



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the fourth periodic report of North Macedonia*

1. The Committee considered the fourth periodic report of North Macedonia¹ at its 2095th and 2099th meetings,² held on 1 and 3 May 2024, and adopted the present concluding observations at its 2104th meeting, held on 8 May 2024.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, as this improves the cooperation between the State party and the Committee and focuses the examination of the report and the dialogue with the delegation.

3. The Committee welcomes the constructive dialogue held with the State party's delegation and the oral replies and written information provided in response to the concerns raised by the Committee.

B. Positive aspects

4. The Committee welcomes the ratification of or accession to the following international instruments by the State party:

(a) Protocol No. 16 to the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), in 2023;

(b) The Convention on the Reduction of Statelessness, in 2020;

(c) The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, in 2018.

5. The Committee also welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, in particular the following:

(a) The adoption of the Law amending the Law on the Execution of Sanctions, in 2024;

(b) The adoption of amendments to article 112 of the Criminal Code, which established that the crime of torture was not subject to a statute of limitations, in 2023;

(c) The enactment of the Law on Payment of Monetary Compensation to Victims of Violent Crimes, in 2022;

* Adopted by the Committee at its seventy-ninth session (15 April–10 May 2024).

¹ CAT/C/MKD/4.

² See CAT/C/SR.2095 and CAT/C/SR.2099.



(d) The adoption of the Law on Justice for Children, which incorporated the principle of the best interests of the child, in 2024;

(e) The adoption of the Law on Prevention of and Protection against Violence against Women and Domestic Violence, in 2021;

(f) The adoption of amendments to the Law on Citizenship, in 2021, and other legislation aimed at ending statelessness and putting safeguards in place to prevent future cases of statelessness;

(g) The adoption of the Law on Free Legal Aid, which established that victims of violence against women and domestic violence were a special category of beneficiaries of primary legal aid, in 2019.

6. The Committee commends the State party's initiatives to modify its policies and procedures in order to afford greater protection to human rights and to give effect to the Convention, in particular the following:

(a) The adoption of the Prison Staff Training Strategy (2023–2026);

(b) The adoption of the Strategy for the Inclusion of Roma (2022–2030);

(c) The adoption by the Ministry of the Interior of a code on conducting interviews with citizens for the purpose of collecting statements and information, in 2023;

(d) The adoption of the National Strategy for the Development of the Penitentiary and Correctional System (2021–2025);

(e) The adoption of the National Strategy to Combat Trafficking in Persons and Illegal Migration (2021–2025) and the National Action Plan to Combat Trafficking in Children (2021–2025) and the issuance of standard operating procedures on the identification and referral of and provision of assistance to victims of trafficking, in 2023;

(f) The adoption of the National Strategy to Combat Terrorism (2023–2027) and the National Strategy for the Prevention of Violent Extremism (2023–2027);

(g) The adoption of the National Juvenile Justice Strategy (2020–2026);

(h) The adoption of the Strategy for the Prevention and Protection of Children from Violence (2020–2025);

(i) The adoption of the National Strategy for the Rights of Persons with Disabilities (2023–2030) and the National Strategy for Deinstitutionalization (2018–2027);

(j) The adoption of the Strategy for the Development of the Probation Service (2021–2025);

(k) The adoption of the action plan for the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2018–2023);

(l) The establishment of the department for the investigation and prosecution of crimes committed by persons with police powers and prison police officers, under the Basic Public Prosecutor's Office, in 2018;

(m) The adoption of a rulebook on caring for and accommodating unaccompanied minors and vulnerable categories of persons under international protection and the development of a manual on assessing the best interests of the child, in 2019;

(n) The adoption and revision of standard operating procedures on dealing with persons whose right to freedom of movement has been restricted (persons who have been arrested, detained or otherwise deprived of their liberty) at police stations of general jurisdiction, in 2018;

(o) The adoption of a code of conduct for staff at prisons and correctional facilities on the conditions for and manner of use of means of coercion and treatment in accordance with the standard operating procedure on the use of means of coercion, in 2018, and of a standard operating procedure on keeping records on and reporting cases of the use of means of coercion, in 2017.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations,³ the Committee requested the State party to provide information on the measures taken in follow-up to the recommendations on the following issues: investigations into all allegations of wrongdoing emerging from the so-called wiretapping affair;⁴ the absence of requested data; inter-prisoner violence and prison conditions; impunity for acts of torture and ill-treatment; and conditions of detention in the Gazi Baba detention centre.⁵ The Committee expresses appreciation for the State party's replies in this regard, received on 6 July 2015 under the follow-up procedure,⁶ as well as the information contained in its fourth periodic report. In the light of the information provided, the Committee finds that those recommendations have been partially implemented. The outstanding issues are addressed in paragraphs 14 to 19, 30, 31, 36 and 37 of the present document.

Definition of torture

8. While noting the amendments to article 142 of the Criminal Code introducing a definition of torture modelled largely on the definition contained in article 1 of the Convention, the Committee observes with concern that it does not include specific reference to acts committed for the purpose of intimidating or coercing the victim or a third party or for any reason based on discrimination of any kind. Furthermore, the Committee takes note of the explanation provided by the delegation that the principle of command responsibility for the offence of torture and other ill-treatment is covered by article 142 of the Criminal Code. Nevertheless, the Committee is of the view that the principle is not clearly encompassed therein (arts. 1 and 4).

9. **The State party should bring the contents of article 142 of the Criminal Code into line with article 1 of the Convention by ensuring that it explicitly covers all the elements contained therein, including acts committed for the purpose of intimidating or coercing the victim or a third party or for any reason based on discrimination of any kind. The State party should explicitly incorporate the principle of command or superior responsibility for the offence of torture and other ill-treatment, according to which hierarchical superiors are held criminally responsible for the conduct of their subordinates when they knew or should have known that the latter were committing, or were likely to commit, such acts and failed to take reasonable and necessary preventive measures.**

Fundamental legal safeguards

10. While taking note of the information provided by the delegation during the dialogue about the ongoing renovation of 34 police stations equipped with holding cells and the installation of closed-circuit television (CCTV) cameras, the Committee expresses concern that not all detained persons enjoy, in practice, all fundamental legal safeguards from the very outset of the deprivation of their liberty. In particular, the Committee is concerned about reports indicating shortcomings in the provision of effective access to a lawyer, as well as in the legal aid system. Reportedly, there have been cases in which access to a lawyer has been delayed during the first 24 hours of police custody and provided only upon a person's arrival in court. Furthermore, according to the information received, access to an initial medical examination is often granted at a police officer's discretion, a police officer is regularly present during the examinations, and injuries are not properly documented and reported by trained medical personnel (art. 2).

³ CAT/C/MKD/CO/3, para. 25.

⁴ The so-called wiretapping affair refers to allegations that senior officials of the State party were involved in a number of human rights abuses, including election fraud, harassment of civil society and opposition members and interference in the work of the Public Prosecutor and other members of the judiciary (ibid., para. 8).

⁵ Ibid., paras. 8–11 and 19 (c).

⁶ CAT/C/MKD/CO/3/Add.1.

11. **The State party should ensure that all fundamental legal safeguards are guaranteed in practice for all detained persons from the outset of the deprivation of their liberty, including the rights:**

(a) **To be assisted by a lawyer of their choice, including during interrogations, and to have access to qualified, independent and free legal aid, if necessary;**

(b) **To request and receive a medical examination by an independent doctor, free of charge, or a doctor of their choice, that is conducted out of the hearing and sight of police officers, unless the doctor concerned explicitly requests otherwise, in accordance with the principle of medical confidentiality, and to have such access not depend on the discretion of a police officer;**

(c) **To have their medical records immediately brought to the attention of a prosecutor whenever the findings recorded therein or allegations made indicate that torture or ill-treatment may have occurred.**

National preventive mechanism

12. While noting the numerous and unhindered monitoring visits to places of deprivation of liberty carried out by the national preventive mechanism, which operates with a separate budget line within the overall budget of the Office of the Ombudsman, the Committee is concerned that the mechanism does not have sufficient financial and human resources, in particular specialized personnel, such as medical professionals and social workers, to be able to implement its mandate effectively. It is also concerned about the budget reductions during the reporting period and the low salaries of the Office's staff. Lastly, the Committee expresses concern about the reportedly insufficient level of implementation of recommendations formulated by the mechanism, even though the authorities generally acknowledge those recommendations (art. 2).

13. **The State party should ensure that the national preventive mechanism has sufficient financial and human resources, including qualified personnel, such as medical professionals, social workers and other relevant experts, to carry out its work effectively in all types of places of deprivation of liberty, including social and other closed-type institutions, in accordance with the requirements of the Optional Protocol to the Convention. It should strengthen its efforts to ensure adequate follow-up to and implementation of the recommendations made by the mechanism as part of its monitoring activities.**

Conditions of detention

14. While taking note of the information provided by the State party with regard to the adoption of national strategies for the prison system, the development of construction projects to increase prison capacity and ongoing renovation works at several penitentiary establishments, the creation of a digital courtroom at Idrizovo prison and other measures undertaken to improve the material conditions and quality of life of persons deprived of their liberty, the Committee remains concerned about persistent overcrowding in a number of penitentiary and pretrial detention facilities, the reportedly substandard conditions in some wards of Idrizovo prison and the reported lack of access to potable water and sanitation at Kumanovo prison. The Committee is also concerned about the limited use of alternatives to imprisonment, although it acknowledges that some progress has been made in the probation system. Moreover, the Committee is concerned about the allegedly insufficient access to adequate health care, including mental health care, dental treatment and drug use disorder treatment, due to the lack of medication, qualified medical personnel, including psychiatrists, and qualified psychologists in prisons. In this connection, the Committee acknowledges the positive efforts made by the State party to employ new medical personnel by the end of 2024, to incentivize medical staff by providing a hardship allowance and to provide health insurance coverage for all convicted prisoners, among other measures. Furthermore, according to information received by the Committee, corruption and favouritism in the prison system have not yet been eliminated. Moreover, the limited progress made in addressing the overall lack of meaningful rehabilitation programmes, including educational, recreational and vocational activities for sentenced and remand prisoners, is also a matter of concern.

Lastly, the Committee notes with interest the adoption of measures aimed at deradicalization and the establishment of individual rehabilitation programmes for the high-security prison population. However, additional efforts are necessary, in particular for those convicted of domestic terrorism offences (arts. 2, 11 and 16).

15. The Committee urges the State party:

(a) **To intensify its efforts to improve the material conditions of detention in all penitentiary and pretrial detention facilities, in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), notably at Idrizovo and Kumanovo prisons, and eliminate overcrowding at such facilities, including through appropriate measures to implement the next phase of their construction and remodelling, in line with international standards, through the application of non-custodial measures and through the strengthening of the probation system. In that connection, the Committee refers to the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(b) **To intensify its efforts to ensure that there are sufficient suitable medical personnel, materials and medicines and that detainees have access to a medical examination as soon as possible after their entry to the facility and as often as necessary thereafter so that their health needs, including those related to mental health conditions, infectious diseases and drug use disorders, can be identified and adequately addressed;**

(c) **To continue to combat corruption, including through judicial and disciplinary proceedings against officials and other custodial personnel who commit acts of corruption in the penitentiary system;**

(d) **To strengthen rehabilitation and reintegration programmes in all places of deprivation of liberty, in particular by promoting educational, recreational, social and employment integration activities, and reinforce efforts to provide systematic and individualized deradicalization programmes for all prisoners at risk, including those convicted of domestic terrorism offences;**

(e) **To ensure that the ongoing digitalization of the justice system is in line with human rights guarantees, that judicial control of detention and the assessment of the lawfulness of detention are carried out in the physical presence of detainees and their lawyers⁷ and that other types of criminal hearings are conducted virtually only with the explicit, free and informed consent of the accused or sentenced person and subject to the necessary safeguards and due process guarantees. In this regard, the Committee invites the State party to consult the information note on online hearings in justice systems prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR).⁸**

Prison violence and deaths in custody

16. The Committee takes note of the information provided by the State party about the steps taken to develop dynamic security training programmes in prisons, to record and report cases in which means of coercion are applied by prison police officers and to ensure that a special register of all injuries is kept by health professionals in prisons. However, it is concerned at reports indicating that instances of abuse by prison staff often go unreported, that investigations of reported cases, including cases of deaths in custody, are ineffective and deficient and that doctors report the injuries recorded to the administration of the prison rather than directly to an independent authority. In addition, it expresses concern that a number of the persons who reportedly died violently in custody were from the Roma community. The Committee remains concerned that little progress has been made in assessing the risks faced by and needs of individual prisoners in order to prevent inter-prisoner violence and that

⁷ Human Rights Committee, general comment No. 35 (2014), paras. 32 and 34.

⁸ See <https://www.ohchr.org/sites/default/files/documents/issues/ruleoflaw/Briefer-Online-hearings-justice-systems.pdf>.

persons with physical or psychosocial disabilities, lesbian, gay, bisexual, transgender and intersex persons and those who belong to ethnic or religious minority groups are frequently at a higher risk of such violence. In this connection, the Committee expresses appreciation for the information provided by the State party's delegation about its plans to adopt a strategy to tackle inter-prisoner violence by 2025. Lastly, the Committee is deeply concerned about the overall lack of funding for and understaffing of the prison system, although it takes note of the State party's recent efforts to fill 192 positions. The Committee is alarmed by those chronic deficiencies in staffing, notably at Idrizovo prison, where they led to the declaration of a crisis on 6 June 2023 and the deployment of armed forces to support the maintenance of security at the prison. In this connection, it takes note of a specific action plan that is being prepared to address the crisis, as reported by the delegation (arts. 2, 11 and 16).

17. The State party should:

(a) **Continue to strengthen measures to record all violent incidents, injuries and deaths in prison and ensure that such cases are immediately brought to the attention of relevant authorities ex officio for further investigation, including independent forensic examination. In cases in which autopsies are called for, they should be performed in accordance with the Minnesota Protocol on the Investigation of Potentially Unlawful Death. The State party should compile and provide the Committee with detailed information on the number of cases of injuries and deaths in all places of detention, their causes and the outcomes of investigations into them;**

(b) **Intensify its efforts to adopt strategies and programmes for the prevention and management of inter-prisoner violence, including by introducing a risk assessment tool across the prison system and by monitoring, documenting and impartially investigating incidents of this type, and strengthen the protection of prisoners in vulnerable circumstances and other prisoners at risk, in accordance with the Nelson Mandela Rules and the European Prison Rules adopted by the Council of Europe;**

(c) **Continue to recruit sufficient prison personnel to ensure an adequate ratio of prisoners to staff and to improve security, reduce violence and ensure the proper treatment of inmates, including by providing training to prison personnel on dynamic security principles, intensify its efforts to address the crisis declared at Idrizovo prison, avoid the recurrent use of exceptional measures, such as the declaration of a crisis, limit the deployment of armed forces at Idrizovo prison to situations of absolute necessity and ensure that security is maintained generally by the prison police;**

(d) **Continue to strengthen training programmes for all relevant staff, including medical and psychological personnel, prosecutors and judges, on the identification, documentation and investigation of cases of torture and ill-treatment, in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), as revised, and ensure that, if the medical personnel conducting the examination of the detainee or recording the injury in prison have grounds to believe that a person has been ill-treated, the case is immediately reported to the prosecutor's office and all other relevant independent entities.**

Investigation and prosecution of acts of torture and ill-treatment, including excessive use of force

18. While appreciating the introduction of a zero-tolerance policy towards the inhuman and degrading treatment of detainees and taking note of the information provided by the State party about the investigations carried out into allegations of excessive use of force by police officers during the protests in 2015 concerning the so-called wiretapping affair and the demonstrations in 2017, the Committee expresses concern over information that it has received regarding:

(a) The persistent use of force in an excessive way, accompanied by verbal threats and verbal abuse on the part of police officers, including during apprehension and statement-taking;

(b) The low number of disciplinary proceedings against and criminal prosecutions and convictions of police and prison officers in cases of torture and ill-treatment, including cases of the excessive use of force and application of means of coercion, in relation to the number of complaints registered, as well as the fact that cases are often closed on grounds of being unfounded or lacking evidence, and the fact that probationary and suspended sentences have been handed down in some cases following convictions for torture and ill-treatment;

(c) The lack of adequate investigation of the possibility of discriminatory motives in cases of the alleged abuse and excessive use of force by police officers, in particular against members of the Roma community, who, moreover, are apparently distrusted by police authorities when they allege violations of their rights in criminal proceedings (arts. 2, 10, 12–14 and 16).

19. The State party should:

(a) **Carry out prompt, impartial, thorough and effective investigations into all allegations of torture and ill-treatment, including the excessive use of force and application of means of coercion, made against police and prison officers, ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the investigation, while ensuring that the principle of presumption of innocence is observed, and ensure that suspected perpetrators are duly brought before a court and, if found guilty, sentenced to a punishment commensurate with the gravity of their acts and that the victims receive appropriate redress;**

(b) **Ensure that the possibility of discriminatory motives is sufficiently investigated when they are suspected to have played a role in the commission of an offence and that such motives are considered to be an aggravating circumstance in criminal prosecutions, and continue its efforts to combat negative attitudes towards, stereotypes or stigmatization of and discrimination against members of the Roma community and other ethnic or minority groups present in the State party;**

(c) **Ensure that all actions by police and prison officers are recorded, including through the use of audio and video recording equipment during interrogations and, as appropriate, the use of body cameras;**

(d) **Develop training modules for police officers on non-coercive interviewing and investigation techniques, including the Principles on Effective Interviewing for Investigations and Information-Gathering, introduce advanced investigative tools and establish a sound system for gathering forensic evidence;**

(e) **Continue to develop mandatory initial and in-service training programmes to ensure that all public officials, in particular police officers and prison staff, are acquainted with the provisions of the Convention, in particular the absolute prohibition of torture, and that they are made fully aware that violations will not be tolerated and will be investigated and that those responsible will be prosecuted and, if convicted, appropriately punished;**

(f) **Compile and publish comprehensive disaggregated statistical information relevant to all complaints and reports of torture, ill-treatment and the excessive use of force or application of means of coercion made against public officials, including information on whether such complaints led to investigations and, if they did, which authority carried out the investigation, whether the investigation resulted in the imposition of disciplinary measures or prosecution and whether the victims obtained redress.**

Complaint mechanism

20. The Committee takes note of the existing complaint mechanism for persons deprived of liberty, including the information brochures on the complaint mechanism that are available in three languages (Macedonian, Albanian and Romani) in prisons and the boxes for the submission of confidential complaints to the Ombudsman installed in all prisons and correctional and educational institutions for children. However, it expresses concern about credible reports that persons deprived of their liberty, including children, may find it difficult

or be reluctant to lodge complaints of torture or ill-treatment, owing to the lack of trust in the confidentiality and efficiency of the system or even a fear of reprisals (arts. 2, 12, 13 and 16).

21. The State party should take the measures necessary to strengthen existing complaint mechanisms in all places of detention, notably correctional and educational institutions for children, including by ensuring confidential and unhindered access to such mechanisms in complete privacy and by ensuring that complainants are protected against any intimidation or reprisals as a consequence of their complaints. The Committee encourages the State party to make brochures on the complaint mechanism available in other appropriate languages.

External oversight mechanism

22. While noting the information provided by the State party about the establishment of the department for the investigation and prosecution of crimes committed by persons with police powers and prison police officers, the Committee is concerned that this external oversight mechanism lacks sufficient resources to carry out its mandate efficiently, including forensic equipment to identify perpetrators. In addition, the civil control mechanism, established within the Office of the Ombudsman to act upon complaints lodged against police officers, is not fully functional, although the Committee takes note of the recent appointment of civil society representatives to complete its composition, as reported by the delegation (arts. 2 and 11).

23. The State party should take all measures necessary to continue to ensure that the external oversight mechanism is allocated appropriate financial resources to carry out its mandate properly. It should ensure that the civil control mechanism is fully operational to be able to follow up on complaints of torture and ill-treatment.

Administration of justice

24. While noting the steps taken by the State party to strengthen the independence of the judiciary, the Committee remains concerned about reports of undue external influence over the work of the Judicial Council and the judiciary and the limited progress made in implementing the human resources strategies for the judiciary and prosecution services, which may have an impact on the efficiency of judicial institutions, including the prosecution and adjudication of cases of torture and ill-treatment (arts. 2, 12, 13 and 16).

25. The State party should intensify its efforts to ensure the full independence, impartiality and effectiveness of the judiciary, in line with international standards, such as the Basic Principles on the Independence of the Judiciary, and guarantee that courts are free to operate without undue pressure or interference in order to restore trust in the justice system. It should strengthen its efforts to implement the human resources strategies for the judiciary and prosecution services.

Juvenile justice

26. The Committee expresses appreciation for the information about the statutory obligation to appoint a lawyer for children in conflict with the law and to provide them with free legal aid, when necessary. It takes note of the steps taken by the State party to improve the juvenile justice system, as well as the living conditions and regime in the correctional educational institution in Tetovo. It remains concerned, however, that the availability of formal education, vocational training and rehabilitation programmes is still insufficient. Furthermore, it is seriously concerned about reports indicating a high rate of mental health conditions among children in contact with the law who are placed in correctional institutions and the overmedication of such children, even if such treatment is supervised by medical personnel, as explained by the delegation. According to the information received, cases of the use of physical force against children and their placement in solitary confinement in correctional institutions have been registered during the reporting period. Lastly, the Committee is concerned about reports of inadequate accommodation for girls of 14 to 16 years of age in correctional institutions (arts. 2, 11 and 16).

27. **The State party should:**

(a) **Strengthen existing educational, vocational and rehabilitation programmes and develop new ones, allocate more time for meaningful activities to encourage prosocial behaviour and provide children deprived of their liberty with adequate recreational activities conducive to their social integration;**

(b) **Actively promote non-judicial measures, such as diversion, mediation and other appropriate alternatives to detention, for children accused of criminal offences and, wherever possible, the use of non-custodial sentences, such as probation or community service;**

(c) **Ensure that the needs of children in conflict with the law who have mental health conditions are properly assessed, that adequate individual treatment programmes are developed, that children are properly informed about any treatment and that the practice of resorting automatically to medicalized approaches and coercive practices is ceased immediately. The Committee recommends that the State party consult the joint publication of the World Health Organization and OHCHR entitled *Mental Health, Human Rights and Legislation: Guidance and Practice*;⁹**

(d) **Prohibit, in law and in practice, force as a means of coercion or disciplining children, promptly investigate all cases of the alleged abuse of children in detention and adequately sanction the perpetrators, and immediately end the practice of the solitary confinement of children;**

(e) **Continue improving living conditions for all children placed in correctional institutions and pay particular attention to the specific needs of girls deprived of liberty.**

Psychiatric institutions

28. The Committee is concerned about critical staffing shortages in psychiatric hospitals, in particular shortages of medical personnel, and about the lack of adequate training available to staff, including on methods of non-violent and non-coercive care, although it notes the information provided by the delegation about the planned recruitment of additional personnel by the end of 2024. According to information received by the Committee, indications of the excessive use of means of restraint, isolation and neglect have been detected in psychiatric hospitals. The Committee notes that no complaints of those practices have been lodged by persons hospitalized in psychiatric institutions. It is concerned about the lack of adequate channels for lodging such complaints, although it notes the complaint boxes located in hospitals. In addition, the hygiene and living conditions in Negorci and Demir Hisar psychiatric hospitals are reportedly in need of serious improvement. In this regard, the Committee expresses appreciation for the information reported by the delegation about the recent reconstruction of and equipment procured for the Skopje and Demir Hisar psychiatric hospitals and the newly built forensic psychiatric unit. Another issue of concern is the overhospitalization of persons on the basis of impairment, as well as the fact that many persons with psychosocial disabilities remain unnecessarily hospitalized for years on end, primarily owing to insufficient community-based services (arts. 2, 11 and 16).

29. **The State party should:**

(a) **Increase the number of medical personnel, including psychiatrists and nurses, as well as the number of psychologists and social workers, in all psychiatric hospitals and provide regular training to all medical and non-medical staff, including security and technical personnel, on methods of non-violent and non-coercive care;**

(b) **Ensure that means of restraint and force are used in accordance with the law, under strict supervision and regular monitoring by specialized medical personnel, for the shortest time possible to prevent the risk of harm to the individual concerned or to others and only when strictly necessary and proportionate, when all other reasonable options would fail to satisfactorily contain that risk, ensure that their use is rigorously**

⁹ Geneva, 2023.

recorded in special registers and guarantee that any abuse is effectively investigated and prosecuted, where necessary;

(c) Reinforce efforts to provide an effective, independent, confidential and accessible complaint mechanism for persons with disabilities in psychiatric institutions;

(d) Continue improving material conditions in all psychiatric institutions and intensify its efforts towards deinstitutionalization in the form of alternative and community-based care services and other forms of outpatient treatment programmes, including through the effective implementation of the National Strategy for Deinstitutionalization (2018–2027).

Non-refoulement, migration and statelessness

30. While taking into account the adoption of the Law on International and Temporary Protection in 2018, article 14 of which enshrines the principle of non-refoulement, and the increase in asylum applications in comparison with previous years, the Committee observes the low rate of recognition of refugee or subsidiary protection status in the State party, owing to the fact that applicants often leave the centre for asylum-seekers after lodging an asylum application, as explained by the delegation. In addition, the Committee is concerned about the information that it has received in which the following issues were raised:

(a) The reported shortcomings, at entry points, in screening and identification procedures for persons potentially in need of international protection, including those arriving in an irregular manner, and the inadequate quality of the adjudication of asylum claims;

(b) Documented cases of pushbacks and the chain refoulement of migrants, including children, at the border of the State party during the reporting period, accompanied by the alleged use of excessive force and various forms of ill-treatment, while noting the delegation's refutation of such a practice;

(c) The routine and often arbitrary detention of migrants, including children, for the purpose of securing witness statements for use as evidence in criminal proceedings against smugglers, without providing them with information about their rights, the duration of such detention and limited access to legal assistance;

(d) The remaining challenges faced by the reception centre for foreign nationals in Gazi Baba, such as poor hygiene, lack of adequate health care, insufficient information about legal remedies and limited access to legal assistance, while acknowledging several steps taken by the State party to address such shortcomings;

(e) The improper use of the Vinojug temporary transit centre in Gevgelija and the Tabanovce temporary transit centre in Kumanovo, which are not properly designed, certified and equipped for the purpose of accommodating migrants for any extended period;

(f) The presence in the State party of a number of stateless persons (more than 200 individuals, mainly Roma), although the Committee welcomes the State party's efforts at the legislative and policy levels, as well as its commitment to resolving their situation by the end of 2024 (arts. 2, 3, 11 and 16).

31. Recalling its previous recommendations,¹⁰ the Committee requests the State party:

(a) To improve, at entry points, screening and identification procedures for persons potentially in need of international protection, including those who arrive in an irregular manner, provide them with adequate access to information about their rights, procedures, appeal mechanisms and legal aid, immediately and in a language that they understand, and access to health care, and refrain from engaging in pushbacks and chain refoulements that do not comply fully with its obligations under article 3 of the Convention;

¹⁰ CAT/C/MKD/CO/3, para. 19.

(b) To ensure that the detention of all persons in need of international protection, including those arriving in an irregular manner, is used only as a last resort, where it is justified as reasonable, necessary and proportionate and for as short a period as possible and that such persons are not subjected to arbitrary detention solely for the purpose of securing witness statements for use against smugglers of migrants in court proceedings, take further measures to apply in practice alternatives to detention that are non-custodial and human rights-compliant and provide appropriate non-custodial care arrangements for children and their families, as well as for unaccompanied children;

(c) To strengthen the provision of regular and continued capacity-building activities with a specific focus on the principle of non-refoulement, the identification of persons in vulnerable circumstances, including victims of torture, and the management of tense situations and ensure that police officers, border guards, immigration officials and reception and medical personnel receive appropriate training;

(d) To continue its efforts to improve the material conditions in the reception centre for foreign nationals and guarantee access to basic rights and adequate social, educational, mental and physical health services;

(e) To regulate the use of temporary transit centres in accordance with international standards and ensure that they are not used for the long-term detention of migrants;

(f) To intensify its efforts to end statelessness, in line with the commitment reported by the delegation and the State party's international obligations.

Gender-based violence

32. The Committee notes the positive legislative and preventive measures adopted by the State party to combat gender-based violence, including domestic violence. While commending the introduction in the State party's national legislation of a definition of sexual violence and rape based on the absence of consent, the Committee regrets that psychological violence has not been criminalized as a specific offence, in particular in view of its high prevalence in the State party. The Committee expresses concern about the information that it has received regarding the low rates of reporting by victims, including in cases of psychological and sexual violence and rape, owing to general mistrust in the protection system and State institutions with regard to the prosecution and adequate punishment of those crimes. In addition, the Committee is concerned about reports of the continued prevalence of child and forced marriage, in particular among the Roma community. It is also concerned that Roma women continue to be exposed to intersectional forms of discrimination and violence, including barriers with respect to their sexual and reproductive rights and lack of access to adequate health services and treatment, as already highlighted by the Committee on the Elimination of Discrimination against Women in 2018¹¹ (arts. 2, 12–14 and 16).

33. In the light of the pledges made by the State party under the Human Rights 75 initiative,¹² the Committee recommends that the State party ensure that all acts of gender-based violence, in particular those involving actions and omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately and that the victims and survivors or their families receive redress, including adequate compensation and rehabilitation, and have access to legal assistance, safe shelters and the necessary medical care and psychosocial support. The State party is encouraged to introduce a specific offence of psychological violence in its Criminal Code. It should continue its efforts to promote education and awareness-raising among the general public regarding gender-based violence, with a specific focus on outreach among men and boys, in order to combat the social stigma experienced by survivors of gender-based violence and build

¹¹ CEDAW/C/MKD/CO/6, para. 37 (a).

¹² See <https://uhri.ohchr.org/en/pledges?countries=98645a5c-e2f7-4d78-9215-eda5811a0828&pledgingEntityType=45b31963-82b9-4793-97fb-3f68c77a831e>.

trust between survivors and the relevant authorities. Furthermore, it should strictly enforce legislation on the prohibition of child and forced marriage and address the harmful consequences of such practices. The State party should take measures to combat discrimination and prejudice against Roma women among medical practitioners and adopt further measures, as recommended by the Committee on the Elimination of Discrimination against Women,¹³ notably with regard to access to adequate sexual and reproductive health services.

Violence against individuals on the basis of their actual or perceived sexual orientation or gender identity

34. The Committee notes with concern the persistent violence against individuals on the basis of their actual or perceived sexual orientation or gender identity, including harassment and hate speech directed at human rights defenders working to combat such discrimination, and the lack of effective investigations into such cases or of appropriate punishment for adjudicated cases of hate crime. It regrets that the Criminal Code does not incorporate a clear and comprehensive definition of hate speech that includes sexual orientation and gender identity as protected grounds, while taking note of the explanation provided by the delegation about the grounds of discrimination encompassed in article 39 of the Criminal Code that need to be considered by the courts when determining a criminal sentence (arts. 2 and 16).

35. **The State party should take effective measures to prevent violence on the basis of actual or perceived sexual orientation or gender identity and ensure that all acts of violence are investigated and prosecuted promptly, effectively and impartially, that perpetrators are brought to justice and that victims are provided with redress. The Committee recommends that the State party include the specific crime of hate speech in its criminal legislation.**

Data collection

36. The Committee regrets that the State party does not compile comprehensive disaggregated data on investigations, prosecutions and convictions in cases of violence, including hate-motivated crimes, against members of ethnic and religious minority groups or against individuals on the basis of their gender identity or sexual orientation. The Committee underscores the importance of compiling and analysing disaggregated data to enable it to adequately evaluate the implementation of the Convention, as it noted in its general comment No. 2 (2007) on the implementation of article 2.

37. **The State party should strengthen its capacity to compile, disaggregate and analyse, in a more focused and coordinated manner, data on complaints, investigations and prosecutions of and convictions for crimes, including hate-motivated crimes, committed on grounds of ethnicity, race, gender identity or sexual orientation, inter alia, and on the means of redress provided to victims, to enable it to adequately evaluate the implementation of the Convention.**

Crimes connected to the conflict of 2001 and the Law on Amnesty

38. The Committee regrets that the State party has not taken any steps to amend the Law on Amnesty to ensure that acts of torture that allegedly occurred in the context of the 2001 conflict are not exempt from investigation and prosecution. It is concerned about the limited progress to date in the investigation, prosecution and adjudication of war crimes cases connected to the 2001 conflict, which creates a climate of impunity (arts. 2, 12–14 and 16).

39. **The Committee reiterates its previous recommendations¹⁴ and requests the State party to take all legislative measures necessary to amend the Law on Amnesty to ensure that allegations of torture are not exempt from investigation and prosecution. It should adopt the measures necessary to ensure that all alleged cases of torture and other cruel, inhuman or degrading treatment or punishment, disappearance and abduction connected to the 2001 conflict are thoroughly, promptly and impartially investigated,**

¹³ CEDAW/C/MKD/CO/6, para. 38 (a).

¹⁴ CAT/C/MKD/CO/2, para. 5; and CAT/C/MKD/CO/3, para. 16.

that perpetrators are prosecuted and punished in accordance with the gravity of their acts and that victims receive redress, including medical and psychological assistance, full compensation and the means for full rehabilitation. The Committee encourages the State party to consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.

Trafficking in persons

40. While taking note of the State party's efforts to combat trafficking in persons, the Committee remains concerned that the phenomenon is still prevalent in its territory, notably for the purpose of sexual and labour exploitation. It is also concerned about the reported decrease in the funding available to the mobile teams responsible for the detection and identification of potential victims of trafficking since 2020, which has resulted in a decline in the number of identified victims (arts. 2, 12–14 and 16).

41. **The State party should reinforce its measures to combat and prevent all forms of trafficking in persons. The State party should adopt the measures necessary to enable the mobile teams to efficiently detect trafficking cases in all regions and ensure that all trafficking cases are thoroughly investigated, that suspected perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and that victims obtain full redress, including adequate compensation and rehabilitation. It should ensure the full implementation of its national strategies and action plans to combat trafficking in persons and monitor and evaluate their efficacy, so as to build lessons learned into its future initiatives.**

Redress

42. The Committee takes note of the information provided by the State party that victims of torture have several avenues to claim compensation for the damage sustained as a result of torture, including through the recently adopted Law on Payment of Monetary Compensation to Victims of Violent Crimes. Nevertheless, the Committee regrets that, despite several convictions having been pronounced for acts of torture and ill-treatment under articles 142 and 143 of the Criminal Code, respectively, during the reporting period, no information has been provided about the adequate compensation and means of full rehabilitation afforded to the victims in those cases (art. 14).

43. **The State party should ensure that, in law and in practice, all victims of torture and ill-treatment can obtain redress, including by ensuring an enforceable right to fair and adequate compensation and the means for as full a rehabilitation as possible. The State party should compile and provide the Committee with information on redress, including means of rehabilitation, ordered by the courts or other State bodies and actually provided to victims of torture or ill-treatment.**

Follow-up procedure

44. The Committee requests the State party to provide, by 10 May 2025, information on follow-up to the Committee's recommendations on the national preventive mechanism, prison violence and deaths in custody, the investigation and prosecution of acts of torture and ill-treatment, including excessive use of force, and juvenile justice (see paras. 13, 17 (c), 19 (a) and 27 (c) above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, the remaining recommendations in the present concluding observations.

Other issues

45. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.

46. The Committee requests the State party to submit its next periodic report, which will be its fifth, by 10 May 2028. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its fifth periodic report under article 19 of the Convention.
