



Republic of Macedonia
MINISTRY OF FOREIGN AFFAIRS

**Additional Information of the Government of the
Republic of Macedonia in regard to paragraphs 6, 8, 13, and 20 of the
Concluding Observations of the Committee against Torture**

Paragraph 6

Regarding current legislative efforts to strengthen the independence of the Public Prosecutor's Office, we would like to point out that the provision on independence and effective functioning of the public prosecutor's office is an integral goal of the Strategy for reform of criminal law which is realized since 2007 and whose activities are fully implemented. Namely, within the first segment of the reform of criminal law, adopted were **Amendments to the Criminal Code** in September 2009 aimed at bringing the criminal law system of the Republic of Macedonia in line with the European standards. The amendments, among other things, include: illegal enrichment, extended confiscation, criminal liability of legal persons, economic crime, and computer crime. The Criminal Code came into force on 22 March 2010. The second segment of the reform of criminal law covers the reform of the criminal procedure law under which, on the 17 November 2010, adopted was a **new Law on Criminal Procedure**. The law is harmonized with international and European standards and will improve the efficiency of the criminal justice system especially in the prosecution of serious forms of crime. The basic provisions of the Law are:

- to provide active and leading role of public prosecution in the preliminary procedure, with effective control over the police,
- abolition of judicial investigation and taking over the conduct of the preliminary procedure by the public prosecution,
- accelerate the procedures by affirmation of out-of-court settlement and simplified procedures,
- rationalization of the system of remedies, and
- implementation of the recommendations of the European Union and the Council of Europe.

In terms of judicial police, prescribed are duties of judicial police, which may ex officio or upon order of the Attorney General undertake measures and

activities aimed at detection and forensic investigation of crime, prevent further consequences of the crimes, capture and handing over of perpetrators, providing evidence and other measures and activities that can be used for the smooth running of the criminal proceedings. Judicial police conducts investigation and actions required or assigned by the court and public prosecution.

The new Law on Criminal Procedure would have deferred application of two years. For enforcement of the law, a working group prepared the **Action plan for implementing the new Law on Criminal Procedure**, structured in three specific components, namely: **normative part, conducting training, and capacity building.**

In order to strengthen the capacity of public prosecutors and other relevant institutions involved in implementation of the reformed criminal legislation, there will also be implementation of the Project for Pre-Accession Assistance - IPA: 'Support for the reform of the penal system'.

The project consists of two components:

- Strengthening the capacity of public prosecutors, judicial police and other relevant institutions to implement the new legislative framework, and
- Increase efficiency in the implementation of the criminal legislative framework and ensure consistency between the newly adopted laws.

The foreseen provisions of the new Law on criminal procedure at the same time ensure that, among other things, allegations of torture, cruel, inhuman, and degrading treatment will be immediately and impartially investigated, prosecuted and sanctioned.

Paragraph 8

Pursuant to the Law on Asylum and Temporary Protection, the Asylum Unit conducts a procedure upon application for the recognition of the right of asylum in the Republic of Macedonia, which is implemented as regular and accelerated.

The accelerated procedure is conducted when the asylum request is manifestly unfounded under Art. 34 and Art. 35 of the said Law; i.e., when, under Art. 35. paragraph 11:

- there is no basis in the claim for fear of persecution,
- the application is based on deliberate fraud or abuse,
- the asylum seeker has arrived from a safe country of origin, unless he proves that it is not safe for him,
- the asylum seeker has arrived from a safe third country, where he could have sought asylum. According to this provision, the Asylum Unit at the Ministry of the Interior of the Republic of Macedonia has

made several decisions for people from Asian countries, because these persons were coming from Greece, which undoubtedly represents a safe third country, member of the European Union.

- the asylum seeker has arrived from a safe country of origin, which is a member of the European Union.

An action by asylum seeker is considered a deliberate act of fraud and abuse of the asylum procedure, under paragraph 2 of the same Article, when the person:

- gives false statements with no reasonable explanation,
- bases his request on false identity,
- intentionally destroys, damages or hides passport, other document or evidence of importance to the procedure,
- files a request in order to prevent the execution of the decision to expel him,
- has had his asylum request rejected in another country, and
- has been granted asylum in another country and continues to use the protection of that country.

In accordance with the Law on Asylum and Temporary Protection, in regular and accelerated procedures, an appropriate decision is made, stating the remedy and the deadline within which the asylum seeker or his lawyer may file a complaint to the Administrative Court of the Republic of Macedonia. The dissatisfied party has the right to appeal the decision of the Administrative Court before the Supreme Court of the Republic of Macedonia.

Until the definite completion of the proceedings regarding the asylum request, i.e., until the moment the decision rejecting the request becomes legally effective, upon exhausting all legal remedies in the Republic of Macedonia, the asylum seeker is not deported or expelled from the Republic of Macedonia.

Also, the treatment specifically takes into account the ethnicity of the asylum seeker as one of the grounds for protection under the definition of refugee status (or person under subsidiary protection) of the 1951 Convention and the 1967 Protocol, whereby officers processing the asylum request are specially trained to proceed with persons belonging to ethnic minorities.

Paragraph 13

In regard to processing cases of enforced disappearances occurred during the 2001 conflict:

- For one of these cases, main hearing is being conducted ('Mavrovo workers'). In January and November 2010, two of the defendants were extradited to the Republic of Macedonia.

- For two cases ('Lipkovo dam' and 'Neprosteno') the investigation was completed, and consideration and making decision by the public prosecutor's office is in progress, and

- One case ('Leadership of NLA') is under consideration and making of the public prosecutor's decision.

Paragraph 20

In recent years the Ministry of the Interior of the Republic of Macedonia has made significant efforts in regard to building the technical and professional structure that consistently complies with legal obligations particularly with regard to respect for human rights and freedoms, including ethnically based discrimination.

The Sector for Internal Control and Professional Standards in the Ministry of the Interior is a control mechanism, whose function among others is to exert expert control over the lawful and professional work of the police and respect for the corpus of human rights and freedoms by the police. For all cases for which the Sector is notified that there is any abuse of citizens by police officers, including the freedoms and rights of summoned, apprehended or detained persons in police procedure, the Sector invariably proceeds and investigates very professionally all allegations in the complaints, without a selective approach in the work, with equal treatment for all citizens regardless of their ethnic, religious, gender or any other kind of discrimination, and after the checks are made, it promptly responds to the complainants.

In January 2010, amendments were made to the Regulations on the work of the Sector for Internal Control and Professional Standards and proceeding upon complaints and proposals is aligned with the Law on Proceeding upon Complaints and Proposals.

The Ministry of the Interior (MOI) and the Sector for Internal Control and Professional Standards continuously undertake measures to monitor the situation of respecting human rights and freedoms, in order to determine irregularities and provide guidelines to remove them and to determine the responsibility of the police officers who abused their powers and violated the fundamental rights and freedoms of persons in police procedure.

In early 2010, the Sector for Internal Control and Professional Standards proceeded in accordance with the Action Plan for prevention and suppression of unlawful and unprofessional conduct of police officers whereby meetings were realized with management structures in the police stations of general jurisdiction and with the heads of police stations for border control; at the meetings, it was pointed out that there should be consistent observance of the corpus of human rights and freedoms when exercising police powers, and applying the Law on Internal Affairs, the Law on Police, and the bylaws in force in the MOI. In this context, continuous efforts are being made to strengthen the work capacities in order to prevent any appearance of unlawful and unprofessional conduct, including conduct of

police officers that would violate the corpus of human rights and freedoms. In this regard, there have been changes in the methodology of work, selection of professional personnel for work, trainings of employees, and a new systematization of jobs is in process of adoption, whereby special emphasis is placed on preventive work in one of the units of the Sector.

In the past two years, the Interior Ministry organized joint training sessions with the Ombudsman Office and NGOs. The intention of the Ministry is that trainings especially for the above Sector relate to respect for human rights and freedoms mostly for that category of police officers who most often come into contact with citizens in the exercise of police powers. In 2009, two such training sessions were conducted; one was organized by NGOs involved in the Project for supporting human rights, financed by the Foundation Open Society Institute-Macedonia and the UN Fund for Victims of Torture, in cooperation with the Sector for Internal Control and Professional Standards, on the topic: "Respect for human rights of persons deprived of liberty", which was attended by employees of the Sector for Internal Control and Professional Standards, heads of shift in police stations, and officers of the Directorate for Execution of Sanctions. The second training was conducted for the members of the special mobile police unit for fighting crime - "Alfa" and was dedicated to the corpus of human rights and freedoms in context of policing with presentations by representatives of the Ombudsman Office, the Helsinki Committee for Human Rights, and the NGO "Coalition All for Fair Trials" and "Mesecina" ('Moon', a Roma NGO). In addition, in 2010, two such trainings were organized by the Sector for Internal Control and Professional Standards; they were attended by officers from the Department for special police units at the Interior Ministry and by officers from the Special mobile unit for fighting crime "Alfa"; the topic was "Protection of human rights in the exercise of police powers"; it also involved the active participation of representatives from the Ombudsman Office and the NGOs "Coalition All for Fair Trials" and "Arka"-Forum for Roma Rights.

In addition to the aforementioned, officers from the Sector for Internal Control and Professional Standards made presentations at two trainings organized by NGOs. One was entitled: "Police and human rights." It was organized by the Helsinki Committee for Human Rights and the Macedonian Center for International Cooperation and was attended by 50 young people from various ethnic communities from all cities in the Republic of Macedonia. This was conducted at the request of the humanitarian and charitable Roma NGO "Mesecina" ('Moon'). Employees from the Sector for Internal Control and Professional Standards at the Interior Ministry participated actively at this training for implementation of the Law on Prevention and Protection from Discrimination.

The Sector for Uniformed Police, within its competences, undertakes measures and activities in building of a positive approach by police to all citizens regardless of gender, race, color, national and social origin, political and religious beliefs, and, property and social status.

In that context, measures are undertaken and implemented to educate the police, but also for education of Roma population in the area of protection of individual rights and freedoms.

In 2009, the Prevention Units at the Police Departments of the towns of Bitola, Siro and Skopje implemented the project "Improvement of partnership and mutual trust between the community and the police in areas inhabited by Roma population in the municipalities of Bitola, Kocani, and Suto Orizari", supported by the OSCE Police Development Unit. This involved three municipalities, which have large local Roma communities (Bitola, Kocani, and Suto Orizari). The project was realized as a consequence of the perception that police do not treat "in fair manner" citizens of Roma ethnic affiliation.

The project aim was improving mutual trust between police and citizens in the three municipalities (Bitola, Kocani, and Suto Orizari) which have large number of Roma population. The project implemented project tasks related to the strengthening of trust, cooperation, and partnership between police and local Roma population, and raising awareness for the most common security-related issues in the areas inhabited by Roma population.

In 2009, the Sector for Uniformed Police prepared fliers for better information about the rights, written in Macedonian, Albanian, Roma, Turkish, and English languages, respectively. The flier is intended for persons who are summoned, detained, and held in police stations and aims to raise the level of understanding and awareness of fundamental rights and freedoms, as well as of the possibility how to use these rights.

In the same period, fliers were prepared and made available to citizens (in Macedonian, Albanian, Roma, Turkish and English languages, respectively) with information about the main task of the police, the obligations of police officers towards citizens while exercising police powers, as well as information for citizens about taking measures in situations when they feel that they are offended or threatened by the behavior of certain police officers. In this way, we were actively working on raising awareness among citizens about the role, competences, and accountability of the police.

In 2007-2008, the project '**Quality police services in the areas inhabited by Roma population (2007-2008)**' was implemented. Within the project, 200 police officers became familiar with the culture and history of Roma and participated in training for social justice in order to get a positive approach in overcoming stereotypes and prejudices in behavior.

As part of the continuous training for police officers - both in the basic training and in the vocational training, thematic units were taught such as Police in a Democratic Society, **Awareness of Differences**, Gender Differences, and so on.

Protecting and respecting human rights and freedoms is a priority in police education and training. Human rights and freedoms make accordingly indispensable element in any form of education and training that is organized and carried out in the newly formed organizational unit - the Training Center.

Specifically, protection and respect for human rights and freedoms are taught as follows in the Training Center of the Bureau for Public Security at the Ministry of the Interior of the Republic of Macedonia:

Basic Training

1. The curriculum of basic police training and the training itself offer, as independent thematic units, Learning Assignments: Human Rights and Freedoms, and, Treatment of Asylum Seekers.
2. Human rights and freedoms, particularly the rights of persons treated in police procedure and investigative procedure, are introduced and taught in all the Learning Assignments about basic training dealing with police powers and their exercise.
3. Provisions about proper and humane treatment of the asylum seekers are included and taught in all the Learning Assignments about the basic training that relate to the work of the Border Police.
4. Furthermore, the Provisions on human rights and freedoms and on humane treatment are an integral part and are practically applied in all other Assignments relating to basic training.

The above study subjects, in addition to the protection and respect of fundamental freedoms and rights, cover also topics and issues of prevention and protection from torture, cruel, inhuman, or degrading treatment or punishment and anti-discrimination, and especially of marginalized groups.

In this regard, all these study subjects are a prerequisite for the successful completion of the basic training, so this means that all officers, who have completed the basic training course for police officer, have also successfully passed the mentioned teaching topics.

In addition to inclusion of protection of human rights and freedoms in the basic training for officers, the Training Center of the Bureau for Public Security at the Ministry of the Interior of the Republic of Macedonia conducts and organizes specialized thematic trainings and seminars for the police officers and other authorized officials in the Ministry of Interior, whose aim is protecting and respecting human rights and freedoms of persons treated in the work of the police and other services of the Ministry of Interior.

In this context, these thematic trainings and seminars particularly underline and cover the issues of prevention and protection from torture, cruel, inhuman, or degrading treatment or punishment and anti-discrimination and especially of marginalized groups.

For this purpose, the Training Center of the Bureau of Public Security at the Ministry of the Interior of the Republic of Macedonia organized and implemented in 2010 the following specialized (thematic) trainings and seminars:

January

18/01/2010 (3 weeks)

Ministry of the Interior (MOI)-Bureau of Public Security (BPS)-Central Police Services (CPS)-Unit for the Security of Officials and Inside Security

Basic training in the field of policing for police officers from the Unit for Security

February

09/02/2010 (3 weeks)

MOI-BPS-CPS-Unit for the Security of Officials and Inside Security

Basic training in the field of policing for police officers from the Unit for Security

March

08-12/03/2010

MOI-EU Sector-Unit for International Cooperation

Training - project SEPCA "Communications"

11-13/03/2010

MARRI CENTER

Meeting on "The capacities of the Border Police of the MARRI Member States for implementation of the readmission agreements," involving border crossing police officers from Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Croatia, and Serbia

17-18/04/2010

MOI-BPS-Sector for Uniformed Police

Two-day training for police stations: "The role of the national preventive mechanism in the Republic of Macedonia" and "Rights of persons deprived of liberty," involving police stations and heads of shift from the Sectors for Internal Affairs for the cities of Strumica, Bitola, Ohrid and Stip

05-06/06/2010

MOI-Director's Office

Two-day training for police officers, with the following topics: "The role of the national preventive mechanism in the Republic of Macedonia" and "Rights of persons deprived of liberty"

17.06.2010

MOI-Sector for Internal Control and Professional Standards

One-day training: "Protection of human rights in the exercise of police powers"

13-14/09/2010

MOI-BPS-Telegram

Training of counselors for continuing professional training, involving participants from the Sector for Internal Affairs and the Sector for Migration and Border Issues

30/09-01/10/2010

Two-day training with topics: "The Role of the Ombudsman as a national preventive mechanism in the Republic of Macedonia" and "Respect of the rights of persons deprived of liberty", with the attendance of officers from the "Idrizovo" Prison, the Stip Prison, the Skopje Prison, the Kumanovo Prison, the Tetovo Prison, and the Tetovo Correctional Facility. Also, training in cooperation with OSCE and ODIHR, under the Training Manual "Fighting terrorism and protecting human rights," with participants from Central Police Services, the Directorate for Security and Counterintelligence, and the Training Center.