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DEALING WITH TORTURE IN MACEDONIA – DID WE FAIL?

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commentary

ON 15 MAY the Committee against Torture as an expert body of the United Nations published its [concluding observations](#) in relation to the [third periodic report](#)¹ on Macedonia. The concluding observations represent a document that assesses the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and they have been published after the [meetings](#) of the Committee with the Macedonian delegation in early May where our delegation had the opportunity to present the progress in implementation of the Convention and outline future plans.

The starting point for the analysis of the report is the evident lack of transparency of the competent Macedonian institutions. Although the Committee has asked the state party to distribute the report and the concluding observations widely and at all appropriate languages, through official websites, the media and non-governmental organizations, unfortunately such information can hardly be found on the website of the Government or any of the ministries whose representatives were part of the delegation that discussed the key findings in Geneva. Even the media failed to provide basic information on the report.

¹ All States parties are obliged to submit regular reports to the Committee on implementation of the Convention every four years. Macedonia submitted its last report in 2013.

Speaking about the lack of transparency, the state was criticized because it did not provide information on investigations, prosecution and sanctions for cases of torture and ill-treatment, although such request came from the Committee. This attitude of the authorities towards the Committee that includes failing to submit even basic statistical information is very irresponsible. Just as a reminder, the Committee in question is the highest UN body that ensures the implementation of the Convention against Torture, which was signed by 158 state parties and all of them have accepted the obligations stemming from the Convention. Macedonian state institutions are also regularly criticized by the civil society organizations (CSOs) for not being transparent enough and CSOs face difficulties to access necessary information when using the right and the law on free access to information from public character.

Regarding the content of the document, it contains worrying findings on the situation of human rights in Macedonia and prevention of torture. Starting from the “Wiretapping” scandal and the content of the materials, through the conditions in prisons, judiciary independence, violence against Roma, LGBT, women, dealing with irregular migration, police brutality, but also legal and institutional deficiencies such as the

interpretation of the Amnesty Law and the definition of torture – apart from the sharp criticism, the Committee also provides recommendations for addressing the shortcomings. The Committee remarks on impunity for acts of torture and ill-treatment, especially by those that are entitled to enforce the law, are particularly worrisome. The document even mentions a case of a prisoner who has lost a kidney after being beaten by a prison official. All of this undermines the citizens’ trust in the institutions, legal certainty and especially erodes the trust and confidence in those that are supposed to protect us. The police oversight mechanism has been the target of criticism from the domestic public and international organizations for many years now, and some of the published “bombshells” of the opposition in the form of telephone conversations between officials sparked protests of citizens in front of the Government, discontented by the way the Ministry of Interior was dealing with the case of murder of a student by a member of the special police unit “Alfa”.

In Macedonia, competent body for the prevention of torture is the Ombudsman who obtained the status of a National Preventive Mechanism after the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading

Treatment or Punishment and as National Preventive Mechanism is especially concerned with the rights of persons deprived of liberty. The constitutional and legal frameworks, but also the provisions of the Convention and the Protocol, provide a wide range of competences for the Ombudsman, including access to official premises and documents at any time. However, the Committee against torture notes that the Ombudsman was unable to conduct unannounced visits to some places of detention and the authorities did not follow the Ombudsman's recommendations. This is supplemented by the Ombudsman's statement from 21st May that he was not able to receive the required information from the Ministry of Interior and the Public Prosecution regarding two procedures examining illegal wiretapping. Just two days before that statement, he complained that the authorities prevented him from entering the prison "Shutka" and examining the treatment of detainees. Given that there are no legal obstacles for denying the Ombudsman access to premises and documents, such treatment by the executive branch violates the law. Moreover,

the Committee questions the independence of the Ombudsman, referring to the critics that he was only partially independent and does not operate in full compliance with the [Paris Principles](#).² At the moment, there are legislative changes that initially aimed at improving the Ombudsman's position and efficiency; however, in its annual report he himself expressed numerous remarks, complaining that the proposed changes do not address the issues that are prerequisites for fulfillment of the Paris principles.

The Human Rights Situation in Macedonia is of particular interest to the United Nations, especially after the occurrence of the massive wiretapping scandal. In late May, the Assistant Secretary-General of the UN, Mr. Ivan Simonovic visited the country, accompanied by colleagues from the Secretariat for Political Affairs. In fact, the last visit to Macedonia by a senior UN human rights official happened in 1999 and the practice shows that such interest generally

² Paris Principles are the principles relating on the status of national institutions for promotion and protection of human rights, adopted by UN General Assembly with the Resolution 48/134 from 20.12.1993

comes after allegations of serious human rights infringements. After the visit, Mr. Simonovic expressed "deep concerns about the serious challenges to the rule of law and the shrinking of the democratic space in the country" and mentioned the judiciary, media freedom and party influence on institutions as areas where significant improvements are needed.

It seems that Macedonian citizens are not fully protected from acts of cruel and degrading treatment, and the mechanisms for prevention and investigation of such cases are not completely functional. Macedonia is also one of the few countries against which the European Court on Human Rights has issued a ruling for torture by the counterintelligence service on suspected individual (the German citizen Khaled el-Masri). The latest developments on the political scene once again highlight the systematic deficiencies and inconsistencies within the law enforcement. Without any doubt, one of the main priorities in the forthcoming period is revising and reforming those inconsistencies and recovering the procedural guarantees for protection of human rights and freedoms.



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