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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 Macedonia<sup>1</sup> at its 2095th and 2099th meetings,<sup>2</sup> 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 European Convention for the Protection of Human Rights and Fundamental Freedoms, in 2023;
- b) Convention on the Reduction of Statelessness, in 2020;
- c) Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), 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 Execution of Sanctions, in 2024;
- (b) The amendments introduced to article 112 of the Criminal Code, which established that the crime of torture is not subject to the statute of limitations, in 2023;
- (c) The enactment of the Law on Payment of Monetary Compensation to Victims of Violent Crimes, in 2022;

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

<sup>1</sup> CAT/C/MKD/4.

<sup>2</sup> 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 and Protection against Violence against Women and Domestic Violence, in 2021;

(f) The adoption of the Amendments introduced to the Law on Citizenship, in 2021, and other legislation, with the aim to end statelessness and put safeguards in place to prevent future cases of statelessness;

(g) The adoption of the Law on Free Legal Aid, which introduced victims of violence against women and domestic violence as 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 of 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 Inclusion of Roma (2022-2030);

(c) The adoption of the Ministry of Interior's Code for conducting interviews with citizens for the purpose of collecting statements and referential documents, in 2023;

(d) The adoption of the National Strategy for the Development of the Penitentiary-Correctional System in the Republic of North Macedonia (2021-2025);

(e) The adoption of the National Strategy against Human Trafficking and Illegal Migration (2021-2025), the National Action Plan for Combating Trafficking of Children (2021-2025), and the issuance of Standard operating procedures on the identification, referral and assistance to victims of trafficking, in 2023;

(f) The adoption of the National Strategy for Countering Terrorism (2023-2027) and the National Strategy for Countering 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 Deinstitutionalisation (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 Convention on Preventing and Combating Violence against Women and Domestic Violence (2018-2023);

(l) The establishment of the Department for Investigation and Prosecution of Crimes Committed by Officers with Police Powers and Prison Police Officers, located in the Basic Public Prosecutor's Office, in 2018;

(m) The adoption of the Rulebook on the Manner of Care and Accommodation of Unaccompanied Minors and Vulnerable Categories of Persons under International Protection and the development of the Manual for Assessing the Best Interests of the Child, in 2019;

(n) The adoption and revision of the Standard Operating Procedures for dealing with persons whose right to freedom of movement has been restricted (apprehended persons, persons deprived of liberty, detained persons) in Police Stations of General Jurisdiction, in 2018;

(o) The adoption of the Code of Conduct for staff at prisons and correctional facilities, i.e. conditions for and manner of use of means of coercion and treatment in pursuance with the Standard Operating Protocol on the Use of Means of Coercion, and the Standard Operating Protocol on keeping records and on reporting cases of use of means of coercion, in 2018 and 2017 respectively.

## C. Principal subjects of concern and recommendations

### Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations,<sup>3</sup> the Committee requested the State party to provide information on the measures that it had taken in follow-up to the recommendations on the following issues: investigations into all allegations of wrongdoing emerging from the so-called “wiretapping” affair<sup>4</sup>; data collection; inter-prisoner violence and prison conditions; impunity for acts of torture and ill-treatment; and, conditions of detention in the Gazi Baba detention centre.<sup>5</sup> The Committee appreciates the State party’s replies in this regard, received on 6 July 2015<sup>6</sup> under the follow-up procedure, as well as the information contained in its fourth periodic report. In the light of the information provided, the Committee finds that these recommendations have been partially implemented. The outstanding issues are addressed in paragraphs 14 to 19, 30 and 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 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 such 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 covers explicitly all the elements contained therein, including acts of torture 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 responsibility and 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 with holding cells and installation of CCTV cameras, the Committee expresses its 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 received that indicate shortcomings in the 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 initial 24 hours of police custody and only provided upon persons arrival in court. Furthermore, according to the information received, the access to initial medical examination often depends on the discretion of the police officer to grant it, the latter is regularly present during these examinations, and the injuries are not properly documented and reported by trained medical personnel (art. 2).

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<sup>3</sup> CAT/C/MKD/CO/3, para. 25.

<sup>4</sup> The ‘Wiretapping Affair’ refers to allegations that senior officials of the State party were allegedly involved in a number of apparent human rights abuses, including election fraud, harassment of civil society and opposition members and interference with the Public Prosecutor and some members of the judiciary (see para. 8 of the previous concluding observations).

<sup>5</sup> Ibid., paras. 8-11 and 19 (c) respectively.

<sup>6</sup> 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 right:**

**(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 that such access does 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 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 its separate budget line within the overall budget of the Ombudsman Institution, the Committee is concerned that the national preventive 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 low salaries of its staff. Finally, the Committee expresses its concern about the reportedly insufficient level of implementation of the recommendations formulated by the mechanism, even though the authorities generally acknowledge them (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 and social workers and other relevant experts, to carry out its work effectively in all types of places of deprivation of liberty, including to social and other closed-type institutions, in accordance with the requirements of the Optional Protocol to the Convention. It should also strengthen its efforts to provide an adequate follow-up and implementation of the recommendations made by the national preventive 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 create new places in prisons and the ongoing renovation works at several penitentiary establishments, the instalment of a digital courtroom in Idrizovo prison, as well as other measures undertaken to improve the material conditions and quality of life of persons deprived of their liberty, the Committee maintains its concern about the persistent overcrowding in a number of penitentiary and pretrial detention facilities, reported substandard conditions in some wards of Idrizovo prison, as well as the reported lack of access to potable water and sanitation in Kumanovo prison. The Committee is also concerned about the limited use of alternative measures to imprisonment, even though the Committee appreciates some progress that has been made in the probation system. Moreover, the Committee is concerned about the alleged insufficient access to adequate healthcare, including mental health, dental and drug addiction treatment, due to the lack of medications and qualified medical personnel in prisons, including psychological and psychiatric staff. In this connection, the Committee acknowledges positive efforts taken by the State party to employ new medical personnel by the end of 2024, to incentivise medical staff with a hardship allowance, and to cover health insurance of all convicted prisoners, among other measures. Furthermore, according to reports received by the Committee, the phenomenon of corruption and favouritism in prison system has not been eliminated yet. Moreover, the limited progress made to address the overall lack of meaningful rehabilitation programs, 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 deradicalisation and the establishment of individual rehabilitation programs among 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 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), and notably in Idrizovo and Kumanovo prisons, and eliminate overcrowding therein, including through appropriate measures to implement the next phase for construction and remodelling of those facilities in line with the international standards, through the application of non-custodial measures, and via 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 is sufficient suitable medical personnel, materials and medicines and that detainees have access to a medical examination as soon as possible after entry into the facility and as often as necessary thereafter so that health needs, including mental health care, infectious diseases and drug addictions can be identified and adequately addressed;**

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

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

(e) **To ensure that the ongoing digitalisation of the justice system is in line with human rights guarantees and that judicial control of detention and the assessment of the lawfulness of detention is carried out in the physical presence of the detainee and his or her lawyer;<sup>7</sup> to ensure that other types of criminal hearings are only conducted virtually with the explicit, free and informed consent of the accused or sentenced person and subject to the necessary safeguard and due process guarantees. In this regard, the Committee invites the State party to consult the information note on "Online hearings in judicial systems", developed by the Office of the United Nations High Commissioner for Human Rights.<sup>8</sup>**

**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 the dynamic security training programs in prisons, to record and report cases of the applied means of coercion by prison police and to keep a special register of all injuries and traumas by health professionals in prisons. However, it is concerned at reports indicating that instances of abuse by prison staff often go unreported, that the investigations of those reported cases, including deaths in custody, are ineffective and deficient, and that doctors report the recorded injuries to the administration of the prison rather than directly to an independent authority. In addition, it expresses its concern that a number of reported violent deaths in custody relate to persons belonging to the Roma community. The Committee also remains concerned that little progress has been made in addressing individual

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<sup>7</sup> CCPR/C/GC/35, paras. 32 and 34.

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

risk and needs-assessment of prisoners in order to prevent inter-prisoner violence, and that persons with physical or psychosocial disabilities, lesbian, gay, bisexual, transgender and intersex persons, or those who belong to ethnic or religious minorities are frequently at a higher risk of such violence. In this connection, the Committee appreciates the information provided by the State party's delegation about its plans to adopt a strategy to tackle the inter-prisoner violence by 2025. Finally, the Committee is deeply concerned about the overall lack of funding and understaffing of the prison system, even though it takes note of the State party's recent efforts to fill 192 positions. The Committee is alarmed by these chronic deficiencies in staffing level, notably in Idrizovo prison, which led to the declaration of the crisis situation on 6 June 2023 and the deployment of armed forces to support the maintenance of security therein. In this connection, it takes note of a specific action plan that is being prepared to address this crisis situation, 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, 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 to the Committee detailed information on the number of cases of injuries and deaths in all places of detention, their causes and the outcome of investigations into such cases;**

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

(d) **Continue to strengthen the training programmes of 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 revised version of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) and ensure that if the medical personnel conducting the examination of the detainee or recording injury in prison have grounds to believe that ill-treatment of a person has occurred, 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 declaration of a zero-tolerance policy for inhuman and degrading treatment of detainees and taking note of the information provided by the State party about the investigations carried out into the allegations of excessive use of force by police during the protests in 2015 concerning the wiretapping affair and the demonstrations in 2017, the Committee expresses its concern over reports submitted to its attention that refer to:

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

(b) The low number of disciplinary proceedings and criminal prosecutions and convictions in cases of torture and ill-treatment, including excessive use of force and the applied means of coercion, reportedly committed by police and prison officers vis-à-vis the number of complaints registered, as well as the fact that those cases are often closed on the grounds of being unfounded or lacking evidence; as well as the fact that probationary and suspended sentences have been issued in some convictions for torture and ill-treatment;

(c) The lack of adequate investigation of discriminatory motives related to the alleged abuse and excessive use of force by police, in particular directed against members of the Roma community, who further experience apparent distrust 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 excessive use of force and means of coercion, by police and prison officers, and ensure that those suspected of having committed such acts are immediately suspended from their duties throughout the period of investigation, while ensuring that the principle of presumption of innocence is observed; ensure that suspected perpetrators are duly brought before a court and, if found guilty, are sentenced to punishment commensurate with the gravity of their acts and that the victims receive appropriate redress;**

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

(c) **Video record all actions by the police and prison officers, including through audio and video recording equipment during interrogations, and including as appropriate through 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 (the Méndez Principles); introduce advanced investigative tools and establish a sound system of 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, especially 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 received of torture, ill-treatment, excessive use of force and the applied means of coercion against public officials, including information on whether such complaints led to investigations and, if so, by which authority, whether the investigation resulted in the imposition of disciplinary measures or prosecutions and whether the victims obtained redress.**

**Complaints mechanism**

20. The Committee takes note of the existing complaints mechanism for persons deprived of liberty, including the information brochures on the complaint's mechanism available in three languages (Macedonian, Albanian and Roma) in prisons and the installed boxes for submitting confidential complaints to the Ombudsperson in all prisons and correctional and educational institutions for children. However, it expresses its concerns about credible reports that persons deprived of their liberty, including children, may experience difficulties or may be reluctant to lodge complaints about torture or ill-treatment owing to the lack of trust in the confidentiality and efficiency of such system or even fear of reprisals (arts. 2, 12, 13 and 16).

21. **The State party should take the necessary measures to strengthen the existing complaints mechanisms in all places of detention, and 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 also encourages the State party to provide the brochures on the complaint's mechanism available in other appropriate languages.**

#### **External oversight mechanism**

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

23. **The State party should take all necessary measures to continue ensuring that the external oversight mechanism is allocated with appropriate financial resources in order to carry out its mandate properly. It should further ensure that the civil control mechanism is fully operational in order to follow-up on the 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 concerning undue external influence over the work of the Judicial Council and the judiciary, and a limited progress on implementation of the human resources strategies for the judiciary and prosecution services, which may 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 people's trust in the justice system. It should also strengthen its efforts in implementing the human resources strategies for the judiciary and prosecution services.**

#### **Juvenile justice**

26. The Committee appreciates the information about the statutory obligation to have a lawyer appointed for children in conflict with the law, including free legal aid, when necessary. It also 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 correctional educational institution in Tetovo. It remains concerned, however, that the availability of formal education, vocational training and rehabilitation programmes remain insufficient. Furthermore, it is seriously concerned about the reports indicating a high rate of mental health conditions among children offenders placed in correctional institutions and their overmedication, even if such treatment is supervised by medical personnel, as explained by the delegation. According to the information received, the instances of use of physical force against children in the correctional institutions and solitary confinement have been registered during the reporting period. Finally, the Committee is also concerned by reports of inadequate accommodation of 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**

**encouraging 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 with mental health conditions are properly assessed, adequate individual treatment programs are developed, and children are properly informed about any treatment, and the practice of resorting automatically to medicalised approaches and coercive practices is ceased immediately. The Committee recommends the State party to consult the joint publication of the World Health Organization and the Office of the United Nations High Commissioner for Human Rights on Mental Health, Human Rights and Legislation: Guidance and Practice;<sup>9</sup>**

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

**(e) Continue improving living conditions of 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 the critical staffing shortages in psychiatric hospitals, especially in medical personnel, and about the lack of adequate training available to staff, including on methods of non-violent and non-coercive care, even though it notes the information provided by the delegation about the planned recruitment of additional personnel by the end of 2024. According to reports before the Committee, indications of excessive use of means of restraint, isolation and neglect have been detected in the psychiatric hospitals. The Committee also notes that no complaints on the aforesaid alleged 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 complaints' boxes located in the hospitals. In addition, the hygiene and living conditions in Negorci and Demir Hisar psychiatric hospitals reportedly need serious improvements. In this regard, the Committee appreciates the information reported by the delegation about the recent reconstruction and equipment procured at the Skopje and Demir Hisar psychiatric hospitals and the newly built forensic psychiatric unit. Another issue of concern is the over-hospitalisation of persons on the basis of impairment, as well as the fact that many persons with psychosocial disabilities stay unnecessarily hospitalised for years on end, primarily owing to the insufficient community-based services (arts. 2, 11 and 16).

#### **29. The State party should:**

**(a) Increase the medical personnel in all psychiatric hospitals, including psychiatrists, nurses, psychologists and social workers, 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 a specialised 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 its use is rigorously recorded in special registers; and guarantee that any abuse is effectively investigated and prosecuted, where necessary;**

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<sup>9</sup> Available here: [https://www.ohchr.org/sites/default/files/documents/publications/WHO-OHCHR-Mental-health-human-rights-and-legislation\\_web.pdf](https://www.ohchr.org/sites/default/files/documents/publications/WHO-OHCHR-Mental-health-human-rights-and-legislation_web.pdf)

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

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

#### **Non-refoulement, migration and statelessness**

30. While taking into account the adoption of the Law on International and Temporary Protection in 2018, which enshrines the principle of non-refoulement in article 14, and the increase in asylum applications in comparison with previous years, the Committee observes the low recognition rate 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 the asylum application, as explained by the delegation. In addition, the Committee is concerned about the information it has received raising the following issues:

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

(b) Documented cases of pushbacks and 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 statement refuting such practice;

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

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

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

(f) A number of stateless persons (more than 200 individuals, mainly Roma), even though the Committee welcomes the State party's efforts on legislative and policy level, as well as its commitment to resolve their situation by the end of 2024 (arts. 2, 3, 11 and 16).

#### **31. Recalling its previous recommendations<sup>10</sup>, the State party should:**

(a) **Improve screening and identification procedures at entry points of the State party for persons potentially in need of international protection, including those who arrive in irregular manner, and 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; refrain from engaging in pushbacks and chain refoulements that do not comply fully with its obligations under article 3 of the Convention;**

(b) **Ensure that the detention of all persons in need of international protection, including those arriving in 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 on the basis of securing their witness statements against smugglers of migrants in the court proceedings; take further measures to apply in practice alternatives to detention that**

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<sup>10</sup> CAT/C/MKD/CO/3, para. 19.

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

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

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

(f) Intensify its efforts to end statelessness, in line with the commitment stated 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 of a definition of sexual violence and rape based on the absence of consent in its national legislation, 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 further expresses its concern about the information it has received regarding the low reporting rates by victims, including the cases of psychological and sexual violence and rape, owing to general mistrust in the protection system and state institutions to prosecute and adequately punish those crimes. In addition, the Committee is further concerned about reports indicating a continued prevalence of child and forced marriage especially among the Roma community. It is also concerned that Roma women continue to be exposed to intersectional forms of discrimination and violence, including barriers they face with respect to their sexual and reproductive rights and the lack of access to adequate health services and treatment, as already highlighted by the Committee on the Elimination of Discrimination against Women in 2018<sup>11</sup> (arts. 2, 12-14 and 16).

33. In light of the pledges made by the State party under the "Human Rights 75" initiative,<sup>12</sup> the Committee recommends that the State party ensure that all acts of gender-based violence, especially 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 further continue with its efforts in promoting education and awareness-raising to 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 trust between survivors and the relevant authorities. Furthermore, it should strictly enforce the legislation concerning the prohibition of child and forced marriage and address the harmful consequences of such practices. The State party should also take measures to combat discrimination and prejudice against Roma women among medical practitioners and adopt further measures, as recommended by

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<sup>11</sup> CEDAW/C/MKD/CO/6, paras. 37 (a) to 38 (a).

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

**the Committee on the Elimination of Discrimination against Women, notably the 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 combating such discrimination, and the lack of effective investigations into such cases or the lack of appropriate punishment for the adjudicated cases of hate crime. It further 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 it takes note of the explanation provided by the delegation about the discrimination grounds 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 the State party to 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 ethnic and religious minorities or against individuals based on 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 pointed out 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, prosecutions and convictions of crimes, including hate-motivated crimes, committed on ethnic, racial, gender identity, sexual orientation or other grounds, and on means of redress provided to victims, to enable it to adequately evaluate the implementation of the Convention.**

**Crimes from the past conflict in 2001 and Amnesty Law**

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

39. **The Committee reiterates its previous recommendations<sup>13</sup> and asks the State party to take all necessary legislative measures to amend the Law on Amnesty to ensure that allegations of torture are not exempt from investigation and prosecution. It should further adopt the necessary measures to ensure that all cases of torture and other cruel, inhuman or degrading treatment or punishment, alleged disappearances and abduction connected to the 2001 conflict are thoroughly, promptly and impartially investigated, 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 Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.**

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<sup>13</sup> CAT/C/MKD/CO/2, para.5; CAT/C/MKD/CO/3, para. 16.

### **Trafficking in persons**

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

**41. The State party should reinforce its measures in combating and preventing all forms of trafficking in human beings. The State party should adopt necessary measures to enable the mobile teams work efficiently on the detection of 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 also ensure the full implementation of its national strategies and the 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 the victims of torture have several avenues to claim compensation for damages sustained as a result of torture, including via the recently adopted Law on Payment of Monetary Compensation to Victims of Violent Crimes. Nevertheless, the Committee regrets that despite having several convictions 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 the 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 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 to the Committee 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; investigation of torture, ill-treatment, including excessive use of force; 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.

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