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**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 30 June to 3 July 2008

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 (2008) 32.

Strasbourg, 4 November 2008

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I. INTRODUCTION

1. A delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a visit to “the former Yugoslav Republic of Macedonia” from 30 June to 3 July 2008 (see Appendix I for information on the delegation's composition and on the national authorities and organisations met).

The main objective of the visit was to examine the steps taken by the national authorities to implement the recommendations made by the CPT after the May 2006 and October 2007 visits. The CPT's delegation focused on the treatment and conditions of detention of sentenced and remand prisoners. In this context, it assessed developments in relation to prison healthcare services and examined the use of means of restraint within prison. Particular attention was also paid to the issue of safeguards against ill-treatment of persons deprived of their liberty by law enforcement officials. As regards Demir Kapija Special Institution for mentally disabled persons, about which the CPT expressed concern in the report on the May 2006 visit in relation to the treatment and conditions offered to residents, the Committee is still awaiting information on the outcome of the investigations into the deaths of several residents in this institution¹.

A. Context of the visit

2. In May 2006, the CPT carried out a periodic visit to “the former Yugoslav Republic of Macedonia” during which it examined the treatment and conditions of detention of various categories of persons deprived of their liberty. In the report on the 2006 visit², the CPT highlighted three major areas of concern, namely, ill-treatment of persons deprived of their liberty, the ineffectiveness of investigations into allegations of ill-treatment and the deplorable conditions of detention in the prisons visited. The response of the authorities to that report did not address most of the serious concerns raised by the Committee, particularly in respect of those sections of the report dealing with prison-related issues. Therefore, the Committee decided to carry out an ad hoc visit in October 2007 to assess the situation and to hold high-level talks with the national authorities.

3. In the report on the October 2007 visit, the CPT expressed its serious concern about the lack of concrete action to improve the situation of persons deprived of their liberty, in the light of the recommendations made in previous visit reports. More particularly, the CPT considered that in respect of the Ministry of Justice and the prison administration there had been a breakdown in cooperation with the Committee, as it appeared that no action had been taken to alleviate the deleterious conditions in prisons. For example: chains were still used for fixating inmates and, moreover, for essentially punitive reasons and with no system of recording or supervision in place; the conditions of detention in several of the accommodation units in Idrizovo Prison, which the CPT had stated could be described as inhuman and degrading, had not improved; no follow-up action had been taken by the authorities in respect of the repeated allegations of ill-treatment of inmates by prison officers at Skopje and Idrizovo Prisons; and the organisation of health-care services in prisons remained precarious.

¹ See CPT/Inf (2008) 5, paragraph 169 and CPT/Inf (2008) 23, paragraph 7.

² See CPT/Inf (2008) 5 and, for the response, CPT/Inf (2008) 6; (www.cpt.coe.int/en/states/mkd.htm).

4. In the light of the persistent failure by the national authorities to address certain fundamental shortcomings in the treatment and conditions of detention of persons deprived of their liberty, the President of the CPT informed the national authorities, by letter dated 19 December 2007, of the decision of the Committee to set in motion the procedure provided for in Article 10, paragraph 2, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (the Convention)³.

5. The response furnished by the Government of "the former Yugoslav Republic of Macedonia" to the report on the October 2007 visit once again failed to address many of the concerns identified by the Committee. Nevertheless, with a view to pursuing a constructive dialogue, the President of the CPT addressed a letter to the authorities on 25 March 2008, highlighting some of the major shortcomings in the response and requesting specific answers to the recommendations made by the Committee. The CPT also decided to re-examine the situation on the ground before taking a formal decision with regard to the Article 10, paragraph 2, procedure. On 27 June 2008, a response was received from the authorities, which did provide more information on the situation in the prisons, but it was neither complete nor sufficient to allay the concerns raised in the CPT's report.

6. In the course of the 2008 visit, the CPT's delegation visited the remand sections of Skopje and Tetovo Prisons, Idrizovo Prison and the Educational-Correctional Institution of Tetovo, "temporarily" located since 2001 in Skopje Prison. It also visited Tetovo Police Station. At the end of the visit, the delegation held talks with the Ministers of Interior and Justice to discuss the response to the report on the 2007 visit, and to provide feedback on the findings of the 2008 visit.

³ Article 10, paragraph 2, reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter".

B. Cooperation with the national authorities

7. As was the case in the past, the delegation was granted immediate access to the places of deprivation of liberty it wished to visit and to the persons it wanted to interview, and the information required to carry out its task was promptly provided.

However, the CPT has emphasised on numerous occasions that the principle of cooperation set out in Article 3 of the Convention also requires that decisive action be taken to improve the situation in the light of the Committee's recommendations. Further, for a meaningful ongoing dialogue to be conducted it is self-evident that the information provided in a State's response must be accurate and reliable. Regrettably, in the course of the 2008 visit the delegation discovered, once again, that certain information provided to the Committee in the response to its report on the October 2007 visit was unreliable (see the section below on prison establishments).

8. The CPT's delegation reiterated to the Minister of Justice and to the State Counsellor in the Ministry of Foreign Affairs responsible for International Organisations, that it was imperative for the Committee to be provided with complete and accurate information in relation to the various issues raised in its reports. Responses to the CPT's reports represent a key component of a dialogue designed to identify and remedy any shortcomings in a State's fulfilment of its obligation to prevent torture and inhuman or degrading treatment or punishment. If the information provided to the Committee is unreliable there can be no basis for cooperation.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Prison establishments

1. Preliminary remarks

9. In its report on the 2007 visit, the CPT highlighted a number of serious concerns as regards the situation in the prisons visited; notably, ill-treatment by prison officers of inmates, the abusive use of means of restraint, deplorable material conditions in the establishments visited, the absence of any regime, the lack of managerial capacity and widespread corruption among staff, inadequate provision of health-care and the lack of any supervision of the prisons. The Committee also referred to the partially unreliable nature of responses with which it had been provided; for example, as concerns the use of means of restraint, the screening of new arrivals into the prison system and access to outdoor exercise. It highlighted that these were clear examples of lack of cooperation.

Regrettably, few visible improvements were observed in the prisons visited in 2008; on the contrary, in general, the situation has continued to deteriorate. Moreover, yet again it transpired that the CPT could not count on the reliability of the information with which it was provided. For example, information provided concerning the recording of the use of restraints, investigations into allegations of ill-treatment by prison staff and access to outdoor exercise – to name but three issues – turned out to be inaccurate.

The CPT must express its profound disappointment over this state of affairs and **calls upon the national authorities to take the necessary measures to ensure that the responses provided to the Committee's reports are both comprehensive and reliable.**

2. Reform of the prison system

10. The CPT's delegation was provided with an update on the various plans to build new prisons and renovate existing ones, with the support of the European Agency for Reconstruction and the expected approval of a loan of 10 million Euros from the Council of Europe Development Bank. The Minister of Justice also assured the delegation that the additional wing to the remand section of Skopje Prison and the completion of the conversion of Štip Prison into a 'closed' prison would be completed before the end of 2008; and a new laundry, bakery, kitchen and heating system were expected to become operational at Idrizovo Prison before December 2008. The construction of a new closed department and of a prison hospital at Idrizovo Prison would hopefully begin in 2009.

Further, the delegation learned that more than 100 new staff had recently been recruited, primarily to bolster the number of prison officers at Skopje and Idrizovo prisons and to reinforce health-care staff resources. The delegation was told an additional 60 prison officers would be recruited before the end of the year, that all new staff had been provided with some training and that plans to establish a permanent training centre for prison staff were underway.

These developments are positive and **the CPT wishes to be kept fully informed about the implementation of all the above-mentioned projects.**

11. That said, certain fundamental structural issues remain. If prisons are to meet the stated goal of providing “security and rehabilitation”, the national authorities need to address, in a comprehensive manner, all the various aspects associated with running a modern prison system. Otherwise, the investment in the prison estate will not result in improved treatment of prisoners and better working conditions for staff. For this reason, it is essential to have a clearly mapped out strategic plan for the prison system, with identifiable objectives and a realistic timetable.

The findings of the 2008 visit demonstrated that no action has been taken to work out the staff required for each prison establishment or how they ought to be deployed, or as regards the development of managerial capacity, the categorisation of prisoners, the institution of an effective system of reporting and supervision, the provision of a purposeful regime for prisoners, etc.

Further, the CPT is concerned that current legal provisions are not being implemented (such as the right to two hours of outdoor exercise every day for remand prisoners as laid down in the 2004 Criminal Procedure Code, and the establishment of a Supervisory Commission for prisons as provided for in the 2006 Law on Execution of Criminal Sanctions). Indeed, at Skopje Prison the internal house rules for remand prisoners (as distributed to inmates the day before the delegation’s visit) were based upon the 1977 Yugoslav legislation.

12. Ultimately, for the CPT, it is action more than mere plans that count, as inmates are currently being held in totally unacceptable living conditions in Idrizovo and Skopje Prisons.

While acting to alleviate the conditions, the authorities must, in parallel, draw up a strategic plan covering the various areas recommended by the Committee (see CPT/Inf (2008) 5, paragraph 40). **The CPT calls upon the authorities to adopt such a plan.**

13. As regards the Educational-Correctional Institution, the CPT criticised as far back as its report on the November 2002 visit the fact that juveniles were placed in the same building as –and were associating with – adult sentenced prisoners in Skopje Prison. In July 2008, the situation remained unchanged. Further, the facilities, regime and staffing arrangements are still not at all conducive to attaining the goal of rehabilitating minors. Such a state of affairs is totally unacceptable.

The CPT was told about a Government Committee, set up on 6 March 2007, which was mandated to resolve the issue of the relocation of the institution⁴, but a concrete solution has still not been put forward. Urgent action, not further promises, is now required to find suitable alternative premises. **The CPT calls upon the national authorities to act accordingly.**

⁴ See CPT/Inf (2008) 6, page 8.

3. Ill-treatment

14. The delegation again received a number of allegations of ill-treatment of prisoners by staff in the establishments visited. The allegations mainly consisted of being beaten with truncheons as well as being punched and kicked. For example, in Idrizovo Prison the delegation received several allegations that prisoners continued to be beaten by staff in the office on the ground floor of the closed part of the prison, prior to being placed in an isolation cell; **it should be noted that these allegations referred to one particular shift.**

In the Educational-Correctional Institution several juveniles alleged that they had been hit by prison officers with truncheons, and many juveniles asked the delegation to ensure that these truncheons were removed from the premises. As was the case in the 2006 visit, the delegation saw that truncheons and handcuffs were kept in staff offices (openly in the confinement area office). In the CPT's view, there can be no justification for prison staff having recourse to truncheons in an educational environment and **the Committee calls upon the national authorities to ensure that they are immediately removed, once and for all, from the premises; it would like to receive written confirmation that this has been done.**

15. As to the use of means of restraint in prison, and particularly as concerns the remand section of Skopje Prison, the delegation confirmed that chains were no longer used. However, inmates continue on occasion to be restrained for prolonged periods attached to their beds by ankle and hand cuffs in the presence of other inmates, and with no supervision and an inadequate recording system (the existing system of a pile of loose-leaf sheets with varying amounts of detail cannot be considered as a proper register on restraints).

The CPT is obliged to reiterate that every measure of mechanical restraint: must involve the use of appropriately designed restraint equipment, which is properly applied by suitably trained staff; must be monitored and recorded, including centrally; and must be carried out in such a way as to maintain the dignity and safety of the prisoner. As stated in the guidelines on the use of means of coercion issued in November 2007, mechanical restraints should never be applied as a punishment or for the staff's convenience. Moreover, resort to such restraints should not usually take place in the presence of other inmates and there should always be a continuous direct personal supervision by staff, with the measure lasting only until such time as the prisoner has calmed down (usually minutes rather than hours).

The CPT calls upon the national authorities to take the necessary steps to comply with the above criteria.

16. In the light of the 2008 findings of the delegation, the CPT continues to be concerned about the treatment of vulnerable inmates in prison, particularly those in the remand section of Skopje Prison (matters which were dealt with in detail in previous reports). **The CPT calls upon the national authorities to issue clear guidelines to all prisons to ensure appropriate mental health assessment and care for persons at risk of self-harm or suicide.**

Guidelines should also be issued in respect of juveniles and children in detention; they should notably make provision for educational and other activities, as being locked in a cramped cell throughout the day is particularly harmful to the welfare of persons of this age.

The Committee would like to receive a copy of the above-mentioned guidelines.

4. Conditions of detention

17. The material conditions in Idrizovo Prison as well as in the remand sections of Skopje and Tetovo Prisons have, if anything, deteriorated since the visits in 2006 and 2007. The appalling conditions are compounded by the absence of any activities for prisoners.

18. At *Idrizovo Prison*, squalid living conditions in an unsafe and unhygienic environment continue to prevail in the majority of the living quarters⁵. The conditions in the unrenovated Wing B of the closed section of the prison, and in most of the rooms of “the school” and the geriatric and semi-open units can certainly be described as inhuman and degrading. The conditions are aggravated by the fact that running water was available for only one or two hours a day in Wing B. Not surprisingly, the delegation observed that more and more prisoners were suffering from insect bites and infections such as scabies. Such conditions are a risk to both staff and prisoners.

Moreover, the situation is compounded by the absence of any meaningful activities (work, sport, leisure or educational opportunities) and by the fact that prisoners in the closed sections are confined to their wings for most of the day.

The CPT was again informed that within a few years a new closed unit will be built at Idrizovo Prison. However, the conditions of detention are so deleterious that immediate measures need to be taken. **The CPT calls upon the national authorities to implement the recommendations made by the Committee in order to render Idrizovo Prison safe and hygienic, and to provide a proper regime of activities⁶.**

19. In respect of *Skopje Prison*, the same deficiencies noted in the past persist (such as pervasive dampness, dilapidation and unhygienic conditions in the cells), except that the overcrowding was more acute, with up to seven prisoners in four-bed cells measuring a mere 11m², three inmates having to sleep on mattresses on the floor. Also, the oppressive heat combined with the lack of ventilation and dampness in the cells resulted in extremely humid conditions. Further, inmates were being kept in such conditions for more than 23 hours and 40 minutes a day. The delegation was informed by the Director of Skopje Prison that she had refused a request from inmates to open the observation hatch in the doors of the cells, which might have alleviated the humid conditions.

Building a new remand wing in Skopje Prison will not resolve all of the observed deficiencies. **The CPT calls upon the national authorities to take the necessary measures to provide conditions of detention of a basically acceptable minimum level in the remand section of Skopje Prison.**

⁵ See CPT/Inf (2008) 5, paragraphs 62 to 65.

⁶ See CPT/Inf (2008) 5, paragraphs 67 and 75.

20. In respect of access to outdoor exercise, contrary to the information provided by the authorities, the minimum of one hour of outdoor exercise demanded by the CPT, which is less than that required by the Code of Criminal Procedure, is not being provided. In Tetovo Prison, remand prisoners are offered one hour of outdoor exercise for five days during one week and three days the following week. As for Skopje Prison, as mentioned above, inmates were offered a mere 15 to 20 minutes of outdoor exercise a day. **The CPT calls upon the national authorities to take the necessary steps, without any further delay, to institute a regime permitting all remand prisoners to be offered a minimum of one hour of outdoor exercise every day.**

21. The material conditions and regime at the *Educational-Correctional Institution* have not improved since the CPT's visit in May 2006⁷, and juveniles continue to associate with sentenced male prisoners. The delegation also visited the recently constructed confinement area where juveniles could be placed for disciplinary purposes, in principle for a period of up to 10 days but which in fact was often extended up to three months. The two 11m² cells in this area were devoid of any equipment apart from three bunk-beds and a partitioned floor-level toilet; the juveniles met by the delegation were locked in these cramped conditions 22 hours a day without being offered any activities (in-cell or out-of-cell). Such treatment is detrimental to their well-being. The national authorities should review the use of these cells and ensure that juveniles are only exceptionally placed in them, and for the shortest possible period of time; in all cases they should be guaranteed appropriate human contact, granted access to reading material and offered activities and outdoor exercise every day. **The CPT calls upon the national authorities to take the necessary steps, in the light of the above remarks, and to implement the recommendations concerning the Educational-Correctional Institution contained in the report on the 2006 visit.**

5. Health-care services

22. The findings of the 2008 visit illustrate that the provision of health-care services in Idrizovo and Skopje Prisons has not improved. The hiring of additional staff at both of these prisons is to be welcomed, but they have had little impact as yet in improving health-care. More specifically, none of the CPT's other recommendations concerning issues such as medical screening upon admission, medical confidentiality and health-care policy concerning somatic, psychological and/or psychiatric care have been implemented by the national authorities.

23. As to medical screening, the national authorities informed the CPT that it had instituted a system of thorough medical screening for each new inmate within 24 hours of admission to prison. However, the reality is that no thorough screening process has ever been instituted. The recent case of a prisoner who died in the remand section of Tetovo Prison without being seen by a doctor is illustrative of this deficiency (see paragraph 28). Moreover, the delegation observed once again that there is still no screening at all for injuries and that any medical screening of newly-admitted inmates which did take place was superficial and perfunctory, consisting of only an interview without a physical examination. Proper screening is indispensable, in particular in the interests of preventing the spread of transmissible diseases, suicide prevention and the timely recording of any injuries.

⁷ See CPT/Inf (2008) 5, paragraphs 120 to 125

The CPT calls upon the national authorities to ensure that every newly-arrived prisoner is properly interviewed and physically examined by a medical doctor as soon as possible after his admission. Save for exceptional circumstances, that interview should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor. The law should clearly reflect this requirement.

24. As regards medical confidentiality, the CPT has already addressed in its previous reports the question of the systematic presence of prison officers during medical examinations in prison. Nevertheless, despite the authorities having indicated in the past that this recommendation would be implemented, the findings from the 2008 visit reveal that there has still been no progress in this regard.

The CPT calls upon the national authorities to take steps to ensure that medical confidentiality is fully guaranteed in all prison establishments. This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers.

25. Illicit drugs are still easily available in Idrizovo Prison, and this state of affairs continues to have very negative repercussions on all aspects of prison life. As the authorities did not respond to the CPT's recommendations and comments on this matter in previous visit reports, **the CPT reiterates its recommendation to draw up a comprehensive strategy for the provision of assistance to all prisoners with drug-related problems, as one aspect of a national drugs strategy.**

Further, it would like to receive the comments of the national authorities on the remarks made by the Committee in the report on the 2007 visit⁸, in respect of the methadone therapy programme at Idrizovo Prison.

6. Staffing and management issues

26. In 2008, the delegation noted the presence of increased numbers of staff at Skopje Prison, where the complement of prison officers has doubled in size. However, the deployment of staff continued to be inefficient with the same number of prison officers on duty during the day as during the night, when there was less to do. Further, the delegation noted, once again, the acute underemployment of staff at both Skopje and Idrizovo Prisons⁹.

⁸ See CPT/Inf (2008) 23, paragraph 48

⁹ See CPT/Inf (2008) 5, paragraphs 55 to 59.

27. At Idrizovo Prison, the delegation received allegations from nearly every prisoner with whom it spoke concerning the involvement of staff in the traffic in mobile phones, drugs and other illicit goods, and similar allegations were received at Skopje Prison. The existence of a widespread belief among prisoners that anything can be bought undermines attempts to create order within a prison and to develop positive staff-prisoner relations. The Director of Skopje Prison acknowledged the involvement of prison staff in the trafficking of mobile phones. Moreover, the delegation observed that the metal detectors which had been introduced to check all persons entering and leaving the closed sections of Skopje and Idrizovo Prisons were switched off. **The CPT recommends that urgent measures be taken to improve the screening of all persons entering and leaving prison, and that an investigation be instituted into the allegations of staff involvement in the trafficking of illegal goods.**

28. The problems highlighted above are linked in many respects to the lack of managerial capacity in the prisons. The recent death of the high profile murder suspect Vlado Tanevski¹⁰, who is said to have drowned in a bucket of water in his cell, indicates a sequence of deficiencies by the management of Tetovo Prison and of the Prison Directorate.

The CPT's delegation interviewed the relevant inmates and consulted the available documentation concerning the procedures followed; a series of questions arise. Why was this high profile detainee sent to Tetovo Prison without the Director of the prison being consulted in advance? Why was he placed in a cell with three other prisoners - one of whom was also a murder suspect – when most of the remand cells were empty at the time? Why was there no medical examination of this prisoner? Why was there no proper supervision by staff at night – it should be noted that the doors to the cells do not have observation hatches and so any checking on the prisoners would require opening the doors. Why, following the death of Vlado Tanevski, were his three cell-mates not removed from the cell, separated and placed in different cells and the cell itself sealed for the duration of the investigation? Why were the three cell-mates instead requested to clean the cell before it was known what was the cause of death, thereby rendering impossible an effective forensic examination of the scene of the death?

The impression gained by the delegation was that the management of the prison merely wanted to wash its hands of the matter and not ascertain what really happened or what lessons could be drawn from the incident. **The CPT wishes to receive a copy of the investigative acts, the autopsy report and the conclusion of the investigation.**

29. The CPT has already expressed the hope that the national authorities would develop a prison administration exclusively based upon professional qualifications rather than on political criteria, so providing more stability to the system. However, the findings of the CPT's delegation in 2008 show that the problem remains as acute as ever. **The CPT reiterates its recommendation that the national authorities develop a professional managerial career path within the prison administration, based exclusively upon the competences required for managing an evolving system.**

¹⁰ Mr Tanevski was admitted to the remand section of Tetovo Prison on 21 June 2008 and was placed in cell n° 4, which measured 9.8m² and was already holding three other inmates. Reportedly, he was found dead at 1.50 a.m. on 23 June 2008 in the partly partitioned sanitary annexe (1.5m²) of the cell.

B. Law enforcement agencies

30. Law enforcement agencies were not the primary focus of the visit, but a follow-up visit was carried out to Tetovo Police Station. The delegation also interviewed many people who had recently been apprehended and were currently on remand in Skopje and Tetovo Prisons.

31. A considerable number of people interviewed in the course of the 2008 visit alleged that they had been ill-treated by law enforcement officials. The alleged ill-treatment consisted mostly of kicks, punches and blows with batons or the butts of pistols or various other objects, apparently often inflicted prior to and during questioning, either with a view to obtaining a confession or information or as a punishment. The delegation also received a credible allegation of sexual abuse of a person held overnight in a police station by a uniformed officer, after which the detained person was said to have been hosed down in his cell by two junior police officers. Certain allegations also referred to the use of excessive force at the time of arrest. Moreover, consistent accounts were received of the reappearance of the practice of hooding suspects upon their arrest and during their transportation to police stations and, in one case, during the ensuing interrogation. It should be noted that in many cases the allegations of ill-treatment concerned, once again, non-uniformed police officers, in particular members of the Special Mobile Police Units (more commonly known by their acronym "Alfa")¹¹.

The CPT's delegation also examined the widely reported allegations of ill-treatment by law enforcement officials of people detained in the context of the 'Mountain Storm' operation, when special forces of the Ministry of Interior were deployed to the village of Brodec, on 7 November 2007, to arrest seven persons who had escaped from Dubrava Prison in Kosovo in August 2007.

32. In most instances, the time of the alleged ill-treatment pre-dated the delegation's visit by several weeks and any marks which might have been caused by the ill-treatment alleged would almost certainly have healed in the meantime. Further, as there is still no screening of injuries upon admission to prison, the rudimentary medical files were of no value. Nevertheless, the delegation was able to corroborate several of the allegations through individual interviews with inmates in separate cells. In one case, the medical member of the delegation gathered evidence consistent with allegations of ill-treatment through an examination of the person concerned.

33. As stressed in previous reports, it is imperative that prosecutors and judges take appropriate action when there are indications that ill-treatment by the police may have occurred. Yet it would appear that no action has been taken by the relevant authorities to ensure implementation of the Committee's recommendation that, whenever persons brought before a prosecutor or judge allege ill-treatment by law enforcement officials, the prosecutor/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.

¹¹ The CPT is aware that such units no longer operate outside of Skopje. However, most of the allegations received by its delegation concerned incidents in Skopje.

In the course of the 2008 visit, the delegation again received many allegations that prosecutors and judges did not act upon claims of ill-treatment when they were brought to their attention. **The CPT wishes to be informed about the concrete steps being taken to ensure that prosecutors and judges take appropriate action when they receive information indicative of ill-treatment.**

34. In previous visit reports, the CPT has examined in detail the formal safeguards against ill-treatment (right of access to a lawyer and to a doctor, and the right to notify a third party of one's detention) offered to persons detained by law enforcement officials, and their operation in practice.

The concerns expressed in the previous reports¹² were once again confirmed by the findings during the 2008 visit.

The Minister of Interior recognised that the safeguards in place in police stations needed to be reinforced. The delegation was informed that plans were being developed to appoint and train designated custodial officers for each police station with detention cells. Further, inspections of police stations by the Sector for Professional Standards of the Ministry had started and would be carried out regularly. This is positive. Nevertheless, the CPT considers that immediate steps should be taken to guarantee the effectiveness of the formal safeguards through the circulation of specific instructions on this matter. Further, the basic training of police officers about the importance of these safeguards should be reinforced and a programme of frequent and unannounced visits to monitor the situation in police stations drawn up.

The CPT calls upon the national authorities to take action to strengthen the effectiveness of safeguards against ill-treatment, in the light of the above remarks. It wishes to receive details of the action taken.

35. The CPT has stated¹³ that it is not convinced that the Sector for Internal Control and Professional Standards (SICPS) within the Ministry of Interior can be considered as an authority independent from the police. In response, the Ministry of Interior has pointed out that the SICPS is in no way linked to the Public Order Directorate under which the police operate, and that it reports directly to the Minister of Interior. Further, the delegation was informed that the internal control and the professional standards divisions of the SICPS are operationally separate.

The Committee considers that the SICPS does indeed perform an important role in reporting back to the Minister on the functioning of the police and in working towards improving its professionalism. However, when it comes to investigating allegations of ill-treatment by law enforcement officials, the SICPS cannot be considered as an independent body which is able to carry out prompt, thorough and effective investigations.

¹² See CPT/Inf (2008) 5, paragraphs 17 to 23 and CPT/Inf (2008) 23, paragraphs 17 to 19

¹³ See CPT/Inf (2006) 36, paragraphs 31 to 36 and CPT/Inf (2008) 5, paragraphs 34 to 36.

36. As regards the above-mentioned 'Mountain Storm' operation, the CPT received documentation in February 2008 about the alleged ill-treatment of persons detained in the course of that operation. Its delegation had an opportunity to interview relevant persons and to be informed about the outcome of the investigation into the allegations of ill-treatment carried out by the SICPS. **The CPT wishes to be provided with a copy of the investigative acts and of the formal conclusion of the investigation.**

Nevertheless, given the necessity for such investigations to be independent and to be seen to be independent, **the CPT recommends that a fully independent investigation be carried out into the allegations of ill-treatment of persons detained in the course of Operation Mountain Storm.**

37. In conclusion, the fact remains that, whenever allegations of ill-treatment are not investigated - or are not seen to be investigated - in an effective manner, a message of impunity will be propagated. **The CPT recommends that more strenuous efforts be taken to stamp out ill-treatment, including through ensuring that all allegations of ill-treatment are properly investigated by a truly independent body.**

38. As to material conditions of detention at Tetovo Police Station, the delegation observed that the two cells still had neither access to light (whether natural or artificial) nor adequate ventilation, deficiencies highlighted as long ago as 1998. Such a state of affairs is unacceptable. **The CPT calls upon the national authorities to remedy the situation forthwith.**

C. Conclusion

39. Ten years after it first visited “the former Yugoslav Republic of Macedonia”, the quality of the CPT’s relationship with the national authorities remains, in many respects, profoundly unsatisfactory. Firstly, the Committee cannot rely on the information provided to it by the national authorities. Yet the provision of reliable information represents the bedrock for cooperation. Secondly, no visible improvements have been made to the situation, in the light of the CPT’s numerous recommendations. The stark conclusion is that the national authorities do not appear to take seriously their fundamental obligation to provide protection for persons deprived of their liberty.

The role of the CPT is to prevent ill-treatment through strengthening such protection. Despite the very serious concerns raised repeatedly by the Committee as regards, for example, ill-treatment by the police, ill-treatment of inmates (including juveniles) by prison officers and the deleterious conditions in prisons, no action has been taken. The responses received by the Committee are, on occasion, dismissive. Attempts to gloss over the very real deficiencies identified, for example as concerns the managerial capacity within the prison system, and to provide unreliable information (when information is forthcoming in the first place) are not the way forward if preventing ill-treatment is the goal.

The CPT is conscious of the many challenges facing the country and has patiently sought to promote a constructive dialogue. Such an approach has not been replicated by the national authorities, and the Committee has been left with a clear impression of indifference. A country committed to the rule of law and to the protection of human rights, as is the case of “the former Yugoslav Republic of Macedonia”, cannot forsake its international obligations to cooperate with treaty bodies such as the CPT.

The CPT desires to have frank and constructive relations with the national authorities based upon mutual trust and understanding. This requires those authorities to improve consistently the quality of their dialogue with the Committee, through implementing its recommendations. Of course, it is also essential that the CPT receives complete, accurate and reliable responses to its visit reports. **The CPT trusts that this will be the case when the response to the current visit report is submitted within three months¹⁴.**

¹⁴ See Appendix II for a list of the recommendations, comments and requests for information.

APPENDIX I

1. **Composition of the CPT's delegation**

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

- Mauro PALMA (Head of delegation and President of the CPT)
- Anna GAVRILOVA ANTCHEVA
- Olivera VULIĆ.

They were supported by Hugh CHETWYND of the CPT's Secretariat, and the following interpreters: Fatos KICA, Petrit SARACINI and Jasna ŠOPTRAJANOVA-VRTEVA.

2. **List of national authorities and organisations met by the delegation**

Ministry of Foreign Affairs

Svetlana GELEVA	State Counsellor for Multilateral Affairs
Simon KANEVCE	Department for Council of Europe, OSCE and European Multilateral Relations

Ministry of Interior

Gordana JANKULOVSKA	Minister
Voislav ZAFIROVSKI	Assistant Minister and Head of Sector for Internal Control and Professional Standards
Ivo KOTEVSKI	Assistant Minister for public relations
Toni STANKOVSKI	Assistant Director of Public Security
Antonio SANEV	Head of International Cooperation Section

Ministry of Justice

Mihajlo MANEVSKI	Minister
Jordan MIHAJLOVSKI	Director of the Directorate for Execution of Sanctions

Other authorities

Ixhet MEMETI	Ombudsman
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International Organisations

European Union Special Representative
OSCE Spillover Monitor Mission to Skopje

Non-governmental Organisations

Macedonian Helsinki Committee

APPENDIX II

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

Prison establishments

Preliminary remarks

recommendations

- the necessary measures to be taken to ensure that the responses provided to the CPT's reports are both comprehensive and reliable (paragraph 9).

Reform of the prison system

recommendations

- a strategic plan to be adopted covering the various areas recommended by the CPT in its report on the 2006 visit (see CPT/Inf (2008) 5, paragraph 40) (paragraph 12);
- urgent action to be taken to find suitable alternative premises for the Educational-Correctional Institution (paragraph 13).

requests for information

- the CPT to be kept fully informed about the implementation of the projects to build new prisons and renovate existing ones, and to recruit and train prison staff (paragraph 10).

Ill-treatment

recommendations

- the national authorities to ensure that truncheons are immediately removed, once and for all, from the premises of the Educational-Correctional Institution (paragraph 14);
- the necessary steps to be taken to comply with the criteria set out in paragraph 15 on the use of means of mechanical restraint (paragraph 15);
- clear guidelines to be issued to all prisons to ensure appropriate mental health assessment and care for persons at risk of self-harm or suicide (paragraph 16);
- guidelines to be issued in respect of juveniles and children; the guidelines should notably make provision for educational and other activities, as being locked in a cramped cell throughout the day is particularly harmful to the welfare of persons of this age (paragraph 16).

comments

- the allegations of ill-treatment of prisoners by prison staff at Idrizovo Prison referred to one particular shift (paragraph 14).

requests for information

- written confirmation that truncheons have been removed from the premises of the Educational-Correctional Institution (paragraph 14);
- a copy of the guidelines concerning mental health assessment and care for persons at risk of self-harm or suicide in prison (paragraph 16);
- a copy of the guidelines concerning juveniles and children in detention (paragraph 16).

Conditions of detention

recommendations

- the national authorities to implement the recommendations made by the CPT in order to render Idrizovo Prison safe and hygienic, and to provide a proper regime of activities (paragraph 18);
- the necessary measures to be taken to provide conditions of detention of a basically acceptable minimum level in the remand section of Skopje Prison (paragraph 19);
- the necessary steps to be taken, without any further delay, to institute a regime permitting all remand prisoners to be offered a minimum of one hour of outdoor exercise every day (paragraph 20);
- the necessary steps to be taken at the Educational-Correctional Institution to review the use of the cells in the confinement area, in the light of the remarks contained in paragraph 21, and to implement the recommendations concerning the Institution contained in the report on the 2006 visit (paragraph 21).

Health-care services

recommendations

- the national authorities to ensure that every newly-arrived prisoner is properly interviewed and physically examined by a medical doctor as soon as possible after his admission. Save for exceptional circumstances, that interview should be carried out on the day of admission, especially insofar as remand establishments are concerned. Such medical screening on admission could also be performed by a fully qualified nurse reporting to a doctor. The law should clearly reflect this requirement (paragraph 23);
- steps to be taken to ensure that medical confidentiality is fully guaranteed in all prison establishments. This implies that all medical examinations of prisoners should be conducted out of the hearing and - unless the doctor concerned requests otherwise in a particular case - out of the sight of prison officers (paragraph 24);

- a comprehensive strategy to be drawn up for the provision of assistance to all prisoners with drug-related problems, as one aspect of a national drugs strategy (paragraph 25).

requests for information

- comments on the remarks made by the CPT in the report on the 2007 visit (see CPT (2007) 76, paragraph 48), in respect of the methadone therapy programme at Idrizovo Prison (paragraph 25).

Staffing and management issues

recommendations

- urgent measures to be taken to improve the screening of all persons entering and leaving prison (paragraph 27);
- an investigation to be instituted into the allegations of staff involvement in the trafficking of illegal goods (paragraph 27);
- a professional managerial career path to be developed within the prison administration, based exclusively upon the competences required for managing an evolving system. (paragraph 29).

requests for information

- a copy of the investigative acts, the autopsy report and the conclusion of the investigation into the death of Vlado Tanevski in Tetovo Prison on 23 June 2008 (paragraph 28).

Law enforcement agencies

recommendations

- action to be taken to strengthen the effectiveness of the safeguards against ill-treatment, in the light of the remarks made in paragraph 34 (paragraph 34);
- a fully independent investigation to be carried out into the allegations of ill-treatment of persons detained in the course of Operation Mountain Storm (paragraph 36);
- more strenuous efforts to be taken to stamp out ill-treatment, including through ensuring that all allegations of ill-treatment are properly investigated by a truly independent body (paragraph 37);
- the deficiencies in the material conditions of detention at Tetovo Police Station to be remedied forthwith (paragraph 38).

requests for information

- the concrete steps being taken to ensure that prosecutors and judges take appropriate action when they receive information indicative of ill-treatment (paragraph 33);
- details of the action taken to strengthen the effectiveness of safeguards against ill-treatment (paragraph 34);
- a copy of the investigative acts and of the formal conclusion of the investigation by the SICPS into the allegations of ill-treatment of persons detained in the course of the 'Mountain Storm' operation (paragraph 36).

Conclusion

Comments

- the CPT trusts that the response to the current visit report, to be submitted within three months, will be complete, accurate and reliable (paragraph 39).