



**Optional Protocol to the  
Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,  
Inhuman or Degrading Treatment or Punishment**

**Visit to the former Yugoslav Republic of Macedonia\*  
undertaken from 23 to 29 April 2017: observations  
and recommendations addressed to the State party**

**Report of the Subcommittee\*\***

**Addendum**

**Replies of the former Yugoslav Republic of Macedonia\*\*\*, \*\*\*\***

[Date received: 16 August 2018]

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\* Since 14 February 2019, “North Macedonia” has replaced “the former Yugoslav Republic of Macedonia” as the short name used in the United Nations.

\*\* In accordance with article 16 (1) of the Optional Protocol, the report of the Subcommittee was transmitted confidentially to the State party on 10 January 2018. On 22 April 2019, the State party requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.

\*\*\* On 22 April 2019, the State party requested the Subcommittee to publish its replies, in accordance with article 16 (2) of the Optional Protocol.

\*\*\*\* The present document is being issued without formal editing.



## **I. Introduction**

1. The Government of the Republic of Macedonia highly appreciates the role of the Subcommittee on the Prevention of Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and its contribution and proactive approach to eliminating torture and ill-treatment worldwide.
2. The Government of the Republic of Macedonia elected on 1 June 2017 is fully committed to continue cooperation with the SPT and to work on the implementation of its recommendations. A strategy for zero tolerance of ill-treatment was adopted by the new Government, which is also fully committed to improving the conditions of detention, eliminating all factors that may lead to ill-treatment and to thorough investigation of all possible cases of mistreatment by institutions.

## **II. Reprisals**

3. The Government of the Republic of Macedonia wishes to assure the SPT that there were no acts of reprisals against anyone who met and had contacts with the SPT delegation during its April 2017 visit to the country.

## **III. Torture and ill-treatment**

4. The working group on the amendment of the Criminal Code has taken into account the recommendations of all relevant international bodies, including the SPT, and has been working on the harmonization of the definition of torture in line with the CAT and the jurisprudence of the ECHR.
5. Fight against torture and ill-treatment is part of the Government reform agenda. One of the priorities is the establishment of an external oversight independent mechanism for the work of the police, the model for which was adopted by the Government on 12 September 2017.
6. For that purpose, the following legal amendments were prepared:
  - Draft Law Amending the Law on Courts (status: in parliamentary procedure, 2/3 majority);
  - Draft Law Amending the Law on Public Prosecutor's Office (status: in parliamentary procedure, 2/3 majority);
  - Draft Law Amending the Law on Public Prosecutor's Service (status: adopted by the Assembly);
  - Draft Law Amending the Law on Internal Affairs (status: adopted by the Assembly);
  - Draft Law Amending the Law on Police (status: adopted by the Assembly);
  - Draft Law Amending the Law on Execution of Sanctions (status: adopted by the Assembly) and Draft Law Amending the Law on the Ombudsman (status: adopted by the Assembly).
7. The proposed amendments refer to the following:
  - The Draft Law amending the Law on Courts prescribes a new duty of the specialized unit in charge of prosecution of acts in the field of organised crime and corruption on the entire territory of the Republic of Macedonia in the Basic Court Skopje I-Skopje; in charge of prosecution of criminal acts performed by police officers and for officials from other law enforcement authorities;
  - The Draft Law amending the Law on Public Prosecutor's Service shall determine the following: professional titles of employees, the procedures for employment and promotion in the Unit for Investigation and Prosecution of Criminal Acts performed

by persons with police authorizations and employees within the prison police, work experience and the salaries, as well as the discipline and material accountability of employees in the newly established unit;

- The Law Amending the Law on Internal Affairs prescribes an obligation after receiving a criminal charge or obtaining an information that a police officer committed a criminal offence in performing official action or action outside the service by using a serious threat, force or means of coercion resulting into death, serious body injury, body injury, unlawful deprivation of liberty, torture and other cruel, inhuman or degrading treatment and punishment, if the law provides criminal prosecution ex officio, the Ministry will without delay inform the Unit for investigation and prosecution of criminal acts committed by persons with police authorizations and members of the prison police in the Basic Public Prosecutor's Office for Prosecuting Organised Crime and Corruption. Within these frameworks, the Ministry, together with the notification, submits to the Unit all the sources of information about the perpetrated crime, the perpetrator and the victim and other sources of information at its disposal;
- The Law Amending the Law on Police prescribes for an obligation after receiving a criminal charge or obtaining an information that a police officer committed a criminal offence in performing official action or action outside the service by using a serious threat, force or means of coercion resulting into death, serious body injury, body injury, unlawful deprivation of liberty, torture and other cruel, inhuman or degrading treatment and punishment, if the law provides criminal prosecution ex officio, the Ministry will without delay inform the Unit for investigation and prosecution of criminal acts committed by persons with police authorizations and members of the prison police in the Basic Public Prosecutor's Office for Prosecuting Organised Crime and Corruption, the organizational unit in the Ministry responsible for internal control and professional standards undertakes actions for initiating disciplinary procedure for that officer upon approval by the public prosecutor from the Unit for investigation and prosecution of criminal acts committed by persons with police authorizations and members of the prison police in the Basic Public Prosecutor's Office for Prosecuting Organised Crime and Corruption, for which it prepares report and opinion to the Minister of Interior;
- The Law Amending the Law on Execution of Sanctions prescribes for an obligation upon obtained knowledge about the existence of grounds for suspicion that a member of the prison police committed a criminal offence when undertaking an official action or action outside the service with the use of force resulting in death, serious body injury, body injury or unlawful deprivation of liberty, if the law provides criminal prosecution ex officio, the penitentiary correctional and educational, correctional institutions or the Directorate for Execution of sanctions without delay to notify the Unit to investigate and prosecute crimes committed by people with police powers and members of the prison police at the Public Prosecutor's Office for Organised Crime and Corruption;
- The Law Amending the Law on the Ombudsman provides for creation of a special external body, as an additional corrective of the investigation system in cases of criminal offences committed by authorized officials at the Ministry of Interior and members of the prison police. For that purpose, a special organizational unit, a mechanism for civil control, is envisaged to be established within the Ombudsman. Namely, three representatives from nongovernmental organizations will be a part of that organizational unit and will undertake actions and measures for providing support and protection of victims, their rights and their interests in all procedures, through an efficient and transparent investigation, in criminal acts and other unlawful actions committed by employees of the Ministry of Interior when exercising police authorizations and by members of the prison police. The selection of nongovernmental organizations is performed by the Assembly on the basis of a public call that is published annually. The selected three nongovernmental organizations will then nominate one representative for an external member of the Ombudsman's civil control mechanism with a mandate of one year.

8. In order to ensure successful implementation of the external mechanism, an Action Plan for establishing external mechanism for oversight of the work of persons with police authorisations and the prison police was prepared. It includes concrete measures, competent institutions and timeframes with deadlines for their realisation, necessary funds for their realisation, as well as whether they have been projected in the budgets of the competent institutions. The Action Plan was adopted by the Government on 3 April 2018.

9. The Action Plan consists of 3 parts: establishing of a Unit for investigating and prosecution of crimes committed by persons with police authorisations and members of the prison police within the Basic Prosecutor's Office for Prosecuting Organised Crime and Corruption; establishing of a separate organisational unit – a mechanism for civilian control within the Ombudsman, as well as additional legislative amendments (laws and by laws) by the institutions with persons in possession of police authorisations and the members of the prison police.

## **IV. Police detention**

### **A. Fundamental safeguards**

10. As regards section III of the Report dedicated to police detention for purposes of observing procedural justice, and with a view to ensuring complete alignment of the Standard Operating Procedures (SOP) for the Treatment of Persons Subject to Restricted Exercise of their Rights to Free Movement (persons in police custody, apprehended, and detained) with the standards of the Council of Europe Committee for the Prevention of Torture, a process to revise the aforementioned SOP was launched in 2017.

11. The activity was conducted under the mentorship of an international expert appointed by the Council of Europe and as part of the EU/Council of Europe Horizontal Facility titled Enhancing Human Rights Policing.

12. In January 2018, the revised SOP was adopted once the Office of the National Ombudsman submitted its opinions and proposals in its regard. This new SOP has been disseminated across all police stations.

13. Regarding the right to a lawyer, it has been established that only a minor percentage of persons had exercised their right to a defence lawyer in police procedures, which is, first and foremost, owed to the fact that there is no legal requirement prescribed by the country's legislation for a lawyer to be present in such procedures on mandatory grounds.

14. In keeping with the procedure prescribed, "should detainees ask that a lawyer be present and available for consultation, police officers shall ensure that they are allowed to call a lawyer of their own choosing and shall provide them with the catalogue of lawyers as drawn-up and submitted to police stations by the Bar Association, and, without making suggestions as to the selection of a particular lawyer on the list, shall allow detainees to select one of the lawyers listed in the aforementioned catalogue. Regardless of detainees deciding to ask for a lawyer or not, they shall sign the official report at the place of the sheet reserved for signature.

15. Should detainees ask for a lawyer, the conduct of all activities shall be postponed until the arrival of the lawyer, to no longer, however, than 2 (two) full hours since the moment of the lawyer being called.

16. Should the lawyer selected fail to arrive within the aforementioned deadline of two hours, detainees have the right to choose another lawyer listed in the aforementioned catalogue of lawyers as submitted by the Bar Association.

17. Detainees may converse/consult with their lawyer in private and the lawyer may be present at police interviews conducted with detainees.

18. Detainees may also subsequently ask to be granted the right to a lawyer."

19. With regard to the right to a medical doctor, detainees may receive medical assistance should it be “visibly” necessary, should they request it, or should they not request it, but police officers present consider it necessary.

20. The issue of ensuring mandatory medical screening of detainees upon arrival has often been a topic of discussion at trainings and work meetings and carrying it out in practice would only become fully possible if special detention centers with an around-the-clock presence of an on-duty medical doctor are established.

21. The new Standard Operating Procedures deals with this matter and established assertion by means of setting forth the following obligation: “Should detainees be established to be suffering from serious injury or be complaining of pain or injury, their right to being afforded medical assistance takes primary precedence above all else and all other activity shall be undertaken only after they have been provided medical assistance.

22. All requests for receiving medical assistance shall be granted without exception and police officers shall not be allowed to filter any such requests.”

23. In view of the recommendations outlined in the SPT Report, the MoI has been all of them taken into consideration and particularly during the process of drafting the revised Standard Operating Procedures, the text of which particularly stresses the obligation of ensuring that a defence lawyer is present over the course of conducting police interviews with detainees, as well as of detainees being allowed to converse/consult with their lawyer in private.

24. Furthermore, a separate chapter of the revised SOP particularly highlights the absolute prohibition as stipulated by Article 3 of the European Convention on Human Rights (and Article 2 of the CAT) and establishes connection with Article 142 of the Criminal Code of the Republic of Macedonia “Torture and other cruel, inhuman or degrading treatment and punishment”, thus bringing to the fore and underscoring the chief demand as outlined in the recommendation made in the SPT Report for the MoI employing *zero tolerance* in regard to the matter in question.

## **B. Material conditions**

25. The 2016–2020 Police Development Strategy outlines a specific objective numbered 4.7 which has been entitled Strengthening the Technical Capacities of Detention Premises in Police Stations. The Strategy further puts forward a concrete timeframe for the pursuance of said specific objective.

26. At this juncture, under a Decision of the Minister of the Interior, a Working Group has been established tasked with determining which police stations and sectors of the interior (PS and SoI) across the country are most in need of refurbishment and should have new facilities constructed.

27. After establishing which PS should be prioritized, a report will ensue outlining the timeframe for further activity. The specific objective is to be met by 2020.

28. With reference to the holding cells in Kicevo police station, the MoI would like to report that the conclusion outlined in said items as regards the PS in question indeed corresponds with the actual state of the facility mentioned.

29. In September 2017, the Strategic Planning, Standards, and Quality Control Unit at the MoI Public Security Bureau (PSB) filed an information paper to the MoI General and Common Affairs Department pointing out that, as of 2012, Kicevo PS had been constantly pinpointed as a priority PS in terms of needing refurbishment to the detention premises within its compounds.

30. Moreover, Kicevo PS is one of the police stations that has been listed as a priority objective in the Draft 2018–2020 Budget Calculation, which formed part of the process of drafting the Work Program of the Government of the Republic of Macedonia, being formulated under the following title: Refurbishment of Detention Facilities with Police Interviewing and Suspect Line-Up Face Identification Premises.

## **V. Penitentiary institutions**

### **A. “Healthcare in prisons”**

31. In order to establish a sustainable healthcare insurance system for the Persons deprived of their liberty (hereinafter referred to as: PDTL) at the Penal-Correctional Institutions (hereinafter referred to as: PCI) and in the Educational-Correctional Institutions (hereinafter referred to as: ECI), the Directorate for Execution of Sanctions (hereinafter referred to as: DES) has set a working group for the preparation of draft amendments to the national legislation that regulates the healthcare insurance of the PDTL. The working group includes representatives of the Ministry of Health, the Health Insurance Fund of the Republic of Macedonia and the Ministry of Labor and Social Policy. Namely, the preparation of the new Draft Law on Execution of Sanctions is in progress, whereby the found shortcomings regarding this matter shall be implemented in the New Law on Execution of Sanctions.

32. Furthermore, the transfer of healthcare duties from the penitentiary system to the Ministry of Health is ongoing. Since mid-April 2018, 10 healthcare workers from prisons have already been taken over by the Ministry of Health that is to say by the Public Health Institution Skopje.

33. As for other health care issues, the Directorate for Execution of Sanctions continuously points to the obligation to follow all instructions, procedures and protocols in the field of health care. Regarding the increase in the medical staff, the DES constantly requests employment of new staff, and at the same time this problem is expected to be resolved with the complete takeover of healthcare by the Ministry of Health.

34. Within the activities of the Project for Reconstruction of the PCI and the ECI, financed by the Council of Europe Development Bank which is carried in 2 stages, the construction and reconstruction of the buildings of the Closed Female Unit at the PCI Idrizovo are scheduled for the Segment 2 of the realization of the project (2019 to 2022).

35. Within the second phase of PCI Idrizovo, a Healthcare Unit shall be constructed.

36. The second phase for the PCI Idrizovo envisages the construction of a Healthcare Department with all its functions, arranged on one floor/level: Unit 1 and Unit 2, rooms for hospital treatment in Unit 2, laundry and medical waste section, rooms for outpatient treatment, methadone treatment unit, and room for staff. All units and sub-units shall be separated from each other by double doors with grids.

### **B. Overcrowding**

37. As regards the overcrowding in prisons, the National Strategy for Development of the Penitentiary System of the Republic of Macedonia envisages a special Strategic Objective 1 for Improvement of the conditions of at the penal-correctional and at the educational-correctional institutions, which shall increase the accommodation capacity, the spatial conditions, the working conditions as well as the accommodation conditions of the said institutions.

38. The activities shall be carried by continuation of the Project for reconstruction of the penal-correctional institutions of the Republic of Macedonia which is financed by a loan from the Council of Europe Development Bank, in terms of renovation and construction of new buildings. As mentioned previously, the Project has two segments. Upon completion of the segment 1 by the end of 2018, the buildings from the first phase of construction at PCI Idrizovo shall be put into use, to be more precise, the new buildings of the PCI Idrizovo (The Open and the Semi-Open Unit) and the ECI Tetovo shall become fully operational.

39. Segment 2 of the project (2019–2022) envisages construction/reconstruction of buildings of the Closed Unit and the Female Unit at the PCI Idrizovo and construction and

reconstruction of the buildings of the Closed Unit and the Female Unit at PCI Idrizovo, as well as construction and reconstruction of buildings at Skopje Prison.

40. Regarding the Law on probation, it was promulgated in 2015 (The Official Gazette of the Republic of Macedonia № 226/2015). The Probation Service is gradually established, that is to say, the Probation Office at Skopje I Skopje Court of First Instance was established and commenced its operation as a Pilot Project in mid-November 2017, in order to assess the operation manner of the new service, as well as to make the required improvements and adjustments of the service and its practical functioning. The Probation Office is fully equipped with furniture and IT equipment. Two employees of the Directorate for Execution of Sanctions have been appointed to perform their work assignments in this office. Additionally, the Probation Offices in Shtip, Veles, Tetovo, Strumica and Prilep are provided. The Directorate has allocated the finances for equipping the other Probation Offices, and this public procurement is scheduled with the Directorate's Public Procurement Plan for 2018.

41. Among other, some probation offices are furnished, and during the period that follows they shall be additionally furnished and equipped. Funds are provided for the maintenance of electronic surveillance equipment and a procedure has been initiated to conduct a public procurement for maintenance.

42. The implementation of the Twining Project shall commence in August 2018, which foresees many activities to establish and strengthen the capacities of the probation services.

43. In terms of bylaws pursuant to the Law on Probation, the bylaws have been adopted by the Minister of Justice, and during 2018 they shall be published in the Official Gazette of the Republic of Macedonia.

44. Moreover, in order to diminish the overcrowding at penal-correctional institutions, the Law on Amnesty was promulgated in January 2018, whereby up to and including 23 February 2018, a total of 2345 sentenced persons were covered, 736 of them were completely released, and the prison sentence to 1560 persons was reduced 30%. The Law on Amnesty represents a short-term measure which alleviates the capacities of the penal-correctional institutions which were confronting extreme overcrowding, thereby creating an opportunity for effective and efficient realization of other planned measures and activities of DES, which shall contribute to the long-term handling of the challenges of the penitentiary system.

### **C. Petty corruption**

45. The DES has set a special strategic objective in the National Strategy for development of the penitentiary system of the Republic of Macedonia related the efforts to counter corruption and improper treatment in prisons. The said strategic objective comprises of measures and activities to counter the aforementioned phenomena.

46. Taking into account the importance of these two areas, one specific objective (out of a total of 3) within the framework of the Project "Strengthening the Protection of the Rights of Sentenced Persons", which is implemented by the Council of Europe concerns strengthening of the protection of the rights of sentenced persons by introducing effective mechanisms for dealing with cases of improper treatment and corruption in PCI and in ECI.

47. In that regard, two international consultants hired by the Council of Europe carried a mission in the period 11–15 June 2016 to assess the situation regarding the improper treatment and cases of corruption in the Macedonian penitentiary system. They prepared a Report on the assessed situation, which was presented at a workshop held on October 12, 2016, attended by all stakeholders.

48. Considering the complexity of these two phenomena (improper treatment and corruption), two working groups were established in collaboration with two international and one national expert, engaged by the Council of Europe, which prepared separate Strategies on Zero Tolerance of these phenomena, as follows: Strategy for implementation

of Zero-Tolerance Policy on improper treatment, as well as a Plan for prevention of corruption, which were adopted by the DES in March 2017.

49. On 20–22 February 2018, three one-day training sessions were carried in order to enhance the awareness of the management personnel and other prison personnel as well as to familiarize them with the new Strategy for Policy on Zero-Tolerance for improper treatment and with the Plan for Prevention of Corruption. The training was attended by 90 employees in the penitentiary system.

50. Furthermore, pursuant to the National Strategy, a Standard Operative Protocol on records keeping and notification was prepared with the assistance of an international expert, hired by the Council of Europe that is on use of means for coercion, the implementation of which commenced in all PCI and ECI in May 2017.

51. Among others, in line with the National Strategy, and with the assistance of an international expert, hired by the Council of Europe, a Code of conduct for the personnel at the PCI and the ECI was prepared. In February 2018 it was published in the Official Gazette of the Republic of Macedonia, and by mid-April 2018 the training on the said Code for the entire personnel at the PCI and the ECI began. Following this, the Code shall be transmitted to all employees.

52. Also, the DES has commenced the continuous training for the prison police personnel, among which the training on human rights, with a purpose to prevent improper treatment in the penitentiary system. To this end, pursuant to the Annual Plan on training of the prison police personnel for 2017, during April–May 2017 the following trainings were carried at the Training Center at PCI Idrizovo, delivered by two representatives of the Bureau for Representation of the Republic of Macedonia before the European Court of Human Rights: “International and national standards in the area of execution of sanctions” and “Human rights in prison conditions”. The training covered 221 employees of the prison police and employees of the re-socialization sector of the PCI: 113 of PCI Idrizovo; 55 employees from Skopje Prison; 33 employees of Prison Kumanovo with Open unit in Kriva Palanka, and Prison Tetovo

53. The trainings have been delivered by a trainer who is a member of the prison police (Head of Prison police from Skopje Prison). The trainings are planned to be held continuously during the next period.

54. On May 17, 2017, a Memorandum of Cooperation was signed between the Directorate for Execution of Sanctions and the State Commission for Prevention of Corruption (SCPC), on the basis of which representatives of the State Committee for Prevention of Corruption held continuous trainings for the employees in the penitentiary and correctional institutions regarding the prevention of corruption. The trainings commenced on June 1, 2017, covering 24 employees from the sector for re-socialization and the prison police from four penitentiary institutions, namely: Idrizovo Penitentiary – 7 people, Prison Skopje – 9 people, Kumanovo Prison with an Open unit in Kriva Palanka – 5 people and Prison Tetovo – 3 people.

#### **D. Remand detention**

55. Within the Project “Reconstruction of the penitentiary institutions in the Republic of Macedonia”, the Ministry of Justice – the Directorate for Execution of Sanctions submitted an Information to the Government of the Republic of Macedonia in November 2017 in regards of the construction of a Pre-trial and Pre-sentence Unit with accompanying facilities and a Courtroom at the PCI Idrizovo, Gazi-Baba Municipality, instead of building it within Prison Skopje, as was originally envisaged.

56. The Information on the construction of the Pre-trial and Pre-sentence Unit with the accompanying objects and a Courtroom at PCI Idrizovo, Gazi-Baba Municipality was approved on November 7, 2017, on the 36th session of the Government of the Republic of Macedonia.

57. Regarding the recommendation for maintaining the hygiene of the detainees, the Prison Skopje complies with the provisions of the Rule Book for the enforcement of the measure in prisons departments of the prisons.

58. Prison Skopje undertakes active measures for adapting a prison room that will be equipped with sports facilities that would be available to detainees.

59. Also, according to the prepared Clean Air Movement Plan, all detained persons are provided with a 2 hours period daily outside of their cells.

60. Regarding the conditions for serving the pre-trial and pre-sentence measure in Bitola Prison, during March 2018 an extraordinary expert-instructor supervision was conducted in the Bitola Prison in order to check the conditions in the premises that are designated for serving the pre-trial and pre-sentence measure, after which the Director of the Directorate for Enforcement of Sanctions issued an order to take the said premises out of use, whereby the detained persons shall be sent to other penitentiary institutions.

61. Also, in mid-April 2018, an extraordinary expert-instructor supervision was performed again in the Bitola Prison, and the Director of the Prison Bitola was told that by virtue of the bylaws it is required to allow least 2 hours stay in fresh air, outside of the cells. Within the IPA II, a Framework Agreement for a Project for preparation of project documentation for the renovation of the Bitola Prison financed by the IPA Instrument was signed and it is scheduled to commence in the last quarter of 2018.

62. Regarding the comments that the convicted and detained persons are transported in inadequate vehicles during their escort to the courts and to other penitentiary institutions, in the course of June 2018 a public procurement was conducted by the Directorate for Execution of Sanctions within the Project for “Reconstruction of penitentiary institutions in the Republic of Macedonia” for procurement of escort vehicles, namely 2 vehicles for PCI Idrizovo and 1 vehicle for ECI Tetovo.

## **E. Detention of sentenced persons**

63. Regarding the procedure for complaints by convicted persons, in order to improve the rights of the convicted persons as well as to get familiarized with their rights and opportunities, the Directorate for Execution of Sanctions has signed a Memorandum of Cooperation with the OSCE in March 2018 for the implementation of a Project “Promotion of Tolerance and Non-Discrimination”.

64. The activities of the abovementioned project include preparation of unified forms for lodging complaints and appeals by convicted persons, as well as information brochures for all PDTL in order to familiarize them with the rights they have during serving a prison sentence. Also, this project foresees an activity to prepare and display information posters in the common areas at the PCI, intended to inform the PDTL of their rights.

65. Regarding the solitary confinement cells at PCI Ship, we would like to notify that according to the existing conditions in the institution we shall insist that only one person stays in the smaller cells, and in the larger cells, two convicted persons – serving a disciplinary measure – referral to solitary confinement.

66. In order to enhance the disciplinary procedure for the sentenced persons, the following activity was envisaged and carried within the Project “Strengthening of protection of the rights of convicted persons”. Two international experts, hired by the Council of Europe carried out a mission (31 Oct.–2 Nov. 2016) to assess the situation regarding the disciplinary procedure and the disciplinary sanctions to PDTL. On the basis of the prepared report on the assessed situation a working group comprised by members of the DES and the PCI’s along with the international consultants have prepared Draft-statutory stipulations in order to enhance the disciplinary procedure.

67. Acting upon the given recommendation by the international consultants, the following draft amendments have been prepared:

- The duration of a disciplinary sanction – referral to solitary confinement – is set to last 14 days the most;
- The doctors no longer provide an opinion on the health condition of the PDLT prior the adoption of a decision on disciplinary sanctioning;
- The disciplinary sanction is not imposed to minors;
- The appeal of the PDLT defers the enforcement of the decision except in urgent situations where the security of the institution is under threat, and upon assessment of the director of the institution;
- A PDLT may be provided with an attorney upon his request, in instances when disciplinary liability has been found due to severe disciplinary violation, that represents an offence which is punishable with a prison sentence or payment of a fee;
- If the PDLT is a foreign citizen or a person that does not understand the Macedonian language, upon his request a translator shall be provided to him; and
- Other stipulations for improvement of the matter.

68. Regarding the concerns of the SPT on the ignorance of PDLT that there is a procedure for challenging a decision for detention in solitary confinement, in accordance with the Law on Execution of Sanctions, convicted persons have the right to lodge an appeal to the Director of the Directorate for Execution of Sanctions within 3 days upon receipt of the first-instance decision by the Director of the Institution. A novelty in this area is that the appeal of the PDLT shall defer the enforcement of the decision, except in urgent situations where the security of the institution is under threat, and upon assessment of the director of the institution. In addition, the convicted person shall hold the right to lodge an appeal to an independent authority, that is to say, to the Administrative Court regarding the second-instance decision issued by the Directorate for Execution of Sanctions.

69. Regarding the regime of activities offered to convicted persons in penitentiary institutions (including work, education and sports), the Directorate for Execution of Sanctions, provides guidelines and recommendations for improvement in this area through the performance of expert and instructive supervision. Also, in order to obtain a full picture of all penitentiary and correctional facilities, an assessment of the possibilities for organizing sports and other leisure activities in the penitentiary and correctional-correctional facilities was prepared according to the National Strategy. The assessment contained findings, conclusions and recommendations for each institution individually and it was sent to all institutions that are expected to offer a wider range of various activities for the convicted persons by complying with the given recommendations.

70. Within the activities of the Project “Promotion of Sustainable Employment III”, which is carried by the Ministry of Education and Science and the Directorate for Execution of Sanctions and the United Nations Development Program (UNDP), the selection of two schools with verified training programs for bakers and locksmiths was carried out through public procurement procedure for the Kumanovo Prison.

71. During 2016 two cycles of training for bakers and locksmiths were delivered for the PDLT in Kumanovo Prison, the first cycle of training was delivered from April–August 2016, and 22 persons acquired certificates for successful completion of artisan training. The second cycle was delivered from September–December 2016 in two PCI – in the Kumanovo Prison and in the PCI Shtip. 28 PDLT acquired certificates for successful completion of artisan training with the second cycle of training in the Kumanovo Prison, as follows: 11 bakers; 11 argon-welders and 6 have completed their previous training for argon-welders. 22 PDLT from PCI Shtip acquired certificates for completion of artisan training, as follows: 11 cooks, 6 argon-welders, 5 locksmiths. Total of 50 PDLT from Kumanovo Prison and 22 PDLT from PCI Shtip acquired certificates for their training. The project is expected to continue in Kumanovo prison and in PCI Shtip in the future.

72. A training for sewing vocation for female PDLT that were serving prison sentences in the Women’s Unit of PCI Idrizovo was delivered at the end of December 2017 within the project “Creating Work Opportunities for All II” implemented by the Directorate for

Execution of Sanctions in cooperation with the United Nations Development Program – UNDP and the Ministry of Education and Science. The training was delivered by professors from SAGS, Koco Racin”– Skopje, and it included 17 PDDL – women.

## VI. Juvenile detention

73. Aiming to improve the treatment and care of juveniles who are serving an educational measure – referral to an educational correctional facility, the Directorate for Execution of Sanctions envisaged a special strategic goal in the National Strategy for Development of the Penitentiary System in the Republic Macedonia within the framework of the National Strategy.

74. In the course of 2016, new house rules were prepared for the institutions in which an educational measure is carried out – a referral to an educational-correctional institution. The house rules were adopted on September 15, 2016.

75. Furthermore, the Basic Life Skills Program for Minors in the Tetovo Educational and Correctional Center is implemented as an integral part of the YOU TURN / EQUIP Program for work with minors, whereby among other things, juveniles are educated on the basic life skills. It is implemented on a continuous basis.

76. Within the activities of the Project “Improving the prison conditions for reintegration of juvenile detainees”, which has been implemented since 2013 in order to improve the treatment of juveniles at Ohrid Prison and ECI Tetovo, continuous training of the personnel of ECI Tetovo and personnel of Ohrid Prison is delivered on the application of the YOU TURN / EQUIP Program for working with minors. YOU TURN / EQUIP program is applied continuously, while the project was completed in April 2017.

77. A brief preventive program for strengthening the awareness of minors on the negative consequences of the use of drugs and prevention of transmissible infections has been drafted. The implementation of training for trainers and the implementation of the program will follow in the upcoming period.

78. Also within the framework of the Project supported by the Dutch Helsinki Committee and the Dutch Directorate for Educational and Rehabilitation Institutions, a kick-off meeting was held in January 2017 at the Directorate for Execution of Sanctions, attended by representatives from these institutions, the Director of DES and the ECI as well as the employees in the DES. This project represents an upgrade of the MATRA/COPROL project (2013–2017), which was previously implemented and juveniles in the Republic of Macedonia were involved.

79. The aim of this project is to improve the opportunities for juveniles for successful reintegration into society by introducing official working methods for prison staff and their integration into official policies and curricula in educational institutions, while strengthening the capacities of prison staff, prison administrations and representatives of the Ministry of Justice.

80. Since the beginning of 2018, the activities under the aforementioned project were continued and 2 (two) workshops were held which were attended by the employees of ECI Tetovo and Ohrid Prison as well as employees of the Directorate for Execution of Sanctions.

81. The Directorate for Execution of Sanctions, in collaboration with the United Nations Development Programme and the Ministry of Education and Science, implemented a Pilot-Project for completion of primary education for minors who are serving prison sentences in the PCI Ohrid Prison or minors that are serving an educational measure at the Educational-Correctional Center Tetovo, whose premises are temporarily placed in Ohrid Prison. The project was implemented from October 1, 2017 until March 30, 2018, including the study of the Macedonian language and numerical literacy, covering 22 juveniles. The teaching was carried out by teachers from the elementary school “Hristo Uzunov” – Ohrid.

## VII. Immigration detention

82. The SPT notes with concern that, although there are legally prescribed grounds for detaining migrants for purposes of establishing their identity, they had allegedly been detained with a view to ensuring their presence as witnesses when conducting police interviews with apprehended suspected migrant smugglers.

83. The Ministry of the Interior accepts the recommendations as put forward by the SPT for detentions of irregular migrants being undertaken as a measure of last resort, as well as for detaining irregular migrants for the shortest possible length of time.

84. In keeping with the existing national regulations, foreigners whose circumstances have been established as not necessitating their accommodation at the Reception Centre for Foreigners may be issued a movement restriction order by the MoI limiting their movement only to their place of stay and may be issued an order to regularly report at their nearest police station in the country within specifically established time intervals.

85. With regard to the comment made by the SPT on the Reception Centre for Foreigners not meeting accommodation standards required, the MoI would like to inform that activities have been launched with a view to starting the construction of a new Reception Centre for Foreigners, with the location where the aforementioned new facility is to be constructed being already selected and other preparations of technical nature being underway to ensure its construction, having been placed on the list of activities planned under the EU's Instrument for Pre-accession Assistance (IPA) for the Republic of Macedonia for the coming period.

86. By an official circular letter sent in March 2018 to all organizational departments at the Ministry of the Interior, the Public Security Bureau, and the Security and Counterintelligence Directorate nationwide, the Minister of the Interior reminded employees of the Ministry of the Interior of their oath and obligation to act in keeping with applicable national legal regulations and international documents that the Republic of Macedonia is a party to and has ratified when pursuing their work tasks and duties. The Letter of the Minister further stated that employees at the MoI were most explicitly prohibited from acting and behaving by engaging in any form of discrimination or using excessive force and means of torture against any other person.

87. Moreover, the Letter highlighted the fact that any employees at the MoI found to have engaged in illegal, inhuman, and discriminatory treatment of any other person would be punished in line with legal regulations prescribed.

88. In April 2018, at the proposal of the Ministry of the Interior, the Government approved the text to the new Draft Law on Foreigners which brings national regulations in line with the EU *acquis* relating to migration, i.e. the terms and conditions for making an entry into the country, issuing visas, issuing consent for the stay of a foreigner in the country, as well as returning foreigners illegally staying in the country.

89. The JRS Safe House continues to provide accommodation support for the most vulnerable asylum seekers, mainly single headed families and unaccompanied children who claim asylum seeking status in the country. In 2018, under the annual agreement with the UNHCR, the Ministry of Labour and Social Policy (MLSP) has had the opportunity to provide specialized mental health support. Operationally, under the memorandums signed with the NGOs the vulnerable persons receive support from psychologists, while when necessary the MLSP engages psychotherapist for specialized treatment. In 2018, the MLSP engages psycho-social support services that will also indicate at increased quality for services provision directly for the beneficiaries. In regard to the state sponsored legal aid, from the aspect of the MLSP it continues to guarantee the access to free legal aid and interpreters at the reception facility, but it is expected the Ministry of Justice to review the Law on Free Legal Aid and address the state budget issue to cover these services.

## VIII. National Prevention Mechanism

90. The Parliament approved in November 2017 a set of measures for implementing recommendations of the Ombudsman's 2016 report and the government is committed to their timely implementation.

91. The Law on the Ombudsman was amended in 2016 with a view to fulfilling the Paris principles.

92. The Law on Amending the Law on the New Ombudsman in 2016 was harmonized with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ratified by the Republic of Macedonia in 2008. In accordance with Articles 14 and 20 of the Optional Protocol:

- The Ombudsman may, at any time without notice and approval, inspect and talk to the people accommodated in these places without the presence of officials employed in the institution in order to protect the persons deprived of their liberty;
- The Ombudsman as a National Preventive Mechanism should have unobstructed access to all places of deprivation of liberty and their facilities, access to all information concerning the number of persons deprived of liberty, as well as to the number of places and their locations, access to all information concerning the treatment of persons as well as the conditions for their deprivation of liberty, as well as the possibility of conversation without supervision of persons deprived of their liberty, in person or with an interpreter, if this is deemed necessary; and
- The managing officers and authorized officials in the bodies, organizations and institutions in which persons are deprived of liberty are obliged to provide the Ombudsman – National Preventive Mechanism with unobstructed access to the documents and information relating to persons deprived of their liberty, as well as unimpeded access to places of deprivation of liberty and their facilities.

93. In accordance with Article 22 of the Optional Protocol and for the purpose of meeting the recommendations of the NPM, the law stipulates that the managerial officials and authorized officials in the bodies, organizations and institutions in which persons are deprived of liberty are obliged to examine the indications and recommendations of the Ombudsman – National Preventive Mechanism and should notify him not later than 30 days from the day of receiving the special report on possible measures of application.

94. In order to strengthen the National Preventive Mechanisms, these amendments to the Law stipulate that the Ombudsman – National Preventive Mechanism shall establish a team for prevention of torture and other cruel, inhuman or degrading treatment or punishment within the institution. At the same time, the organizational capacities for implementation of the Optional Protocol to the Convention against Torture are being strengthened. The Subcommittee on Accreditation indicated the fulfilment of the obligations arising from Article 18 of the Optional Protocol to the Convention against Torture, which requires the functional and operational independence of the National Preventive Mechanism, as well as the provision of the necessary resources for its functioning. In that direction, with the Law, in the part of the means of work, it is foreseen to allocate funds for the functioning of the Ombudsman – National Preventive Mechanism through the establishment of a separate budget program.

95. The obligation to include recommendations to remedy the established situation in annual report of the Ombudsman is introduced in the Law. It also foresees the involvement of the Parliament and the Government for responsible actions on the recommendations of the Ombudsman as well as reporting on the implementation of concrete measures. The Ombudsman is authorized to submit an application to the Standing Inquiry Committee for Protection of Human Freedoms and Rights in the Assembly of the Republic of Macedonia for examining cases of violation of constitutional and legal rights and for undertaking measures in that respect. It establishes an obligation for the Commission for Protection of Human Rights and Freedoms to consider the Ombudsman's request for examining cases of

violation of constitutional and legal rights and to submit a report on the same to the Assembly to determine measures.

96. An additional mechanism is established that will enable the implementation of special reports regarding the impediments to the Ombudsman's work and disregard and non-implementation of his requests, proposals, opinions, recommendations or indications.

97. The budget of the Ombudsman Office is voted separately by the Parliament. The 2018 budget was increased by 4.2%.

98. The SPT report was shared with the Ombudsman Office.

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