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Human Rights Support Project

LEGAL ANALYSIS FOR 2010



THE HUMAN RIGHTS IN THE POLICE PROCEDURE



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Legal analysis for 2011

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List of abbreviations

ARKA – Citizen association Forum for the rights of the Roma AKRA – Kumanovo

ECHR – European convention for human rights

ECHR – European court of human rights

IZBOR – Citizen association IZBOR – Strumica

Coalition – Coalition of citizen associations All for fair trial

CL – Criminal law

CPT – Committee for prevention of torture at the Council of Europe

MOI – Ministry of interior

NGO – Non-governmental organizations

Ombudsman

UN – United Nations

PP – Public prosecutor

PC – Primary court

PO – Police officer

HRSP – Human rights support project

PS – Police station

RM – Republic of Macedonia

SICPS – Sector for internal control and professional standards at the Ministry of interior

CCI – Citizen association Center for civil initiative – Prilep

CDD – Citizen association Center for democratic development – Tetovo

INTRODUCTION

The international law of human rights is mandatory for every country and the administration which applies the law is obliged to know it and to apply the international human rights standards. This definition is given in the International agreement of human and political rights¹, which defines the rights' corpus and their protection.

The International agreement of human and political rights with its ninth article defines the citizens' rights in the police procedure. Here, it is stated that: "No person may be deprived from freedom without reason and without legally prescribed procedure. When the person is deprived its freedom, he/she should be informed of the reasons, and these persons should be taken in front a judge, in a shortest period of time".

The respect of the human rights and their protection is the primary goal of the *Human rights support project*, and the project is founded and implemented upon this principle.

The Human rights support project is implemented by the Coalition All for fair trial, the Forum for the rights of the Roma Arka from Kumanovo, the Center for democratic development from Tetovo, the Center for civil initiative from Prilep and IZBOR from Strumica. These civil organizations, supported by the UN fund for torture victims and the Open society institute from Budapest, continued their free legal advice support in 2011, and supported the citizens who believe their rights were violated by the police or were victims of maltreatment and torture in the police procedure.

The primary objective is to support the citizens who consider themselves possible victims of police maltreatment and torture. This objective is accomplished by providing free legal advice, which covers the following activities:

- Interview and recording of the statements of the citizens who complain against the police actions,
- Support the alleged victims to gather the necessary documents, which will provide evidence for the maltreatment in the police procedure;

¹ International agreement of human and political rights, adopted at the General assembly of the UN in 1966.

- Financial support for medical documents, which will confirm the injury caused as a result of the violated police authority;
- Financial support for forensic evidence, required in the investigation of the authorities, for proving the excess use of force and torture by the police authorities;
- Submitting complaints and correspondence with the state authorities, on behalf of the alleged victims, who reported cases of police maltreatment and torture;
- Preparation and sumition of criminal indictments and representantion of the victims, in case of subsidiary prosecution of the perpetrators;
- Monitoring of the legal procedure against police officers for violation and breaking of the official authority and coordination with the responsible state institutions and organs at local level, aiming for more efficient fight against potential cases of police maltreatment and torture.

The aim of the project is to support the citizens in fulfilling their rights, while raising the awareness of the police officers for the need of respecting the national and international standards for citizens' rights in the police procedure.

It is of primary importance to understand the purpose of this analysis, which puts an accent of the individual responsibility in the violation of the rights in the police procedure. It also raises the awareness of the public about the authority of the police and the mandate of the police officers, as well as the laws and the bylaws, which should be followed by the police officers.

The human rights support project is implemented since 2004, and until 2010 373 cases of citizens requesting support from the implementers of the project, were registered. The individuals who were registered with the project considered that their rights were violated in the police procedure, or claimed that they were torture victims, or victims of other form of inhumane and degrading actions.

This analysis will not cover only the national and international standards, but also the corpus of the police mandate, which is given to the police in order to distinguish between the police actions and the respect of the civil rights.

The torture, as most severe form of violation of the police procedure, will be covered with a separate chapter, as well as the system of complaints and the procedure against minors.

The police officers are obliged to respect the standards prescribed with the Universal declaration of human rights², which prescribes the basic framework for protection of the human rights and freedoms. According to this Declaration, the article 3 is of particular importance in the police procedure. According to this Article 3, *every individual has the right to live, the right of freedom and personal security*. Article 5 states that *no one should be tortured or put to other form of cruel, inhumane and degrading action and punishment*. Article 7 of the Declaration defines that *everyone is equal in front of the law and has the right to be equally protected according to the law, without any discrimination*.

The individual human rights are defined with international documents, which have various legal power. All these are commonly known as international instruments, which define the international standards on human rights. The international agreements, which become legally mandatory after they are signed and ratified by a particular state, are of great importance. Some of the standards are not covered with legally mandatory articles, but they have become part of the international precedential law.

Except for the Universal declaration, also the European convention for protection of the human rights and basic freedoms, enacted 1950 in Rome, should be considered. Most of the international and national standards claim that the officers who enact the law, are also obliged to respect and protect the human dignity and rights. The police officers have their mandate, which is defined by law, and they should not break the general principles that define the corpus of the rights of a specific country.

The work of the police, which is performed in unethical environment, such as criminal structures and immoral behavior, should put an accent to the ethics in the actions during the police procedure. The police officer, who is authorized by law to implement force, should follow the ethical principals when dealing with a specific suspect in a particular criminal case. The behavior of the police officer, when it is necessary to use force, should demonstrate behavior that is in accordance to the respect of the individual.³

The unethical actions of the police, are subject to legal responsibility, and may lead to violation of the international and national standards in the police procedure. Regarding the

² Enacted at the UN General assembly on December 10, 1948.

³Police ethics and deontology, Prof. Trpe Stojanovski, 2006

human rights, the police has a double role, through its primary function to protect the rights, and on the other hand to assure that it does not violate those rights in the police procedure.

The authority of the police, as defined by law is rather big. It covers use of force, including using lethal weapons, as well as right for interrogation, detention and imprisonment. All these authorities, may limit the human rights and freedom, and all of these may only be implemented as prescribed by the law.

The primary goal of the police in a democratic society is to assure that the laws are respected and to preserve the public order, to protect and respect the individual rights and freedom, and to prevent from criminal actions and to fight crime. The police activities cover a wide range⁴. The respect of the basic rights and freedoms, which are defined with the European convention for human rights define the limits of the police in fulfilling its aims and purpose. The police must respect the right of life, and act in humane manner with every individual, no matter if the person requires police protection or violates the law with some criminal actions.

Every police officer should be individually responsible for his/her actions in the police work. The primary criteria in the police procedure are the legality, the adequacy and non-discrimination. Every action must be supported by law, should be adequate to the purpose that should be fulfilled, and should exclude any form of citizen discrimination⁵.

THE CIVIL SOCIETY IN THE PROTECTION OF THE HUMAN RIGHTS

The implementing organizations of the 2011 HRSP Project, which acted as providers of free legal advice in the cases with allege police maltreatment and torture, registered **30** cases, out of which 3 were directly related to violation of the rights in the police procedure.

The cases registered in the project, are recorded upon citizen request who consider themselves as alleged victims of police mistreatment, torture or other form of inhumane or

⁴ International legal standards which define the use of police force – D. Skrtic, 2007, Published in Coratian booklet for criminal law and practice – Zagreb No. 14, pp. 187 – 214

⁵ Bogoljub Milosavjlevic – Human rights and police, Published by Center for anti-war action, Belgrade 2004

degrading action or punishment, which is defined with the universal, regional and national legal acts.

Compared to 2010, the number of registered cases has decreased, i.e. there are 8 cases less.

Most of the cases registered in 2011, were recorded by the Coalition All for Fair Trial, i.e. **9 cases**, out of which 7 refer to complaints in the police procedure and 2 refer to violation by other institutions (correctional institutions and public prosecutor in the part of efficient investigations).

CCI Prilep provided free legal advice for citizens in **8 cases**, recorded in 2011, out of which for 2 there was monitoring of the court procedure.

FPR Arka registered **7 cases** of violation of the human rights in the police procedure, from which 2 were recorded as maltreatment and cruel and inhumane action, while as the other were for violation of the official mandate by the border police.

IZBOR from Strumica registered **6 cases**, where 5 refer to unprofessional actions by police officers, and 1 case refers to maltreatment in psychiatric institution.

FPR Arka registered 12 cases in 2010, based on complaints from citizens for violation in the police procedure, the Coalition All for Fair Trial registered 9 cases, IZBOR from Strumica 7, CCI Prilep 6, and CDR Tetovo registered 4 cases⁶.

What is different in 2011 from 2010, is that there are no complaints for violation of the police procedure in Western Macedonia, a region for which the Center for democratic development was responsible.

Three court procedures were led in 2011, by lawyers hired through HRSP. Two of the cases were registered in the previous years, and one of the cases was registered in 2011, for murder of individual by police officer, where the lawyer of HRSP represented the family of the victim.

The court procedure for case registered by IZBOR from Strumica finished in 2011 (for the cases SR049 and SR 050), which was registered in 2009.

⁶ The project is conducted regionally, where the Coalition provides free legal advice to the citizens from Skopje, FPR Arka from Kumanovo covers Northern Macedonia, CCI Prilep covers the South-west region of Macedonia, IZBOR from Strumica covers the Southeast region of Macedonia, while as CDR covers Western Macedonia.

SR 049 and SR 050 reported their case, complaining that they were torture victims. The Primary court brought the verdict in 2011, where these two individuals got conditional sentence for attack of police officers and obstruction in the duty. The court process was monitored by IZBOR Strumica.

Regarding the providing of legal support, the Coalition All for Fair Trial, submitted 4 complaints to the Ombudsman, 2 to the Sector for internal control of MOI, pleading for returning of seized items, providing initial legal advice, monitoring of court procedure, urgent request to the public prosecutors' office in Veles to expedite the procedure, submitting criminal indictment for violation of the official mandate to the public prosecutor, as well as providing a lawyer for the family of the victim who dies as a consequence of excess force use by police officer.

During the same year, the Coalition continued providing free legal advice from a lawyer, in the police procedure for one case, which was registered in 2010.

The Center for civil initiative from Prilep monitored two court cases in 2011, submitted complaints to the Ombudsman and Sector for internal control of MOI of MOI, provided initial free legal advice and provided a lawyer for the court procedure.

FPR Arka from Kumanovo submitted 7 complaints to the Sector for internal control of MOI in 2011 and 2 to the public prosecutor, while as IZBOR from Strumica monitored the court procedure for 1 case registered in 2009, submitted 6 complaints to the Ombudsman and 2 to Sector for internal control of MOI .

ANALYSIS OF CASES FROM THE HUMAN RIGHTS SUPPORT PROJECT

COALITION ALL FOR FAIR TRIAL

The Coalition registered 9 cases in 2011, out of which 1 refers to body injury caused during sport event. No complaint was submitted for this case, as the alleged victim itself was not interested to proceed with the case.

The other seven cases refer to violation of the police procedure, and one case is for possible torture against minor in correctional institutions.

From the 7 cases, one refers to murder committed by a police official. A lawyer was engaged for this case through the Project. In 2011, the lawyer represented also a case which entered a court procedure in 2010, where the individuals complained against police brutality, and there were submissions against them for attack of police officer.

In spite of the fact that HRSP provides free legal advice for the alleged victims of police maltreatment and torture, still in 2011 there was a case, where free legal advice was provided to minor from correctional institutions. This is in line with the international standards for absolute prohibition of torture or any other form of cruel, inhumane and degrading behavior or punishment.

Some of the complaints in 2011 referred to the efficiency of the investigation, violation of the rights of a minor in the police procedure and violation of the official authority, for which the Coalition has submitted also one criminal indictment.

CASE SK105

In 2011, the Coalition All for Fair Trial registered the case SK105. The case refers to murder of a 22-year-old citizen by a member of the special unit forces of the police. The project provided free legal advice by hiring a lawyer to represent the family of the victim in front of the court. The family believed that other police officials, who were present at the time of the crime at the crime scene, should also be held responsible, as according to them, but also the general public opinion, they might have withheld evidence and did not report the crime promptly and as defined by the law. This raises the issue if some of them were indirect co-conspirators in the criminal act. According to the international standards, when using excess force or lethal weapon, the police official should inform the superior in command, who should then investigate the case. Meanwhile, the right to live is a basic right of the Universal declaration for human rights, as well as in the European convention for protection of the human rights and basic freedoms. The Constitution of the Republic of Macedonia states that “the human life is indisputable, so there should be a complete efficient investigation in cases where death is caused as a consequence of actions conducted by a police officer.

The court procedure for this case began in November 02, 2011, and it finished on January 09, 2012. The court procedure was against a police officer for committing a murder according to Article 123 of the Criminal law. The police officer was found guilty for committing a murder

and he was sentenced with prison. According to the report of the lawyer of HRSP, who represented the family of the victim “It is indisputable that the investigation was not effective and it was contradictory from the very beginning of the criminal act all the way to the pressing of the charges. This case caused dilemma regarding the criminal act, what has really happened during the night of the crime and if there are other persons who should be hold responsible, as well.” Regarding the involvement of the other individuals, as possible accomplices in the criminal act, the family pressed charges against three police officers and one unknown person. There was no respond to the submission until December 31, 2011.

The above described case raises the issue if the police took all the adequate and prompt actions in conducting an efficient investigation. Another issue is if the murder was not committed by a police officer, but by another person, did the police officers took all the necessary measures and acted professionally, at the time the crime was committed.

In spite of the fact that the police procedure was efficient, without unnecessary delays, still neither the police, not the other investigative organs, covered and examined the responsibility of the other individuals, involved in this case⁷. In the basic principles for using force or lethal weapon by a police officer, defined by the United Nations in 1990, point 6 states that: “In case of an injury or death, caused as a consequence of usage of force or lethal weapon by a police officer, the police officer who committed the action is obliged to report it immediately to his/her superior, according to the principle 22”.

From the registered cases in 2010, 8% referred to complaints where the police did not take any measures. This might be another case where one should examine if the police officers acted accordingly and if they took all the necessary measures, as defined with their mandate, in case where there are deadly consequences. In order to diminish the police sub-culture, the Codex of UN, regarding the behavior of the persons responsible to apply the law, obliges the police officers to inform the higher institutions for each case of violation of the human rights, as well as the organs for external control, such as the public prosecutor, the court and the

⁷ Thorough, urgent and impartial investigations should be conducted in every case for suspicion of illegal, frivolous or executional actions in shortened procedure, including the cases where the relatives of a deceased person complain or where other confidential reports point towards unnatural death (principles for efficient prevention and investigation for out-of-court execution, following a short procedure, principle 9)

Ombudsman. The police officer should not suffer any consequences for this type of reporting, except in the case of violation of the right for withholding confidential information of the citizens.

CASE SK 101

In this case the complaint was submitted by a minor, who was detained during a police procedure. Three civilians, who showed their IDs that they are representatives of MOI, detained the minor. However, when detaining the person they started interrogating him, if he was the perpetrator of a crime that occurred couple of days ago. During the interrogation at the police station, a uniformed police office was also present, who hit the minor several times in the lower leg area. The inspector who led the conversation also hit the minor. Afterwards the minor was taken to his home and the police searched the place for the stolen items. The minor was taken back to the police station together with his parents, who were given a report to sign. They signed the reports, without knowing its contents, as they wanted to leave the police station as soon as possible.

In this case, the minor was taken to a police station without court order for suspicion that he/she has committed a criminal act. Also, the minor was taken to the police station in unmarked vehicle, by non-uniformed police officers, which is against the legal regulations when acting against minors. In spite of this, the Sector for interior control responded that the procedure was in accordance to the legal regulation. This raises some dilemmas, such as why was the person detained without court order (or at least no such document was shown to the person). The Law for police lists the situations when minor can be detained in this manner, and it is if it is necessary to determine the person's identity, if there is an arrest warrant for the person, the person was caught performing a criminal action, or was caught performing a misdemeanor with violent actions.

When stopping the person, the three non-uniformed police officers did not identify the suspect, but they immediately started interrogating him, if he has committed a specific criminal action, while the person was not caught in performing any criminal action or misdemeanor.

When stopping the person, the police officers identified themselves, but they started interrogation for the performance of a specific criminal act, which according to the Law should be done by an Inspector for minors' delinquency. During the interrogation, other than the inspector (non-uniformed police officer), also a uniformed police officer was present, who hit the person very often, while he answered the questions. The question is if the Internal control has examined this issue, which according to the Law is forbidden. According to Article 37 of the Law for police, police officer who is specially trained for preventing minors' delinquency conducts the police actions towards minors. Paragraph 3 of the same Article states that *the police actions towards minor are normally performed with parent's or guardians' presence, unless this is impossible due to specific reasons or for avoiding delays in the procedure*. Therefore, there is another issue, of why the parents were not present, and what was the need of the presence of uniformed police officer, who tried to obtain a forced confession with his actions (hitting the minor, when he denied that he has committed the crime)⁸. By doing this, the uniformed officer committed maltreatment when doing his work.

In spite of the fact that when signing the report it was confirmed that the minor was informed of the rights⁹ before the police officers took the necessary actions, still it is disputable if the Law for juvenile justice were applied adequately.

However, the use of force over minor is not justified under any circumstances. According to the Law for juvenile justice, minor should not be forced for confession and the police should be more sensitive when dealing with minors. According to the same law, the Center for social works should also be informed, and the minor should be advised that during the police procedure he/she may call a person to represent his/her rights.

CENTER FOR CIVIL INITIATIVE PRILEP

CCI from Prilep provided free legal advice for cases in 2011. For six of the cases the free legal advice was provided by the legal advisor, and for 1 case a lawyer was involved, and for the same case the court procedure was monitored. There was also one case where no legal

⁸ The one who maltreats, threatens, insults or acts in way that is humiliating to the human dignity, while doing his official police work, shall be sentenced with imprisonment from six months to years – Article 143 of the Criminal Law of the Republic of Macedonia.

⁹ Law for the Police, Article 34, National Gazette No. 114/2006

support was offered, but it was only monitored in front of the court (so there are 8 active cases).

From the registered cases, two refer to *maltreatment in the police* procedure, and *causing body injuries*. For one of these two cases a lawyer was engaged, to lead the court procedure, while as for the second case, only initial legal advice was provided to the parents of the alleged victim of police brutality, since the person is in prison and no complaint was submitted to the official institutions.

In 2011 CCI also registered two cases where the same person did not undertake any actions against a person against whom there were complaints for domestic violence, and the accused party was employee in the police. The complaint was also against unprofessional and incorrect behavior of other police officers who were present during the intervention at the call for domestic violence.

There is also a case in 2011, where a citizen has complained of head injuries during the police intervention – conducting a mentally distressed person to a psychiatric institution, as he was disturbing the public order. The police station itself claimed that no force was used during the transport that was organized with medical vehicle. There are two sides of the story, one according to the citizen, and another by the police officials. There is not yet an answer to the complaint submitted to the sector for internal control and the Ombudsman.

There is another case where citizen complaint on violation of the official mandate by a police officer. Complaint was submitted to the sector for internal control and the Ombudsman. The sector for internal control responded that the police officer acted according to the legal procedures.

CASE PP045

PP045 was recorded as case in 2009. The citizen reported the case to the project and required free legal advice. According to the primary information for this case, for which there was also great media interest and coverage, the citizen was beaten while he was waiting got the road to be cleared, so he can take his parent to a hospital. In the further procedure, the public

prosecutor submitted request for investigation of the police officers against whom there were claims for performing a criminal act “*Hard body injuries*” and “*Maltreatment while on duty*”.

The Primary court informed the damaged party that a decision was taken to stop the investigation in the part that refers to “*Hard body injuries*”, from article 131, paragraph 1 of the Criminal law, since the public prosecutor submitted a statement where it withstands from prosecution in this part. The public prosecutor only continued with the criminal act “*Maltreatment while on duty*”, from article 143 and article 22 of the Criminal law. The police officers who were indicted for these actions, submitted subsidiary indictments for “*Attack of a police officer while on duty*” from Article 383 of the Criminal law. The hearing scheduled for September 2011 was postponed, and also the hearing scheduled for November 15, 2011 was delayed, due to sick leave of one of the indicted police officers, as well as due to engagement of the defense lawyer at another case that is covered through HRSP.

The court procedure for this case is still ongoing, and the outcome of it is yet to be known.

This case confirms the trend that was identified with the project’s analysis from several years ago, and that is the contra indictments submitted by the police officers, for attack of a police official, which happens when citizen complains on police brutality and torture.

The maltreatment and the torture are criminal actions, which are prohibited not only by the national, but also by the international standards. The article 2 of Code of conduct of the police officers responsible to implement the law, states that: “the police officers who are responsible to implement the law, may use force only when necessary, and the force should be adequate to the task they are implementing.” However, according to the claims of the victim and his family members, the issue in this case is if there was any need of using force. In this context, we will quote the statement of the Police declaration¹⁰, which defines that “every action of torture or other punishment or inhumane and degrading behavior is forbidden, no matter the circumstances”.

¹⁰ Police declaration – Resolution 690/1979 Council of Europe

CASE 052 AND 057

These two cases are registered in different time period, but are submitted by the same person, i.e. a victim of domestic violence, who is attacked by her husband, who is a police officer. After submitting complaints to internal control sector and the Ombudsman, the sector concluded that the police officers working on this case did not violate the law, and acted accordingly. For the second complaint the respond was that a criminal indictment is submitted against the person who committed the domestic violence, as well as that a procedure will be started in front of the disciplinary commission of MOI, to determine the responsibility of this person, since he is also a police officer.

The submitted complaint of the victim is also against the police officers who responded to the call, and who according to the victim did not do anything, and were unprofessional and unjust towards her. According to the victim, when the criminal act took place, the children, who are minors, were also present. The police did not react promptly on the call, so she had to call again to inform on her husband's abusive behavior. During the police intervention, the police officers were rude and unprofessional towards her.

According to the common protocol for acting in case of police violence, which covers two ministries¹¹, and was enacted in 2010, the call for domestic violence is received by a police officer who is on duty, and the one is responsible to evaluate the severity level of the case, and to intervene accordingly. Once the police officers are at the place, they should check if children are present, if the victim needs medical assistance, to show understanding towards the victim for the situation she/he is in, and to act professionally.

FORUM FOR ROMA RIGHTS ARKA

As stated above, FRR ARKA from Kumanovo registered 7 cases of violation of the police procedure, from which 2 are registered as maltreatment and cruel and inhumane behavior, while as the other are for violation of the professional duty, done by the border police. This

¹¹ Common protocol for acting in cases of domestic violence, UNDP 2010

organization has also submitted two criminal indictments, for the cases where the citizens complaint on maltreatment and cruel and inhumane treatment by the police.

CASE KU 077 and 078

The Forum for the Roma Rights ARKA from Kumanovo, registered two cases (KU 077 and KU 078), where two people, from the Roma ethic community, were met by three police officers (who were not wearing uniforms, but for whom the alleged victims believe that they belonged to the special unit ALFI). The police officers were brutal towards the two, and they used physical force to make them confess that they have done a specific criminal act. After they identified the two persons, the police officers concluded that these were not the persons who were under suspicion, so the police allowed them to leave.

The Commission for internal control gave a negative respond to the submitted complaint, i.e. according to them, the undertaken actions were not breaking the law. As the alleged victims claim, the police officers did not identify themselves and they treated them brutally, so they would confess that they have committed a specific crime. Once again the trend where the citizens are not able to prove their claims of alleged violation by the police officers, repeats itself. What is needed is also to enhance the role of the civil sector in providing evidence that will be represented in the procedure in front of the Commission for internal control. If there is no medical forensic evidence for the body injuries, as well as witnesses who can confirm the event, it is difficult to prove the police brutality and maltreatment by the police officers, while on duty.

It is also necessary to continuously educate the police officers about the citizen rights in the police procedure, and to organize an efficient investigation in order to examine if there was a police brutality.

According to Article 3 of the European convention on human rights *no one should be tortured, or treated in inhumane and degrading manner*. Also, the European codex defined that *the police may use force only if it is strictly necessary, and in span that is necessary to reach a specific legitimate objective*. If one follows these rules and implements the

international standards, as prescribed, than the complaints on violation and police brutality should be down to minimum.

IZBOR

The association IZBOR from Strumica registered 6 cases in 2011, from which one refers to torture in psychiatric institutions, for which there is a submission made to the Ombudsman. The other five cases refer to citizens complaining on the police procedure. From these 5 cases, 4 refer to violation in the police procedure towards minors, while as for the one case a citizen complained on violation of the police mandate. For the last case, a submission was made by the legal representative of IZBOR Strumica, to the Ombudsman and the Sector for internal control.

CASE SR 057, SR 059, SR 060 and SR 061

These cases refer to the same event that covered 4 juveniles. According to the statement of the 4 minors, they were detained in a closed room and interrogated by uniformed police officers and an inspector, while their parents were not informed of this. The parents were informed of the event after they received a court order that there is a criminal procedure against the minors. After submitting a complaint to SIC, the official response was that the persons' identity was determined in a room of the school, and once it was confirmed that they are minors, no further conversation was made, nor where they were detained.

The issue arising from this case is on what was later on started court procedure based upon. If the four persons were only identified (the identification is regulated from Article 38 to Article 41 of the Police law), then how were the investigative measures conducted, based on which the criminal indictment was submitted and the court procedure began.

The identity verification is done towards a person who:

- ✓ Should be deprived from its freedom, kept in custody or be transferred to specific state organ or institution;

- ✓ Is a potential danger, and so to prevent this;
- ✓ Is observed or searched, or towards whom other legally prescribed measures are undertaken;
- ✓ Who is caught at another person's property, home or other facilities or vehicles that are being stopped or searched;
- ✓ Who is caught in a room or facility with temporarily limited freedom of movement and retention, if the identification is necessarily required;
- ✓ Who reports a criminal act or misdemeanor;
- ✓ Who arises suspicions with its behaviour that he/she may be a perpetrator of a criminal act or misdemeanor, or that it has the intent of committing such acts, or who matches the description of a wanted person;
- ✓ Who will be caught at the crime or misdemeanor scene;
- ✓ Who is at a place where due to safety reasons is necessary to determine the identity of all persons present, or of most of the persons.

According to the parents, the police filed criminal charges of felony, for which there is a criminal proceeding before the Primary Court, and in the meantime, the parents were not informed for any of this. This case, if as presented, opens suspicion of major violation of the Law on Juvenile Justice.

Knowing this, the issue is, how come the parents were not informed and invited during the questioning by the police, and how were the necessary evidence provided, to file a criminal indictment¹², who are in line with Law on Criminal Procedure and the laws and bylaws of MOI.

¹² According to the Rulebook for police work, if the police need to question a minor, "the minor is invited through a written note that is send to the parents or guardians", while as the Standard operative procedures for detainment prescribes that in case when the detained person is a minor, the parents should be informed, legal representative of the person, the center for social works and the public prosecutor.

THE MANDATE OF THE POLICE OFFICERS AND THE HUMAN RIGHTS IN THE POLICE PROCEDURE

The human rights of the citizens of the Republic of Macedonia, are defined by the Constitution, the laws, as well as with the ratified international agreements. The international custom law, also has a significant role in the implementation and protection of the human rights, as well as the corpus of standards, established at universal and regional level. These define the Police codex and the standard procedures that are performed by the police officers in our country.

The foundations of the police mandate, in the official procedure, are defined with the Constitution, which prohibits any form of torture, inhuman or degrading treatment or punishment, and with the rights of the persons deprived of freedom, which define that no one should be deprived from freedom, unless the court decides so, or in some cases in procedure established by law. As rights that are stipulated by the Constitution are the right the person to be informed of reasons for deprivation of liberty, the right of legal counsel in the police and judicial procedure and the time period before execution to court.

The Criminal Procedure Law defines the rights of the persons deprived of liberty, so the person must be informed immediately in a language he/she understands of the reasons for arrest. The person has the right to remain silent, the right to consult an attorney, and to notify a family member or person of trust, of his/her arrest. The arrested person must be brought before judge no later than 24 hours from the arrest, who will immediately decide on the lawfulness of the detention. If in case of detention the detained person requests a legal counsel, the authorized official of the Ministry of Interior will allow him to call his attorney, or will provide the person with a counsel, and will delay all actions until the arrival of the legal counsel, but within two hours from the time, the legal counsel¹³ was notified. The detained person receives a copy of the minutes taken, when released from custody or delivered to an investigating judge.

The Article 34 of the Law on Police lists the rights of the police in the implementation of the police mandate. According to it, the detained person should be informed in a language he/she understands of the reasons for the summoning or detention, to be informed of the right to remain silent, the right to consult a counsel, the right to a medical assistance and the right to

¹³ Article 204 of the Criminal procedure.

inform a family member. These rights are also valid for detainment for misdemeanor, according to the Misdemeanor law. The detention, in these cases, may take up to 12 hours, while as the detention of persons who have over consumed alcohol, may last up to 8 hours.¹⁴

The law on Criminal procedure and Law on police define the mandate of the police officers, and the details of these are regulated by the Rulebook on the manner of doing police work and the Standard operating procedures for detention and procedure for detained persons. The specific treatment of foreigners and minors are regulated in separate laws.

To be able to debate and argue about the respect of the human rights in the police procedure, it is necessary to take into account the mandate of the police officers.

The Police Law¹⁵ is the basic legal act that defines the role of the police. Article 3 of this Law establishes that the basic function of police is to protect and respect the human rights and freedoms guaranteed to the citizens by the Constitution of the Republic of Macedonia, the laws and the ratified international agreements. These include, protection of the legal order, preventing and detecting criminal offenses, taking measures to detect the perpetrators of such crimes, and maintaining the public order and peace in the society.

Article 28 of the same law defines the mandate of the police officers, as follows:

- Checking and identification of persons and objects;
- Gathering of information;
- Summoning; arrest; detention;
- Search for people and objects;
- Redirection, direction and restraining of the movement of persons and vehicles in a certain space for necessary time;
- Warning and ordering;
- Temporary confiscation of stuff;

¹⁴ The procedure for minors will be covered with a separate chapter.

¹⁵ Police law, National Gazette No. 114/2006, 148/2008, 6/2009

- Search of certain facilities and premises of state bodies, institutions that perform public authorizations and other legal entities, and inspection of certain documentation of those;
- Stopping, inspection or search of persons, luggage or vehicles; securing and examining of a crime scene;
- Accepting indictments/submissions;
- Announce reward (for persons or objects to be found);
- Recording at public places;
- Gathering, processing, analysis, using, evaluating, sharing, keeping and deleting data, as well as processing of personal data, as prescribed by the law.

When implementing the police mandate, the police officers apply the Rulebook on implementation of the police work. This Rulebook defines that in the communication with the citizens, the police officers should always identify themselves whenever they perform police actions in civilian clothes, and if in uniform they should identify themselves if asked by the citizens.

The entire police mandate should be performed without discrimination and impartially. The basic rights that the citizens have in the relationship with the police is that every individual has the right to feel safe, no physical or psychological pressure will be applied on any suspect, witnesses or victim in an attempt to get some information, no force will be used to get a confession and the gathered information will be treated confidentially.

In the implementation of the police mandate - summoning, the police officers are obliged to submit a written invitation, and for the minors, the invitation is submitted to the parents or guardians. According to the Rulebook on police work, a person may be summoned verbally or through the media, in cases defined by law.

The detention is an authorization, which is performed following a written order by a judge. When withholding a person in custody, the police officer is obliged to search the person for items that may cause self-injury or injury to other persons. The arrest may be implemented without a written order, in case when you need to determine the identity of the person for

whom there is an issued warrant, if caught in committing a crime that is prosecuted ex officio and caught in committing offense with elements of violence. The arrest is made in an official vehicle and in case of minors it should be done by a police officer in civilian clothes, as well as by an official vehicles without official marks. During the arrest, the police officer informs the person of the rights, given by law, and all this is recorded in appropriate documentation.

The detention is done in premises for that purpose, by a decision of the Minister. In case when detaining a foreign citizen, the representative office of the country whose citizen is the detained person, is informed.

The rest of the police powers are also defined with the above mentioned Rulebook. So, when determining the identity of a person, the person should be informed of the reasons for this, and the identification is done with an identification document.

Also for finding perpetrators of criminal acts, the police officers may gather information from citizens, and for all information, an official note is prepared. As part of the official police mandate is search of persons and objects, accepting charges and submissions against alleged perpetrators and crimes, as well as other activities regulated by law and bylaws.

The international acts are also part of the domestic legislation, and they are included in the legislation through the act of ratification. Particularly important in the field of human rights is the European convention on human rights and fundamental freedoms, which came into force in 1953. This Convention regulates the right to live, stressing that no person may be intentionally deprived of life, it prohibits the torture and no one shall be subjected to torture or to inhuman or degrading treatment or punishment, and it establishes the right of liberty and safety of the person, thus establishing the basis for deprivation of liberty.

BASIC INTERNATIONAL AND NATIONAL STANDARDS FOR HUMAN RIGHTS IN THE POLICE PROCEDURE

There are number of international standards that define the conduct of the police officers. One of them is the Code of Conduct for persons responsible for applying the law, passed by the General Assembly of the United Nations, with the resolution 34/169 from 17 December 1979. The main basis of this code is that those

who exercise the police powers are obliged to respect and protect the human dignity and to defend the human rights of all persons.

Article 2 of the Code of Conduct for officers responsible for law enforcement¹⁶ states that the officers responsible for implementation of the law shall respect and protect the human dignity, and they shall defend and protect the fundamental personal rights, while they are on duty. Moreover, the same Code defines that one may use force, unless when strictly necessary and the force applied needs to be proportionate to the need raised by the performance of the police duties. It is said that the police officials must take care of the peoples' health, and should immediately take medical care measures, when needed.

The basic principles for use of force and firearms by the police officers¹⁷ state that when performing their tasks, the officials will primarily apply nonviolent means, before the application of force and firearms. When the use of force and firearms is unavoidable, the police officers will:

- a) restrict such use and will act in proportion to the severity of the offense or the legitimate objective they are aiming to achieve,
- b) to reduce to lowest possible level the damage or injury, as well as to respect and protect the human life
- c) To provide assistance and medical care to the injured as soon as possible
- d) To notify the relatives or close friends of the injured person, as soon as possible.

Regarding the detainees, under these principles, the police officers will not use force except when necessary to maintain the safety and order in the institution, or if their personal safety is threatened.

As one of the particularly important documents is the Declaration Resolution of the police, adopted by the Parliamentary Assembly of the Council of Europe. In it, in paragraph 9 it is states that "every police officer is particularly responsible for his/her actions or omissions which are ordered, and which were unlawful."

¹⁶ Кодекс за однесување на службениците одговорни за примена на законот -1979,ООН

¹⁷ Basic principles for use of force and firearms by the police officers – Eights Congress of UN, 27.08-07-09.1990, Havana

There is also a set of principles for the protection of all persons who are under any form of deprivation of liberty, where principle 1 stipulates that *all persons, who are in any form deprived of freedom, must be treated humanely and with respect for the inherent dignity of every person*. Furthermore, principle 10 establishes the right to information about the reasons for arrest, while as principle No. 13 sets out the obligation that the person who is deprived of liberty should be provided with additional information and explanation for his rights and how to use those. Principle 21 emphasizes that during the interrogation, any detained person shall not be subject to violence, intimidation or interrogation methods that reduce the person's capacity for making decision or sound judgment.

The European Code of Police Ethics includes guidelines for police intervention and the use of force in the implementation of the police powers, and it states that it is inadmissible to use sanction force. The use of force should always be an exception, applied only when there is justified cause of it; it shall not be applied in heavier extent than what is necessary and it must be proportionate to the legitimate goal to be achieved.

The European Code also stipulates that the police officers should act with integrity and respect towards the public and with special concern for the situation of the individuals, who belong to a vulnerable groups.

The Republic of Macedonia adopted a Code of Police Ethics, which regulates the matters for the purpose of the police, the legal basis for the police function, the relationship with the judicial authorities, organization, employment in the police, police training, the rights of the employees in the police, police intervention, responsibility and control, and research and international cooperation. The section for the police intervention emphasizes that when taking actions, the police is obliged to respect the right to life of every citizen, the use of force is permissible only when necessary, and it is determined that the police may not perform nor it may encourage any form of torture.

Article 49 of the Police Code states that the police respect the principle of presumption of innocence and the police interventions should be considerate towards the vulnerable groups such as children, women, elderly, and persons with health problems.

Regarding the treatment of persons deprived of liberty, the Ministry of Interior also consults the internal act of Standard Operating Procedures for retention and procedure for detained

persons. According to these procedures, except for the fundamental rights defined by law, it also regulates the providing of food to people detained longer than 6 hours, as well as the oversight of the detained person, conducted by an officer who is on duty in the police station. They also address the procedures for detained juveniles, which are based on the law on juvenile justice (these procedures determine that it is necessary to inform the competent inspector, parent or guardian, to notify an attorney, the Center for Social Affairs and the Public Prosecutor). These procedures also cover the procedure for detention of persons with disabilities, detention of female persons where only a female police officer can do the search and the detention may not be in the same room as for a male, then keeping the people under the influence of alcohol or psychoactive substances, and retention of foreign citizens. In accordance with these procedures, if the detained foreign citizen does not know the language, a translation is provided, either by a police officer who speaks the language, through contact with the Department for foreigners at the Ministry of Interior, or by choosing an interpreter from the list of translators.

TREATMENT OF MINORS - STANDARDS AND RULES

In any proceeding, where minors are involved one should keep in mind the Convention on the Rights of the Child, which requires any act to be implemented in the best interest of the child. Most significant documents regarding the police actions and the juvenile justice are the so-called Beijing rules or minimum standard rules of the United Nations for Juvenile Justice, and these are the first regulations to protect minors who are in conflict with the law. Paragraph 7 states that all procedures will respect the principle of presumption of innocence, the right to be informed of the reasons for conducting the proceeding, the right to remain silent, the right to legal aid, the right to presence of a parent or guardian, and the right to appeal to a higher instance. Regarding the investigation, it is stated that parents/guardians should be immediately notified of the juvenile's detention, while, as the police officers who work with this category of citizens should be trained of how to act with a minor who is in conflict with the law.

Principle 16, from the group of Principles from 1988, for protection of all persons under any form of detention or imprisonment, states that in case of detention or imprisonment of

juvenile person, the competent authority takes upon himself all initiatives to ensure that the rights of the persons deprived of liberty are respected, and special attention is given to the notification of the parents or guardians.

In 2007, the Republic of Macedonia adopted the Law on Juvenile Justice, whereas the provisions of the Criminal Procedure governing this area stopped being valid.

The Law on Juvenile Justice was delayed twice and changes were made in 2010 that followed the reaction of the experts in this area, about the effectiveness of inviting an attorney in the proceedings against minors. The law covers the police actions that can be taken towards minor. Article 109 of the law regulates the issue of retention of a minor, where it is stated that the conversation with the minor can last up to 4 hours, and the detention may be up to 12 hours. Authorized officer may retain a minor if there are grounds for suspicion that the minor has committed an act, which according to the law is a criminal offense prosecuted ex officio, if found committing the crime, or if there is a warrant issued for actions as described.

In case of disturbance of the public order, a juvenile can be detained up to 8 hours. In this case, the police officers are obliged to immediately notify the judge for minors, parents or guardian, a counsel designated by the juvenile or his parents, and the Center for Social Works, and also it is defined that during the detention one cannot converse without the presence of a counsel.

The Law on Police defines the terms for taking police authority over minors. Thus, the invitation is made by submitting a written request to the parent or guardians.

Police officers who are specially trained to work on combating juvenile delinquency implement the police mandate towards minors¹⁸.

In exceptional cases, other police officers can lead the procedure with minors, when the specific case circumstances do not allow the procedure to be led by police officers trained and designated to work with minors.

The police powers towards minors are normally applied in the presence of their parent or guardian, unless when under special circumstances or due to the urgency of the proceeding, it is not possible.

¹⁸ Article 37 of the Law on Police.

The Law on Juvenile Justice states that "Officials of the Ministry of Interior retain the juvenile in detention facility for juveniles. During the detention period, minutes are prepared, which include all data about the minor and the circumstances of the detention. The minor and his parent or guardian, as well as counsel shall sign the minutes. "

The Law on Juvenile Justice does not provide special circumstances when a parent or guardian cannot attend the application of police powers. This law expressly acknowledges that a parent or guardian should sign the minutes taken regarding the applied police powers.

The Rulebook¹⁹ on the manner of doing the police work states that the taking in custody is done by a police officer in civilian clothes and in unmarked vehicles. The Standard operating procedures for detention and procedure towards detained persons states that in the proceedings with a minor, the authorized inspector should be informed, as well as the parent or guardian, attorney, The center for Social Care and the Public prosecutor. The police officer on duty cares for the treatment of the detained minor, and the inspector for juvenile delinquency is responsible for the overall procedure.

PROHIBITION OF TORTURE

The greatest violation of the human rights in the police procedure is the torture, for which there are numerous international and national instruments, which provide for its complete prohibition and it is treated as a criminal offense prosecuted ex officio.

Convention against Torture and other cruel, inhuman or degrading treatment or punishment was adopted in 1984, and it is based on the Article 5 of the Universal Declaration of Human Rights from 1948, which states that *No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment*. The Convention entered into force in Macedonia on 17.11.1991.

According to the UN Convention against Torture and other cruel, inhuman or degrading treatment or punishments, from 1984, three basic elements that define torture are:

- Causing great physical or mental pain,

¹⁹ Rulebook for the manner of doing the police work; National gazette No. 149/2007, 110/2011

- The purpose is to extort confession or information, or to punish,
- An official or other person acting in an official capacity performs it.

The states that have adopted this Convention, undertake to treat torture as a crime, to ensure effective investigation and prosecution, and extradition in cases where the perpetrator is found at its territory. According to the Convention, a special Committee against Torture is established, and it represents a Supervisory authority for implementation of the Convention.

Article 142 of the Criminal Code of the Republic of Macedonia, defines the offense Torture and other cruel, inhuman or degrading treatment or punishment, as given below.

"The one who while performing his/her duty, as well as the one who has received an order by an officer or who has given an approval for use of force, threat or other inadmissible means or methods, with the intent to extort confession or other statement from a defendant, witness, expert or another person, or the one who will cause severe bodily or mental suffering, as punishment for a crime the violated person has committed or is suspected, or to intimidate or coerce a waiver of a right, or who will cause such suffering due to any form of discrimination."

The second basic international document, which provides for the prevention of torture, is the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which sets down the establishment of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Convention defines that the Committee consists of persons of "high moral qualities, who are known for their expertise in the field of human rights or professional experience" in the areas covered by the Convention. The Committee of Ministers of the Council of Europe may elect one member from each country that has ratified the agreement, but the members work in their individual capacity, and not as representatives of their states. The core function of the Committee is to carry out preventive visits to the places where persons are deprived of liberty, after which a report is prepared and submitted to the state where the visit was conducted. In order to prevent torture or other cruel, inhuman or degrading treatment or punishment the Committee has developed standards and respect for the rights, and material conditions in places of deprivation of liberty. Over the years, CPT delegations discussed with a significant number of detained persons in many countries, who reported credible allegations that they were physically abused, or were otherwise intimidated or were exposed to threats by police

officers, who were trying to get information during the interrogation. According to CPT standards, it is important that the police interrogations be electronically recorded and to have established a video monitoring. This is in the interest of the persons who were subjected to ill treatment by the police and also to the police officers confronted with unfounded allegations that have committed physical abuse or psychological pressure. Electronic recording of the police interrogation also reduces the possibility of defendants to deny later on, that they made a confession. In addition, CPT standards in terms of torture note the risk of inhuman or cruel treatment by the material conditions in the police station, and the presence of suspicious items that can be used for torture in the police stations.

Also, the European Court of Human Rights, which is acting in accordance with the European Convention on Human Rights is covering cases related to the Article 3, which state that "No one shall be subject to torture or to inhuman or degrading treatment or punishment." One of the latest cases awaiting a final decision by the Grand Chamber is Stanimirovic v. Serbia (no. 26088/06) where the infringement of Article 3 of the ECHR was found, which includes mistreatment of detained persons, and lack of effective investigation²⁰. The applicant filed criminal charges against the unidentified police officers, where he complained that he was beaten and tortured by the police. The public prosecutor decided not to prosecute the case. In a trial for another criminal offense, the court found that the man was beaten by police, in order to obtain a confession. Regarding this verdict, the applicant complained, referring to Article 3, that he was tortured by the police, and that there was no effective investigation.

In another case before the ECHR, Filatov v. Russia, the court found a violation of Article 3 of the ECHR, where the applicant complained of harassment in a police cell²¹. The Court noted that the authorities' conclusion that the injuries had been inflicted on Mr. Filatov before his custody was not consistent with the initial medical record and with the witness statements, Mr. Filatov's partner and the latter's relatives, who had not seen all injuries in question before his arrest, in particular they had not confirmed having seen the multiple bruises of considerable size. In such circumstances, the origin of those bruises, discovered on Mr. Filatov immediately after his alleged beatings by the police officers, could not be considered to have been properly accounted for. In the absence of any consistent and indisputable proof

²⁰<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=893878&portal=hbkm&source=externallybydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

²¹<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=894998&portal=hbkm&source=externallybydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

supporting the Government's version of events, the Court found that the bruises had been the result of the mistreatment of which Mr. Filatov had complained and for which the Government bore responsibility.

On 6 December 2011, ECHR made a judgment in the case Taraburca v. Moldova (no. 18919/10)²² where the violation of Article 3 was found, in the area of harassment, and lack of effective investigation. The judgment in this case is not final yet, according to Article 44 paragraph 2 of the ECHR. The Applicant complained that he was beaten in a police room, that the further investigation was improperly conducted, and also that he was not allowed to contact his parents and to hire a lawyer by his choice.

RIGHT TO COMPLAINTS IN CASE OF VIOLATION OF THE RIGHTS IN A POLICE PROCEDURE

The control over the work of the Police is on internal and external level. The internal control is covered by the Sector for Internal Control and Professional Standards within the Ministry of Interior, while as the external control is exercised by the Ombudsman, Public Prosecutor, the Courts, Parliament and the civil society.

According to the Law on police, any person who thinks that is a victim of police abuse or believes that his rights were violated during police interventions can submit a complaint. The complaint can be submitted to the police station or to the Sector for Internal Control and Professional Standards.

The Sector for Internal Control and Professional Standards is working according to the Rulebook²³ to the SICPS which is prescribing the work of the Sector, while investigating irregular work of the police officers. The Sector for Internal Control and Professional Standards can start a procedure on its own, upon requests that are submitted directly by the Police, based on complaints relating to illegal and unprofessional operation of the police officers and by order of the Minister of Interior.

²²<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=896435&portal=hbkm&source=externallybydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

²³ Rulebook for the SICPS of the MoI, adopted in May 2007 , Entered into force on 11.11.2007 (<http://www.mvr.gov.mk/DesktopDefault.aspx?tabindex=0&tabid=130>)

Ombudsman is an institution that protects human rights and freedoms if they are violated by a state authority. Within its powers, he has the right to visit, without prior notice and approval, the places where persons are arrested, detained or imprisoned. Citizens who believe they have a violation of their rights may file a complaint to the Ombudsman. If the violation of their rights is noted, the Ombudsman may initiate disciplinary proceedings against the officer and can submit a request to the public prosecutor to initiate a proceeding to determine criminal responsibility²⁴. Also, the Ombudsman may give a recommendation of how to remove the identified irregularities and to propose a re-implementation of certain procedures according to the law.

The right of complaint is a part of the international standards, so in the group of policies for the protection of persons under any form of detention or imprisonment it is guaranteed that a detained person or his lawyer should have the right to submit a request or complaint about the treatment, especially in cases of torture or other cruel, inhuman or degrading treatment by the authorities responsible for detention, as well as to the authorities with the right to review and correction of the irregularities.

The European Code of Police Ethics states that public authorities should ensure effective and impartial procedures for complaints against the police. The complaints need to be examined in an independent manner, whereby the control performed by the police on a police officer may cause suspicion in the independency, and therefore need not only to have an independent system, but it might be accepted in a way that will ensure the public confidence.

FINAL OBSERVATIONS AND GENERAL RECOMMENDATIONS

In 2011, the implementing partners of the HRSP project identified 30 cases, and in 3 of them an attorney at law was hired in the court procedure. If we compare this to the past years of the implementation of the project, there is a trend of decreasing of the number of reported cases. In 2009, the project recorded 42 cases, in 2010 decreased to 38 cases, and in 2011 the number of the cases decreased to 30. There is a specific situation with not even one registered case in the western part of Macedonia, where implementer is CDD from Tetovo (in the first years of the implementation of the project there were a number of complaints about the irregularities

²⁴ Law on Ombudsman, article 32, Official Gazette of the Republic of Macedonia No.60/2003,114/2009

in police actions from this region). Since 2004, from the start of the implementation of the Human Rights Support Project, to the end of 2011 there are 403 registered cases, where the citizens received a legal aid from the five NGOs participating in this project.

There is a continuation of the trend that in the region of Northern Macedonia the biggest numbers of the complaints come from Roma, so they remain a vulnerable category of citizens, whose rights are violated, and they are not fully familiar with the procedure and their rights in relation to the police.

In the recorded cases in 2011, there is an indication that there were some irregularities and intentional injuries of the proceeding towards minors, including the treatment of this category in the correctional institution.

According to our considerations, it is necessary to enable continuous education of the police personnel for the international rights and standards in the police procedure, but also to work on raising awareness among citizens about the police powers and the right to appeal if a right is violated during a particular police intervention. Especially in this part, this analysis covered the segments of the international and domestic standards for rights in the police procedure, treatment of minors, police powers and their execution, the absolute prohibition of torture and the right of appeal, which is regulated in a universal and national level.

The citizen's associations have especially important role in the protection of the human rights. In some cases, the procedure is based on verbal statements of the victim, on one side, and the police officer on the other side, without any material evidence, so in these cases the citizens' associations should have a professional and quality access to the case, ensuring the access to the additional information and evidences for the violation of the rights.

The Sector for Interior Control continues to seem not efficient, so according to the international standards there is a need for securing completely independent and efficient control over the Police, but also to increase the external control mechanisms, including the Ombudsman office.

The citizen's confidence is crucial for the functioning of the control mechanisms, and the problem with the unfounded charges can be conquered with installing a video monitoring devices.

During 2011 a young man was murdered by a member of the police special forces, and there was an impression that the case did not address the hierarchical liability, and also the responsibility of the other police officers who were present on the crime scene.

Although this year there are less complaints than the previous years, their importance should not be neglected, especially because one of the cases resulted with a murder, and also there were a complaints for harassment and police brutality.

Therefore, as a NGOs we believe that it is of crucial importance that the following recommendations are accepted:

- Raising of the awareness among police officers for the need to respect the rights in the police procedures, whether working with a suspect, witness or victim.
- Sensitive approach toward vulnerable categories of persons and full respect of the provisions of the Juvenile Justice and international standards for minors who are in conflict with the law.
- Absolute prohibition for committing torture or other cruel or degrading treatment, and ensuring appropriate sanctioning for any identified case.
- Implementing full and effective investigations in cases of death and hard body injuries.
- Proactive and professional role of NGOs and more efficient implementation of the powers of the Sector for interior control
- Strengthening the power of the external mechanisms and cooperation to prevent the violation of rights in the police procedure.

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- **Coalition „All for fair trials“**

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- **ARKA – Kumanovo**

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- **Center for democratic development - Tetovo**

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- **Center for civic initiative - Prilep**

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- **NGO Choice- Strumica**

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