



**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\*\*<sup>\*\*\*</sup>**

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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 present report 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.

\*\*\* The annexes to the present document are being circulated in the language of submission only.



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## I. Introduction

1. In accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, members of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment visited the former Yugoslav Republic of Macedonia from 23 to 29 April 2017.
2. The Subcommittee members who conducted the visit were Aisha Shujune Muhammad (Head of delegation), Mari Amos, Sir Malcolm Evans and June Lopez.
3. The Subcommittee was assisted by two human rights officers from the Office of the United Nations High Commissioner for Human Rights (OHCHR), two security officers and four local interpreters.
4. The State party acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 12 December 1994 and ratified the Optional Protocol on 13 February 2009. On 11 April 2011, the State party designated the Ombudsman as the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.
5. The main objectives of the visit were: (a) to provide advisory services and technical assistance to the national preventive mechanism, in accordance with article 11 of the Optional Protocol, with the aim of identifying and addressing the challenges and difficulties faced by the mechanism, taking into account the Subcommittee's guidelines on national preventive mechanisms (CAT/OP/12/5) and (b) to help the State party to fully implement its obligations under the Optional Protocol, thereby strengthening its ability to protect persons deprived of their liberty and addressing the challenges relating to penitentiary facilities and in particular to persons on remand.
6. The Subcommittee met with government officials and other stakeholders (see annex I) and visited places of detention (see annex II). Meetings held with members of the national preventive mechanism permitted the Subcommittee to discuss their mandate and working methods and to explore ways of strengthening and increasing their effectiveness. In order to better understand how the mechanism works in practice, the Subcommittee also visited, together with representatives of the mechanism, a place of deprivation of liberty that had been chosen by the mechanism (see annex III). That visit was led by members of the mechanism; the members of the Subcommittee acted as observers.
7. The present report contains the Subcommittee's observations, findings and recommendations and, in accordance with article 16 (2) of the Optional Protocol, will remain confidential unless the State party decides to make it public.
8. The Subcommittee notes that States that have decided to make Subcommittee reports public can apply for assistance through the Special Fund established under article 26 of the Optional Protocol, to help with the implementation of the Subcommittee's recommendations.
9. The Subcommittee wishes to express its gratitude to the authorities of the State party for their help and assistance in planning and undertaking the visit.
10. The Subcommittee also wishes to express its gratitude to the United Nations Resident Coordinator and United Nations Development Programme (UNDP) Resident Representative for the assistance provided prior to and during the visit.

### A. Facilitation of the visit and cooperation

11. The Subcommittee wishes to express its appreciation to the State party for its cooperation and facilitation of the visit. In particular, the Subcommittee would like to thank the State party for the information received before, during and after the visit. It is grateful to have been able to effectively exercise its right of unrestricted access to all places visited by the Subcommittee, except for certain vehicles, and to conduct private interviews in all

facilities visited in accordance with its mandate. Access to the vehicles in question was subsequently granted but unfortunately arrived too late for the delegation to access them.

12. The Subcommittee observed that much preparation had been undertaken in places of deprivation of liberty prior to the visit, including painting, establishing workshops, removal of some bunkbeds and planting of flowers. While appreciating the work done to maintain and upgrade detention facilities, the Subcommittee considers that pre-preparation of this nature, shortly before a visit, as well as the transfer of detainees between prisons and the encouragement of detainees to provide positive feedback on their situation in detention, distorts the reality of detention conditions. The purpose of unannounced visits is to allow the Subcommittee to see the detention system as it functions normally.

13. While entering some institutions, the Subcommittee encountered what it considered intrusive searches, including looking at private documentation and being subjected to pat-downs. It noted that the national preventive mechanism was also subjected to such practices in at least one prison. While it is accepted that essential basic security measures are to be complied with for the benefit of all concerned, the practices described are inappropriate, not in keeping with the spirit of the Optional Protocol and contrary to the privileges and immunities governing United Nations experts on mission. It is equally important that those working for the national preventive mechanism are not in any way restricted in their work and should not feel that they may be subjected to any form of pressure (CAT/C/57/4 and Corr. 1). In addition, not all places of detention were on the list provided by the State party. The Subcommittee reminds the State party of the broad definition of article 4 of the Optional Protocol.

## **B. Reprisals**

14. The Subcommittee is concerned about the possibility of reprisals against the persons interviewed during the visit. It wishes to emphasize that any form of intimidation or reprisals against persons deprived of their liberty constitutes a violation of the State party's obligation to cooperate with the Subcommittee under the Optional Protocol. In accordance with article 15 of the Optional Protocol, the Subcommittee urges the State party to ensure that there are no reprisals following the visit by the delegation. The Subcommittee wishes to draw the State party's attention to the Subcommittee's policy on reprisals in relation to its visiting mandate (CAT/OP/6/Rev.1).

**15. The Subcommittee categorically condemns any acts of reprisal. It stresses that persons who provide information to or cooperate with national or international agencies or institutions should not be punished or otherwise penalized for having done so. The Subcommittee requests that it be kept informed of the steps taken by the State party to prevent and investigate any possible acts of reprisal. It also requests the State party to provide detailed information in its reply to the present report on what it has done to prevent the possibility of reprisals against anyone who was visited by, met with or provided information to the Subcommittee during the course of its visit, as well as information on measures taken in response to such allegations.**

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

16. While acknowledging information from the State party on "zero tolerance" of torture and other forms of ill-treatment, the Subcommittee is concerned about some reports of ill-treatment by prison guards, which disproportionately affects minority groups. Such reports refer, inter alia to disproportionate use of force; subjection to beatings if detainees do not follow orders; routine beating upon arrival in prison of those convicted of certain offences, in particular sexual offences; and the acquiescence of prison guards to inter-prisoner beatings. The Subcommittee is concerned that there have been limited investigations and prosecutions into such treatment as identified by the committee against Torture (CAT/C/MKD/CO/3). The Subcommittee is also concerned about the limited mechanisms in place for reporting cases of torture and ill-treatment and the fear of reprisals from prison guards should they report such cases.

17. The Subcommittee recommends that the Criminal Code be revised to ensure it conforms to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as recommended by the Committee against Torture (see CAT/C/MKD/CO/3, para. 15). It also recommends that clear and effective mechanisms be established to report cases of torture and ill-treatment; that all such allegations are promptly and impartially investigated; and that perpetrators are prosecuted, pursuant to article 12 of the Convention. Detainees should be made aware of those mechanisms and those who complain about torture and ill-treatment should be protected from physical, disciplinary or administrative reprisals. The Subcommittee recalls that the fight against impunity is an important means of preventing torture and ill-treatment.

### **III. Police detention**

#### **A. Fundamental safeguards**

18. The Subcommittee is content to note that it was not informed about any instances of persons being held for longer than 24 hours in police custody and that pretrial detainees appear to be sent systematically to a separate facility (rather than being returned to the police station) after their appearance before a judge. However, as regards notification of the right to inform a third party, the right to a lawyer and to a medical examination by a doctor of the person's choice, it appears that, while persons are informed of those rights, they are not all observed in practice.

19. The Subcommittee notes that while detainees appear to be informed of their right to a lawyer at the outset of their apprehension, the majority appear not to retain one, either for financial reasons and/or a belief that it is not worthwhile. As acknowledged by the State party during the mission, the free legal aid system (under the Law on Free Legal Aid, Official Gazette No. 161/09 and 185/11) is not yet operational. Legal services are only provided by lawyers on a pro bono basis (a list drawn up by the Bar Association). These lawyers are often inexperienced, slow to arrive and sometimes do not appear at all. The Subcommittee is concerned that this situation may contribute to the apparent trend of plea bargaining, which may lead to an over-reliance on confessions by the police and judiciary.

20. The Subcommittee is concerned that medical screening is not carried out systematically upon arrival at police stations and that detainees only see a doctor if the person requests it or the police observe signs on the person that they need a doctor. It also noted an isolated case of police failing to notify third parties.

21. **The Subcommittee recommends that the State party:**

(a) **Ensure that detainees have access to a lawyer of their choice immediately after their arrest and that their lawyer is present during interrogation;**

(b) **Operationalize the legal aid system, to ensure prompt, effective and quality representation for all detainees, on an equal basis;**

(c) **Provide adequate legal safeguards to defendants in the context of plea bargaining, to ensure the transparency of the process and prevent any abuse and coercion;**

(d) **Provide appropriate training to medical and legal staff on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), including to lawyers providing legal aid through independent professional bodies;**

(e) **Conduct systematic medical screening of detainees, when necessary, in accordance with the Istanbul Protocol;**

(f) **Ensure that all allegations or complaints of torture and/or ill-treatment are communicated to the appropriate authorities to be promptly, impartially and**

**effectively investigated, in accordance with article 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

## **B. Material conditions**

22. The Subcommittee notes the relatively good material conditions in most police facilities visited. However, it is concerned that all the holding cells it visited are located in the basement of police buildings, resulting in some cells having little or no natural light, limited ventilation and in some cases no heating. There were also some reports of limited access to food and water.

23. The Subcommittee is seriously concerned by the two underground holding cells in Kičevo police station, which amount to a renovated dark room with no natural light (except for a couple of rays coming from holes in a metal plate), making it impossible to find the call button; no heating; toilets located two floors above and shared with staff; and limited access to food, drink and sanitary items. Cumulatively, the Subcommittee believes it would be inhuman to hold detainees in those cells for more than a very short period of time.

24. **The delegation recommends that the cells in Kičevo police station be immediately taken out of use. In addition, the Subcommittee recommends that the State party speed up its efforts to ensure that material conditions in all police facilities are improved, with a particular focus on lighting, ventilation, heating and access to sanitation.**

## **IV. Penitentiary institutions**

### **A. Health care in prison**

25. The Subcommittee is concerned that medical registers at all the facilities it visited showed that no routine thorough medical examinations are automatically carried out following the arrival of detainees at an institution and that requests to see a doctor are not necessarily granted. Medical examinations are only undertaken if there is an injury which is severe or obvious, or if it is requested by the detainee or the authorities. Even in such severe cases, the Subcommittee received allegations that medical treatment was not provided owing to lack of medical staff or was hindered by prison guards. The Subcommittee is also concerned about the general inadequacy of medical records, which lack full documentation of the initial and ongoing physical and mental condition of detainees. For example, in one facility, a fatality that was reflected in the central records was not reflected in the detainee's medical chart. The absence of detailed recording may lead to a failure to detect cases of torture or ill-treatment.

26. **The Subcommittee recommends that the State party ensure access to and examination by an independent doctor as soon as possible after arrest or transfer to a detention facility and establish a more coherent and complete form of recording of medical information in a register, with full respect for medical ethics and deontology. It also recommends that the State party develop a standard form for a full medical screening of all persons upon arrival and a summary of the medical history of detainees, and integrate it with records from previous facilities or central records. Such a register could be included in the medical information management system of the health-care system. It is recommended that such a record include:**

- (a) **A detainee's medical history, including any allegations of recent violence, torture or ill-treatment;**
- (b) **The existence of any discomfort or symptoms;**
- (c) **The result of the clinical examination, including a description of any injuries observed and an account of how such injuries were sustained;**
- (d) **An indication of whether the whole body was examined;**

**(e) The conclusion of the health professional as to whether all recorded elements are consistent.**

27. The Subcommittee is concerned that owing to under-resourcing, medical staff can only provide “primary health care”. That consists mainly of providing painkillers, sedatives or antidepressants, often inappropriately prescribed. The delegation seldom observed other types of medication and only elementary equipment was available, often consisting only of a blood-pressure manometer, a stethoscope and bandages. In one facility, medical examinations took place on a desk in the basement with limited access to running water and heating. The Subcommittee noted that specialist health care was very difficult to access for most detainees and was usually subject to the availability of the facility vehicle and the capability of the detainee to personally pay for such services.

28. The Subcommittee is also concerned at the widespread use of methadone treatment and psychoactive medication with limited or no psychiatric supervision available in most places, and no psychosocial intervention provided in conjunction with such treatments, sometimes resulting in death through methadone overdose. While “educators” are employed, their role and competence is unclear and detainees interviewed denied receiving any form of counselling, much less a formal drug rehabilitation programme.

29. While appreciating the good medical facilities in Kumanovo prison, the Subcommittee is concerned about inadequate and unhygienic clinical premises in other institutions visited. As an example, the infirmary at Idrizovo was referred to as “the prison within the prison”; was overcrowded, with 70 beds for 120 individuals, leading to many sleeping on the dirty floor; the toilets reeked of urine; there was no regular water supply; no regime of activities; included medically ill and regular detainees; and included detainees suffering from diseases such as tuberculosis and HIV, who could not be isolated, if necessary.

30. The Subcommittee is concerned that in general the number and quality of medical staff is inadequate and that while medical personnel claimed to attend various training courses, such as on the management of contagious diseases and drug addiction, they were generally unfamiliar with the Istanbul Protocol. The Subcommittee notes that medical professionals in criminal justice institutions are under the authority of the Ministry of Justice rather than the Ministry of Health and believes that this may impair their medical autonomy, causing conflicts of interest and deterring them from reporting injuries evidencing torture or ill-treatment. In one prison, a doctor admitted having been ordered to “drop” a case of a detainee who had been heavily beaten.

**31. The Subcommittee recommends that in all places of deprivation of liberty, the State party:**

**(a) Ensure that medical care, including specialist care, is guaranteed and accessible to all detained persons upon their request;**

**(b) Facilitate the provision of sufficient medical staff and medical supplies (pharmaceuticals and equipment) to all places of deprivation of liberty, and improve the material conditions of prison medical units, particularly in Idrizovo prison;**

**(c) Ensure that, when necessary, detainees suffering from transferable diseases can be isolated from others;**

**(d) Establish clear protocols for the prescription of medication, referring to international pharmacological standards;**

**(e) Place medical personnel under the authority of the Ministry of Health, which should be involved in monitoring health in prisons and in the recruitment process of health professionals;**

**(f) Improve its training of medical personnel working in places of detention, particularly on the Istanbul Protocol and other international standards, as well as on the duty to detect and report torture and ill-treatment;**

(g) **Ensure that health professionals immediately report suspicions of torture and ill-treatment to the appropriate authorities so that an independent examination may be conducted in accordance with the Istanbul Protocol;**

(h) **Establish prison hospitals, including the one that has apparently been envisaged since 2007 in Skopje prison;**

(i) **Urgently address the treatment of drug users and detainees with mental health issues.**

## **B. Overcrowding**

32. The Subcommittee welcomes the State party's strategy to try and resolve overcrowding in prisons. In particular, it notes the probation strategy of 2013, including the Law on Probation of 2015 (developed with the assistance of the European Union and including 300 sets of electronic monitoring bracelets) and the new facilities completed or under construction in Skopje, Idrizovo, Bitola (to start in 2018), Tetovo (to be finished in 2018) and Kumanovo (finished). However, it observes that the application of the Law on Probation was postponed until 2016 and it would appear that it has not yet been implemented. The Subcommittee notes that further efforts will be necessary to resolve the serious problem of overcrowding, which continues to affect the majority of the prisons visited. In several prisons, some pretrial detainees were held in solitary confinement cells owing to the lack of regular cells, and many of those experienced a variety of significant problems because of overcrowding (see paras. 34–36 below), including the unavailability of appropriate cells. In addition, some prisons, including Idrizovo (units 7 and 8), had triple bunk beds placed precariously high with access difficulties to the third bunk. The delegation was informed of at least one detainee who had seriously injured himself falling from the third bunk.

33. **The Subcommittee recommends that the State party only use detention as a measure of last resort. Pretrial detention must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.<sup>1</sup> The Subcommittee urges the State party to pursue its probation strategy, including the application of the Law on Probation, and more readily use alternatives to detention, such as probation, bail, mediation, community service and suspended sentences. Pretrial detainees should not be held in solitary confinement cells (see paras. 34–36 below). In addition, the Subcommittee recommends that the State party make better use of the prison estate, where the delegation observed a poor distribution of detainees, including detainees held in poor conditions when other more appropriate/suitable cells were available. Triple bunk beds, as described above, should be taken out of use.**

## **C. Petty corruption**

34. While welcoming the efforts made to counter corruption, through dismissing prison staff involved in trafficking drugs and mobile phones, the Subcommittee is concerned by reports that receipt of basic necessities (drinking water, food, and toiletries) and access to medical care is contingent upon payment of money to prison staff, including prison management. In virtually all places visited, the Subcommittee heard reports of privileges (such as home leave and family visits) and illicit goods (such as alcohol and drugs) received on the basis of inducements. The observation that most detainees depend on their families to provide basic necessities, including food, would appear to contribute to such practices. Several detainees indicated that between 300 and 400 euros a month could pay for a more comfortable existence in prison. That appeared to be confirmed by the disparity observed in the comfort level of cells in the same prison: some had their own fridges, heaters, televisions, cable television and other personal items.

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<sup>1</sup> See Human Rights Committee general comment No. 35 (2014) on liberty and security of person.



35. **The Subcommittee recommends that the State party ensure that the basic needs of all detainees are met by management in all places of deprivation of liberty and that clear and transparent rules are established on the provision of privileges, on a non-discriminatory basis. It recommends that measures be taken to put an end to the illicit trafficking of drugs and alcohol, including the adequate payment of prison staff, and that all cases of corruption are promptly and effectively investigated, and the staff involved are sanctioned.**

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

36. The Subcommittee is seriously concerned about the situation of those held on remand. In virtually all the facilities it visited, conditions on remand, amounted to inhuman treatment, undermined the presumption of innocence and encouraged a confession culture.<sup>2</sup> In Skopje prison, where some cells were overcrowded, the delegation observed no running water; an unacceptably high level of humidity; crumbling walls; little light and ventilation; dirty mattresses and bed linen; insect infestations; food stored in the open; limited access to laundry facilities; lack of hygiene; makeshift showers assembled by detainees owing to the limited shower facilities provided; and no dining area, obliging detainees to eat in their cells, including some on their beds. Similar conditions were found in Bitola and Prilep prisons and the size of the cells there (individual and double cells of 1.92m x 2m and triple cells of 3.1m x 1.9m), whether they housed one, two or three detainees, were such that they should not be used for detention purposes at all. Evidencing a pattern noted in all places of detention, most detainees had supplies of food and personal items brought in by their families.

37. The Subcommittee observed that remand prisoners often suffered a regime more onerous and in significantly worse conditions than prisoners who had been sentenced. It is concerned that such conditions of detention are compounded by apparently prolonged periods of pretrial detention and a 23-hour regime (only one hour of outdoor activity), contrary to the Law on Execution of Sanctions, 2006, which provides that prisoners should be offered “at least two hours daily outside the closed premises”. In the Subcommittee’s view, that is akin to solitary confinement and highly conducive to severe mental stress. In at least one prison, basic hygiene, such as shaving, also had to take place during that one hour spent out of the cells.

38. **The Subcommittee recommends that the State party:**

(a) **Immediately take the remand cells in Bitola and Prilep, described above, out of use and stop using the remand cells in Skopje to house detainees in their current state;**

(b) **Ensure that those held on remand are held in conditions of detention and treated in a manner commensurate with their status as unconvicted detainees and in line with the presumption of innocence;**

(c) **Ensure that in all places of deprivation of liberty, detainees are provided with their basic needs, including adequate food, water and toiletries;**

(d) **Ensure that detainees are not obliged to take care of basic hygiene, such as shaving, during their time outside their cells;**

(e) **Cease to subject defendants to pretrial detention as a general practice, and consider alternatives (see paras. 30–31 above).**

39. A further concern of the Subcommittee is the manner in which some remand prisoners are transported to court. Some detainees complained that they were transported in armoured vehicles and other inappropriate forms of transport, with their hands handcuffed behind their backs, for unreasonable periods of time, often without reasonable accommodation given to disabled detainees, amounting to inhuman and degrading treatment.

<sup>2</sup> The remand section in the new Kumanovo prison was better in terms of material conditions.

40. **The Subcommittee recommends that detainees should only be transported in appropriate vehicles, in a humane way, with access to light, reasonable accommodation for disabled persons and adequate heating or air conditioning, as appropriate.**

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

41. The Subcommittee reiterates its concerns and recommendations set out above (paras. 14–15 above) on torture and ill-treatment in places of detention, including the limited or lack of oversight mechanisms and procedures for detainees to make complaints. The same lack of complaints procedures also relates to complaints of poor material conditions in places of detention. While the delegation observed many complaint boxes in prisons, the Subcommittee is concerned that there is a heavy reliance on prison guards for the placement of the boxes, limited confidentiality when boxes are placed in cells or right in front of guards' offices, a lack of awareness among some detainees of the complaints mechanism and doubts about the credibility of the process, given the apparent lack of information received on the outcome of their complaints. It also became apparent in speaking to detainees that some of the "complaints" were merely questions on issues relating to their individual situation, to which they were unable to receive a response from prison management.

42. **The Subcommittee recommends that the State party revise the current complaints procedure, with a view to ensuring its confidentiality and effectiveness, and ensure that all detainees are aware of the procedures for making complaints without fear of reprisals. It reiterates its recommendations made above on torture and ill-treatment in places of detention.**

43. While welcoming the closure of some solitary confinement cells, including in Shtip prison, the good conditions of such cells in Struga prison and the fact that confinement in those cells is limited to 10–15 days and recorded as such, the Subcommittee is concerned that persons are kept in solitary confinement cells for breaching house rules, including minor ones, often with no access to hot water and no heating. On at least one occasion, such confinement was repeated within a short space of time. Detainees also indicated that they were not aware of any procedure for contesting a decision on placement in solitary confinement.

44. **The Subcommittee recommends that the State party ensure that material conditions in all solitary confinement cells comply with international standards, including adequate heating and access to hot water for detainees and if those conditions are not met that they are be taken out of use. Solitary confinement should be used only in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to authorization by a competent authority. The State party should ensure that solitary confinement remains exceptional and that detainees are never placed in solitary confinement for prolonged periods of time (i.e. in excess of 15 consecutive days), including for consecutive placements separated by a few days, and that they are afforded an opportunity to contest the decision to place them in solitary confinement.**

45. The Subcommittee noted a more or less severe disparity within and between prisons as to the quality of the premises/buildings and the material conditions. For example, it observed the better material conditions in the women's wing as opposed to that of the men in Idrizovo prison and although new, the facility in Kumanovo was already showing signs of wear and tear. The Subcommittee is concerned that most prisons visited had issues with access to drinking water and water for showering (demonstrated by the presence of significant numbers of plastic bottles of water in several prisons) and no proper heating. In Skopje prison and in the newly built Kumanovo prison, plastic bottles were used to heat water during the day to keep warm. The Subcommittee observed very limited access to functioning showers in many prisons and some detainees had adapted their own shower devices over toilets and sinks. Hygiene was also a concern in some prisons, such as Shtip, where the practice of providing hygiene parcels had recently stopped.

46. The Subcommittee is concerned that most detainees interviewed complained of the quality and quantity of food (often canned, lacking expiry dates) provided by the prison system and the limited attention paid to medical or religious considerations in providing meals. Virtually all detainees with family in the local area were provided with food and other supplies by their families, putting those without family in the area and/or without sufficient finances at a significant disadvantage. The lack of any hygienic storage facilities (food was scattered on shelves through the cells), including cold storage facilities is of concern owing to fear of attracting rodents and possibly affecting the health of detainees. According to detainees, even in prisons that produce their own food, detainees do not receive it and menus displayed in prisons do not always represent the food provided. Kumanovo prison was the only prison where all the detainees interviewed praised the food.

**47. The Subcommittee recommends that the State party take steps to ensure that material conditions in all prisons/facilities, including new prisons (which should be maintained), and irrespective of regime, comply with international standards.<sup>3</sup> The State party should also focus on improving access to water, the quality and quantity of food provided and hygiene products. All basic needs should be provided by the prison service.**

48. The Subcommittee is concerned at the lack of recreational activities and minimal opportunities for work for detainees and the lack of resocialization programmes and vocational training throughout the prison system. Even in prisons that do have some workshops for training (woodwork, metal work or production of toilet paper), few, if any, detainees reported having been engaged in them. The Subcommittee is also concerned that detainees, in particular those in closed regimes, were confined for up to 22 or 23 hours a day with nothing to do. Some detainees in closed units indicated that they were only allowed one hour a day of exercise time, contrary to the provisions of the Law on Execution of Sanctions, 2006. The Subcommittee notes that while some detainees in some prisons (for example, Kumanovo, Shtip, Bitola and Prelip) have the possibility of working in the prison or in private companies, and are often reimbursed for their services, some jobs performed around the prison are not reimbursed.

**49. Given that a satisfactory programme of activities (including work, education and sport) is of crucial importance for the physical and mental well-being and reintegration of prisoners, the Subcommittee recommends that the State party ensure that detainees can spend a reasonable part of the day, eight hours or more, outside their cells or dormitories, together with other prisoners, engaged in purposeful activities of a varied nature and irrespective of regime.<sup>4</sup> The Subcommittee further recommends that prisoners are provided with vocational training and that detainees have the opportunity to work, for the purpose of maintaining or increasing their ability to earn a living after release.**

50. The Subcommittee observed that the system whereby detainees were classified into different regimes (open, semi-open and closed) lacked transparency, an objective assessment and appeared to disproportionately negatively affect minority groups and foreigners. That is an important issue, as it determines the privileges and activities open to detainees. The Subcommittee also observed that the registers in many prisons, including in solitary confinement cells, were not always very comprehensive, difficult to understand and often placed in different locations throughout the prison.

**51. The Subcommittee recommends that a clear and transparent system be established with an objective risk assessment of detainees prior to assignment to a particular regime. Registers should be simplified and harmonized, and information about detainees should be available centrally, in a comprehensive and systematic manner.<sup>5</sup>**

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<sup>3</sup> See United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), in particular rules 5.2, 12, 13, 17, 42 and 59.

<sup>4</sup> See rule 4 of the Nelson Mandela Rules and rules 25.1 and 27 of the European Prison Rules.

<sup>5</sup> See rules 6–10 of the Nelson Mandela Rules.

## V. Juvenile detention

52. The Subcommittee welcomes the completion of the Tetovo educational correctional institution for juveniles, which has been operating in Ohrid prison since September 2015, housing juveniles in two regimes: an educational correctional regime and a regime for juveniles sentenced for a crime. Those referred to the educational correctional wing are males between the ages of 14 and 18 and approximately 80 per cent of them are of Roma origin. The Subcommittee is concerned that apart from being in a separate wing, it could see little difference between the two regimes. The educational correctional regime appears to focus on correction, rather than resocialization, rehabilitation and education, which does not appear to be in line with Law No. 07-4101/1 on justice for children (24 October 2013), article 45 (1).

53. **The Subcommittee recommends that the State party take measures to ensure that the environment in the educational correctional wing resembles an educational correctional institution rather than a prison and, to that end, provide recreational facilities, equipment and activities suitable for juveniles. Measures should also be taken to address the overrepresentation of juveniles of Roma origin in the institution. In addition, the Subcommittee recommends that the State party introduce alternatives to detention for juveniles, who should only be detained as a measure of last resort. Where detention is absolutely necessary, the Subcommittee recommends that the State party ensure that all juveniles benefit from educational correction and recreational opportunities on an equal basis.<sup>6</sup>**

54. The Subcommittee is concerned by the fact that none of the juveniles in the educational correctional wing are obliged to take part in education, despite many being of compulsory school age. Both regimes have very limited access, if any, to meaningful activities such as education, vocational training and work. Apart from playing football in the small courtyard, overlooked by residential housing, they spend a significant proportion of their time inactive in the dormitories watching TV or chatting. That results in many minors sleeping during the day and thus unable to sleep at night. The Subcommittee is concerned that around 50 per cent of juveniles are routinely given tranquilizers (a combination of Diazepam and Sanval) three times a day. Considering the frequency and daily doses of these drugs, the Subcommittee is of that view that this could amount to inhuman treatment.

55. **The Subcommittee recommends that the State party ensure the availability of a wide range of activities and training in life skills for juveniles in both regimes, which will also be of value to them upon their release, in accordance with the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines). Such measures are important for their reintegration into the community and to minimize the risk of reoffending, as well as for their particular need for intellectual stimulation. Every juvenile of compulsory school age has the right to education, which should be provided outside the detention facility in community schools wherever possible. Special attention should be given by the administration of detention facilities to the education of juveniles of foreign origin or with particular cultural or ethnic needs. Juveniles who are illiterate or have cognitive or learning difficulties should have the right to special education. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so and given access to appropriate educational programmes. Vocational training should also be provided. Given the high number of juveniles of Roma origin in the facility, special and inclusive attention should be paid to that group. The Subcommittee recommends that the State party immediately halt the inappropriate**

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<sup>6</sup> See United Nations Standard Minimum Rules for the Administration of Juvenile Justice, (Beijing Rules), para. 1.2, and United Nations Rules for the Protection of Juveniles Deprived of their Liberty, (Havana Rules), para. 12.

**use of psychoactive medication for juveniles and replace the medication with balanced daily activities.<sup>7</sup>**

56. Despite relatively decent physical conditions in the wing for juveniles sentenced for a crime, the Subcommittee remains concerned by the notable differences, at the time of the visit, in the material conditions of the three rooms in use and notes that the difference in the quality of those conditions could be subject to and dependant on parental and other outside support, or perhaps even preferential treatment of some of the juvenile detainees: one room had recently undergone renovation with laminated flooring and was pleasantly furnished and decorated with personal belongings, whereas the other two rooms were significantly more sparse with limited personal touches.

**57. The Subcommittee recommends that the State party allow the possession of personal effects as a basic element of the right to privacy and essential to the psychological well-being of juveniles.<sup>8</sup>**

58. The Subcommittee notes with concern the near complete lack of a social support system, including family therapy, in the community that is available to juveniles upon release. A scattered amount of interventions are undertaken in the facility, but are provided in vain when not followed up in the community.

**59. The Subcommittee recommends that the State party elaborate adequate strategies on how to most efficiently reintegrate minors into society, with the aim of preventing recidivism and relapses. In addition, it recommends that the State party strengthen the services provided to persons in detention to ensure that social assistance, such as supported living and counselling, is in place and coordinated to ease the transition of juveniles back into society and to help prevent a return to detention.**

## VI. Immigration detention

60. The Subcommittee observed that owing to the limited number of migrants entering the State party since March 2016, the Skopje reception centre for foreigners (Gazi Baba), the temporary transit centre “Vinojug” and the Jesuit Refugee Service “safe house” in Skopje, were virtually unoccupied when it visited.

61. The Subcommittee welcomes information that the Law on Foreigners is being amended to reduce the maximum period of detention of irregular migrants.<sup>9</sup> However, it notes with concern that despite the fact that the legal ground for detention is generally for the purposes of establishing identity, migrants were allegedly being detained to ensure their presence as witnesses at smugglers’ hearings.

**62. The Subcommittee recommends that immigration detention is only applied as a measure of last resort after it has been determined, on a case-by-case basis, to be strictly necessary, proportionate, lawful and non-arbitrary, and that it is imposed for the shortest period of time (see CAT/OP/ITA/1, para. 23 (c)). Detention should be in a non-prison-like environment, equipped with adequate recreational, physical and cultural facilities to which migrants have effective access. It recommends that migrants should not be deprived of their liberty for the purposes of providing testimonies against suspected criminals.**

63. The Subcommittee welcomes the conditions of the Jesuit Refugee Service safe house in Skopje, which is an open facility housing vulnerable migrants. Although there were no complaints of ill-treatment, all the migrants spoken to expressed feelings of frustration and hopelessness at not knowing how long it would take to have their situations resolved. That contributes to their often fragile mental health. The Subcommittee is concerned there is no legal aid or any form of State-run legal assistance available for migrants, who are overly reliant on civil society for such services. It is also concerned that

<sup>7</sup> See Havana Rules, section IV. H. on medical care.

<sup>8</sup> See Havana Rules, section IV. D on the physical environment and accommodation.

<sup>9</sup> Law on Foreigners, art. 109, paras.1 and 2.

the absence of a clear understanding of their legal status may push some migrants back into the hands of smugglers.

64. **The Subcommittee recommends that the State party ensure that migrants have access to legal assistance and information about their personal situation in an accessible manner and in a language they understand. They should also be effectively informed about the support and other services available to them.**

65. The Subcommittee noted that basic renovation was being carried out at the Gazi Baba reception centre at the time of the visit and that the State party intends to close it down once a new reception centre has been built. In its current state, the Subcommittee notes that it is currently wholly unsuited to house migrants, given its poor material conditions, lack of activities, limited outdoor space and the closed nature of the centre. The Subcommittee was surprised to note that while only one migrant appeared to be accommodated at the centre at the time of the visit, he was accommodated in one of the least comfortable rooms, which has not yet been renovated.

66. **The Subcommittee recommends that the State party not use Gazi Baba as a reception centre for migrants in its current state, in particular not for migrant families or unaccompanied children.**

## VII. National preventive mechanism

67. Further to the ratification of the Optional Protocol to the Convention against Torture, in February 2009, the Ombudsman was designated as the national preventive mechanism by virtue of Law No. 07-5829/1 on ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which led to the creation of the national preventive mechanism department within the Office of the Ombudsman.<sup>10</sup> The Subcommittee notes approvingly that the mechanism regularly conducts visits to places of detention, many of them unannounced, and has published a number of reports containing recommendations to the relevant authorities for improving the situation in the places visited.

68. The Subcommittee acknowledges the good work it carries out, despite the lack of resources limiting its scope and operations. The Subcommittee is concerned that the designation of the Ombudsman as the national preventive mechanism has not been accompanied by the allocation of sufficient additional resources, including human resources, contrary to article 18 (3) of the Optional Protocol. Only one core staff member is employed to perform the tasks related to the mandate. As acknowledged by the mechanism itself, lack of resources prevents it from effectively and efficiently carrying out its functions.

69. The Subcommittee notes that the mechanism benefits from relationships with international donors that have enabled it to increase its capacity, in particular in the midst of migration inflows. It also observes that the mechanism regularly involves and engages civil society actors and external experts in its visits and activities. While this type of collaboration is welcomed, the Subcommittee is concerned that the autonomy of the mechanism may be compromised if it must rely on international donors to function fully.

70. **The Subcommittee recommends that the State party allocate, as a matter of priority, and in consultation with the national preventive mechanism, the financial resources it needs, as required under article 18 (3) of the Optional Protocol, the Subcommittee's guidelines for such mechanisms (see CAT/OP/12/5, para. 11) and as set out in the national preventive mechanism assessment matrix.<sup>11</sup> The Subcommittee recommends that this funding be provided through a separate line in the national annual budget, referring specifically to the national preventive mechanism (see CAT/C/57/4, annex, para. 12).**

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<sup>10</sup> See the Law on supplementing and amending the Law on the Ombudsman, Official Gazette No. 114, 14 September 2009.

<sup>11</sup> Available from [www.ohchr.org/EN/HRBodies/OPCAT/Pages/Documents.aspx](http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/Documents.aspx).

71. **The Subcommittee reminds the State party that the national preventive mechanism should have a separate secretariat and its own staff and should be able to have recourse to external experts, when such expertise is not available internally. It recommends that the State party facilitate training for members of the mechanism. Such training should cover interview techniques, visiting procedures and the skills to detect signs and risks of torture and ill-treatment, as well as how to follow up on recommendations, and develop working methods and a visiting methodology that will highlight institutional and systemic challenges, including those affecting groups or minorities subjected to discrimination. The Subcommittee also recommends that the mechanism continue to develop its capacity through increasing cooperation with the Subcommittee and through engagement with other national preventive mechanisms and networks, particularly the South-East Europe NPM Network.**

72. The Subcommittee is concerned that despite the many recommendations made to the State party by the national preventive mechanism, little has been done in the way of implementation. The Subcommittee notes that there is no written procedure or institutionalized forum where recommendations arising from mechanism visits by the mechanism are presented to the State authorities and subsequently followed up.

73. **The Subcommittee recommends, as a matter of priority, that the relevant public authorities meet with the national preventive mechanism directly to discuss the implementation of its recommendations, in accordance with article 22 of the Optional Protocol. It recommends that the State party and the mechanism enter into a meaningful process of continuous dialogue, with a view to implementing recommendations made by the mechanism. In particular, the Subcommittee encourages the State party to introduce, together with the mechanism, an institutional forum for the discussion of, and follow-up to, visit reports by the mechanism.**

74. The meetings held by the Subcommittee with the relevant authorities and visits to places of detention revealed that there is limited knowledge about the national preventive mechanism. The Subcommittee considers that its preventive activities could be strengthened by increasing awareness of the mechanism and its work, which should go beyond the few posters observed in some of the places of detention visited. In particular, the Subcommittee notes that the mechanism is not a separate organizational unit within the Office of the Ombudsman, as envisaged by the Law on the Ombudsman. In particular, there should be greater awareness of the reports by the mechanism and to the degree to which its recommendations have been implemented.

75. **The Subcommittee recommends that the State party:**

(a) **Ensure that the national preventive mechanism is recognized as a key component of the State party's system for preventing torture and ill-treatment;**

(b) **Contribute to making the work of the mechanism more visible by, for example, organizing awareness-raising campaigns and other promotional activities, including the production of materials on the mandate and activities of national preventive mechanisms and their distribution, in various languages, to persons deprived of their liberty, public authorities, civil society organizations, lawyers, members of the judiciary and the general public;**

(c) **Facilitate the publication of all reports to be produced by the national preventive mechanism, including the annual reports that are transmitted to the Subcommittee, bearing in mind article 23 of the Optional Protocol and paragraph 29 of the guidelines on national preventive mechanisms (CAT/OP/12/5).**

## **VIII. Final recommendations**

76. The Subcommittee regards its visit and the present report as the commencement of a constructive dialogue with the State party. It stands ready to assist the State party, as far as it is able, in fulfilling its obligations under the Optional Protocol, in particular by the provision of technical assistance and advice, in order to achieve their common goal of prevention of torture and ill-treatment in places of deprivation of liberty. In particular, it is

ready to assist the State party in the Subcommittee's general observation of a frequent disconnect between the law and its application or implementation, as it relates to the prevention of torture.

77. The Subcommittee emphasizes that its visit provides the State party with an ideal opportunity to demonstrate its goodwill and readiness to fulfil its international obligations under the Optional Protocol.

78. The Subcommittee recalls that prevention of torture constitutes an ongoing and wide-ranging obligation of the State party. It requests the State party to keep it informed of any legislative or policy changes and other relevant developments regarding the national preventive mechanism, so that it can continue to assist the State party in fulfilling its obligations under the Optional Protocol.

79. The present report will remain confidential until such time as the State party decides to make it public, as stipulated in article 16 (2) of the Optional Protocol.

80. The Subcommittee draws the State party's attention to the Special Fund established in accordance with article 26 of the Optional Protocol. Recommendations contained in the reports of Subcommittee visits that have been made public can form the basis of an application for funding of specific projects in accordance with the rules of the Fund.

**81. The Subcommittee recommends that the State party distribute this report to all the relevant government departments and institutions. In addition, it recommends that the State request the publication of the report in accordance with article 16 (2) of the Optional Protocol, believing this, in itself, is a preventive measure, and requests that it be notified of the State party's decision in that regard.**

**82. The Subcommittee requests the State party to provide it with a reply within six months from the date of transmission of the present report, giving a full account of the actions taken to implement the recommendations and a road map and timeline for those that remain pending.**



## Annex I

### Government officials and other persons with whom the Subcommittee on Prevention of Torture met

#### A. National authorities

##### Ministry of Defence

Mr. Panche Stefanovski, Advisor for ESDP Cooperation at the Department for International Cooperation

##### Ministry of Foreign Affairs

Ms. Elena Kuzmanovska, State Secretary

Mr. Igor Djundev, Director for Multilateral Relations

Ms. Svetlana Geleva, Deputy Director for Multilateral Relations

Ms. Elena Bodeva, Desk Officer/Second Secretary at the Directorate for Multilateral Relations (governmental focal point)

##### Ministry of the Interior

Mr. Agim Nuhiu, Minister of Interior of the Republic of Macedonia

Mr. Jordan Lamanovski, Assistant Minister for Public Relations

Ms. Ljubica Jakimovska, State Counsellor, Cabinet of the Minister

Ms. Merita Shehi, Counsellor, Cabinet of the Minister

Mr. Igor Radeski, Senior Counsellor for Multilateral Affairs, Sector for International Cooperation

Mr. Sashko Gerasimov, Head, Sector for Crime Scene Investigations, Department for Internal Control, Criminal Investigations and Professional Standards

Mr. Nikola Mirchevski, Head, Sector for Border Operations

Ms. Vesna Isajlovska, Head, Unit for Normative and Legal Affairs, Sector for Legal Affairs

Mr. Sashko Kocev, Head, IPA Sector

Ms. Zhaklina Prosaroska, Senior Police Counsellor, Unit for Strategic Planning, Standards and Quality Control

Ms. Danica Dimitrovska, Chief Inspector, Sector for General Police Affairs, Uniformed Police Department

##### Ministry of Health

Mr. Nasuf Ipcja, State Secretary

Dr. Nikica Panova, Deputy Head, Sector for Secondary and Tertiary Healthcare and Professional Education of the Medical Staff

##### Ministry of Justice/Directorate for Execution of Sanctions

Ms. Lidija Gavriloska, Director, Directorate for the Execution of Sanctions (MoJ)

Ms. Ana Pletvarec, Counsellor, Directorate for the Execution of Sanctions (MoJ)

Ms. Tanja Kikerekova, Head, Unit for Human Rights

**Ministry of Labour and Social Policy**

Mr. Gjoko Velkovski, Head, Unit for Internal Audit

Ms. Elena Grozdanova, State Counsellor for Equal Opportunities

Ms. Sofija Spasovska, Deputy Head, Department for Social Protection and Social Policy

Ms. Lidija Shterjov, Department for Social Protection and Social Policy

Ms. Nahida Zekirova, Unit for the Implementation of the Strategy for the Roma

**B. National preventive mechanism**

Ms. Slavica Dimitrievska, State Counsellor

Ms. Snežana Teodosievska-Jordanoska, State Counsellor (acting Head, national preventive mechanism)

Ms. Irina Aceska, Legal Officer

Mr. Aleksandar Trenkoski, Legal Officer,

Ms. Merita Aliu-Alili, Counsellor

Ms. Vaska Bajramovska-Mustafa, Deputy Ombudsman

**C. Civil society**

Legis

Macedonian Young Lawyers Association (MYLA)

Macedonian Helsinki Committee

Dr. Vladimir Ortakovski

**D. International organizations**

Ms. Sonja Bozinovska Petrusevska, Head of Office, and Ms. Ivona Zakoska, International Organization for Migration

Ms. Silva Pesic, OHCHR

Ms. Louisa Vinton, United Nations Resident Coordinator/UNDP Resident Representative

Ms. Valentina Ancevska, Research and Liaison Officer, United Nations Office on Drugs and Crime

Ms. Sonja Tanevska, Assistant Representative, United Nations Population Fund

Mr. Dejan Kladarin, Senior Protection Officer, Office of the United Nations High Commissioner for Refugees

Ms. Elspeth Erickson, Deputy Representative, United Nations Children's Fund

**E. Other organizations**

Council of Europe

Organization for Security and Cooperation in Europe

European Union

## **Annex II**

### **Places of deprivation of liberty visited by the Subcommittee**

Bitola Prison

Idrizovo Prison

Kumanovo Prison

Ohrid Prison

Shtip Prison

Skopje reception centre for foreigners "Gazi Bab"

Struga Prison

Prilep Prison

Tetovo educational and correctional institution, Ohrid

Tetovo Prison

Temporary transit centre Vinojug

Kichevo police station

Bit Pazar police station

Gevgelija police station

Skopje police station

Jesuit Refugee Service safe house, Skopje

## **Annex III**

### **Places of deprivation of liberty visited jointly by the national preventive mechanism and the Subcommittee**

Skopje Prison

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