

Provisions of the Criminal Code

Torture and Other Inhuman or Degrading Acts or Punishments

Article 142

(1) A person who while performing his duty, or the one inducted by an official person or by official person approval, applies force, threat or some other unalloyed means or unalloyed manner, with the intention of extorting a confession or some other statement from an accused, a witness, an expert or from some other person, or cause a severe physical or mental suffering with the purpose of punishment for a crime or is suspected to have done, or treat or force another person to give up from some right, or cause suffering originating from discrimination, shall be punished with imprisonment from one to five years.

(2) If the crime from paragraph (1) has caused severe bodily injuries and other extremely hard consequences to the damaged or the criminal act has been perpetrated due to hatred, the perpetrator shall be punished with imprisonment of a minimum of four years.

Mistreatment in performing a duty

Article 143

A person who while performing their duty mistreats another, frightens them, insults them, or in general, behaves towards them in a manner in which the human dignity or the human personality is degraded, shall be punished with imprisonment of one to five years.

Provisions of the Law on Public Prosecutor's Office

Article 14

(1) The Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption shall be established in the Republic of North Macedonia.

(2) A specialized department for prosecution of crimes committed by persons with police powers and members of the prison police shall be established in the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption. The specialized department shall have a professional service and public prosecution investigators from the investigative center in accordance with this law. The public prosecutors and the head of the specialized department shall be assigned by the Public Prosecutor of the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, from among the public prosecutors of that prosecutor's office, upon prior consent of the Chief Public Prosecutor of the Republic of North Macedonia.

Article 33

(1) The specialized department for prosecution of crimes committed by persons with police powers and members of the prison police shall be competent to act:

- for criminal offenses committed by persons with police powers and members of the prison police in the execution of their official duties and powers,
- criminal offenses committed outside the service with the use of a serious threat, force or means of coercion resulting in death, grievous bodily harm, bodily harm, unlawful deprivation of liberty, torture and other cruel, inhuman or degrading treatment or punishment if ex officio prosecution is prescribed by law.

(2) A person with police powers within the meaning of paragraph (1) of this Article shall mean a police officer, an authorized officer for security and counterintelligence with police powers, members of the financial police and forestry police, lawfully authorized persons of the Customs Administration working on detecting criminal offences and authorized Ministry of Defense officials working on detecting and investigating criminal offences.

(3) The public prosecutor in the specialized department for prosecution of crimes committed by persons with police powers and members of the prison police, outside of the cases provided for in paragraph (1) of this Article, shall ex officio initiate a procedure to assess the merits of using firearms, as well as the use of force or means of coercion resulting in the death or grievous bodily harm of the persons referred to in paragraph (2) of this Article.

(4) For the cases referred to in paragraph (3) of this Article, the public prosecutor shall inform the head of the specialized department.

(5) The organizational unit within the Ministry of Interior responsible for performing internal control and professional standards and other competent authorities shall take actions to initiate disciplinary proceedings in respect of the offenses referred to in paragraph (1) of this Article, upon approval of the competent public prosecutor of the specialized department for prosecution of crimes committed by persons with police powers and members of the prison police, in accordance with paragraph (2) of this Article.

(6) The public prosecutor in the specialized department for prosecution of crimes committed by persons with police powers and members of the prison police shall conduct the pretrial proceedings and shall take the actions independently or through public prosecution investigators.

Article 34

The public prosecutor's office shall take care of the legality of the measures and actions taken in the pretrial procedure and shall supervise the respect of human rights by the authorized officials referred to in Article 33 paragraph (2) of this Law.

Provisions of the CRIMINAL PROCEDURE LAW

Article 53

Victim's rights

(1) The victim of a crime shall have the following rights:

1) to participate in the criminal procedure as an injured party by joining the criminal prosecution or for the purpose of a legal-property claim for damages;

2) to get special care and attention by the bodies and entities that participate in the criminal procedure; and

3) to get an effective psychological and other professional assistance and support by bodies, institutions and organizations that provide for help to crime victims.

(2) The police, the public prosecutor and the court shall act with special care towards the victims of criminal offenses, advising them of their rights as referred to in paragraph 1 of this Article and Articles 54 and 55 of this Law and they shall take care of their interests when making decisions for criminal prosecution of the accused, i.e. when

undertaking actions during the criminal procedure when the victim has to be present in person, when they have to draft an official note or record.

(3) In accordance with the special regulations, any victim of a crime, which entails a prison sentence of at least four years, shall have the right to:

- 1) get a councilor paid by the state budget before giving a statement, i.e. declaration or filing the legal-property claim, if the victim has serious psycho-physical impairment or if there are serious consequences as a result of the crime; and
- 2) be compensated for material and non-material damages from a state fund, under conditions and in a manner as prescribed in a separate law, if the damage caused cannot be compensated from the convicted person.

Article 54

Special rights of victims of vulnerable categories of victims

(1) The victims shall have the right to special measures of process protection when giving statement or being interrogated during all stages of the procedure:

- 1) if, at the time when giving the statement, the victim is less than 18 years of age;
- 2) if giving a statement or an answer to a certain question would mean exposing themselves or another close person to a serious threat for their life, health or physical integrity (endangered victims);
- 3) if, because of their age, the nature and consequences of the crime, the physical or psychological disability or another significant health condition, the social or cultural history, family circumstances, religious beliefs and the ethnic affiliation of the victim, the behavior of the defendant, members of the defendant's family or friends towards the victim, there might be harmful consequences for their psychological or physical health or if it has a negative effect on the quality of the statement provided (especially vulnerable victims).

(2) The special measures of process protection shall be determined by the court, upon proposal from the public prosecutor or the victim, or upon its own initiative, when it is necessary to protect the endangered and especially vulnerable victims.

(3) When deciding on the determination of the special measures of process protection referred to in paragraph 2 of this Article, the court shall have to take into account the victim's will.

(4) The court shall have to assign special measures of process protection in the cases as referred to in paragraph 1, item 1 of this Article:

- 1) when a child victim has a need for special care and protection; or
- 2) when the child is a human trafficking victim, victim of violence or sexual abuse.

(5) In cases as referred to in paragraph 4, individually or along with another special

measure of protection, the court has to ask for a video and audio recording of the statement and interrogation of the child, so that it can be used as evidence in the procedure. In exceptional cases, because of newly established circumstances in the case, the court may order additional interview of the child victim, once more at the most, through the use of technical means of communication.

(6) The manner of implementation of the special measures of process protection of child victims is regulated with a separate law.

Article 55

Special rights of victims of crimes against gender freedom and gender morality, humanity and international law

(1) Apart from the rights established in Article 53, the victim of crimes against gender freedom and gender morality, humanity and international law, shall also have the following rights:

- 1) before the interrogation, to speak to a counselor or a proxy free of charge, if he or she participates in the procedure as an injured party;
- 2) to be interrogated by a person of the same gender in the police and the public prosecution office;
- 3) to refuse to answer questions that refer to the victim's personal life, if those are not related to the crime;
- 4) to ask for an examination with the use of visual and audio means in a manner established in this Law; and
- 5) to ask for an exclusion of the public at the main hearing.

(2) The court, the Public Prosecutions Office and the police shall be obliged to advise the victim of his or her rights referred to in paragraph 1 of this Article, prior to the very first examination at the latest and to prepare an official note or record accordingly.

Provisions of the Draft Law Amending the Criminal Code (In Parliamentary Procedure)

Article 13

The title of Article 142 and Article 142 shall be amended and shall read as follows:

“Torture

Article 142

(1) The one who, in the performance of their capacity or any other person acting in an official capacity, as well as a person who, encouraged by an official or with their express or tacit consent, by the use of force, threat or any other illegal means or in any inadmissible way, shall cause physical or mental pain or suffering to another person in order to obtain from them or a third party a confession or some other information or to punish them for an

act that they or a third person has committed or is presumed to have committed, shall be punished with term of imprisonment for at least five years.

(2) Should the criminal offence referred to in paragraph (1) of this Article result in serious bodily injury, other particularly serious consequences or death of the victim, or the crime is committed out of hatred, the perpetrator shall be punished with term of imprisonment for at least eight years.

(3) Should the perpetrator intentionally cause serious bodily injury by committing the criminal offense referred to in paragraph (1) of this Article, the perpetrator shall be punished with term of imprisonment for at least ten years.

(4) Should the perpetrator intentionally cause death of the victim while committing the criminal offence referred to in paragraph (1) of this Article, the perpetrator shall be punished with term of imprisonment for at least ten years or with life imprisonment.”

Article 14

Article 143 shall be amended and shall read as follows:

“An official who, in the performance of their capacity or any other person acting in an official capacity, as well as a person who, encouraged by an official or with their express or tacit consent, uses unauthorized force, threatens or commits physical or mental violence in order to inflict physical or mental pain or suffering on another person, which constitutes cruel, inhuman or degrading treatment or punishment, shall be punished with term of imprisonment from three to eight years.”