judicial action taken to investigate the manner in which he was treated by the law enforcement agencies, details of any decision concerning the initiation of court proceedings (related to ill-treatment by the law enforcement agencies) and the information on which a decision to proceed or not to proceed was based. As regards the reply of the relevant authorities, cf. paragraph 34.

5. The case of N. A.

31. N. A. was apprehended within the perimeter of the State Hospital in Skopje at approximately 5.15 pm on 13 August 2001, along with three other persons; the Department of Illegal Trade and Smuggling and the Directorate for Security and Counterintelligence were notified of the apprehension.¹⁴ It has been alleged that the four persons were beaten by a number of police officers on the site of the apprehension before being taken to Centar Police Station, where the alleged ill-treatment continued. Some hours later (2.45 am on 14 August 2001), N. A. was admitted to the Trauma Ward of City Hospital in Skopje with the following injuries: "Cerebral concussion. Thoracic contusion. Fractured ribs (6-8) right thorax. Haematoma of the nose and left periorbital area. Bruises on both arms, lumbar, gluteal and femoral areas. Lacerated wound (1.5 cm) on scalp." The hospital record indicated that he died at 7.20 am.

32. The 12-page autopsy report prepared by the Institute of Forensic Medicine, which was examined by the delegation's doctors, contained a detailed description of injuries, including the following external ones:

- at least 13 different injuries on the head, including cuts, haematomas and excoriations;
- two haematomas in the lateral and posterior parts of the neck;
- on the left part of the back, over an area of 40 x 22 cm, and on the right part of the back, over an area of 28 x 17 cm, a series of haematomas;
- haematomas on the left lumbar region (12 x 10 cm) and on both buttocks (16 x 10 cm and 9 x 4 cm);
- numerous injuries and bruises on all extremities.

As for internal injuries, the autopsy report listed haematomas on the scalp; fractures of left ribs 2-10 at mammillary and medium axillary level; fractures of right ribs 4-10 at anterior and posterior axillary level; contusion of the lower left lung lobe with pleural haemorrhage and haemorrhage into the right thorax; haemorrhage in the pancreas and left diaphragm region.

¹⁴ Information from the Analytical Department of the Sector for Internal Affairs (SVR) - Skopje regarding the Department for Internal Affairs (OVR) "Centar", dated 13 August 2001.

In the view of the delegation's doctors, the injuries were caused by a multitude of blows inflicted with blunt and hard objects (e.g. rods or batons), punches, and/or kicks/trampling. In other words, the deceased would appear to have been beaten to death, most probably by a number of different persons.

33. As in the case of A. Q. (cf. paragraph 30), the President of the CPT recalled the delegation's request for certain information relating to the case of N. A. by letter of 27 November 2001 addressed to the Minister for Foreign Affairs. In particular, it was requested that the CPT be provided with an account of any judicial action taken to investigate the manner in which N. A. was treated by the law enforcement agencies, details of any decision concerning the initiation of court proceedings (related to ill-treatment by the law enforcement agencies) and the information on which a decision to proceed or not to proceed was based.

34. In the reply to the President's letter, the Ministry of Justice indicated that no criminal proceedings had been instituted against N. A. or A. Q., nor had either person complained that he had been the victim of a criminal offence. Under the circumstances, such a reply is totally unacceptable and can only cast doubt on the integrity of the system of accountability for law enforcement officials in "the former Yugoslav Republic of Macedonia."

The CPT calls upon the authorities of "the former Yugoslav Republic of Macedonia" to cause to be carried out a thorough criminal inquiry into the deaths of N. A. and A. Q.

6. Cases arising at the time of the visit

Case 9

A remand prisoner¹⁵ complained that he was ill-treated at the time of his arrest on the morning of 22 October 2001 and during an interview in an office on the third floor at Bit Pazar Police Station. He alleged that, at the time of arrest, he was forced to the ground and struck by up to five officers (some of whom wore reservist uniforms, and others civilian clothes). While seated in the office at the police station, he was allegedly struck on the back, the left knee, and upon the kidney area, with a medium-sized, yellowish baseball bat taken from behind some cupboards.

The entry in the prisoner's medical file at Skopje Prison, dated 23 October 2001, indicated that, upon arrival, he had displayed haematomas on the back and on the left upper arm, and redness on both knees.

¹⁵ The person concerned was remanded in custody by order of Basic Court I in Skopje.

Upon examination by one of the delegation's doctors on 23 October 2001, he displayed violet-blue, fresh haematomas, and in particular:

- a 15 x 2 cm haematoma situated below one measuring 5 x 2 cm and above one measuring 6 x 2 cm, on the left part of the back;
- 2 haematomas, 20 x 2 cm and 8 x 2 cm on the right part of the back;
- pain and a 4 x 2 cm, barely perceptible haematoma in the right lumbar region;
- an 8 x 2 cm haematoma and a 5 x 4 cm irregular haematoma situated diagonally in the lateral upper third of the left upper arm and, below them, another measuring 6 x 2 cm situated horizontally.

In the view of the delegation's doctor, all of those injuries are consistent with the person's allegations of having been beaten in the manner which he described.

Case 10

A person in police custody interviewed by a member of the CPT's delegation on 26 October 2001 alleged that he had been ill-treated on the previous day by police officers in the premises of the Department of Illegal Trade and Smuggling at the seat of the Ministry of the Interior. In particular, he claimed that he was struck on the buttocks, hands and back with a thick and heavy electric wire. The member of the delegation who met the person concerned was able to observe the injuries on his body; the delegation's doctors were not present.

A non-governmental organisation subsequently provided the CPT with colour photographs of the person concerned taken a few hours after his interview with the delegation's member,¹⁶ who confirmed that the photographs matched his own observations of the person's body.

Upon examining the photographs, the delegation's doctors observed the following:

- red-violet bruises covering almost the entire area of both buttocks and, within them, other long streaked bruises of varying length, and about 2 cm wide;
- 1 streaked haematoma, about 15 cm long and 2 cm wide, coloured violet tinged with red, on the left part of the man's back, at shoulder-blade level, diagonally placed from the middle and top part (laterally downward);
- an irregular bluish-violet area of about 10 x 4 cm with a streaked print in its lower part, on the inner side of the lower third of the left lower arm, in continuation of the little finger.

In the view of the delegation's doctors, the injuries displayed in the photographs were most probably produced through blows (which must have been numerous on the buttocks) with an elongated blunt and hard object with a 2 cm diameter, such as an electric cable. Consequently, those injuries could be said to be consistent with the person's allegations of ill-treatment.

¹⁶ Apparently, the person concerned was released from police custody shortly after this interview.

7. Non-standard items in police offices

35. As had been the case in 1998 (cf. paragraph 15 of CPT/Inf (2001) 20), suspicious unlabelled objects were found in a number of police station offices where persons deprived of their liberty might be present. Certain persons interviewed by the delegation alleged that they had been struck and/or threatened with objects of this kind, in the course of their questioning in some of the police stations concerned. Clearly, the efforts of the authorities of "the former Yugoslav Republic of Macedonia"¹⁷ to ensure proper labelling and storage of objects to be used as evidence, as well as to remove non-standard issue objects of the kind described above from police premises, have not been fully effective.

By way of example, in offices used for questioning at Kumanovo Police Station the delegation found wooden poles; a twisted metal rod with a hooked end; a circular metal rod (49 cm); another metal rod (54 cm); and a curved metal rod with a squared end. The inspector's offices at Tetovo Police Station displayed a particularly impressive array of unlabelled objects, including: a shovel; a 74 cm (2 cm in diameter) metal tube containing cable, with a curved end; in an office of the Economic Crime Unit, a 20 cm long knife in a scabbard; in an office of the General Crime Unit, a 100 cm metal stair rod (0.5 cm in diameter), a black woollen mask with eyeholes and a nylon stocking threaded through holes around the neck, and a baseball bat.

When questioned about the objects, a senior police officer (chief inspector) in Kumanovo indicated that at least some of them had been confiscated from criminal suspects as items of evidence, and his counterpart in Tetovo provided a similarly unconvincing explanation, echoing those given in the context of the CPT's 1998 visit.

36. To have any objects of the kind enumerated in paragraph 35 in offices where detained persons may be present is a matter of concern to the Committee; apart from inviting speculation about improper conduct on the part of police officers, objects of this kind are a potential source of danger to staff and criminal suspects alike. At the end of the 2001 ad hoc visit, the delegation called upon the Ministry of the Interior to ensure that such items be immediately removed from all police premises where persons may be held or questioned.

In their response to the immediate observations, the authorities from the Ministry of the Interior indicated that instructions have been issued to all police stations to eliminate non-standard items which may be used as weapons from detention and investigation premises. **The CPT would like to receive a copy of those instructions, as well as the comments of the relevant authorities as to the impact made by the same.**

37. **More generally, the CPT considers that items of property seized during criminal investigations should be entered in a separate register, in addition to being properly labelled (identifying the case to which they refer) and stored in a dedicated property store.**

¹⁷ cf. page 8 of the Government's responses (CPT/Inf (2001) 21).

8. Assessment

38. The CPT is fully aware that its visit to "the former Yugoslav Republic of Macedonia" took place during a particularly difficult period. In this connection, the CPT wishes to stress that it abhors terrorism, a crime which is all the more despicable in a democratic country such as "the former Yugoslav Republic of Macedonia". Further, it is fully conscious of the great difficulties facing the security forces in their struggle against terrorism and other destructive criminal phenomena. Activities of this kind rightly meet with a strong response from State institutions.

However, that response must never be allowed to degenerate into acts of torture or other forms of ill-treatment. Such acts are both grave violations of human rights and fundamentally flawed methods of obtaining reliable evidence for combating crime. To refrain from resorting to such acts - and to take active steps to stamp them out when they emerge - is one of the hallmarks of a democratic State.

39. It is clear from all the information at the CPT's disposal that the ill-treatment of persons deprived of their liberty by law enforcement agencies remains a serious problem, affecting ordinary criminal suspects as well as those suspected of crimes against the State. In fact, it would be quite wrong to assume that the problem of ill-treatment by law enforcement agencies is simply an unfortunate consequence of the menace of terrorism. The problem may well have been exacerbated by terrorism, but its roots go deeper.

The authorities of "the former Yugoslav Republic of Macedonia" must spare no effort in tackling that problem, for the reasons already indicated in the preceding paragraph, and more generally, in the interest of creating the climate of confidence which is essential to a solid civil society.

40. In the sections which follow, the CPT will make specific recommendations regarding the strengthening of certain formal safeguards against the ill-treatment of persons detained by the police and legal remedies in cases involving allegations of ill-treatment.

However, attacking the root of the problem of torture and ill-treatment involves not so much changing formal safeguards and legal remedies as transforming mentalities. For this reason, the CPT will begin by addressing the issue of training law enforcement officials.

Under the present circumstances, it is also highly important for the clear message to be delivered that the ill-treatment of detained persons is an affront to the values which constitute the very foundations of the State. **The CPT recommends that law enforcement officers be reminded, through a formal statement at the highest political level, that they must respect the rights of persons in their custody, and that the ill-treatment of such persons will be the subject of severe sanctions.**

B. Training of law enforcement officials

41. In its 1998 visit report, the CPT stressed that the provision of adequate professional training, incorporating human rights principles, is an essential element in any strategy for the prevention of ill-treatment. In this respect, while welcoming the efforts which had been made by the relevant authorities, the Committee emphasised that the necessary resources must be made available to ensure that ongoing training initiatives are pursued with vigour at all levels of the law enforcement hierarchy (cf. paragraphs 18 and 19 of CPT/Inf (2001) 20).

In the responses to the 1998 visit report (cf. pages 7 to 8 and 24 to 25 of CPT/Inf (2001) 21), the Government of "the former Yugoslav Republic of Macedonia" outlined a number of training activities (courses, seminars, preparation of training materials, etc.) undertaken by the Ministry of the Interior, often in cooperation with international and non-governmental organisations, as well as the law enforcement agencies of other States. Further, it was indicated that a new Police Academy would open by the end of 2001.

42. Unfortunately, due to the crisis, training activities for police officers had been at a standstill for some time. During 2001, a large number of police reservists had been recruited and given significant responsibilities, but no training in the extent of their powers nor in how to exercise their authority in a manner compatible with human rights.

The sole exception to the general dearth of police training activities was the new Police Academy, which at the time of the visit was being used for the training of some 100 ethnic Albanian recruits,¹⁸ in accordance with the terms set out in Annex C, section 5.2., of the Framework Agreement of 13 August 2001¹⁹. However, it would appear that as from January 2002, the Academy began to train a multi-ethnic group of recruits; this is a most welcome development.

As a matter of principle, the CPT considers that police training programmes should not be conducted in a manner which segregates particular ethnic groups. To do so is detrimental to the creation of a cohesive, unified police force with an ingrained understanding, tolerance and respect of the diverse communities it is to serve. Given the situation in "the former Yugoslav Republic of Macedonia", the creation of such a force should be regarded as a matter of the highest priority. In this connection, **the CPT would like to be informed of the numbers and ethnic/demographic composition of Police Academy recruits of the classes commencing training in the first half of 2002.**

¹⁸ Training at the Academy was being conducted by members of the United States International Criminal Investigative Training Assistance Program (ICITAP). The task of ICITAP was taken over by the Organisation for Security and Cooperation in Europe (OSCE) in early 2002.

¹⁹ The relevant section of the Framework Agreement reads: "The parties commit themselves to ensuring that the police services will by 2004 generally reflect the composition and distribution of the population of Macedonia. As initial steps toward this end, the parties commit to ensuring that 500 new police officers from communities not in the majority in the population of Macedonia will be hired and trained by July 2002, and that these officers will be deployed to the areas where such communities live. The parties further commit that 500 additional such officers will be hired and trained by July 2003, and that these officers will be deployed on a priority basis to the areas throughout Macedonia where such communities live. The parties invite the international community to support and assist with the implementation of these commitments, in particular through screening and selection of candidates and their training. The parties invite the OSCE, the European Union, and the United States to send an expert team as quickly as possible in order to assess how best to achieve these objectives."

43. One problem which had apparently disrupted the provision of training at the new Police Academy was harassment and intimidation of the recruits in training by police reservists who had previously been stationed in the Academy buildings, but had been moved to a camp nearby to make room for the new recruits. The delegation was informed that shortly before its visit, this had led to the suspension of training for several days. It is understood that training was further suspended in November 2001 for the same reason. **The CPT recommends that the authorities of "the former Yugoslav Republic of Macedonia" take decisive measures to ensure that such conduct is not repeated; the Committee would like to be informed of the precise measures taken.**

44. Various problems relating to the selection process of the new Police Academy recruits - including selection through party political affiliation - were brought to the delegation's attention. In this connection, the importance of strict and ethical selection criteria, well-defined personnel specifications and an efficient recruitment and selection process cannot be overestimated; they constitute indispensable factors in the delivery of police services which emphasise human rights. The selection of recruits based on political allegiance or other questionable criteria is unlikely to achieve these objectives, regardless of the qualities such recruits may eventually display. **The CPT recommends that the relevant authorities incorporate the above-mentioned principles in the context of future recruitment of police personnel; the Committee would like to receive precise details on the arrangements which will apply.**

45. Despite the fundamental problem of separation of trainees along ethnic lines and the shortcomings relating to the recruitment process, the three-month training course itself had a number of positive features. For example, human rights principles and police ethics were being "mainstreamed" as a common theme throughout the programme, as well as being discussed as subjects in their own right. In a similar vein, a new nine-month Foundation Course had been developed for the police service, to be introduced following the full implementation by 2003 of Annex C, section 5, of the Framework Agreement. The new course will integrate concepts such as policing in a democratic society, public service, professional standards and ethics, proportionate behaviour and minimum use of force, problem solving, and diversity.

The CPT welcomes this approach; it considers that an understanding and commitment to human rights by law enforcement personnel is best ensured by training which makes integrity and the ethical delivery of police services to communities a central part of police culture. In particular, the new Foundation Course should provide a solid foundation for the emergence of a truly professional police service dedicated to human rights principles and meeting the standards set by the Council of Europe's Committee of Ministers in the European Code of Police Ethics.

46. It is essential that training of police officers be ongoing. This principle is reflected in the European Code of Police Ethics, which states that "general initial training should...be followed by in-service training at regular intervals, and specialist, management and leadership training."²⁰

²⁰ cf. Recommendation Rec (2001)10, Section C, paragraph 28, Council of Europe Committee of Ministers.

At present, the ongoing training activities for police officers in "the former Yugoslav Republic of Macedonia" are limited and sporadic. However, there are plans to develop, with the support of international organisations such as the OSCE and the EU, requalification and specialist courses, as well as management training. This is a positive development, which the CPT hopes the relevant authorities will pursue with vigour. **It recommends that a strategy be developed for the introduction of refresher, specialist, management and leadership training for personnel of all ranks, based on the principles which underpin the proposed new Foundation Course referred to in the preceding paragraph.**

More generally, the CPT would like to be kept informed of all developments related to police training in "the former Yugoslav Republic of Macedonia".

C. Safeguards against the ill-treatment of detained persons

47. The report drawn up after the CPT's previous visit to "the former Yugoslav Republic of Macedonia" examined in detail the safeguards against ill-treatment offered to detained persons, including notification of custody, access to a lawyer and access to a doctor (cf. paragraphs 28 to 46 of CPT/Inf (2001) 20). In respect of several of these safeguards - i.e., notification of custody, access to a lawyer, and information on rights - a gap was found to exist between a favourable legal framework and the unsatisfactory application of that framework in practice.

The CPT regrets to note that little had changed in this regard since 1998. In this connection, it is significant that the Director of the Bureau of Public Security acknowledged that "procedures are not being respected".

1. Notification of custody

48. In 1998, the CPT recommended that the relevant authorities take appropriate action to ensure that the right to notify a close relative or a third party of the fact of one's detention be rendered fully effective in practice. Unfortunately, the information gathered during the 2001 ad hoc visit would indicate that, in practice, it remained the case that detainees' families were often not being notified. **The CPT recommends that immediate steps be taken to rectify this serious deficiency.**

2. Access to a lawyer

49. In the report on its 1998 visit, the CPT noted that "[t]he formal legal position of persons arrested by the police regarding access to a lawyer appears to be favourable; however, in practice, it appears to be rare for persons in police custody to have any contact with a lawyer" (cf. paragraph 35 of CPT/Inf (2001) 20). Although the Government responses contained a detailed outline of the applicable legal provisions, each response contained a rather insubstantial account²¹ of the practical measures which are being taken to ensure that all persons deprived of their liberty by the police enjoy a fully-fledged right of access to a lawyer - including the right to talk with the lawyer in private and the entitlement to have him present during police questioning - as from the very moment they are first obliged to remain with the police.²²

During the 2001 visit, it continued to be the case that many persons who were or recently had been in police custody claimed that they had not been offered the opportunity to contact a lawyer. There were also allegations that lawyers had been prevented from visiting persons in police custody and had themselves been the subject of insults and/or intimidation on the part of the police officers in the establishments concerned. Further, a police inspector interviewed indicated that they "tend not to allow lawyers to speak with detainees alone unless it is in the interests of the police or of the investigation." As for the question of access to a lawyer for persons without the means to pay for legal services, police officers told the delegation that such persons are provided with a court-appointed lawyer only if they are being charged with a serious offence and then only at the time when they are first brought before a court.

50. Given the foregoing findings, **the CPT must reiterate its recommendation that action be taken without delay to ensure that the existing formal right of access to a lawyer for persons deprived of their liberty by the police is rendered fully effective in practice, from the very outset of police custody. Further, the Committee recommends that the relevant authorities examine the possibility of introducing a system whereby persons deprived of their liberty who are not in a position to pay for legal services can be provided with such services free of charge at all stages of police procedures.**

3. Access to a doctor

51. The CPT has recommended that the right of persons in police custody to have access to a doctor be formally guaranteed in "the former Yugoslav Republic of Macedonia" (cf. paragraph 39 of CPT/Inf (2001) 20). The relevant authorities replied that although not expressly provided for, this right "is being applied *de facto*." Further, it was indicated that a Commission established by the Minister for the Interior would prepare a proposal to amend the Law on Internal Affairs, with a view, inter alia, to introducing this right (cf. page 22 of CPT/Inf (2001) 21); however, at the time of the 2001 ad hoc visit, this had not yet been done. Moreover, the findings of the CPT's delegation give rise to doubts about the *de facto* provision of prompt access to a doctor for persons in police custody who require medical treatment.

²¹ cf. pages 9 and 22 of CPT/Inf (2001) 21.

²² Cf. in this regard paragraph 4 of the letter dated 23 June 2000 by the President of the CPT to the Permanent Representation of "the former Yugoslav Republic of Macedonia" to the Council of Europe.

The CPT calls upon the relevant authorities to implement without further delay its recommendation regarding the formal guarantee of a right of access to a doctor - including, if a detained person so wishes, a doctor of his own choice - in police custody. The relevant legal provisions should stipulate that:

- **all medical examinations should be conducted out of the hearing and - unless the doctor requests otherwise in a given case - out of the sight of police officers;**
- **the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detained person and his lawyer.**

Appropriate steps should also be taken to ensure the practical implementation of this formal legal right.

4. Information on rights

52. Following the 1998 visit, the CPT concluded that "[t]he Constitution, laws and regulations establish a framework which, if rigorously applied, should ensure that detained persons are aware of their legal rights while in police custody. However, many detained persons interviewed by the delegation alleged that they had received no such information" (cf. paragraph 41 of CPT/Inf (2001) 20). The delegation was concerned to find that an identical situation prevailed in 2001.

The CPT recommends that the relevant authorities issue a strong reminder to all law enforcement personnel to abide by their obligation to inform persons "summoned, apprehended or deprived of their liberty" of their legal rights, as set out in Article 12, paragraph 3, of the Constitution, as well as in sections 3(1) and 3(2) of the Code of Criminal Procedure and other relevant laws and regulations. Further, the Committee reiterates its recommendation that a form setting out those rights in a straightforward manner be given systematically to persons detained by the police, at the very outset of custody.

5. Conduct of interrogations

53. In the 1998 visit report, the CPT recommended that a code of conduct for police interviews be drawn up (cf. paragraph 42 of CPT/Inf (2001) 20). The Government response indicated that the Ministry of the Interior would take steps to implement this recommendation (cf. page 10 of CPT/Inf (2001) 21); however, this did not appear to have taken place by October 2001. Apart from the M. S. case (cf. paragraph 23), this was illustrated by the comments made by a chief inspector at one police station to delegation members. According to him, the practice is for interviewers to stand over a suspect and make threats in an effort to intimidate and thereby obtain a confession, along the following lines: "We have our ways... We try to frighten them with strong words... We can shout at him sometimes... If he is a guy who can be scared, I try to frighten him. If he's a strong guy, I don't... The younger ones you can scare - I'll get your ears, if you don't tell me. Some of the older ones, if they are weak, you can scare also." Needless to say, such an approach is the antithesis of that required for the prevention of ill-treatment, and is all the more worrying given that it was manifested by senior police officers.

The CPT recommends that a high priority be given to drawing up a code of conduct for police interrogations (with reference to the remarks in paragraph 42 of CPT/Inf (2001) 20), and that effective steps be taken to ensure that all officers charged with the duty of interviewing suspects are made familiar with its contents and apply it in practice. Further, the Committee would stress the importance of accurately recording exchanges between suspects and police. Such records should be included in the file forwarded to the relevant court, with a copy to the person concerned and/or his lawyer.

6. Custody registers

54. The CPT had already expressed its concern in the context of the 1998 visit about the incidence of persons being held in police custody without a formal record being kept of that fact. It recommended that steps be taken to ensure that whenever a person is detained at a police establishment, for whatever reason or length of time, the fact of his detention is recorded without delay, and invited the relevant authorities to explore the possibility of maintaining a single, comprehensive custody record for every person detained (cf. paragraph 45 of CPT/Inf (2001) 20).

During the 2001 visit, the CPT's delegation continued to find omissions and inconsistencies in the recording of data related to police custody. However, it was informed that new standardised registers were planned to be introduced at the beginning of 2002. This is a positive step; **the CPT would like to receive confirmation that the new registers have been introduced.**

7. Detention time limits

55. The limit of 24 hours on the time for which the police may hold persons before presenting them to the investigating judge is one which is set by the Constitution and the Code of Criminal Procedure. However, the 2001 visit revealed, through a variety of indicia, that this limit is widely being disregarded in "the former Yugoslav Republic of Macedonia".

For instance, the delegation examined records in certain police stations which indicated that people had been held for periods exceeding 24 hours, only to be transferred to another police station. These attempts to circumvent the legal limit were frequently complained of by detained persons as well as non-governmental organisations. The existence of such illegal practices was confirmed by the Director of the Bureau of Public Security of the Ministry of the Interior.

The CPT recommends that the relevant authorities take the necessary steps to ensure that the 24-hour police detention limit set by the Constitution, legislative acts and by-laws is strictly complied with in practice.

D. Legal remedies in cases involving allegations of ill-treatment

56. One of the most effective means of preventing ill-treatment by law enforcement officials lies in the diligent examination by the competent authorities of all complaints of such treatment brought before them and, where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties. This will have a very strong deterrent effect. Conversely, if the relevant authorities do not take effective action upon complaints referred to them, those minded to ill-treat persons deprived of their liberty will quickly come to believe that they can act with impunity. In this connection, it is axiomatic that the examination of complaints must be conducted by a body which is, and is seen to be, independent and impartial.

1. Judicial and prosecution authorities

57. Persons detained by the police must be physically brought before an investigating judge within 24 hours of being deprived of their liberty (assuming they have not been released beforehand by the police). This provides a timely opportunity for a person who has been ill-treated to lodge a complaint. Further, even in the absence of an express complaint, the fact of having the person concerned brought before the judge enables the latter to take action in good time if there are other indications (e.g. visible injuries; a person's general appearance or demeanour) that ill-treatment might have occurred.

Further, public prosecutors have the *ex officio* power to "take all necessary measures" in relation to suspected crimes which come to their attention in any way. They may demand that the Ministry of the Interior investigate a suspected crime, they may direct the preliminary procedure, and they may propose to the competent court that a prosecution be brought.

58. As already indicated (cf. paragraphs 14 and 8), the intransigent attitude displayed by judicial authorities at the Basic Courts in Skopje and the failure of the Prosecutor-General's Office to provide the files requested meant that the delegation was not in a position to assess, during the visit, whether investigating judges and public prosecutors are exploiting the possibilities open to them to make an effective contribution to the prevention of ill-treatment by law enforcement officials. However, the files from Basic Court II subsequently provided by the authorities clearly indicated that there are instances where those possibilities are not being exploited (cf. paragraph 28).

In this regard, the CPT recommends that whenever criminal suspects brought before an investigating judge at the end of police custody allege ill-treatment by the police, the judge record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment.

A similar approach should be followed by prosecutors whenever they become aware of information suggesting that a person may have been ill-treated by the police.

2. Internal accountability procedures

59. At the time of the visit, the rules and regulations governing the internal accountability procedures of the Ministry of the Interior appeared to be in a state of flux.

Two General Orders (nos. 310 and 311) provide a new framework for the internal complaints procedure. The first sets out the structure of the Unit for Professional Standards (EPS) and the manner in which it should conduct investigations. The second specifies the manner in which the EPS should process complaints against police officers.

The CPT would like to be informed whether General Orders 310 and 311 have already fully entered into force.

60. According to General Order 310, section III.B.1.: "The [EPS] will conduct all internal investigations. These investigations will include investigations involving the use of force, the use of deadly force, police corruption, abuse of authority and citizen complaints." The General Orders specify that the EPS will be able to receive complaints directly from "citizens" and/or from the "supervisor" of the police officer(s) concerned. **The CPT wishes to receive confirmation that this right to lodge such complaints is open to all persons on the State's territory and not only to citizens of the country. On the understanding that this is the case, the wording of the relevant provisions (of General Orders 310 and 311) should be amended to reflect this reality.**

Police officers (including the supervisor of the police officer(s) about whom a person wishes to make a complaint) enjoy discretion as to whether or not complaints presented to them are "valid" and worthy of being recorded in writing.²³ This is an undesirable situation; **the CPT recommends that all complaints about the conduct of police officers be formally recorded in writing.**

61. Investigation of allegations "of a minor nature" may be assigned to the supervisor of the officer against whom a complaint has been made, but always subject to the supervision of the EPS.²⁴ For example, "preliminary reports on all complaints of alleged employee misconduct will be referred to the Head of the EPS within 24 hours, regardless of who interviews the complainant."²⁵ Similarly, a copy of any investigation report by a police officer's supervisor "will be sent to the Head and Deputy Head of the [EPS] within 24 hours."²⁶ Further, "supervisors are required to investigate minor complaints against any subordinate employee and must advise the [EPS] Head or Deputy Head of the investigation so [it] can be properly reviewed, recorded, and/or reassigned."²⁷

As for the investigation of any "serious complaints of misconduct, corruption, human rights violations, or complaints of the use of force or use of deadly force," they are to be assigned to an [EPS] member.²⁸

²³ "[A] citizen who wishes to make a complaint will be referred immediately to a supervisor or member of the [EPS]. The supervisor or [EPS] member will interview the citizen to determine if a complaint exists. If the citizen has a valid complaint of police misconduct or concern that cannot easily be adjudicated by the on-the-scene supervisor or EPS member they will initiate a written complaint" (cf. section V.A. of General Order 311).

²⁴ Cf. section III.D.1.e)5)(a) of General Order 310 and section VII.B.2. of General Order 311.

²⁵ Cf. section III.D.1.e) of General Order 310.

²⁶ Cf. section VII.B.2. of General Order 311.

²⁷ Cf. section III.D.4. of General Order 310.

²⁸ Cf. section III.D.1.e)6) of General Order 310.

62. After the internal investigation of a complaint is completed, the investigating officer will draw up a report which is sent to the Head and Deputy Head of the EPS, who review it and decide, in respect of each allegation, whether it is "sustained, unresolved, exonerated or unfounded". The final report should then be forwarded to the Minister and Deputy Minister, with a copy being furnished to the Police Board Chief or Supervisor of the Organisational Unit in charge of the officer who is the subject of the complaint.²⁹

Upon receipt of the final report, the Sector Chiefs may recommend minor discipline (reprimand, public reprimand, fine) or, if a "higher level of discipline" is warranted, a referral of the case to the Disciplinary Review Commission, which may be convened by the Minister and Deputy Minister.³⁰ The Disciplinary Review Commission decides on the measure to be imposed and informs the employee and his supervisor in writing within seven days.³¹

63. All of the above leaves open the question of the interface between internal accountability procedures and criminal investigations/criminal proceedings against police officers. Under the new framework for the internal complaints procedure, it appears that it will be for the EPS to determine whether or not complaints lodged through the internal accountability procedures are "criminal in nature."³²

It is unclear whether it is intended that the criminal investigation of allegations which the EPS deem to be "criminal in nature" must await the outcome of an EPS internal investigation. Thus, while section VII.B.4 of General Order 311 specifies that "in every complaint where there is evidence of criminal conduct the Crime Sector of the Ministry will be notified," section III.D.2.b)(d) of General Order 310 specifies that "[i]f the allegations are criminal in nature, the employee will be advised that the *results* will be transferred to the Crime Sector in the Ministry" [emphasis added]. **The CPT would like to be informed whether the Unit for Professional Standards (EPS) will be expected to conduct both the internal and the criminal investigation in cases involving allegations deemed to be criminal in nature.**

As regards the initiation of criminal proceedings against police officers, neither General Order 310 nor General Order 311 require the EPS to notify a public prosecutor or investigating judge of allegations which may be criminal in nature.

²⁹ Cf. section VI.U. of General Order 311.

³⁰ Cf. sections III.D.e)10)(a) and (b) of General Order 310 and section VI.V.3. of General Order 311.

³¹ Cf. section VI.V.4 of General Order 311.

³² Cf., in this regard, section III.D.2.b)(c) of General Order 310: "The accused employee will be told if a complainant's allegations are administrative/disciplinary in nature or criminal in nature."

64. Having regard to all of the information gathered during the visit, it would appear that neither the Department of Internal Control of the Ministry of the Interior, nor the proposed Ministry of the Interior Unit for Professional Standards can be said to be independent and impartial complaints investigation bodies. Under both the current and proposed arrangements, complaints against the police are investigated by their fellow officers, apparently without any form of external supervision or control.

It is a matter of particular concern that there appears to be no effective interface between the investigation of complaints which may be "criminal in nature" and the initiation of a criminal investigation or criminal proceedings against the police officers concerned. This problem was illustrated by certain cases examined in depth by the delegation (e.g., M. S. and the Ljuboten cases, cf. paragraphs 22 to 24 and 27 to 30); it would appear that, in those cases, Ministry of the Interior officials did not take steps to protect and preserve evidence and to carry out a criminal investigation despite being under strict legal obligations to do so under the Code of Criminal Procedure.³³

The CPT recommends that the Ministry of the Interior Unit for Professional Standards be required to notify - without delay - the competent prosecution and/or judicial authorities of every case in which the conduct of police officers may be criminal in nature. The decision as to whether or not the conduct of the officers concerned is criminal in nature should be made by the competent prosecution and/or judicial authorities and not by a serving police officer. Consideration should also be given to creating a fully independent investigating agency to process complaints against law enforcement officials; such a body should have the power to instigate disciplinary proceedings against law enforcement officials and to refer cases to the prosecution and/or judicial authorities which are competent to consider whether criminal proceedings should be brought.

Further, the CPT recommends that Ministry of the Interior officials be reminded of their legal obligation under sections 140 and 142(1) of the Code of Criminal Procedure to report crimes, protect and preserve evidence and to collect all the information required for the investigation, when they become aware or there exist grounds for suspicion that a crime has been committed. In this context, it should be stressed that this obligation extends to crimes involving ill-treatment of persons deprived of their liberty, including torture, ill-treatment whilst performing a duty, bodily injury, and serious bodily injury.³⁴

³³ Cf. sections 140 and 142(1) of the Code of Criminal Procedure.

³⁴ Cf., respectively, sections 142, 143, 130, and 131 of the Criminal Code.

E. Material conditions of detention

65. The report on the last visit recorded that the vast majority of cells seen had inadequate lighting, poor bedding and were in a generally filthy condition (cf. paragraph 27 of CPT/Inf (2001) 20). Further, detained persons were not being granted access to lavatories. The CPT recommended that urgent measures be taken to rectify these shortcomings.

However, the delegation which carried out the October 2001 ad hoc visit discovered that exactly the same conditions still obtained in the stations which had already been visited in 1998, and that conditions of detention were also very poor in most of the stations which were visited for the first time.

66. As in 1998, the most serious problem observed in police cells was a dismal state of hygiene (some of the most glaring examples being Kočani and Kumanovo Police Stations). It was clear that the conditions found in many cells resulted from a failure to grant detained persons access to functioning sanitary facilities. In many cases, cells were so removed from the areas (offices or desks) where the police officers were normally present as to render any requests made by detainees inaudible; further, doubts arose as to the regularity with which police officers would themselves go to custody areas for monitoring purposes. Even in establishments where the cells were found to be relatively clean at the time of the visit (e.g., Gazi Baba), the nearby sanitary facilities were out of order, a situation which had apparently persisted since 1998.

67. In certain stations which were visited for the first time, artificial lighting was poor (at Štip, limited to light filtering through a grating from the corridor), non-functioning (two of the three cells at Kisela Voda), or non-existent (Karpoš).

68. In the view of the CPT such a state of affairs amounts to a refusal to improve conditions in light of the Committee's recommendations.

In their reply to the immediate observations made under Article 8, paragraph 5, of the Convention, the authorities made reference to a "gradual reconstruction" of detention premises, as well as to a Committee set up to assess the needs and priorities in this regard. **The CPT recommends that urgent measures be taken to rectify the shortcomings described in paragraphs 66 and 67. In particular, police cells should be kept clean, and arrangements should be made in each of the relevant establishments to provide persons in police custody with access to functioning lavatories. Further, immediate steps should be taken to ensure that all police cells are adequately monitored; preferably, they should be equipped with call systems.**

APPENDIX I

LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

Cooperation between the CPT and the authorities of "the former Yugoslav Republic of Macedonia

recommendations

- the necessary steps to be taken to ensure that all authorities concerned - including the relevant judicial and prosecuting authorities - act in a way which is in conformity with the obligations accepted by the State when it ratified the Convention (paragraph 16).

comments

- the objective should be to ensure that there is no repetition of violations of Article 8, paragraph 2 (subparagraphs c and d) and paragraph 3 of the Convention and the general principle of cooperation set out in Article 3; steps taken should include providing full information to all relevant local authorities on the CPT's mandate and their related obligations (paragraph 10);
- the necessary steps to be taken to avoid problems in the future regarding implementation of Article 8 (2) (d) of the Convention (paragraph 18).

requests for information

- the outcome of the review undertaken by the State Judicial Council regarding the problems of cooperation at the Basic Courts in Skopje (paragraph 16).

Torture and other form of ill-treatment

The case of M. S.

requests for information

- the decision taken by the Higher Public Prosecution Office in Skopje in respect of the case of M. S., and the reasons on which the decision was based (paragraph 24).

The Ljuboten cases

requests for information

- the reasons for the absence of a decision to institute a court procedure "against maltreatment", as well as the views of the relevant public prosecutor on this matter (paragraph 28);
- a copy, of the report of the independent expert body examining "the allegations for possible cases of torture...after the events in Ljuboten" (paragraph 29);
- the comments of the relevant authorities on attempts to obliterate, in medical records, references to alleged police ill-treatment (paragraph 30).

The cases of N. A. and A. Q.

recommendations

- a thorough criminal inquiry into the deaths of N. A. and A. Q. to be carried out (paragraph 34).

Non-standard items in police offices

comments

- items of property seized during criminal investigations to be entered in a separate register, in addition to being properly labelled (identifying the case to which they refer) and stored in a dedicated property store (paragraph 37).

requests for information

- a copy of the instructions given by the Ministry of the Interior to all police stations to eliminate non-standard items which may be used as weapons from detention and investigation premises, as well as comments as to the impact made by the same (paragraph 36).

Assessment

recommendations

- law enforcement officers to be reminded, through a formal statement at the highest political level, that they must respect the rights of persons in their custody, and that the ill-treatment of such persons will be the subject of severe sanctions (paragraph 40).

Training of law enforcement officials

recommendations

- the national authorities to take decisive measures to ensure that harassment and intimidation of the recruits in training by police reservists are not repeated (paragraph 43);
- the relevant authorities to incorporate the principles of strict and ethical selection criteria, well-defined personnel specifications and an efficient recruitment and selection process in the context of future recruitment of police personnel (paragraph 44);
- a strategy to be developed for the introduction of refresher, specialist, management and leadership training for personnel of all ranks, based on the principles which underpin the proposed new Foundation Course referred to in paragraph 45 (paragraph 46).

requests for information

- the numbers and ethnic/demographic composition of Police Academy recruits of the classes commencing training in the first half of 2002 (paragraph 42);
- the precise measures taken to ensure that harassment and intimidation of the recruits in training by police reservists are not repeated (paragraph 43);
- precise details on the arrangements taken by the relevant authorities to incorporate the principles of strict and ethical selection criteria, well-defined personnel specifications and an efficient recruitment and selection process in the context of future recruitment of police personnel (paragraph 44);
- all developments related to police training in "the former Yugoslav Republic of Macedonia" (paragraph 46).

Safeguards against the ill-treatment of detained persons

Notification of custody

recommendations

- immediate steps to be taken to ensure that the right to notify a close relative or a third party of the fact of one's detention is rendered fully effective in practice (paragraph 48).

Access to a lawyer

recommendations

- action to be taken without delay to ensure that the existing formal right of access to a lawyer for persons deprived of their liberty by the police is rendered fully effective in practice, from the very outset of police custody (paragraph 50);
- the relevant authorities to examine the possibility of introducing a system whereby persons deprived of their liberty who are not in a position to pay for legal services can be provided with such services free of charge at all stages of police procedures (paragraph 50).

Access to a doctor

recommendations

- the relevant authorities to implement without further delay the formal guarantee of a right of access to a doctor - including, if a detained person so wishes, a doctor of his own choice - in police custody. The relevant legal provisions should stipulate that:
 - all medical examinations should be conducted out of the hearing and - unless the doctor requests otherwise in a given case - out of the sight of police officers;
 - the results of every examination, as well as any relevant statements by the detained person and the doctor's conclusions, should be formally recorded by the doctor and made available to the detained person and his lawyer.
(paragraph 51);
- appropriate steps should be taken to ensure the practical implementation of the formal legal right of access to a doctor
(paragraph 51).

Information on rights

recommendations

- the relevant authorities to issue a strong reminder to all law enforcement personnel to abide by their obligation to inform persons "summoned, apprehended or deprived of their liberty" of their legal rights, as set out in Article 12, paragraph 3, of the Constitution, as well as in sections 3(1) and 3(2) of the Code of Criminal Procedure and other relevant laws and regulations (paragraph 52);
- a form setting out in a straightforward manner the rights of persons detained by the police to be given systematically to such persons, at the very outset of custody (paragraph 52).

Conduct of interrogations

recommendations

- a high priority to be given to drawing up a code of conduct for police interrogations (with reference to the remarks in paragraph 42 of CPT/Inf (2001) 20), and effective steps to be taken to ensure that all officers charged with the duty of interviewing suspects are made familiar with its contents and apply it in practice (paragraph 53).

comments

- the Committee would stress the importance of recording accurately exchanges between suspects and police. Such records should be included in the file forwarded to the relevant court, with a copy to the person concerned and/or his lawyer (paragraph 53).

Custody registres

requests for information

- confirmation that the new standardised registers have been introduced (paragraph 54).

Detention time limits

recommendations

- the relevant authorities to take the necessary steps to ensure that the 24-hour police detention limit set by the Constitution, legislative acts and by-laws is strictly complied with in practice (paragraph 55).

Legal remedies in cases involving allegations of ill-treatment

Judicial and prosecution authorities

recommendations

- whenever criminal suspects brought before an investigating judge at the end of police custody allege ill-treatment by the police, the judge to record the allegations in writing, to order immediately a forensic medical examination and to take the necessary steps to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries. Further, even in the absence of an express allegation of ill-treatment, the judge should request a forensic medical examination whenever there are other grounds to believe that a person brought before him could have been the victim of ill-treatment. A similar approach should be followed by prosecutors whenever they become aware of information suggesting that a person may have been ill-treated by the police (paragraph 58).

Internal accountability procedures

recommendations

- all complaints about the conduct of police officers to be formally recorded in writing (paragraph 60);
- the Ministry of the Interior Unit for Professional Standards to be required to notify - without delay - the competent prosecution and/or judicial authorities of every case in which the conduct of police officers may be criminal in nature. The decision as to whether or not the conduct of the officers concerned is criminal in nature should be made by the competent prosecution and/or judicial authorities and not by a serving police officer (paragraph 64);
- Ministry of the Interior officials to be reminded of their legal obligation under sections 140 and 142(1) of the Code of Criminal Procedure to report crimes, protect and preserve evidence and to collect all the information required for the investigation, when they become aware or there exist grounds for suspicion that a crime has been committed. In this context, it should be stressed that this obligation extends to crimes involving ill-treatment of persons deprived of their liberty, including torture, ill-treatment whilst performing a duty, bodily injury, and serious bodily injury (paragraph 64).

comments

- consideration should be given to creating a fully independent investigating agency to process complaints against law enforcement officials; such a body should have the power to instigate disciplinary proceedings against law enforcement officials and to refer cases to the prosecution and/or judicial authorities which are competent to consider whether criminal proceedings should be brought (paragraph 64).

requests for information

- whether General Orders 310 and 311 have already fully entered into force (paragraph 59);
- confirmation that the right to lodge complaints involving the "use of force, the use of deadly force, police corruption, abuse of authority and citizen complaints", are open to all persons on the State's territory and not only to citizens of the country. On the understanding that this is the case, the wording of the relevant provisions (of General Orders 310 and 311) should be amended to reflect this reality (paragraph 60);
- whether the Unit for Professional Standards (EPS) will be expected to conduct both the internal and the criminal investigation in cases involving allegations deemed to be criminal in nature (paragraph 63).

Material conditions of detention

recommendations

- urgent measures to be taken to rectify the shortcomings described in paragraphs 66 and 67. In particular, police cells should be kept clean, and arrangements should be made in each of the relevant establishments to provide persons in police custody with access to functioning lavatories (paragraph 68);
- immediate steps should be taken to ensure that all police cells are adequately monitored; preferably, they should be equipped with call systems (paragraph 68).

APPENDIX II

**LIST OF THE NATIONAL AUTHORITIES AND OTHER PERSONS
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

A. Ministerial authorities

Ministry of Justice

- | | | |
|---|----------------|---|
| - | Safet KADRIU | State Secretary |
| - | Mitasin BEKIRI | Director of the Prisons Administration |
| - | Kosta DIMITROV | Senior Adviser, Prisons Administration
(Liaison Officer) |

Ministry of the Interior

- | | | |
|---|-------------------|--|
| - | Goran MITEVSKI | Director of the Bureau for Public Security |
| - | Risto GALEVSKI | General, Head of the Police Division |
| - | Slavko CVETKOVSKI | Head of the Internal Control Department |
| - | Božidar KULEVSKI | Head of the Police Academy |
| - | Vasile NIKLEVSKI | Colonel (Liaison Officer) |

Ministry of Foreign Affairs

- | | | |
|---|-----------------------------|--|
| - | Ilinka MITREVA | Minister for Foreign Affairs |
| - | Viktor GABER | Under Secretary |
| - | Mirjana LAZAROVA-TRAJKOVSKA | Head of Human Rights Department (Principal
Liaison Officer) |

Ministry of Health

- | | | |
|---|---------------------|--|
| - | Snežana ČIČEVALIEVA | Head of Sector for European Integration and
International Cooperation |
|---|---------------------|--|

B. Other authorities

Supreme Court

- | | | |
|---|----------------------------|-------|
| - | Fidančo STOEV | Judge |
| - | Liljana RISTOVA-INGILIZOVA | Judge |
| - | Aleksandar BOŠNJAKOVSKI | Judge |

Office of the Prosecutor-General

- Stavre DŽIKOV Prosecutor-General

Institute of Forensic Medicine

- Aleksej DUMA Director

C. Inter-governmental organisations

- Office of the International Criminal Tribunal for the former Yugoslavia
- Organisation for Security and Cooperation in Europe

D. Non-governmental organisations

Local

- Association for Human Rights Protection of Roma
- Civil Society Resource Centre
- Macedonian Helsinki Committee for Human Rights
- Natyra

International

- Human Rights Watch