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**PERMANENT MISSION OF THE REPUBLIC OF MACEDONIA
TO THE UNITED NATIONS OFFICE AND OTHER INTERNATIONAL
ORGANIZATIONS IN GENEVA**

31 July, 2015

Via fax no.: 022 917 9008

**ATT TO: Mr. Karim Gherzraoui
Chief, a.i.
Special Procedures Branch
OHCHR- Geneva**

Total no. of pages including this one: 10

COVER LETTER

The e-version of the attachments will be sent by mail, as well.

HoM's letter and attachment are enclosed.

A handwritten signature in black ink, appearing to be 'Jm'.



**PERMANENT MISSION OF THE
REPUBLIC OF MACEDONIA**
Geneva
Head of Mission

↓
Geneva, 30 July, 2015

Dear Special Rapporteurs,

I have to honor to refer to your letter dated 20 May 2015, related to your Joint Urgent Appeal regarding "alleged arbitrary detention and prosecution of a large number of individuals in the context of the peaceful protests from 5 to 13 May 2015 that took place in Skopje", Republic of Macedonia.

I would like to inform you that after careful consideration of your joint appeal the Government of the Republic of Macedonia submitted the Response that is enclosed herewith. I would also like to inform you that the Mission may submit additional information in due course.

On behalf of the Permanent Mission of Macedonia, I would like to reassure you of our readiness for further open, constructive and fruitful cooperation.

Dear Special Rapporteurs, please accept the assurances of my highest consideration.

Dusko Uzunovski
Minister Counsellor
Charges d'Affaires a.i.

Mr. Seong-Phil Hong
Chair-Rapporteur of the WG on Arbitrary Detention

Mr. David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mr. Maina Kiai
Special Rapporteur on the right to freedom of peaceful assembly and of association

Mr. Michel Forst
Special Rapporteur on the situation of human rights defenders

GENEVA

**RESPONSE BY THE GOVERNMENT OF THE REPUBLIC OF
MACEDONIA TO THE JOINT COMMUNICATION FROM SPECIAL
PROCEDURES ON THE PROTESTS IN SKOPJE FROM 5 TO 13 MAY 2015**

With reference to information according to which on 5 May 2015, about 22:00 hrs., police officers and members of special police forces allegedly used excessive force against demonstrators, being also unselective towards people sitting on the ground, the Sector for Internal Control and Professional Standards, as the organizational unit competent to control the treatment by police officers, inspected the relevant records and the exercise of police authorities, and with a view to examining the allegation contained in the letter hereby underlines the following:

On 5 May, 2015, at about 18:10 hrs., upon calls for protests published on social networks, about 500 persons gathered for protests in front of the building of the Government of the Republic of Macedonia.

At about 21:30 hrs., additional 3,000 persons gathered to protest in front of the building of the Government of the Republic of Macedonia. During the protests, a larger group of citizens addressed derisive words and offences to the uniformed police officers who were providing external physical security of the building of the Government of the Republic of Macedonia. At one moment, a larger group of citizens who protested first jumped over the metal protective fence separating police officers from protesting citizens, and thus citizens came closer to the cordon of police officers physically securing the building of the Government of the Republic of Macedonia.

Persons who jumped over the metal fence used physical force to attack police officers, wanting to enter by force into the building of the Government of the Republic of Macedonia. Immediately after that, citizens gathered in front of the building of the Government of the Republic of Macedonia started being violent, i.e. started throwing at the cordon of uniformed police officers hard objects, such as behaton tiles, metal bars, glass bottles, inflammable pyrotechnic means – torches, being also aggressive by setting fire to

the trash containers and pushing the trash containers already set on fire towards the police officers.

Throughout the period in which uniformed police officers were hit with hard objects and were subject to psychical force and attacks, no means of coercion were used against the protesters. Hence, 38 police officers were injured and immediately transferred to the General City Hospital "Sveti Naum Ohridski", and to the Emergency Surgery Centre at the Clinical Centre Mother Theresa where they were provided with medical care.

The commanding police officer in charge several times issued oral orders to the gathered protesters to stop the violent and aggressive behaviour and leave, but the gathered people did not follow the orders.

Considering that the oral orders were not followed and considering the exceptional scale of violence, aggressiveness and brutality by the gathered citizens, the safety, life and health of police officers who physically secured the building of the Government of the Republic of Macedonia were endangered. Furthermore, the safety of the gathered citizens was jeopardized and public and private property was damaged. In order to re-establish the seriously disrupted public peace and order, and considering the very serious nature of the situation and the possibility for even graver consequences and escalation of the situation in the field, the commanding police officer in charge issued an order for use of means of coercion - rubber truncheons and physical force in order to overcome the resistance and disperse the mass of aggressive citizens.

In line with its legally defined competences and in accordance with Article 81, paragraph 4 of the Law on the Police and Article 2, paragraph 3 of the Rulebook on Performance of Tasks, the Sector for Internal Control and Professional Standards prepared a Report examining whether there were grounds for the use of means of coercion and whether their use was justified and whether rules were followed in the use of the means of coercion. The Report established that the means of coercion were used on proper grounds, in a justified and correct manner.

With respect to allegations about keeping protesters in police custody without any grounds, after having conducted the

required examinations, the Sector for Internal Control and Professional Standards, established the following situation:

On 5 May 2015, police officers deprived of freedom and brought to police custody in the Police Stations Kisela Voda and Gazi Baba 30 persons for whom there were reasonable suspicions that they had committed the crime of *Participation in a crowd, which prevents an official person to perform an official act* or reasonable suspicions that they had committed a misdemeanour under Article 14 and under Article 15 of the Law on Misdemeanours against the Public Peace and Order.

On 5 May 2015, 11 people were deprived of freedom and brought into police custody at the Kisela Voda Police Station of General Competence. These persons were enabled to fully exercise the rights to which they are entitled according to the Law on the Police and the Law on Criminal Procedure. The Public Prosecutor's Office was informed about the fact that these persons had been deprived of freedom. 6 of these persons asked for and exercised the right to a defence lawyer. The persons were kept in police custody at the police station within the legally prescribed period of 24 hours at the most. In the course of the deprivation of freedom and placing under police custody means of coercion were applied against 9 persons, for which police officers prepared reports on the use of means of coercion, and following examinations and checks in pursuance with the relevant provisions of the Law on the Police it was assessed that means of coercion were used on proper grounds, in a justified and in a correct manner.

2 of the persons kept in police custody at the Kisela Voda Police Station were admitted to the police station with visible injuries (scratches), of whom one person asked for medical assistance and was transferred to the Emergency Medical Centre at the Clinical Centre-Skopje, and after the person was provided with medical care the person was returned to the police station.

2 persons who were deprived of freedom were brought to the Skopje I First Instance Court, where a judge in a preliminary procedure ordered the measure of remand prison, on reasonable suspicions that they had committed the crime of *Participation in a crowd, which prevents an official person to perform an official act*, punishable under Article 384 of the Criminal Code of the Republic of

Macedonia, following which the persons were taken to the Skopje Prison.

Legal proceedings were instituted against 11 persons for a misdemeanour under Article 15 of the Law on Misdemeanours against the Public Peace and Order, i.e. for not leaving a group of persons which was ordered by an authorized official person to disperse in circumstances of threatened public peace and order.

On 5 May 2015, 19 persons were deprived of freedom and brought to the Gazi Baba Police Station of General Competence, 17 of whom were placed in police custody. All these persons were enabled to fully exercise their rights in accordance with the Law on the Police and the Law on Criminal Procedure, and the Public Prosecutor's Office was informed about their deprivation of freedom. 12 persons asked for and exercised their right to a defence lawyer. The persons were kept in police custody at the police station for the legally defined maximum period of 24 hours. In the course of the deprivation of freedom and placing into police custody, means of coercion were not used against any of these persons. 2 of the persons deprived of freedom and placed in police custody at the Gazi Baba Police Station of General Competence were brought to the Skopje I First Instance Court, where a judge in a preliminary procedure ordered them remand prison. Consequently, the persons were transferred to the Skopje Prison. At the Gazi Baba Police Station of General Competence, 4 persons asked for medical assistance which was provided by medical professionals.

Legal proceedings were instituted against 14 persons for having committed misdemeanours under Article 14 and Article 15 of the Law on Misdemeanours against the Public Peace and Order.

As regards allegations for entry by use of force in the Braka Miladinovci Library in search of demonstrators and the allegation for use of violence against students studying in the library, the Sector for Internal Control and Professional Standards examined the situation and established the following:

On 5 May 2015, about 22:30 hrs. one person was deprived of freedom at the Braka Miladinovci Library and was taken to and held in police custody at the Gazi Baba Police Station of General Competence, where the person was enabled to exercise all rights to which a person deprived of freedom and kept in police custody is entitled.

On 8 May 2015, 7 people were deprived of freedom and brought into police custody at the Kisela Voda Police Station of General Competence. These persons were enabled to fully exercise the rights they are entitled to in accordance with the Law on the Police and the Law on Criminal Procedure. The Public Prosecutor's Office was informed about their deprivation of freedom. 5 persons asked for a defence lawyer. The persons were kept at the police station within the legally prescribed maximum 24 hour period.

On 8 May 2015, all 7 persons deprived of freedom and kept in police custody at the Gazi Baba Police Station of General Competence were brought to the Skopje I First Instance Court, where a judge in preliminary procedure ordered them remand prison and the persons were transferred to the Skopje Prison.

On 13 May 2015, 3 persons were deprived of freedom and brought into police custody at the Kisela Voda Police Station of General Competence. These persons were enabled to fully exercise the rights they are entitled to in accordance with the Law on the Police and the Law on Criminal Procedure. The Public Prosecutor's Office was informed about their deprivation of freedom. All persons asked for a defence lawyer and were enabled to exercise this right. The persons were kept at the police station within the legally prescribed maximum period of 24 hours. None of these persons asked for medical assistance.

On 14 May 2015, at 09:00 hrs., a minor person was summoned to the Kisela Voda Police Station of General Competence where at the official premises a police officer in civilian clothing, authorized to interview minors, interviewed officially the minor in the presence of the lawyer of the minor and in the presence of the minor's parent. The minor left the premises of the Kisela Voda Police Station of General Competence at 10:50 hrs.

2 persons for whom there were reasonable suspicions that they had committed the crime of *Participation in a crowd, which prevents an official person to perform an official act*, sanctioned under Article 384 of the Criminal Code could not be found and thus were not deprived of freedom. However, criminal charges were filed against these persons with the Skopje Basic Public Prosecutor's Office.

As regards the request for information about legal grounds for the deprivation of freedom and for the police custody of demonstrators, and the request for an explanation whether such measures are in line with international human rights norms and standards, the following is underlined:

The standard procedure for deprivation of freedom and keeping persons in police custody was applied and observed with respect to all persons apprehended and kept in police custody and all official records were dully prepared in this respect, in line with provisions of relevant laws and secondary legislation.

The persons deprived of their freedom were informed about the reasons for their apprehension, their identity was checked and they were searched in order to impound items that apprehended persons could use to attack a police officer or to self-inflict injuries.

The Reception police officer – shift manager informed the apprehended persons about their legal rights as follows: the right to a defence lawyer, right to medical assistance, right to inform a family member or another close person. The police custody was registered in the Daily log of events in the performance of police tasks and in the Register of persons deprived of freedom on any grounds. A separate case file was opened at police stations of general competence for each person in police custody, containing all records and documents prepared by police officers with respect to the deprivation of freedom of persons without a court order, minutes that the persons were advised of their rights, minutes of keeping a person in police custody, minutes of a search of a person, receipts on provisionally impounded items, decisions for keeping a person in police custody.

The persons gave a statement, and they were interviewed in the presence of criminal investigative police officers, while the procedure for minors was undertaken by police officers specially trained for treatment of minors. The Public Prosecutor's Office was informed about the deprivation of freedom of the concerned persons, upon the instructions of which official activities were undertaken.

Police officers undertook all measures and activities in following with international human rights norms, i.e. police duties

were executed in accordance with standard procedures envisaged in the following documents, which incorporate such norms:

- Law on Criminal Procedure;
- Law on Internal Affairs;
- Law on the Police;
- Law on Juvenile Justice;
- Rulebook on the manner of performance of police duties.

In the context of the request for detailed information about criminal charges filed against 16 persons and the question when the relevant court procedures will start, the Ministry of the Interior submits the following information within the scope of its competences:

Criminal charges were filed with the relating Basic Public Prosecutor's Office against 18 persons on grounds of reasonable suspicions that they had committed the crime of *Participation in a crowd, which prevents an official person to perform an official act*, under Article 384 of the Criminal Code of the Republic of Macedonia, while against the rest of the persons misdemeanour charges were filed for misdemeanours under Article 14 and Article 15 of the Law on Misdemeanours against the Public Peace and Order. The charges were supported with video recordings and photo-documentation as evidence in the further proceedings.

Based on the above stated it can be concluded that the specific case involves a total number of 43 persons, of whom 40 persons were deprived of freedom or brought into police stations under police custody, then 2 persons against whom criminal charges were filed were not deprived of freedom and 1 minor was summoned to a police station. Out of the 40 persons deprived of freedom, 38 persons were held in police custody in the above mentioned police stations within the maximum legally prescribed period of 24 hours. 27 persons exercised the right to a defence lawyer in a police procedure.

As regards the request for information about what measures were undertaken in order that all citizens of the Republic of Macedonia could pursue peaceful and legitimate activities and express their opinion at peaceful gatherings without fear of ill-treatment the following is underlined:

Article 21, paragraph 1 of the Constitution of the Republic of Macedonia envisages that "Citizens have the right to assemble

peacefully and to express public protest without prior announcement or a special license”, while paragraph 2 of the same Article envisages that: “The exercise of this right may be restricted only during a state of emergency or war.”

The Law on Public Gatherings regulates the manner of exercise the right of citizens to public assembly to peacefully express their opinion and protests publicly, regulating as well cases in which the public gathering may be interrupted.

In the specific case of 5 May 2015, the initially peaceful protests in front of the building of the Government of the Republic of Macedonia escalated into violent and aggressive protests in which 38 police officers suffered bodily injuries, acquired in the performance of official duties, while police officers applied means of coercion to restore the disrupted public peace and order on proper grounds, in a legitimate, justified manner and correctly, in pursuance with the relevant provisions of the Law on the Police.

The involved persons were summoned to police stations, deprived of freedom, brought into police stations and held in police custody in accordance with the Law on the Police and the Law on Criminal Procedure, while persons deprived of freedom were enabled to exercise all rights set forth under the Law on the Police and the Law on Criminal Procedure.

Information about persons deprived of freedom and persons summoned were dully entered in the official records, while the one involved minor person was enabled to exercise all rights to which the minor is entitled to in accordance with the Children’s Justice Law.