

CPT/Inf (2001) 21

Responses of the Government of "the former Yugoslav Republic of Macedonia" to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to "the former Yugoslav Republic of Macedonia"

from 17 to 27 May 1998

The Government of "the former Yugoslav Republic of Macedonia" has agreed to the publication of the CPT's report on the visit to "the former Yugoslav Republic of Macedonia" in May 1998 (see CPT/Inf (2001) 20) and of its responses.

Strasbourg, 11 October 2001

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**Interim report of the Government of
"the former Yugoslav Republic of Macedonia"**

**COMMENTS AND INTERIM REPORT ON THE ACTION
UNDERTAKEN BY THE REPUBLIC OF MACEDONIA UPON THE REPORT
OF THE COMMITTEE FOR PREVENTION OF TORTURE FOLLOWING THE
VISIT OF ITS MEMBERS TO THE REPUBLIC OF MACEDONIA
(17 - 27 MAY, 1998)**

With regard to the Report of the European Committee for Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and pursuant to the provision of the Convention to submit a report and given the recommendations, remarks and the requested information in the summary of the Report within a period of 6 months, the Ministry of Foreign Affairs of the Republic of Macedonia hereby encloses the final views of the Republic of Macedonia concerning the delivered text of the Report.

Before presenting the concrete views of the Republic of Macedonia on various remarks included in the Report, we underline the willingness that was manifested by the Government of the Republic of Macedonia in accepting the visit of the delegation of the Committee against torture and its full compliance with the obligations contained in Art 8 of the European Convention for Prevention of Torture, Inhuman or Degrading Treatment or Punishment.

Methodically, the answers are concentrated in such way that this text contains four parts, that is, four segments, which separately include the answers of the ministries that are in charge of the institutions that were the object of observation of the Committee for prevention of torture (Ministry of the Interior, Ministry of Justice, Ministry of Health and Ministry of Defence). Within the framework of the answers, there is a comment on each paragraph individually that the experts from each ministry separately considered to be necessary.

I. With regard to the parts of the Report where members of the Committee review the conditions in institutions run by **the Ministry of the Interior**, we hereinafter present the comments of the Republic of Macedonia following the raised questions.

With regard to the statement included in paragraph 8 of the Report, we inform that the Constitutional Court of the Republic of Macedonia made a decision, in June 1998, to abolish the provision in Art. 29 of the Law on Internal Affairs (a 24-hour detention due to disturbance of the public peace and order). This Court also made a decision to abolish the provision foreseen in Art. 29 of the Book of Rules on performing the duties at the Ministry of the Interior.

a) With regard to paragraph 20 of the Report, the Ministry of the Interior has been undertaking important actions to train its top officials and other officers for the full implementation of the national legislation and the international documents, and particularly those that relate to the protection of human rights and the manner of conduct of the officers that enforce the law. In this context, in 1998 and 1999 several training courses and seminars were organized.

- In cooperation with the UN and the UNPREDEP mission, three seminars on management were organized. Many top police officials took part in the seminars.

- In cooperation with the Council of Europe, (1) a seminar on the implementation of the Convention on Prevention of Torture, Inhuman Treatment and Punishment, was held (2) realization of the project "Police and human rights 1997 - 2000, is under way (3) reform of the curriculum in the Secondary Police School by introducing a special type of training in the field of human rights, within the regular police equation, is under way.
- In cooperation with the International Committee of the Red Cross, several seminars were organized on the topic: "Human rights", and "Human rights and the Humanitarian law", for police and security officers, respecting the principle - training of the trainers, who further continue to organize and realize more such seminars for all structures of the officers of the Ministry.
- The Ministry has processed and prepared to publish the Manual on Practically Orientated lectures "Human rights and police" CI (98), prepared by the Information Centre on human rights of the Council of Europe. After being printed, it will be distributed to all police stations in the Republic of Macedonia.

b) Regarding paragraph 22 of the Report, the Ministry of Internal Affairs, emphasises that through its instructive and supervision actions, it has been particularly insisting, within the regular working, for the respect of the provisions of the regulations that regulate the manner of procedure with the temporarily seized and found things. In that respect, efforts are being made also for those police stations that do not have the required premises to keep such things, to form them, and for the things to be dealt with in accordance with the articles of the regulations.

Securing the detained persons from mistreatment recommendations

a) Regarding paragraph 31, the Ministry of the Interior, within its instructive and supervision function, undertakes enhanced actions for full implementation of Art. 3 of the Law on Criminal Procedure, and within that framework, realization of the right to information with regard to a family member or other close person for taking into the police station or detaining a certain person.

b) Concerning paragraph 32 of the Report, we explain that having in mind the fact that the Constitutional Court of the Republic of Macedonia abolished the provisions of Art. 29 of the Law on Internal Affairs, and the exclusive application of the provisions of the Law on Criminal Procedure, the issue about the impreciseness of the abolished provisions concerning the possibility of delaying the information on the detention is completely overcome.

c) Concerning paragraph 35, the Ministry of the Interior explains that in practice this Ministry fully applies the provision in Art. 3 of the Law on Criminal Procedure, and, within that framework, respects the obligation to inform the defendant about the right to lawyer.

d) With regard to the right to lawyer, a recommendation that the existing legal provisions should be revised and made more precise in light of the possibility for the right to unrestricted private conversation with a lawyer, was incorporated in the Report.

Such right is incorporated in the present provision in Art. 3, paragraph 2 of the Law on Criminal Procedure which provides for the right of a person "to be advised by a lawyer".

The same provisions also provide for the right to a lawyer during the interrogation, that includes also the talks in the police station within the pre-trial procedure.

With regard to this recommendations, the Ministry of the Interior, through various forms (training courses and seminars, activities, etc.) undertakes continuous measures for their full implementation.

e) With regard to paragraph 39, the Ministry of Interior informs that applicable legal provisions and regulations in the Republic of Macedonia do not provide for the right to a doctor for arrested persons. The Report accordingly recommends a formal guarantee of such right, including the right to a doctor according to one's own choice. The recommendations go even further in the sense that within these provisions, should be incorporated also: 1) the possibility for the medical examinations to be made out of the time intended for the interrogation and out of sight of the police officers, and 2) the results of the examination and any relevant statement by the detained person and any finding by the doctor should be formally recorded and made available both to the detained person and to his lawyer.

In principle, even in its present practice, the Ministry satisfies the requests for medical examination of the detained persons and, in accordance with the needs and possibilities, provides in all cases quality medical assistance. In all cases, the medical findings are available to the persons to whom they relate.

Having in mind the recommendations and the provisions contained in the international documents, the Ministry will initiate activities for formal incorporation of the provision in this sense, in the laws and in the by-laws.

f) Relative to paragraph 41, the Committee states that the recommendation concerns the establishment of a form that will contain information on the rights that according to the law, the detained persons have, as well as providing a place for the verification of the fact that such person received such information.

The Book of Rules on Performing the Activities of the Ministry of the Interior provides for forms no. 10, 11 and 12 that should be filled in, in case of a person being detained. Due to the occurred changes in the Law on Internal affairs with the abolition of its Art. 29, and in accordance with the recommendations contained in the Report, the Ministry undertook activities for the harmonization of the present forms and their amending with all the required data.

g) In paragraph 42 of the Report, the Committee recommends the introduction of rules or guidelines for pursuing an interrogation, the existence of which would be a protection against ill treatment of the interrogated persons and a basis for training of the police officers. Furthermore, the rules or the guidelines should include the following: giving data about the person who makes the interrogation and the persons who are present, periods of rest between two interrogations, special room for the interrogation, if the interrogated person is standing during the interrogation, if this person is drunk, or has taken medicaments, or is in a state of shock, precise recording of the duration of the interrogations, replacements of the persons present at the interrogations, etc. The need of attentive and specially established treatment of minors, of mentally sick, invalids and ill persons is especially emphasized.

Taking into consideration these recommendations and the purpose of their acceptance, the Ministry of the Interior will undertake in the forthcoming period actions for their full implementation.

h) With regard to paragraph 45 as mentioned above under the points a), e), and g), the Ministry has been undertaking enhanced activities for education and training of the police officers, and enhanced controlling and other activities with regard to the full implementation of the Law and the regulations in this field and the implementation of the recommendations from the Report. To this end, the Ministry has also been undertaking actions for complete elimination of the found omissions in the part dealing with the registration of the detained persons.

Comments

- In connection with the question of establishing a single list of persons who were detained in a police station, the activities that have been undertaken by the Ministry for the implementation of the recommendations, have been already elaborated in the framework of points: a), e), g), and h).
- In the period after the visit of the delegation of the Committee for Prevention of Torture and Inhuman or Degrading Treatment and Punishment of the Council of Europe, activities were undertaken at level of further equipping and adaptation of the rooms for detention in all police stations in the Republic of Macedonia where such exist. Also, in the context of full implementation of the recommendations contained in the Report, regarding the guidelines included in paragraph 46, the Ministry of Interior, in cooperation with other institutions and NGO's will initiate and will define the most appropriate form for the establishment of independent control over the conditions in the premises for detention and the manner of treating the detained persons.
- In paragraph 37 of the Report, the possibility of the effectiveness of enjoying the right to lawyer in the police procedures is considered to be complete if there exists a system of legal assistance and advice by a lawyer also for the persons who cannot afford to pay for such services.

The Law on Criminal Procedure of the Republic of Macedonia provides for, in its Art. 63, the right to lawyer also in the pre-trial, i.e., in the police procedures. Art. 66 provides for the right of obligatory defense when criminal charges for criminal act were brought against the person in detention, for which the law prescribes a prison sentence of 10 years or more, as well as in cases when the suspected is tried in absence. In cases when there are no conditions for an obligatory defense, and criminal procedure has been initiated for a criminal act for which a prison sentence of more than 3 years is provided for by the law, the accused person may be given a lawyer, if according to the financial situation of the accused, he/she cannot afford to pay the legal costs for the defense (Art. 63). Even in this case, the request for appointing a lawyer for the defense ex officio may be filed, only if criminal charges have been previously brought.

In accordance with these provisions, the right to a obligatory defense in the police procedures during the detention of duration of 24 hours and during the interrogation is not provided for.

II. Regarding the remarks that directly relate to the competency of **the Ministry of Justice**, we inform you on the following:

1. Torture and other forms of ill-treatment

The recommendation of the Committee to stop the practice of shaving the heads of certain minors, as well of carrying a baton on a visible place by the personnel that come in direct contact with the minors, has been accepted immediately. In this respect, we inform you that the shaving of heads was not a practice but a wish of certain minors. The official batons are carried in a special pocket made in the interior part of the trousers alongside the right edge of the trouser-leg. However we consider that the European Committee should be informed on the use of the batons is governed by the Law of execution of sanctions and by a Book of Rules, pursuant to which an officer of the guard service may use rubber baton in order to subdue an active or passive resistance of arrested persons in case when it is required to prevent their escape, physical assault on the officer of the guard service or other personnel, inflicting wounds to another person, self-wounding and causing material damage, assault on an object protected by an officer of the guard service, as well as when it is also required to prevent a physical resistance by an arrested person. The use of the rubber baton may be applied after all possibilities for a peaceful solution of the situation have been exhausted.

Every application of coercive means is to be notified to the Directorate for Execution of Sanctions at the Ministry of Justice that evaluated the justification of the application of the coercive means.

Request of information on the three year period, 1996 - 1998 (paragraph 51)

Regarding this question, in the said period no complaint was registered on the unlawful conduct of the personnel in the institutions run by the Ministry of Justice and no disciplinary measure was undertaken or criminal charges against staff members initiated as result of filed complaints. Also, having in mind the aforementioned, we inform you that no disciplinary or criminal sanctions as consequence of unlawful action by the personnel were made.

Concerning the procedures to be undertaken upon possible complaints, etc., we inform you that every convicted person upon his/her coming in the institution, is given a copy of the internal rules and of the necessary instructions. Also, the action with regard to the procedure of complaint is regulated by the provisions of Art. 162 to Art. 170 of the Law on execution of sanctions.

2. Conditions of serving the sentence

The recommendations on improving the conditions in the departments for the stay of the convicted persons are fully accepted by the Ministry of Justice. The dynamics of reconstruction and rehabilitation of the structures is in accordance with the program of the Ministry of Justice and the Directorate for Execution of Sanctions and depends on the inflow of funds from the Budget for this purpose. Following the visit of the CPT, we have continued to improve the conditions. Thus in the Idrizovo Penitentiary, the A1 department was renovated, then B4, C7 (cells for solitary confinement), C8 (maximum security department), then the semi-open department, the department for minors, and the arrest department. In the forthcoming period, actions will be undertaken for the reconstruction of the C9 department (maximum security) and the receiving department. The reconstruction and rehabilitation of the structures includes also change of the inventory in the departments (beds, drawers, mattresses, blankets).

In the Tetovo House of Correction, renovated were all toilets in the buildings where minors reside, and pursuant to the program for reconstruction and rehabilitation of the structures, rehabilitation was also made of the toilets and the premises for residing of convicted persons in the Tetovo Penitentiary, the Gevgelija Penitentiary, the Open department in Strumica, the Open Department in Kriva Palanka. In future actions, the improvement of the conditions, that is, the reconstruction, that will be required, will fully depend on the possibilities of the state with regard to the financial resources.

3. Medical services

The recommendation to increase the medical personnel in the Idrizovo Penitentiary was accepted. Therefore a request was submitted to the Government of the Republic of Macedonia to increase the number of medical officers in this institution that was accepted by the Government. However due to the limited budget, this request still has not been realized. The situation of increasing the medical personnel has been solved by a part-time hiring of a neuropsychiatrist and by transferring one more person, a medical attendant, from the already employed personnel who was engaged in another service. This person, in addition to administering therapy and medical interventions, takes care also of the medical files of the convicted persons.

A psychologist has been also engaged in the medical team, in addition to the part-time neuropsychiatrist.

With regard to the improvement of the conditions in the premises for medical treatment that depends on the financial resources, attempts have been made to dislocate the complete dispensary in the premises of the building of the semi-open department that were renovated (paragraphs 66 and 67).

The renovation of the arrest department in the State Hospital that was in progress during the visit of the CPT, was completed (paragraph 68).

4. Other questions

The recommendation on developing interpersonal relations and rewarding the prison personnel and the introduction of training of the personnel has been fully accepted. Programs have been made to train the prison personnel in a training center where the personnel from all services would have a 10-day training pursuant to the said programs. To this end, contacts have been made with the Director of the prison administration of England and Wales, as basis for bilateral cooperation. We suppose that by the said actions, appropriate conditions will be provided for training and education of the prison personnel and for improvement of interpersonal relations (paragraph 70).

We have already mentioned that the maximum security department in the Idrizovo Penitentiary, that also includes the solitary cells, was renovated in one of its parts. With the end of the heating season, rehabilitation will be also undertaken of the heating system (paragraph 80).

Pursuant to Art. 79 of the Law on Execution of Sanctions, the Government of the Republic of Macedonia forms a State Commission for supervision of the penitentiaries. It is composed of five members from various professions and institutions: judges, penology experts, social workers, teachers, from the Ministry of Health, Ministry of Labor and Social Policy, Ministry of Economy, etc. The members of the State Commission were elected in August 1999.

The State Commission has a task by visiting from time to time the penitentiaries, to examine the conditions with regard to the implementation of the law and other regulations and rules for the execution of sanctions, the treatment of the convicted persons, the conditions in which they live and work, and makes an inquiry on the status and rights of the convicted persons. The existence of this Commission is legal obligation and its members will be appointed (paragraph 85).

Remarks

With regard to the recommendation of the transfer of the guards, following the visit of the CPT, their number was increased by new hiring. Also a change was made in the working time of one shift, thus a better dynamics has been achieved in the circulation of the shifts and their more frequent replacement by a relaxed personnel (paragraph 72).

With regard to the remark of the CPT on increasing the number of visits by family members to the convicted person, we think the members of the Committee took into consideration only the number that is determined by law, and was thus characterized as small. However, the form of allowing visits, that is approved by the Director of the penitentiary, in practice is very flexible and gives opportunities for two more visits and one visit without guard supervision for married persons in special premises. These are simulative measures that have so far in our practice given good results and are in accordance with the established treatment, the conduct of the convicted person, his/her commitment in the penitentiary premises and at the place of work, and the security measures. In this respect, the number of monthly visits varies from one per month which is legal up to four per month, with the approval of the Director of the penitentiary. Visits concerning persons who are not family members are approved independently of the said possibilities, exclusively upon the request of the convicted persons (paragraph 75). According to the available data, so far there has been no complaint with regard to the number of visits.

The procedure to address other international institutions including the CPT, is organized in the penitentiaries by their Legal Department that provides legal assistance to all convicted persons regarding their requests. The legal procedure is explained to every convicted person and this is guaranteed with the Art. 170 of the Law of Execution of Sanctions. Also, this procedure is without restraint allowed in accordance with the provisions of the Convention.

In our practice so far, the convicted persons most often have been addressing the Ombudsman and the Helsinki Committee for Human Rights, as well as the Parliamentary Commission on human rights.

Every citizen of the Republic of Macedonia, and thus the convicted persons, are guaranteed the right to address the international organizations and bodies and to file legal instruments. The implementation of Art. 170 of the Law on Execution of Sanctions is realized in accordance of Art. 25 of the European Convention on Human Rights, that says that the legal instrument may be filed, after all domestic legal instruments have been exhausted (paragraph 83).

The procedure to file complaint for the minors that stay in the Tetovo Correctional Institution is the same one that is valid for the convicted persons. This is regulated by Art. 321 of the Law on Execution of Sanctions (paragraph 85).

Requesting information

With regard to the request of information on installing additional telephones in the Idrizovo Penitentiary, we inform that in the premises of the closed department, one more telephone booth has been installed. The same goes for the open department. In the women's department, due to the small number of persons, there is no available telephone, while the needs to phone are solved by organized going to the telephone booth installed at the entrance of the building (paragraph 77).

The alarm system in the solitary cells which was being repaired at the moment of the visit by the CPT, now is in operation, and is equipped with parallel light signalization (paragraph 80).

Convicted persons may communicate with the Ombudsman and the European Court for Human Rights and other international institutions (paragraph 83).

The procedure to file a complaint for the minors in the correctional institution has been established in the chapter on the protection of the rights of the convicted persons, Art. 162 - 170 of the Law on Execution of Sanctions. Art. 321 of the same Law cites these provisions in its part on the special provisions on the execution of the measures of the institution. To this end, there are appropriate instructions in the correctional institutions (paragraph 84).

The Tetovo Correctional Institution is regularly visited by the judge responsible for minors, the Center for social work, various parliamentary commissions, the Ombudsman, NGO's and humanitarian organizations (paragraph 86).

With regard to the possibility of confident approach to the European Committee and the President of the CPT, the Ministry of Justice thinks that it is necessary to underline that such possibility is effectively possible since the date of accession of the Republic of Macedonia to the Convention. In this context, very important is the fact that the Directorate for Execution of Sanctions, after organizing an informative seminar on the application of this Convention, prepared a special bulletin that was delivered to all penitentiaries and to the convicted persons. This bulletin gave the full procedure on correspondence with the CPT.

At the same time, we inform that a joint meeting of representatives from all competent ministries will be organized when preparing the joint reply to the report that must be submitted within 12 months to the Committee giving an indication of the undertaking actions for the implementation of the recommendations.

III. During the visit of the delegation of the Committee for Protection against torture from the Council of Europe realized at the Hospital for Mental Illnesses in Demir Hisar, in the period of 17 - 27 May, 1998, attention was paid to certain established conditions at the Department for Psychiatric Treatment of patients under court sentence: security measure - mandatory detention and treatment.

1. The renovation of the toilets of this Department represents a continued and repetitive process having in mind the nature of the illness of the patients. In the meantime, two interventions for renovation were made of which the last one was a month ago. The renovations are closely connected with the material and finance resources that are at the disposal of the Hospital.

2. Majority of the patients are allowed to wear their own clothes, with the exception of the very grave cases of derangement who are given hospital clothes to wear so that they can be more easily detected during their escape.

3. Special record book is not run, but the information about all undertaken measures, the very causes for their undertaking, and the name of the doctor who ordered those measures are permanently written and kept in the Report book of this Department as well as in the General Report book of the Hospital record. The same books also keep record of the termination of the undertaken measure.

4. So far there are no plans to introduce an informative brochure that would explain the regime and would contain the rights and duties of the patients in the Hospital, because for this purpose the Internal House Regulations are used, in which the rights and duties are listed.

5. Inspections of the recently established State Commission for Supervision of the Penitentiaries will be pursued in all of the penitentiary institutions in Macedonia, on regular basis, consequently, an inspection of the Demir Hisar Hospital is expected shortly.

IV. With regard to the parts of the Report where the Committee members discuss the conditions in the institutions run by **the Ministry of Defense**, please note the following comments of the Republic of Macedonia, in view of the raised questions.

There are plans for establishing practice of writing full record of all detentions at every border guard station, but necessary changes in the by - laws of the Ministry of Defense are desired. (paragraph 100). The further more precise information about these, will be given in the Final Report.

With regard to the requested information about the accommodation arrangements which obtain at border guard stations where persons may be held overnights (paragraph 99) the detailed explanation in that regard, will be included in the Final Report.

Skopje, November 4, 1999

**Follow-up report of the Government of
"the former Yugoslav Republic of Macedonia"**

**FOLLOW-UP REPORT BY THE GOVERNMENT
OF THE REPUBLIC OF MACEDONIA WITH REGARD
TO THE REPORT OF THE EUROPEAN COMMITTEE
FOR THE PREVENTION OF TORTURE AND INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT (CPT)**

With regard to the request of the President of CPT (dated 23 June, 2001) on additional information on the activities undertaken by the Macedonian authorities to implement the recommendations and comments of CPT formulated in the Report of the Committee upon visit to the Republic of Macedonia in May 1998, we would like to inform as follows:

1. Ministry of Interior: The legal framework of the Republic of Macedonia provides for all the formal measures for protection against abuse of police power in cases of deprivation or restriction of liberty. Only formalization of the right to have access to a doctor, which is *de facto* being applied, is under way.

(a) *the right to notify another person of one's custody:* This right is formally provided for in the relevant law and by-law acts that govern police procedure.

The application of section 3 of the Code on Criminal Procedure is further elaborated in the Regulations governing the operations by the Ministry ("Official Gazette of the Republic of Macedonia" No. 12/98), in part II called "Application of special duties and powers by authorized officials", which in detail stipulate the rights of the person who is summoned, in custody or deprived of his/her liberty to be notified in the language he/she understands on the reasons for being summoned, in custody or deprived of his/her liberty or on any criminal charges, on the right to remain silent, the right to access a lawyer in the pre-trial, that is, police procedure, as well as the right to notify a member of his/her family or a close friend.

Section 45 of the Regulations stipulates: "the authorized official shall notify the person deprived of his/her liberty in the language she/he understands that he/she is being deprived of his/her liberty and shall also inform him/her on the grounds of this deprivation of liberty and on his/her rights: the right to remain silent, the right to consult a lawyer and to access a lawyer on his/her own choice during the questioning as well the right to inform a member of his/her family or a close friend of deprivation of liberty".

Section 32 of the Regulations stipulates: "the authorized official, within three hours of the start of the custody, shall notify the family of the person in custody, and the company or the institution where the person in custody is employed, provided that this person requests this."

The cited by-law provisions are being strictly implemented by authorized officials of the Ministry of Interior, in cases when some person is in custody longer than three hours in police procedure.

By its Decision U.No. 137/98 dated 10 February, 1999, the Constitutional Court of the Republic of Macedonia abolished as unconstitutional Section 21, paragraph 1, sub-paragraph 3, and Sections 29 and 31 of these Regulations on governing the operations by the Ministry of Interior, that relate to the right to keep persons in custody during police procedure. The power of authorized Ministry officials to keep in custody citizens is governed by several law and by-law acts:

Section 143 of the Code of Criminal Procedure stipulates that *"the authorized officials of the Ministry of Interior shall have the power to direct the persons present at the place of the crime to the investigating judge or to keep them until he/she comes, if these persons could give data important for the criminal procedure or if it is likely that they cannot be examined later or if it would mean a delay or other difficulties. Keeping persons at the place of the crime cannot last longer than six hours."*

Section 188, paragraph 3, of the Code of Criminal Procedure stipulates that *"the authorized officials of the Ministry of Interior may with exception detain the person under paragraphs 1 and 2 of this Section, if the detaining is necessary for the certification of the sameness, checking alibis or if for other reasons it is necessary certain data for a procedure against a persons to be collected, and if there are other reasons for pre-trial detention under Section 184, paragraph 1, sub-paragraphs 1 and 3 of this Code and in case of Section 184, paragraph 1, sub-paragraph 2, only if there is justified fear that the persons will destroy the traces of the crime"*.

Paragraph 6 of the same Section stipulates that *"the detention under paragraph 3 of this Section may last at most for 24 hours. After the expiring of this period, the authorized official of the Ministry of Interior shall be obliged to release the detained or to proceed according to paragraph 2 of this Section"*. This law provision is elaborated further in detail in Section 44 of the Regulations governing the operations of the Ministry of Interior.

In accordance with **Section 27, paragraph 3, of the Law on Internal Affairs** ("Official Gazette of the Republic of Macedonia" NO. 19/95 and 55/97), *"if the person refuses or is not in position to prove his/her own identity, he/she may be detained for a period necessary to check the identity, but not longer than three hours"*.

In accordance with **Section 15 of the Regulations governing the operations by the Ministry of Interior**, *"the authorized official may direct the person present at the place of the crime to the investigating judge or to keep him/her until the arrival of the judge if that person could give data important for the criminal procedure or if it is likely that the person cannot be examined later or if it would mean a significant delay or other difficulties. Keeping persons at the place of the crime cannot last longer than six hours."*

Within the activities to transform the Ministry of the Interior of the Republic of Macedonia into modern and professional police force, great attention is being paid to creating an efficient system, which will secure that actions and powers be undertaken in accordance with law provisions, with full observance and protection of human rights.

In this respect, police commanders in charge are pointing out to their police officers in the everyday work of the need to fully observe law provisions. This is particularly being accented when certain rights of the citizens are being restricted by undertaken measures (apprehension and detention). In this respect, and in accordance with the police procedure, the authorized official is obliged to make official note on every detention, that is, this note should include personal data on the detained persons, the grounds for the detention, the day and hour of the start of the detention and the end of it, whether a lawyer was involved in the police procedure and the moment of this involvement, whether and when the family of the detained persons was informed or any other person if requested by the detained person, whether there were any security or other problems relative to the detention, etc. Minutes on the detention are prepared as attachment to the official note. The minutes are signed by the authorized official and by the detained person. The prepared forms are controlled and checked by the direct police commander. If needed, these documents may be also checked by the competent departments of the Ministry of Interior that exercise daily control over the work of the authorized officials. The authorized officials are obliged to prepare such official documents in order to have supervision over the full observance of the procedure and in case of complaint filed by the detained person, to establish whether law provisions were applied and observed, whether human rights were respected and whether the formal manner of proceeding was observed in the application of the police measures.

(b) the right to have access to lawyer: The right to have access to a lawyer in the pre-trial procedure is governed by the Constitution of the Republic of Macedonia, law and by-law acts.

The Constitution of the Republic of Macedonia stipulates in its **Section 12, paragraph 3**, that *"a person has a right to an attorney in police and court procedure"*.

Section 188, paragraph 5, of the Code of Criminal Procedure stipulates that *"in case of detention according to paragraph 5 of this Section if the person deprived from freedom requires assistance of a counsel, the authorized official of the Ministry of Interior shall cancel the conduct of these acts until the counsel arrives, but no longer than two hours from the time when the detained person was given the opportunity to inform his/her counsel."*

The right to a lawyer in police procedure is elaborated in the Regulations governing the operations of the Ministry of Interior. The person who is summoned for making a notification on successful conduct of criminal procedure in a language that he/she understands, will be notified, inter alia, on the right to have a lawyer when making the notification, in accordance with **Section 12** of the cited Regulations. **Section 44, paragraph 4**, of these Regulations stipulates the obligation of the authorized official to enable the person deprived of freedom to seek assistance from a lawyer and to delay the conduct of all actions until the arrival of the lawyer, but no longer than two hours after giving the detained person opportunity to contact a lawyer. **Section 45** of the Regulations stipulates that *"the authorized official shall notify the person deprived of his/her liberty in the language she/he understands that he/she is being deprived of his/her liberty and shall also inform him/her on the grounds of this deprivation of liberty and on his/her rights: the right to remain silent, the right to consult a lawyer and to access a lawyer on his/her own choice during the questioning as well the right to inform a member of his/her family or a close friend of deprivation of liberty"*.

The authorized officials of the Ministry are obliged to conduct the law and by-law provisions when depriving a person of liberty. Every violation of these provisions is sanctioned according to law provisions in force.

(c) *the right of access to a doctor:* As already mentioned, this right is not formally provided for, however it is being applied *de facto*. In order to formalize this right within the scope of the proposed reforms in the Ministry of Interior, the Interior Minister made a decision to establish a Commission composed of Ministry and external experts. The task of this Commission is to prepare a Proposal for the passage of a law to amend the present Law on Internal Affairs, which will incorporate the right of the person deprived of liberty to have access to a doctor. It is evident from the daily practice that when a person deprived of liberty in the police procedure demands attention of a doctor, this person is given opportunity for a proper medical treatment.

(d) *complaints of abuse of police power:* According to legal provisions, control over the legality in the work of the police officers, in addition to the competent departments of the Ministry of Interior, may be exercised also by the citizens of the Republic of Macedonia. In order to protect their rights and interests in cases of abuse of police power, citizens may lodge complaints to the Ministry of Interior.

The Ministry of Interior, with regard to these complaints, treats them efficiently and effectively, according to the Law on Treatment of Complaints. After receiving a complaint, a special department within the Cabinet of the Minister considers and directs the complaint to the division of the Ministry it relates to (the plainclothesmen or the uniformed police officers in the Ministry of Interior). Then a proper commission to review the complaint is established. This commission considers the accounts in the complaint, establishes the type of abuse of police power and then forms a check team. This team prepares a plan relative to the specific tasks and methods to be applied in the check (for example, for competent departments within the Ministry to verify the authenticity of the photo-documentation). When speaking about abuse of police power by uniformed police officers, then members of the said team are sent to the police station that is mentioned in the complaint. When the person making the complaint is not anonymous, then this person is summoned to a conversation, provided he/she is prepared for cooperation, with absolute respect of his/her personality, age, gender and mental and physical conditions. The person who lodged the complaint is asked with regard to all relevant facts relating to the accounts in the complaint. Full check of the entire case is conducted, starting with the check of the daily registration book at the police station (day, hour of registering the case, name of the police officer who acted, description of the case, undertaken measures, etc.). After this, talks are made with the immediate superiors and other police officers that were present or took part in the case. Afterwards, a full analysis of the police documentation is conducted (official notes, information and report on the use of physical coercion. Then it is established whether some omissions were made and whether the accounts in the complaint coincide with the measures undertaken by the police officers. According to the rules, the report on use of physical coercion should also include assessment of the immediate superior officer on the validity or invalidity of the use of coercion. The check team prepares report on the final results of the check. Depending on what was established, the team makes proposals on measures to be undertaken (for example, a proposal to initiate disciplinary or criminal proceedings against police officers who were found to overstep his/her power).

In the 1998-2000 period, a total of 1538 complaints were lodged by citizens. A total of 308 disciplinary proceedings were initiated in order to establish the responsibility of Ministry officers for violating the working discipline. 223 financial sanctions were made. 55 officers were given discharge papers. 29 criminal proceedings were initiated, while 196 court procedures were initiated. We would like to underline that all filed complaints and initiated disciplinary proceedings do not relate only to abuse of police power in the use of physical coercion contrary to the rules and regulations of the Ministry of Interior done by police officers, rather these also relate to other official actions within the Ministry of Interior (for example: in connection with complaints by citizens filed because of police officers ignoring to take all actions as provided for by the rules, untimely police action, etc., violation of the rules of engagement, gaining material advantage connected to the work, etc.)

**Table 1 -
Presentation of the full number of complaints and initiated disciplinary proceedings**

Year	Received complaints from citizens	Initiated disciplinary proceedings	Initiated criminal proceedings	Imposed financial sanctions	Discharge from work	Initiated court procedure regarding rights stemming labor relations
1998	364	131	11	94	37	80
1999	522	109	10	95	14	60
2000	652	68	8	64	4	56
Total	1538	308	29	223	55	196

In the same period (1998-2000), the number of initiated disciplinary proceedings for excessive use of physical force by police officers when taking persons to or detaining them at the police station, contrary to the rules and regulations of the Ministry, is very small, that is, a total of 10 proceedings were initiated against 13 authorized officials of the Ministry, of whom three were dismissed from their work, and 10 were exposed to financial sanctions.

**Table 2 -
Presentation of initiated disciplinary proceedings that relate to unjustified use of physical coercion**

Year	Initiated proceedings	No. of authorized officials	Dismissal from work	Exposed to financial sanction
1998	3	5	3	2
1999	2	2	-	2
2000	5	6	-	6
Total	10	13	3	10

(e) conditions of detention in police establishments: in the recent period, the Ministry of Interior of the Republic of Macedonia has undertaken many activities on the improvements of the conditions of detention in the police establishments as well. To this end, when building new establishments and adapting the existing ones, attention is paid to maintain the criteria, according to the recommendations of CPT (reasonable volume, proper lights and ventilation, etc.). In this respect, an assessment is made that most of the detention premises at police establishments meet these criteria, with a note that in some police stations it is necessary to undertake additional measures in this direction; however their realization depends primarily on the financial resources to be given to the Ministry of Interior.

In this regard, the Ministry of Interior makes constant efforts to improve the conditions of detention in police establishments and continually undertakes activities in this field depending on the available financial resources. Within the scope of those activities, this year the Ministry established a Commission for establishing the needs to undertake construction works and equipping of police stations of the Ministry of Interior. This Commission has the task to inspect the building where the police station are located, in order to determine the needs and the priorities in undertaking construction works and equipping of police stations with the necessary material and technical means and equipment.

Following the recommendations of the CPT relative to improving the conditions of detention, in the period following the visit of the Committee to several police stations throughout the Republic of Macedonia, several construction works have been undertaken, in order to improve the material conditions of the detention premises. To this end, in addition to the current maintenance of all police establishments in the Republic of Macedonia, the detention premises have been renovated in some of them as well. For example, the conditions of detention in the "Bit Pazar", "Centar" and "Gazi Baba" police stations have been improved, where in addition to painting and locksmith operations, repairs have been made also of the electrical wiring, water-supply and sewage systems. In addition, repairs have been made in the Sector of Interior for the town of Bitola, as well as in the "Kazani" and "Staravina" police stations. This year complete renovation (or possible construction of a new police establishment) is planned for the town of Demir Hisar. In Gostivar, in addition to the establishment of the Sector of Interior, repairs have been made in the "Galate" and "Mavrovo" police stations. In addition, repairs have been made in the establishment housing the Sector of Interior in the town of Prilep and the local "Ropotovo" and "Topolcani" police stations. In spite of the modest financial resources intended for this purpose, we would like to underline that almost all conditions of detention meet the basic criteria; however further activities are needed to this end as well.

(f) other activities of the Ministry of Interior: In addition to the aforementioned, the Ministry undertakes important activities for continued education and expert training of its police officers, whereby the primary accent is put on the rights of persons deprived of liberty, in accordance with international standards and the domestic legal framework. To this end, last year the Ministry prepared a Handbook on human rights and police, which, inter alia, gives contents of the international system for protection of human rights, findings and decisions of the European Commission for Human Rights and the European Court for Human Rights. This booklet also presents many cases, that is, situations in which police officers could find themselves when policing. It is a basic referential material for police training and for police human rights trainers. This booklet is a referential material for training police with regard to human rights. It is a part of the "set" for police training, which, in addition to this Handbook, contains elements on discussing human rights; referential brochure; brochure for the police; and video cassette. Part of this "set" has

been prepared, while another part is still being drafted and should be printed by the end of year.

At the same time, last year several seminars and course were organized and Ministry officers took part in them. At these seminars and courses, the primary accent was put on human rights and police, police ethics and responsibility, etc. In this regard, we would like to point out:

- the seminar called "Human rights and humanitarian law of police and security forces", organized by the International Committee of the Red Cross and the Ministry of Interior and held in several Sectors of Interior throughout the country. The seminar lasted five days and included about 130 participants.
- two four-day seminars, organized by the Canadian Royal Police, were organized under the title: "Responsibility and control in police work" and "Ethics and police."
- a three-day seminar was held in Skopje titled: "Human rights and police", organized by the Council of Europe and Ministry of Interior of the Republic of Macedonia.
- organized by the Criminal Law and Criminology Association of the Republic of Macedonia, a three-day seminar was organized in Ohrid on the topic: "Police officers, public prosecutors and lawyers in the pre-trial proceeding".

In addition, it is planned by the end of 2001 to open the new Police Academy, which will establish a modern, rational educational concept and a practical model for high-quality training of several types of police officers in accordance with international standards and compatible with the democratic changes in our country. In this educational institution, the field of human rights and police will be the primary theme contained in all curricula, so that future police officers would be educated on the duty and responsibility when policing, taking into consideration the legal, ethical and psychological aspect in the work of police officers, as well as the double role of police officers - as officers enforcing the law, especially in the part relating to respect of human rights and as service to the citizens, that is, as protector of the human rights.

Furthermore, the Ministry is the publisher of "Bezbednost" (Security), a magazine on criminology, criminal science and criminal law, intended for further improvement of the education of the Ministry employees. This magazine, in addition to articles from the mentioned fields, also publishes science analyses and texts in the field of comparative practice and the field of international human rights protection. Besides this magazine, the Ministry also issues a newspaper prepared by and for the Ministry employees called "92". It serves to inform the employees on the current events in the work of this state body.

2. Ministry of Justice: In connection with the requested detailed account of action taken by the Ministry of Justice to implement the CPT recommendations, we would like to inform that the Ministry of Justice undertakes several activities to improve the conditions of stay and the regime in the prisons. In this context, in all prisons, where needed, repair and renovation was made of the sanitary premises; conditions were improved for accommodation of prisoners in the sleeping rooms; repair was made of electrical wiring; in the Idrizovo Prison a new ward for accepting newly arrived residents in the initial stage of their sentence; in this prison, the refurbishment is in final stage of the ward intended for stay of ill prisoners; completion is under way in the Idrizovo Prison of the prison farm, with the financial support of a Dutch NGO.

In all prisons, the regime of visiting prisoners by their family members has been liberalized, as well the regime of weekend leave for prisoners who are entitled to this. Conditions have been created for improved work engagements of the prisoners, especially in the Idrizovo Prison, and better overall use of spare time.

3. Ministry of Health: With regard of the CPT recommendation that measures be taken to ensure that prolonged use of a strap bed does not recur, we would like to inform that such practice has been abandoned. Patients in psychiatric establishment may freely move. The use of a strap bed for patients, as ultimate and medically valid measure, is used only in exceptional cases and when it is absolutely required. The measure lasts only as medically indicated, i.e., when the medical therapy starts to act, but not longer than 5-6 hours.

In accordance with the laws, all medical officers are obliged to take care of the well being of their patients. All patients or their guardians are entitled to lodge complaints on the improper treatment by the medical staff in the psychiatric establishment. In this context, one may initiate administrative procedure or a court one, as well as procedure before the Office of the National Ombudsman. We would like to stress that in accordance with the Constitution of the Republic of Macedonia (Section 50), the procedure for protection of human rights is based on principles of priority and urgency. In addition, upon the exhaustion of all domestic legal recourses, one may initiate a procedure before the European Court of Human Rights.

The act of torture is a special criminal offence provided for in the Criminal Code of the Republic of Macedonia. This criminal offence is prosecuted *ex officio*, while the criminal proceeding may be initiated, besides the competent institutions, by private persons as well. In addition to this criminal offence, the Criminal Code of the Republic of Macedonia provides for separate criminal offences: negligent care of sick persons; not providing urgent medical attention to person whose life is endangered; practicing as quack doctor. All acts bear qualifying forms and provide for prison sentences from one to five years.

Provided an administrative proceeding is initiated by a patient or his/her guardian, the complaint is submitted to the director of the medical establishment. The complaint is reviewed in period of three days, and in cases of emergency, it is immediately. The medical establishment is obliged to submit a written reply to the person who filed the complaint. This reply should also indicate the measures that are or will be undertaken. Provided that the patient or his/her guardian is not satisfied with the reply or the undertaken measures, they are entitled at second-instance level to file appeals to the Ministry of Health. Upon completion of the administrative proceeding, in accordance with Section 50, paragraph 2, of the Constitution of the Republic of Macedonia, the patient or his/her guardian is entitled to court protection (administrative lawsuit) relative to the actions and decisions of the administrative bodies and bodies having public authorization.

According to the Law on Health Care, a patient or his/her guardian is entitled to damages in case of improper medical treatment. The proceeding for damages is initiated in civil lawsuit, upon a civil action by the plaintiff.

30.07.2001
Skopje