SECRETARIAT / SECRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRÉTARIAT DU COMITÉ DES MINISTRES

COMMITTEE OF MINISTERS
COMITÉ DES MINISTRES

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Contact: John Darcy
Tel: 03 88 41 31 56

Date: 30/10/2019

DH-DD(2019)1231

Meeting: 1362nd meeting (December 2019) (DH)

Item reference: Action plan (21/10/2019)

Communication from North Macedonia concerning the case of HAJRULAHU v. North Macedonia (Application No. 37537/07)

* * * * * * * * * * * *

Réunion : 1362e réunion (décembre 2019) (DH)

Référence du point : Plan d'action

Communication de la Macédoine du Nord concernant l'affaire HAJRULAHU c. Macédoine du Nord (requête n° 37537/07) ***(anglais uniquement)***

REPUBLIC OF NORTH MACEDONIA
MINISTRY OF JUSTICE
BUREAU FOR REPRESENTATION OF
THE REPUBLIC OF NORTH MACEDONIA BEFORE
THE EUROPEAN COURT OF HUMAN RIGHTS

21.10.2019
S k o p j e

TO

Directorate General
Human Rights and Rule of Law

Department for the Execution of Judgments of the European Court of Human Rights

Att. Katarina Nedeljkovic

SUBJECT: Hajrulahu v. the Republic of North Macedonia (Application no. 37537/07), Judgment of 29 October 2015, final on 29 January 2016.

Skopje, 21.10.2019

ACTION PLAN

Hajrulahu
v.
North Macedonia

Application no. 37537/07
Judgment of 29 October 2015

I CASE DESCRIPTION

1. The case concerns the authorities' failure to investigate the applicant's allegations of ill-treatment at the hands of the police (procedural violation of Article 3).

2. In particular, in March 2007 the applicant lodged with the public prosecutor's office a criminal complaint in which he alleged that he had been subjected to police brutality. As no action was taking regarding his criminal complaint, on 25 May 2010 the applicant approached the public prosecutor's office, seeking measures to be taken to bring those responsible to justice, but received no reply from the public prosecutor (§49 of the judgment). The European Court therefore found that there was no investigation of the applicant's allegation that the police ill-treated him (§79 of the judgment).

3. The case furthermore concerns the applicant's torture at the hands of the security forces during his incommunicado detention between 12 and 16 August 2005, in a house, an extraordinary place of detention outside any judicial framework (substantive violation of Article 3).

4. Lastly, the case concerns the violation of the applicant's right to a fair trial on account of the use of his confession statement of 16 August 2005 made under duress in the criminal proceedings against him (violation of Article 6 § 1).

II INDIVIDUAL MEASURES

5. In response to the above-mentioned European Court's findings, the authorities have taken measures to ensure that the violations at hand are brought to an end and that the applicant is provided adequate redress for negative consequences sustained.

A. Measures aimed at ensuring that the applicant is not exposed to ill-treatment in the hands of the police

6. It is recalled that the European Court found that the applicant's abduction and incommunicado detention for three days in a house, an extraordinary place of detention outside any judicial framework, which was covertly organized and executed by the security forces of the respondent State, intimidated the applicant on account of his apprehension as to what would happen to him next and must have caused him emotional and psychological distress. In this respect, the European Court further stressed that the actual treatment during the interrogation sessions to which he was subjected must be regarded as having caused him considerable physical pain, fear, anguish and mental suffering. It is also to be recalled that the European Court noted that the above-mentioned measures were used in combination and were intentionally meted out to the applicant with the aim of extracting a confession about his alleged involvement in the bomb incident of 15 July 2005 (§101 of the judgment).

7. The authorities would like to indicate that the applicant in the above-mentioned case has been released from the hands of the police at the time when the European Court rendered its judgment. The European Court in particular indicated that the applicant presently resides in Germany (§5 of the judgment). Thus, the applicant is no longer in the hands of the police and therefore any form of his ill-treatment in the present case is prevented.

B. Reopening of the impugned investigation and criminal proceedings on account of alleged ill-treatment by the applicant

8. The authorities furthermore consider that the individual measures in this case required the reopening of impugned investigation and criminal proceedings. The measures taken in this respect are set out below.

9. It is recalled that the European Court indicated that the public prosecutor remained inactive after the hearing of 8 November 2005, when the applicant gave another statement regarding his alleged ill-treatment, in which he had described the location and time, as well as the manner and means by which the injuries had been inflicted (§75 of the judgment). It is furthermore recalled that the European Court stressed that the prosecuting authorities took no action, although allegations of extrajudicial abduction by police and detention of suspects in clandestine locations were already the subject of public debate as early as 2001 and although the applicant had not brought this material to the attention of the public prosecutor, it did not remain unknown to the State authorities (§77 of the judgment). The European Court further noted that the applicant's criminal complaint of ill-treatment submitted in 2007 was to no avail, as the prosecuting authorities took no investigative measure and did not contact the Ministry of the Interior to obtain additional information (§78 of the judgment).

10. In response to the above-mentioned European Court's findings, the prosecution authorities reexamined the case while bearing in mind the Court's findings and the need to rectify the

shortcomings in the fresh investigation. On 25 October 2016 the competent public prosecutor from the Skopje Basic Prosecutor's Office rejected the applicant's criminal complaint for torture and other cruel, inhuman and degrading treatment and punishment. In particular, the Skopje Basic Prosecutor's Office established that pursuant to the Article 142 (1) of the Criminal Code, the criminal prosecution in the applicant's case had become time-barred on 19 August 2015, i.e. ten years after the last procedural action had been taken on 19 August 2005. The latter stipulates that for criminal offenses in respect of which a penalty above 5 years is prescribed, as it was the case with the offense of ill-treatment alleged by the applicant, the prosecution becomes time-barred after the expiration of a period of ten years.

11. For the reasons set above, the authorities deem that there is no legal or factual possibility of launching a fresh investigation in the case at hand, in particular given that the statutory ground for carrying out an investigation provides for a strict statute of limitation. The authorities deeply regret the facts that took place in this case and the prescription that has occurred.

C. Reopening of the impugned criminal proceedings

12. It is recalled that the European Court found that the applicant's confession statement of 16 August 2005 had been made as a consequence of the torture he had been subjected to and the fear that he had experienced thereafter. It furthermore considered that the use of such evidence in such circumstances rendered the applicant's trial as a whole unfair (§110 of the judgment).

13. Given that the applicant had failed to avail himself of the statutory possibility to seek reopening of the impugned criminal proceedings, as stated above, the trial court was deprived of the opportunity to reexamine his case while bearing in mind the European Court's findings and the need to rectify the shortcomings in the reopened proceedings, also by excluding the admission of the contested confession statement of 16 August 2005 which was considered to be made under duress in the criminal proceedings against the applicant.

14. With a letter of 12 April 2016 the Government Agent was informed that the applicant had not filed any request for reopening of the impugned criminal proceedings before the trial court, although he had a statutory possibility to do so pursuant the relevant provisions of the Criminal Proceedings Act, which stipulate that the European Court's judgment finding a violation of the Convention as a particular ground for reopening of the domestic criminal proceedings. These provisions do not indicate any timeframe for requesting reopening of the criminal proceedings following the European Court's judgment. The applicant can, therefore, still avail himself of this legal avenue.

15. In light of the fact that the applicant has not availed himself of the opportunity afforded by law to request retrial, the authorities consider that the just satisfaction awarded fully redressed the applicant in respect of the damage sustained and brought the violation of Article 6 § 1 to an end.

16. Lastly, it is recalled that in its last decision adopted in June 2017 the Committee of Ministers

"noting that it is still open to the applicant to request reopening of the criminal proceedings in which his right to a fair trial was breached, invited the authorities to inform the Committee of Ministers about the measures envisaged or taken to sanction those responsible for this breach"

17. In response, the authorities would like to highlight that the individuals who used the applicant's statement obtained under torture during the trial in breach of the law are no longer part of the judicial system of the State.

18. In view of the above, the authorities consider that taking into account the fact that there is no possibility of taking any other measures aimed at placing the applicant in the same position it had been in prior to the violation, no other individual measures are possible for the execution of this judgment.

D. Providing redress for the applicant

19. The authorities ensured that the applicant was redressed for negative consequences sustained.

20. At the outset, it is recalled that the applicant claimed before the European Court non-pecuniary damage in the range between EUR 3,000 and EUR 7,000 euros "depending on the number of violations found". The applicant did not claim any compensation for pecuniary damage (§ 117 of the judgment). The European Court considered that the applicant must have sustained non-pecuniary damage as a result of the violation found and it awarded him EUR 7,000 in respect of non-pecuniary damage as requested by the applicant (§ 119 of the judgment).

21. As to the pecuniary damage, the authorities would like to indicate that the national legislation provides the applicant with a concrete and practical avenue to claim any damage in this respect. Pursuant to the Obligations Act, the applicant had 5 years from the date when the damage occurred (objective time-limit) and 3 years from the date when he learned about the damage (subjective time-limit) to initiate civil proceedings in respect of pecuniary damage sustained. The deadline for bringing such civil action therefore expired on 16 August 2010, i.e. five years after the impugned events had taken place on 16 August 2005 and prior to the European Court's judgment. As far as the authorities are aware, the applicant has not brought a civil action for pecuniary damage sustained before the domestic courts.

22. The applicant also claimed EUR 1,010 for costs and expenses incurred "in the Strasbourg proceedings" concerning the legal fees for his legal representation for the preparation of the application and the comments submitted in reply to the Government's observations; consultation with the applicant and his mother; for submission of the criminal complaint before the public prosecutor; as well as for postal expenses (§ 120 of the judgment). The

European Court awarded the full sum claimed by the applicant, which is to be paid into the bank account of the applicant's representative (§ 122 of the judgment).

23. The applicant has therefore been properly redressed in respect of non-pecuniary damage sustained. The amount of just satisfaction awarded in this case has been disbursed timely in compliance with the European Court's indications in the case at hand.

III GENERAL MEASURES

24. In response to the European Court's findings the measures have been taken or envisaged to prevent similar violations. These measures include legislative changes, introducing an external oversight mechanism over the police actions, training and awareness raising measures as well as publication and dissemination measures. These measures are aimed at the public prosecutors, criminal courts and the police as set out below.

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

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

25. In order to prevent abuse of power in form of ill-treatment in hands of law enforcement officials and special police units, the authorities envisaged harsher criminal sanctions in respect of acts of torture or other inhuman treatment.
26. At the time when the events occurred, Articles 142 and 143 of the Criminal Code provided penalties up to five years imprisonment for officials, who in performing their duties ill-treated the victim. If the actions resulted in severe physical or mental suffering of the victim, the offender was to be punished with imprisonment of at least one year.
27. Following the facts of the case, in 2004 and 2009 respectively, the Criminal Code was amended by imposing harsher penalties for ill-treatment/torture in the hands of law enforcement officials. The maximum penalty in Article 142 of the Criminal Code was increased from five to eight years imprisonment, while the punishment for severe form of ill treatment was increased to at least four years of imprisonment.

(ii) National Preventive Mechanism (NPM)

28. It is recalled that following the facts of this case, the Respondent State ratified the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT) in December 2008 and designated the Ombudsman institution as the National Preventive Mechanism (NPM). Following the adoption of the necessary amendments to the Law on the Ombudsman in September 2009, a separate unit for the protection of citizens against torture and other cruel, inhuman and degrading treatment was created within the institution and mandated to fulfill NPM-related tasks. The NPM began its operation in April 2011 but it was only in 2013 that a dedicated budget line was created for the conduct of NPM-related operations (see §9, CPT Report (CPT/Inf(2016)8).

29. The authorities take note of the amendments to the Law on the Ombudsman enacted by the Assembly on 29 September 2016. Those amendments aim at bringing the operation of the Ombudsman's Office in line with the Paris Principles, including, inter alia, ensuring compliance of its provisions on the NPM with the Law on ratification of the OPCAT of 2008 and fulfillment of the obligations which derive from the requirement of the OPCAT for ensuring full functional and operative independence of the NPM.

30. In this connection, the authorities would like to highlight that the powers of the NPM have been significantly increased as a result of these legislative measures. In particular, the legislative amendments provide that no consent is required from the victim, a person subjected to torture and other form of cruel, inhuman or degrading treatment or punishment in the establishments in which his or her freedom of movement is or might be limited (Section 21 of the amendments). Section 31-a prescribes that the NPM is in charge of a regular check with respect to the treatment of persons deprived of their liberty, providing recommendations to the relevant bodies with a view to improving the treatment and conditions in places of deprivation of liberty, as well as proposing amendments to the legislative acts. Section 31-b furthermore stipulates that in addition to unlimited access to all documents and information which concern persons deprived of their liberty the public officials are obliged to provide the NPM with unlimited access to the places of deprivation of liberty and their premises. The amended Section 32 envisages a possibility that the Ombudsman brings misdemeanor, and not only disciplinary proceedings against the official person in case when a breach of constitutional and statutory rights of the complainant is established. Lastly, Section 34-a was amended so as to increase the fine which is imposed on persons who acting in official capacity fail to comply with the Ombudsman's request to provide access to all documents and information which concern persons deprived of their liberty, as well as access to places of deprivation of liberty and their premises. The amended Law on the Ombudsman also expands the financial independence of the NPM by ensuring that the means for work of the NPM shall be determined in the Ombudsman's budget as a separate budgetary subprogram. The authorities note that the amendments to the Law on the Ombudsman became applicable at the beginning of April 2017.

31. The authorities would like to note that in the middle of 2018 a team of three lawyers formed the National Preventive Mechanism. One of them is a state councilor, while the others are councilors on prevention of torture and other cruel and inhuman treatment or punishment. The authorities highlight that the NPM continues to function with full capacity.

32. In the CPT report (CPT/Inf(2016)8) concerning a visit carried out in November 2014, indicated that the majority of persons interviewed by the delegation during the visit who had recently been in police custody had no complaints about the way in which they had been treated by police officer. Indeed, this would confirm the positive trend that had already been observed during the 2010 visit towards an improvement in the professionalism of police officers (*ibid, §11*). The CPT findings of the 2015 visit again highlighted the necessity for the authorities to remain vigilant and to pursue determined action to eradicate completely the problem of police ill-treatment. In CPT's view, it is essential that police officers view ill-

treatment as an unprofessional means of carrying out their duties as well as being a criminal act.

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

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

(iv) Increasing stuff in the Department for Control and Professional Standards ("the DCPS") within the ministry of Interior

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

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

(v) Targeted trainings and awareness-raising measures

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

37. In this respect, the authorities would like to highlight in response to the conclusions adopted by the Inter-Departmental Commission for Execution of Judgments and Decisions of the European Court of Human Rights, in 2015 the Ministry of Interior has designed a tailored training curriculum. It is divided in three modules of interactive workshops, covering the following areas: 1) ethical behavior and respect for human rights in police conduct; 2) deprivation of liberty, apprehension and use of forcible means; and 3) containment of persons and prevention of inappropriate treatment. This curriculum presents an integral part of the continuous human rights education for the police officers and will be conducive for preventing similar violations.

(vi) Clear message of zero tolerance

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

43. In response to the Court's findings and bearing in mind the recommendation of an earlier CPT report (CPT/Info(2016)8, §13) the authorities considered it necessary to address a clear message from the highest level as to the inadmissibility of and zero tolerance for arbitrary detention, torture and secret rendition operations to the intelligence and security involved in this case.

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

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

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

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

47. On 16 and 17 March 2018, the Fifth Regional Rule of Law Forum in Southeast Europe was held in Skopje. The Forum focused on the prohibition of torture, inhuman and degrading treatment or punishment and full adherence to requirements of Article 3 of the Convention. The Forum brought together over 150 top level judges from national Supreme Courts and Constitutional Courts, presidents of the Judicial Councils, directors of Judicial Academies, Government Agents and NGOs from the region.

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

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

49. It is recalled at this juncture that in its last decision adopted in June 2018, the Committee of Ministers
    "noted with satisfaction that taking into account the relevant recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), on 28 March 2018 the Minister of the Interior issued a binding instruction to law enforcement and intelligence agents conveying the message of zero tolerance of ill-treatment and torture, and encouraged the authorities to periodically remind them of this instruction".

50. To this end, the high level delegation of North Macedonia, headed by the Deputy Prime Minister and Minister of Interior H.E. Mr Spasovski and Minister of Justice H.E. Ms Deskoska. participated in the conference "Tackling ill-treatment by police: addressing challenges revealed by judgments of the European Court of Human Rights and by other Council of Europe bodies" held in Bečići, Montenegro on 18 October 2019. In particular, both ministers send an unequivocal message from the highest level to the law enforcement officials, including the intelligence and security services, as to the absolute unacceptability of and zero tolerance towards arbitrary detention, torture and secret rendition operations. At the end of the conference, the participants adopted conclusions (see attached conclusions and list of participants in the annex). The conclusions are currently being translated into Macedonian and will be distributed to police authorities across the country

B) Measures aimed at preventing violations of Article 3 in its procedural limb /Measures for preventing violations of Article 3 in its procedural limb aimed at the police and public prosecutors

51. In order to prevent similar violations of Article 3 in its procedural limb, the authorities took and envisaged certain measures which are set out below.

(i) Introduction of prosecutorial investigation

52. Following the facts of the case, a new Criminal Procedure Code (CPC) has been adopted in 2010. The new CPC established significantly wider powers of the public prosecutor in the investigations against unknown members of the police forces. The new model envisages establishing a separate judicial police subordinated to the Public Prosecutor. The judicial police discharge its responsibilities under direct supervision and control of the public prosecutor, and is held accountable to the public prosecutor.

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

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

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

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

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

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

58. In its last decision adopted in June 2018, the Committee

> ''*called upon the authorities, taking into account the CPT recommendations, to deliver regularly a clear message to prosecutors reminding them of their obligation to take appropriate action whenever they receive information indicative of torture and other forms of ill-treatment in law enforcement."*

59. In response, the authorities endorsed the above-mentioned conclusions at the high level conference "Tackling ill-treatment by police: addressing challenges revealed by judgments of the European Court of Human Rights and by other Council of Europe bodies" held in Bečići, Montenegro on 18 October 2019. These highlighted that effective investigation must be ensured ex officio into every credible assertion of ill-treatment and all necessary measures taken for this purpose. These conclusions are currently being translated in Macedonian and will be disseminated to prosecutors shortly.

(iii) External oversight body supervising the police actions

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

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

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

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

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

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

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

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

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

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

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

68. In January and February 2018 Parliament adopted amendments to the Law on Internal Affairs, the Law on the Police, the Law on Execution of Sanctions and the Law on the Ombudsman. In October 2018 the Parliament adopted the amendments to the Law on Courts, and the Law on Public Prosecution Office. Key features of legislative amendments adopted with a view to preventing similar violations are set out below.

a) Law on Internal Affairs

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

b) Law on Execution of Sanctions

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

c) Law on Ombudsman

71. Pursuant to the amendments introduced to the Law on Ombudsman, a special unit has been set up as a mechanism of civil control to monitor investigations into complaints of alleged ill-treatment and torture in hands of law-enforcement agents. This unit shall provide a substantial safeguard in investigations of alleged wrongdoings by law enforcement agents amounting to violations of Article 2 and 3 of the Convention. The special unit shall comprise

three representatives from the ranks of the NGO. Its primary task will be to monitor and review the procedures aimed at investigating and holding accountable law-enforcement agents for any wrongdoing amounting to ill-treatment or torture in their hands. The unit will be in charge of efficient and transparent review of the actions taken by the law enforcement officials which constitute criminal offences, including ill-treatment in their hands.

72. The selection of NGOs to sit at this special unit shall be carried out by Parliament following an annual public call. The selected three NGOs will then nominate one representative to discharge the functions of an external member of the unit set up within the Ombudsman with a one year term. After one unsuccessful public call for selection of NGOs, on 22 May 2019 a second public call was published by the Parliament. The procedure for selection is still ongoing.

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

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

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

75. The Government would particularly highlight the new powers vested with the Ombudsman that is to propose to the prosecution authorities to reopen investigation in cases concerning alleged ill-treatment or torture in hands of law enforcement agents. In the statement of

reasons for the above legislative amendment the Government pointed that this power will constitute "an additional safeguard in the system of investigation in respect of criminal offences perpetrated by the law enforcement agents".

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

d) Law on Public Prosecution Office

77. The legislative amendments were introduced to enhance the role of prosecutors in investigating similar cases. Pursuant to amendments to the Law on Public Prosecution Office adopted on 30 October 2018, a special unit was set up for investigation of crimes committed by law-enforcement agents. This unit is part of the Basic Public Prosecution Office for Prosecution of Organised Crime and Corruption. The term of prosecutors attached is four years with a right to be reelected. Three public prosecutors have been assigned and have started their work on overseeing the police. According to the Law the prosecutors in this unit shall have at their disposal sufficient qualified professionals to help them deal with cases expeditiously and adequately in line with Convention standards. Two special investigators have already been appointed with the Basic Public Prosecution Office for Prosecution of Organised Crime and Corruption. Appointment of other special investigators is currently underway. In this context, on 24 August 2019, a public call for selection of investigators was published by the prosecution authorities. To the great surprise of the Government, there were no applications submitted. The authorities are currently assessing the reasons for this outcome and reflect on possible avenues to provide better financial and other incentives to qualified investigators to apply for the post.

78. Notwithstanding the failure of the initial call to recruit additional special investigators, the authorities ensured that the special unit created operationally functions and discharge its tasks. In 2018 and 2019, this unit has dealt with sixteen criminal complaints filed in respect of twenty five police officers on allegations of ill-treatment. It indicted 3 police officers, whereof 2 have been found guilty and convicted to criminal sanctions. Eighteen cases are currently being investigated. The special unit dismissed criminal complaints in respect of 2 police officers.

e) Law on Courts

79. Similarly, the legislative measures were taken to enhance the role of criminal courts in prosecuting ill-treatment in hands of the law enforcement agents. Pursuant to the amendments to the Law on Courts adopted in 2018, a special new jurisdiction was given to

the Department for organised crime and corruption within the Basic Court Skopje I – Skopje (it subsequently changed it now and is currently known as the Skopje Criminal Court). This department is now also in charge of administering the law in the cases of ill-treatment in hands of the law enforcement agents and bringing them to justice.

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

(iv) Training and awareness-raising measures

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

82. Following the establishment of the Unit for or investigation of crimes committed by law-enforcement agents within the Basic Public Prosecutor's Office for Organised Crime and Corruption, the Council of Europe Programme Office in Skopje has organised three round tables aimed at raising awareness of the relevant national stakeholders and the professional public regarding the establishment of the External mechanism. The round tables took place on 06 February 2019 in Skopje, 07 February 2019 in Stip and on 08 February 2019 in Bitola. The round tables were attended by representatives from the Basic and Higher Public Prosecutor's Offices in the country, the Ombudsman's Office, the Ministry of Internal Affairs, the Ministry of Justice, judges from basic and appellate courts, NGO representatives, as well as members of the academia and the international community.

(v) Measures aimed at public prosecutors

83. The authorities would like to highlight that following to the facts of the present case a new Criminal Procedure Code ("CPC") was adopted in November 2010, which entered into force in December 2013, in order to prevent similar violations, and, in particular to ensure that prosecutors carry out official investigation in comparable situations involving responsibility of the State.

84. Section 275 of the CPC sets a three month time-limit for the public prosecutor to decide upon a criminal complaint. It further stipulates that if the public prosecutor fails to meet this deadline, he is obliged to inform the complainant and the higher prosecutor about it, but also to provide the higher prosecutor with the reasons for his failure to decide.

85. In order to reduce arbitrariness in the decision making process of the public prosecutor and, at the same time, to enhance the prosecutorial actions in pending criminal complaints, the new CPC introduces a right to appeal to a higher prosecutor as a distinct right. According to Section 288 of the CPC, the decision of the public prosecutor not to prosecute has to be served on the injured party, who is empowered to lodge an appeal against it before the higher prosecutor within eight day time-limit. In case the private complaint is rejected by the public prosecutor, the complainant concerned shall also be provided reasons for the refusal. The higher prosecutor has an obligation to decide upon the appeal within 30 days. If the appeal is granted, the higher prosecutor is empowered to instruct his subordinate to continue the prosecution/investigation.

86. The Government would like to note that these amendments to the CPC will reinforce the prosecutorial system in general, and will afford an effective remedy to the victims regarding the alleged inactivity or arbitrariness of the public prosecutor. Although the legislative amendments obliging prosecutors to make a decision on criminal complaints within three months entered into force in 2013, it was not possible to apply the amended CPC to the present case, since pursuant to Section 566 of the CPC the proceedings which have been initiated before the entry into force of this law shall be terminated in accordance with the provisions of the CPC which was applicable at the time when they had been initiated.

87. In its 2016 report the CPT indicated that prosecutors did not act upon claims of ill-treatment by the police when they were brought to their attention nor did they ask about the origin of visible injuries displayed by persons brought before them. The CPT stressed it is imperative that prosecutors take appropriate action whenever they have reason to believe that a person may have been subjected to ill-treatment. More particularly, whenever reasons brought before them allege ill-treatment by law enforcement officials, the prosecutor should record the allegations in writing, order immediately a forensic medical examination and take the necessary steps to ensure that the allegations are properly investigated. The CPT therefore called upon the national authorities to deliver, through the appropriate channels, a clear message to prosecutors reminding them of their obligations to take appropriate action whenever they receive information indicative of ill-treatment (*ibid, §*14). In this respect, the authorities would like to indicate that since 2013 the State Public Prosecutor regularly sends oral instructions to the lower prosecutors recommending them to act with special diligence in all cases which concern issues of alleged police brutality and to report back to the hierarchically higher prosecutors that are subordinated to on all procedural actions which have been taken with respect to ensuring an effective investigation into such cases.

(vi) *Improving the definition of torture and avoiding the statute of limitation for criminal prosecution of those responsible for torture*

88. It is recalled that in its decision adopted in June 2017, the Committee of Ministers

> ‘’*strongly invited the authorities to reflect on abrogating the statute of limitation for the crime of torture”.*

89. In response to the above invitation, in September 2018, the Minister of Justice requested legislative expertise and assistance from the Council of Europe, aimed at improving the definition of torture in line with the relevant international standards and avoiding the statute of limitation for criminal prosecution of those responsible for torture. This assistance was requested in a period when the Ministry was considering and exploring the possibilities for legislative amendments to the Criminal Code, and the expert assistance had the purpose of making a further legislative progress in respect of the important aspects of the phenomena of torture and impunity.

90. On 4 October 2018 the Secretary General of the Council of Europe informed the Minister of Justice about the readiness of the Council of Europe to provide the Ministry with the requested legislative expertise and assistance aimed to contribute at improving the national legal framework for the protection against torture and ill-treatment and effective fight against impunity.

91. The expertise was successfully carried out at the end of 2018 and the beginning of 2019 with funds by the joint European Union/Council of Europe “Horizontal Facility for the Western Balkans and Turkey”. It resulted with in depth report with recommendations for appropriate legal solutions in the Criminal Code.

92. Based on the expert recommendations, the authorities are currently considering the possibility to amend the Criminal Code to eliminate the statute of limitation for criminal prosecution when it comes to allegations of torture.

A. Measures for preventing violations of Article 6 § 1 aimed at criminal courts

93. Even before the European Court rendered its judgment in the present case, Section 15(2) of the CPC of 1997, valid at the time, provided that “unlawfully obtained evidence, as well as evidence obtained in violation of human rights and freedoms, could not be used in court, and a judicial judgment could not be based on such evidence” (§52).This provision was also provided in Section 215 of the amended 2010 CPC pursuant to which a judgment convicting the defendant of a certain criminal offense could not be based on a confession obtained by use of force, intimidation or other prohibited conduct.

94. In view of this, the authorities consider that the violation at the present case did not stem from any deficiencies in the applicable legislative framework, but it rather resulted from the misapplication of the abovementioned Section 15(2) of the 1997 CPC by the domestic courts. Therefore, the authorities deem that no legislative changes in this respect will be required.

95. The authorities further consider that the case-law of the domestic courts had been brought in line with the Convention standards in this respect following the termination of the impugned criminal proceedings, even before the judgment was rendered. To corroborate this, the authorities would like to take note of the Supreme Court’s judgments Kzz.br.31/09

of 1 July 2009, Kzz.br.25/2013 of 10 December 2013 and Kvp.Kok1.br.3/2013 of 8 April 2014.

96. In particular, with its judgment Kzz.br.31/09 the Supreme Court upheld the request for protection of legality filed by the public prosecutor in charge, it quashed the lower courts' judgments and remitted the case for fresh reconsideration, as it concerned conviction of theft which was based on oral evidence heard from police officers regarding their conversation with the defendant who confessed before them that he had committed the offence, contrary to Section 355 (1) (8) of the then applicable CPC of 1997. The latter provided that there is a substantial breach of the provisions of criminal procedure when a judgment is based on evidence on which it could not be based except in a case when considering the other evidence it is obvious that the same judgment could also have been rendered without that evidence. The Supreme Court established that the lower courts had wrongly found that the statements obtained by the police officers that concerned the defendant's confession had constituted evidence on which a judgment could be based, as they had not been obtained under duress. The Supreme Court, therefore, instructed the first-instance court to which the case was remitted for fresh reconsideration to eliminate the substantial breach of the provisions of criminal procedure and to exclude such evidence from the case-file with a view to proper assessment of all verbal and material evidence and rendering a proper and lawful decision.

97. In its judgment handed down within the criminal proceedings Kzz.br.25/2013 the Supreme Court dismissed the request for protection of legality filed by the public prosecutor in charge, as it established that the first-instance court had acted correctly when it had excluded from the case-file the transcript of the hearing of the injured party in a case of robbery during the identification parade. In particular, relying on the safeguards enshrined in Article 6 of the Convention, the Supreme Court established that during the interrogation of the injured party and the identification parade the trial court had not informed the defendant of his right to defence, including his right to have his legal representative present during the identification and in the proceedings in general, and therefore, the statements which had been produced by the injured party during identification and interrogation in the absence of the defence council, had been unlawfully obtained and no court decisions could have relied on them, pursuant to Section 15(2) of the 1997 CPC.

98. With the judgment Kvp.Kok1.br.3/2013 the Supreme Court upheld the requests for extraordinary review of the final judgments of the lower courts as in the remitted proceedings the trial court adduced as evidence the lower courts' judgments handed down in the initial proceedings, which had been based on evidence that had been adduced with the application of the special investigative measures, despite the previous Supreme Court's instructions that pursuant to abovementioned Section 355 (1) (8) of the then applicable CPC of 1997 the defendant's convictions of criminal enterprise could not be based on such evidence and it should have, therefore, been exempted from the case-file. In this connection, the Supreme Court quashed the judgments rendered by the lower courts and remitted the case for fresh consideration before a modified panel of the trial court, instructing it to exempt from the case-file the judgments which had been based on the application of the

special investigative measures and to adduce and reassess all other evidence with a view to proper assessment of the facts of the case and rendering a proper and lawful decision.

99. The authorities deem that the above-mentioned examples of the Supreme Court's practice demonstrate that no conviction could be based on unlawfully obtained evidence and it is therefore, considered to prevent any future violations in this respect.

B. Training and awareness raising measures

100. The Academy for Training of Judges and Public Prosecutors has organized trainings dealing with the implementation and different aspects of Article 3 from the Convention.

101. On 23 and 24 April 2015 the Academy held training about the implementation of Article 3 of the Convention with a special focus on prevention of torture and the Court's practice regarding Article 3. The training was attended by criminal judges and public prosecutors from all appellate districts.

102. On 9 June 2015 the Academy organized training about the practical implementation of Article 3 which was attended by judges from all appellate districts, lawyers and representatives of the Bureau for Representation of the Republic of North Macedonia before the European Court of Human Rights. The training focused on the absolute prohibition of torture and the police misconduct.

103. On 7 July 2016 and on 1 December 2016 one-day trainings were held which dealt with the implementation of Article 3, the absence of effective investigation into allegations of police brutality and the Court's practice regarding Article 3. A special emphasis during these trainings is placed on discussion of the Convention standards and the European Court's case-law in respect of North Macedonia, including a study of the European Court's findings in the present case. The trainings were attended by public prosecutors and courts associates from all appellate districts, representatives from the Ministry of Internal Affairs and the Ministry of Justice. It is furthermore to be noted that this case was also discussed during the seminar on the European Court's jurisprudence in respect of Macedonia which was provided at the premises of the Academy by the legal experts of the OSCE Mission to Skopje on 2 November 2015. The lack of effectiveness of criminal investigations was the focus of two one-day seminars organized in joint cooperation between the two institutions on 13 and 14 October 2016.

104. In addition, the importance of reopening the domestic criminal proceedings following a judgment of the European Court finding a violation of the Convention as an individual execution measure was addressed during the dedicated trainings carried out by the Academy and the Office of the Government Agent on 10 November 2015, 1 April 2016 and 22 September 2016. These trainings were attended by criminal judges and prosecutors.

105. On 8 March 2017 the Academy held training about the effective investigation as an aspect of Article 3 from the Convention. The training was attended by public prosecutors

and criminal judges from all appellate districts and representatives from the Ministry of Justice.

106. From 11-15 September 2017 the Academy, as part of the program Horizontal Facility financed by the EU and implemented by Council of Europe for "Strengthening the capacities of the courts for protection of human rights and the fight against inhuman and degrading treatment and against impunity" organized training about Article 3 of the Convention. The training was attended by criminal judges and public prosecutors that deal with this topic. Another two-day training on 1 and 2 November 2017 as part of the same project was held which focused on the prohibition of torture and inhuman treatment guaranteed with Article 3 of the Convention.

107. On 1 and 2 March 2018 the Academy in cooperation with the Center for legal research and analysis organized a training which among other topics focused on the prohibition of torture from Article 3 and the right to life from Article 2 from the Convention with a special emphasis on the ineffective investigations and the judgements against North Macedonia. This training was attended by the court associates from the Bitola Appellate Court.

108. A two-day training on 20 and 21 March 2018 as part of the program Horizontal Facility financed by the EU and implemented by Council of Europe for "Strengthening the capacities of the courts for protection of human rights and the fight against inhuman and degrading treatment and against impunity" was organized by the Academy about Article 3 of the Convention. The training focused on all aspects of Article 3 including the substantive and procedural limb of the Article 3 and the features of effective investigations. The training was attended by criminal judges, public prosecutors and court associates from the Skopje Appellate district.

C. Publication and dissemination measures

109. The authorities provided publication of all European Court's judgment in the case at hand in order to make sure that the domestic judges are aware of and comply with the findings of the European Court's case at hand. The European Court's judgment has, in particular, been published in Macedonian and English and posted on the website of the Bureau for Representation of the Republic of North Macedonia before the European Court of Human Rights (www.biroescp.gov.mk), making it available to the public.

110. With a view to facilitating dissemination of the judgment and making it accessible to the expert public in Macedonia, the Office of the Government Agent prepared an analysis of the European Court's judgment in which it highlighted its most important findings and conclusions. The Government Agent ensured that the above-mentioned analysis and the European Court's judgment were transmitted to all relevant prosecutorial and judicial authorities and other competent bodies (the Supreme Court; all courts of appeals; the Skopje Court of First Instance; the State Public Prosecutor; all appeal prosecution offices; the Council of Public Prosecutors; the State Judicial Council; the Academy for Training of Judges and Prosecutors; the Ombudsman's Office; the Macedonian Bar Association and the

Ministry of the Interior). The Government therefore ensured that legal and law enforcement professionals in the country have been made aware of the European Court's findings.

111. The Government furthermore ensured that a brief summary of the European Court's findings in the present case has been included in the second edition of the Bulletin of the European Court's case law, which was published in February 2016 and disseminated to all judges and prosecutors nationwide. Along the lines, the Government would like to observe that the Bulletin was published within the carried out by the Office of the Government Agent and the German Foundation for International Legal Cooperation (IRZ).

IV JUST SATISFACTION

112. On 24 March 2016 the authorities ensured that the just satisfaction awarded in respect of non-pecuniary damage has been paid to the applicant. Thus the payment has been made within the deadline set out by the European Court.

V CONCLUSIONS

113. Against the background of the above detailed information, the Government of the Republic of North Macedonia considers that the measures already taken remedied the consequences for the applicant of the violations of the Convention found by the European Court in the present case.

114. The authorities furthermore consider that the general measures taken will be capable of preventing similar violations.

115. The Government takes this opportunity to reiterate before the Committee of Ministers its strong commitment in complying fully with its obligation under Article 46 (1) of the Convention in the present cases. The Government shall, therefore, keep the Committee of Ministers regularly informed of all relevant developments in the execution process.

ANNEX

Conclusions and the list of participants of the Council of Europe high-level conference held in Bečići, Montenegro on 18 October 2019.

DH-DD(2019)1231: Communication from North Macedonia.
Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.
FINAL (as of 18/10/2019)

CONCLUSIONS

The participants of the Council of Europe High Level Conference on Eradicating Ill-Treatment in Hands of the Law Enforcement Agents held in Bečići, Montenegro, on 18 October 2019,

- stressing their attachment to democracy, rule of law and human rights as core values for good governance, cooperation and unification in Europe;

- stressing the importance of ensuring law enforcement by police and other security forces in full compliance with the requirements of the European Convention on Human Rights as interpreted by the case-law of the European Court of Human Rights;

- stressing the requirements of lawfulness and proportionate use of force and the necessity of a system of effective investigations into abuses in order to bring those responsible before justice and prevent impunity, including by ensuring adequate periods of prescription, including the abolishment of prescription for the gravest crimes such as torture;

- stressing the importance of ensuring adequate regulatory frameworks for the actions of law enforcement agents, supported by well-designed training and awareness raising activities;

- stressing the importance of exchanging experiences between Member States;

- **welcome and support**

- the standard-setting, awareness-raising and cooperation possibilities developed by the Council of Europe;

- the work of the Council of Europe Commissioner for Human Rights, of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and of Council of Europe monitoring and consultative bodies;

agree

1. as regards actions of law enforcement agents that

   – any force used must be proportionate to the aim pursued;

   – ill-treatment of detained persons is illegal, unprofessional and will be subject of appropriate sanctions;

- a strong message of zero tolerance towards ill-treatment in hands of the law enforcement agents must be sent at high level in all States and also reiterated at all subordinate levels at appropriate intervals;

- every use of force by law enforcement agents should be properly documented, including descriptions of the injuries sustained;

- it is vital to deploy all efforts that could further promote lawful and proportionate use of force, including by ensuring proper training and awareness raising of law enforcement agents supported by appropriate resource allocations, in particular to the Judicial and Police Academies;

2. as regards investigations into allegations of ill-treatment by law enforcement agents that

   - such investigations must be commenced promptly, speedily carried out and made effective in each case (including through the association of victims and a sufficient element of public scrutiny) to demonstrate that criminal acts by law enforcement agents will be punished and to counter any culture of impunity;

   - such investigations must be carried out by investigators with necessary powers and who are fully independent of those being investigated and be thorough in nature, including the examination of any possibility of racial or other hate motives;

   - the efficiency of investigations must be subject to adequate review, including in more serious cases, also judicial review;

3. as regards the role of the prosecution authorities as leaders of criminal investigations that

   - effective investigations must be ensured into every credible assertion of ill-treatment and all necessary measures taken for this purpose;

   - such investigations must be speedily reinitiated *ex officio* after findings of violations by the European Court of Human Rights in order to remedy as far as possible the shortcomings established by the Court and ensure as effective investigations as remain possible and that binding instructions should be developed to clarify the ensuing practical measures to be taken notably with a view to establishing:

     (a) what investigatory steps can still be taken in the case,
     (b) what investigatory steps can no longer be taken for practical or legal reasons,
     (c) what means can be deployed to overcome existing obstacles, and

(d) what concrete results are expected to be achieved and within what time;

4. as regards the training and awareness-raising of law enforcement agents, prosecutors and judges that

- law enforcement agents must be regularly reminded of the prohibition of ill-treatment and torture;

- initial and continuing professional training should encompass courses highlighting the requirements of the European Convention of Human Rights as interpreted by the European Court of Human Rights as well as the standards of the CPT;

- trainings inculcate an impartial and rigorous approach towards the investigation, prosecution and judgment of cases alleged ill-treatment by law enforcement agents;

- avenues for setting up and/or maintaining a dedicated database in official languages of relevant European Court of Human Rights' judgments and decisions and of relevant Council of Europe Committee of Ministers' practice in supervision of execution should be explored in co-operation with the Council of Europe;

- exchanges of good practices and other avenues of co-operation between Council of Europe Member States should be explored when designing the curriculum and the offer of available courses should be enhanced;

5. as regards independent national human rights institutions and ombudspersons that

- these play an important role in preventing impunity for ill-treatment in hands of law-enforcement agents and should be ensured necessary institutional basis and resources to perform this role;

- to this end, law enforcement officers must be reminded regularly of mandate of independent national human rights institutions and ombudspersons, including their right to access information, in accordance with relevant legal standards;

- further efforts should be deployed to exchange good practices in this regard.

Funded by the European Union and the Council of Europe

EUROPEAN UNION

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Implemented by the Council of Europe

International Conference

"Tackling ill-treatment by police: addressing challenges revealed by judgments of the European Court of Human Rights and by other Council of Europe bodies"

18 October 2019

Hotel Splendid, Bečići, Montenegro

List of Participants

(Countries in alphabetical order)

Croatia

Mr Zvonimir Vrbljanin, *Head of Service for Illegal Migration, Ministry of the Interior*

Ms Kristina Duvnjak, *Service for Illegal Migration, Ministry of the Interior*

Ms Sani Ljubičić, *Deputy Attorney General*

Mr Ratko Šćekić, *Judge at the Criminal Department of the Supreme Court*

Ms Lora Vidović, *Ombudswoman*

Ms Ana Klasiček, *Head of Department for Coordination of Execution of the European Court of Human Rights judgments and decisions*

Montenegro

Mr Zoran Pažin, *Minister of Justice and Government Vice President*

Mr Mevludin Nuhodžić, *Minister of the Interior*

Mr Alen Nikezić, *Advisor to the Government Vice President*

Mr Danilo Čupić, *General Director of the Oversight Directorate of the Ministry of the Interior*

Mr Milan Adžić, *Head of Department for Internal Control of Police Work of the Ministry of the Interior*

Ms Miljana Radović, *State Prosecutor, Supreme State Prosecutor's Office*

Mr Dragoljub Drašković, *President of the Constitutional Court*

Mr Miraš Radović, *Judge at the Supreme Court*

Ms Senka Danilović, *Chairman of the Management Board Centre for Training in Judiciary and State Prosecution*

Ms Valentina Pavličić, *Representative of Montenegro before the European Court of Human Rights*

Ms Vanja Radević, *Advisor at the Office of the Representative of Montenegro before the European Court of Human Rights*

North Macedonia

Mr Oliver Spasovski, *Minister of the Interior and Government Vice President*

Ms Renata Deskoska, *Minister of Justice*

Ms Vaska Bajramovska-Mustafa, *Deputy Ombudsman*

Ms Marija Mitrova, *Counselor at the Ombudsman's Office*

Ms Natasha Gaber-Damjanovska, *Director of the Academy for Judges and Public Prosecutors*

Ms Danica Djonova, *Acting Agent before the European Court of Human Rights*

Serbia

Mr Radomir Ilić, *State Secretary of the Ministry of Justice*

Mr Čedomir Backović, *Assistant Minister of Justice*

Mr Dragan Kujundžić, *Assistant Minister of the Interior*

Mr Milivoj Nedimović, *Chairman of the Commission for Standards in Prevention of Torture in the Ministry of the Interior*

Ms Tamara Mirović, *Deputy Prosecutor General*

Ms Snežana Marković, *Deputy President of the Constitutional Court*

Ms Nataša Plavšić, *Judge of the Constitutional Court*

Ms Biljana Sinanović, *Judge of the Supreme Court of Cassation*

Ms Olja Jovičić, *Secretary-General of the Ombudsman's Office*

Mr Nenad Vujić, *Director of Judicial Academy*

Ms Zorana Jadrijević Mladar, *Agent of the Republic of Serbia before the European Court of Human Rights*

International Organisations

Mr Aivo Orav, *EU Ambassador to Montenegro*

Mr Mykola Gnatovskyy, *President of European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*

Mr Nils Melzer, *UN Special rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

Council of Europe

Mr Christophe Poirel, *Director of Human Rights*

Mr Fredrik Sundberg, *Head of the Department for the Execution of Judgments of the European Court of Human Rights*

Mr Tobias Flessenkemper, *Head of the Council of Europe Office in Belgrade*

Ms Katarina Nedeljković, *Head of Section, Department for the Execution of Judgments of the European Court of Human Rights*

Ms Bojana Nikolin, *Legal Officer, Department for the Execution of Judgments of the European Court of Human Rights*

Mr Sergey Dikman, *Programme Co-ordinator, Human Rights National Implementation Division*

Ms Silvija Panović-Đurić, *Senior Project Officer, Council of Europe Office in Belgrade*

Ms Ivona Dragutinović, *Senior Project Officer, Council of Europe Programme Office in Podgorica*

Ms Maja Mićić Lazović, *Senior Project Officer, Human Rights National Implementation Division, Council of Europe Office in Belgrade*

Ms Maria Milovanova, *Project Management Assistant*

Ms Sanja Leskovac, *Project Assistant, Council of Europe Office in Belgrade*

Mr Besnik Baka, *Commnication Officer, Council of Europe Office in Tirana*

Interpreters

Ms Jelena Pralas

Ms Vanja Jančić

Ms Ljubica Knežević

Ms Julijana Mitrović