

The Problem of Torture in Italy and its Influence to Potential EU Member States. The case of Macedonia

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Abstract Human rights, democracy and the rule of law are core values of the EU and are seen as universal and indivisible. Respect for human rights is a prerequisite for countries seeking to join the Union. Therefore, Macedonia as a candidate country is in the process of fulfilling EU standards in the protection of the human rights. However, huge problem emerges when some of the country members of the EU is not respecting and furthermore violates basic human rights of his citizens. As the academic in the country which is supposed to become EU member one day, we have huge problem to explain to the people why they should implement some human right standard, if that is not the case in some prominent EU member country. Referring to common good and higher values is not always enough. In this paper will I focus only on two countries: Macedonia and Italy. The first one due the reason is the country where I am living, state in transition trying to reach the European values or at least claiming so. The second one because is one of the oldest EU member states and it's perceived as one of the most important countries in Europe. Moreover it's facing with some problem as transition countries do: corruption, freedom of press, fight with mafia, populist leader, illegal immigration and other. I will focus just on the prohibition on torture as one of the most basic and most fundamental human right.

Keywords: torture, human rights, Italy, Macedonia, double standards

1. Introduction

If someone asks a question if there are double standards in the protection of human rights that unfortunately has a very simple answer. Yes, there are. It is fact which is widely acknowledged and according to me it is not going to change dramatically in near future. When talking on this issue I don't refer to the universality of the human rights or to the culture relativism (Frckoski, 2001). The double standards regarding respects of human rights exist even in groups belonging to the same cultural identity. One of the most mentioned topic when discussing the issue of human rights is the problem of double standards. One of the main aim of the establishing the Human Rights Council within UN few years ago was "objectivity and non-selectivity in the consideration of human rights issues, and the elimination of double standards and politicization..."¹. The aim of this paper is to discuss the problem of double standards in respecting of human rights in the process of enlargement of the European Union and the possible solutions to reduce the same.

The term double standard refers to a set of principles that allows greater freedom to one person or group than to another or containing different provisions for one group of people than for another, predominantly in the area of human rights, typically without a good reason for having that difference (Collins dictionary 10th edition, 2009). A double standard may take the form of an instance in which certain applications are perceived as acceptable to be used by one group of people, but are considered unacceptable- taboo- when used another group. Double standards also violate the principle of justice known as impartiality, which is based on the assumption that the same standards should be applied to all people, without regard to subjective

¹ For detailed information: Resolution of the General Assembly of the UN for the establishment of the Human Rights Council, 2006

bias or favoritism based on social class, rank, ethnicity, gender, religion, sexual orientation or other distinction (DeVinney, Gemma & Hartman, 2000)

In this paper I am focusing only on two countries: Macedonia and Italy. The first one due the reason is the country where I am living, state in transition trying to reach the European values or at least claiming so. The second one because is one of the oldest EU member states (since its establishment) and it's perceived as one of the most important countries in Europe. Moreover it's facing with some problem as transition countries do: corruption, freedom of press, fight with mafia, populist leader, illegal immigration and other (Dinoi, 2010). I prefer not to write about respect the human rights in the so called "new" EU member states².

The low level of implementation of European human rights standards in those countries is already in centre of attention of many academics, politicians, human rights activists. The whole PhD research could be written on failures in the field of human rights in countries that joined EU club in the last decade. I am not quite sure whether more embarrassing is the treatment of Roma in Slovakia, Romania and Czech republic, or the treat the way the Baltic states are dealing with language minorities in their territories. The status of the minorities in Bulgaria is that worst that even Council of Europe's Human Rights Commissioner Mr. Hammarberg had to issue a public letter to the Bulgarian prime minister³. Moreover Bulgaria is ignoring the judgments of the European court of human rights regarding minority human rights issue. However since Hungary leading EU presidency currently, so the winner might be Mr. Orban and the way he is dealing with media and other independent institutions in his country.

I am focusing focus just on the prohibition on torture as one of the most basic and most fundamental human rights. The international criminalization of torture is part of a more comprehensive regime in public international law against torture. The three main features of this regime, which in turn elucidate the leitmotif for the interpretation of the torture offence are: (1) the prohibition against torture is so stringent and so sweeping that states are obliged not only to prohibit and punish its commission but also to forestall its occurrence; the prohibition thus also covers potential breaches; (2) the outlawry of torture imposes erga omnes obligations owed towards all other members of the international community and (3) the torture ban has acquired the status of a peremptory norm or *ius cogens*; therefore, the principles at issue cannot be derogated so that perpetrators may be held criminally responsible notwithstanding national or even international authorization by legislative or judicial bodies to apply torture. (Burchard Christoph, 2008). Moreover there in no state in the world that officially approves torture and admits that the same it is performed by her agents (Roth & Worden, 2005).

2. Human Rights as Precondition for the EU Enlargement

Human rights, democracy and the rule of law are core values of the European Union and are seen as universal and indivisible. Embedded in the EU's founding treaty, these principles have been reinforced by the adoption of a Charter of Fundamental Rights⁴. Respect for human rights is a prerequisite for countries seeking to join the Union and a precondition for countries wishing to forge trade and other agreements with the EU. Since March 2002, the European Commission reports regularly to the Council and the Parliament on progress made by the countries of the

² When mentioning EU new member states I refer to the member states that joined EU in 2004: Poland, Slovakia, Czech republic, Slovenia, Hungary, Estonia, Lithuania, Latvia, Malta, Cyprus and in 2007: Bulgaria and Romania. All of them except Malta and Cyprus have communistic legacy. Many officials from these states disagreed with the use of the term new member states.

³ Mr. Hammarberg had issued a public statement on 7th October 2010 referring to denying the basic minority rights to the members of the Roma and Macedonian minority and ignoring the judgments of the ECHR by the Bulgarian authorities, available at <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1698657>

⁴ For detailed information : Charter of Fundamental Rights of the European Union, and explanation relating to the Chapter of Fundamental Rights of the European Union.

Western Balkans region. This report is focusing on progress made by countries preparing for EU membership. Among others the report analyses the situation in the countries in terms of the political criteria for membership, which includes chapter for human rights and protection of minorities as well as another chapter for democracy and rule of law. Progress is measured on the basis of decisions taken, legislation adopted and measures implemented (EC report, 2010).

Therefore, Macedonia as a candidate country is in the process of fulfilling EU standards in the protection of the human rights. While the EU actively promotes and defends human rights, both within its borders and in its relations with outside countries, the Union does not seek to usurp its Member State national governments' broad powers in this area. However, huge problem emerges when some of the country members of the EU is not respecting and furthermore is violating basic human rights of his citizens. Macedonia as a precondition for joining EU is required to make steps towards meeting the Copenhagen political criteria, which require stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities (EC report, 2010).

Protecting fundamental rights and creating a European area of freedom, security and justice are two intrinsically linked tasks, which are actually two sides of the same coin. Moreover, they are two of the key goals of European integration in the years to come. There are several tools available for enshrining these rights. Perhaps the best known of all is the Charter of Fundamental Rights proclaimed by European Union (EU) leaders in December 2000. It stems from the EU Treaty, European Court of Justice case-law, the European Union Member States constitutional traditions and the COE's European Convention on Human Rights⁵.

Human rights standards for as a precondition for joining EU have transformed, or deemed to transform the nature of the relationship between governments and individuals, and made public authorities far more accountable (Nowak, 2005). However, much more needs to be done to improve implementation of standards that exist. There is a little point in elaborating if they are not implemented. If some of the EU member states, standards have been incorporated in domestic law, but their implementation remain aspiration. It seems that this is a problem not only in the so called "new" member states with communistic legacy and without strong tradition of respect of human rights, but also in the "old" EU member states.

3. The Absolute Prohibition of Torture

In 1874, Victor Hugo famously declared that "torture has ceased to exist"(McCoy W. Alfred, 2006). Today, 137 years later we can conclude that this great mind was terribly wrong. Although the powers sought for state security are in no way comparable to those of the tyrannical regimes of the past, they are philosophically akin to the authority invoked by Roman emperors to torture suspected traitors, the Inquisition's forcible unmasking of heretics to save all from eternal damnation, and even the totalitarian temptation to eliminate all dissents in the name of Revolution. More is needed to win the minds and hearts of public and bring this sad history to an end (James Ross, 2005).

The right of every person not to be subjected to ill-treatment or torture (physical or mental) is one of the few human rights that are considered absolute. Therefore, it is forbidden to balance it against other rights and values, or suspend or restrict the right, even in the harsh circumstances of the struggle against terrorism (Rejali, 2002). This right now enjoys the highest and most binding status in international law (Sassoli & Bouvier, 1999).

The most accepted definition of "torture" appears in section 1(1) of the UN **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** from 10 December 1984. It reads as follows: *For the purposes of this Convention, the term "torture" means any*

⁵ Idem

act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions⁶. In European convention on human rights there is very small article prohibiting torture *No one shall be subjected to torture or to inhuman or degrading treatment or punishment*, but there is broad jurisprudence of the European court of human rights regarding the issue.

International law imposes an absolute prohibition on torture and on cruel, inhuman, or degrading treatment (hereafter cruel, inhuman, and degrading treatment is referred to as “ill-treatment”). Unlike other norms, countries are not allowed to derogate from it or balance it against other rights or values, even in emergency situations. Furthermore, for some time now, there has been broad consensus around the world that the absolute prohibition on torture and ill-treatment is customary law, meaning that it applies with respect to every country, organization, or person, for their acts committed anywhere, without regard to the application of one international convention or another (Erdal & Bakirci, 2006).

None of the conventions provide a definition for ill-treatment. Major quasi-judicial bodies, primarily the UN Human Rights Committee, which is responsible for examining complaints of individuals with respect to breach of the International Covenant on Civil and Political Rights, often relate to the two prohibitions as one block, without noting in specific cases whether the act falls into one category or the other. Other bodies, the most prominent being the European Court of Human Rights, make a distinction, although it holds in principle that the two prohibitions are absolute to the same degree. The justification for this distinction according to the court is that the term torture carries with it a “special stigma,” which should be placed on only the most serious acts. The relevant case law and literature indicate that two major criteria distinguish torture from ill-treatment: the intensity of the suffering, and the purpose underlying the method used (Nowak 2005). Therefore, a method that causes substantial, but not severe suffering, or which causes severe suffering but not to obtain information (for example, the use of excessive force against a person resisting arrest), is defined as ill-treatment and not torture⁷. Although the idea is criticized by human rights lawyers, the ad hoc tribunals (ICTY and ICTR) foresee a relative element of aggravation in the definition of torture, as there is a hierarchy of intensity between this crime and other forms of mistreatment. If the conduct charged as torture cannot be proven to be of substantial gravity, i.e. if the ‘severe test’ is not met, ‘ill-treatment’ and ‘inhuman and degrading treatment’ may come into play as lesser included offences (Burchard, 2008).

The terrorist attacks that shocked the world on September 11 had a visible impact on the struggle to eliminate torture. Some countries that previously were very careful not to practice or endorse torture have abandoned such practice. Public prosecutors and judges in many countries in the world began to find ways to circumvent the absolute prohibition of torture and the international and domestic legal acts that regulate it. Numerous human rights defenders retreat a step backwards and began discussions whether torture can be justified if its practice means

⁶ The term “torture” is also defined or mentioned in other international documents such as: European Convention on Human Rights and Freedoms, the Universal Declaration of Human Rights from 1948, the Geneva Conventions from 1949 and the Additional Protocols from 1977; UN International Covenant on Civil and Political Rights from 1966; the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 1987; Rome Statute of the International Criminal Court; Optional Protocol for the Prevention of Torture of the UN from 2002

⁷ In the Greek case (1969) the EComHR gave a definition for each word, thereby introducing a hierarchy “out of nowhere”. 1) Degrading = tends to humiliate/degrade; 2) Inhuman = infliction of severe pain or suffering 3) Torture = infliction of aggravated pain or suffering for a purpose like extracting information/confession.

protections of the national security and the only available tool to combat terrorism? (Dershowitz,2002)

The question of torture, cruel and degrading treatment has taken on a new urgency, with the abuses in Guantanamo, Abu Ghraib and many other locations. We are being told that torture may in fact be necessary, in some cases, to prevent a future terrorist attacks (Dershowitz,2002). A step back has been made. What are we to make of this radical shift in policy given its discord with fundamental human values? Torture in the name of state security, never fully abandoned, was to return in the first decade of the new millennium with a vengeance. The Landau Commission in Israel offered the legal justification for the use of force in some circumstances. According to the Commission, the “defense of necessity”, found in Israel legal code was the legal basis for use the of force by the state interrogators The ruling by the Israeli Supreme Court have only modified this attitude, instead of fully abandoning it . (Felner Ietan, 2005) Police officers ignore law prohibitions to beat and break information out of alleged criminals. Moreover, the judges convict on the basis of obviously coerced confessions. Police corruption and police subculture are further factors (Jankulovski,2007).

Everyone should be concerned by the fact that rejected judicial torture is not deeply embedded for torture carried out under the guise of state security. The “war on terrorism” has resurrected the previously unthinkable topic of the legitimacy of the state torture. Absolute prohibition however is easy. Enforcement is hard, and even rules and punishment for infraction are not enough. It is of great importance state officials who are responsible for the torture cases to be brought before the justice, and the procedure to be followed by adequate sanction (Barry, Hirsh and Skiff; 2004).

After centuries of abuse, torture has been found to be neither productive nor containable. It rarely provides accurate intelligence. It produces fantasy and misleading information born out of the desperation of the victim. For all the discussion of the "ticking time bomb" and the films of Dirty Harry, there is no reported case where an explosion has been prevented because of the use of torture (Roth & Worden,2005).

What its proponents never like to answer is the question of just who would decide who should be tortured.⁸ And once you add that to the equation you are on a straight line to General Pinochet, Saddam Hussein and all the other repressive regimes. Attempting to define or confine the circumstances under which the suspect can be interrogated or the manner of the humiliation and pain that can be dealt out simply makes the unacceptable into the obscene (Roth & Worden,2005). Torture isn't a matter of niceties. One can argue the circumstances in which it might feel useful or even necessary. It is very important to highlight article 2 of the Convention against torture, which stipulates that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture”.

4. The Problem of Torture and ill Treatment in Italy

Sometimes there is a tension in Italian foreign policy between the belief that respecting and promoting human rights is vital to advancing long-term Italian interests around the world, and the tendency to forget that belief when short-term interests get in the way (NGO Antigone report, 2010). Many reports issued by CoE Committee for prevention of torture, other international and domestic human right organizations stipulated that Italy is standing bad on the issue of the prohibition of the torture. Push back policy, “41 bis treatment”, treatment of the migrants, as well as involvement in the secret CIA prison cases are only some of the mayor problems (CPT report, 2009). There are some clear conclusions that Italy is not a good example

⁸ The answer, of course, is the "state" (Dershowitz,2002)

of a European democracy where the human rights regarding torture and police misconduct cases, are respected and promoted footnote? (Dinoi, 2010).

Information that there are severe problems with overcrowding in the prisons, not sufficient health care system in prisons and lack of prompt and effective interventions of the prison staff in numerous cases of inter-prisoner violence which have resulted with serious injuries and in some cases with death of the prisoners (Dinoi, 2010), are disturbing and required immediate action by the state (CPT report, 2010). Furthermore we have to bear in mind that Italy is the country with high level of prisoners within the European Union (Antigone report, 2010). Special attention caused information published in CPT's report claiming that that certain patients were detained in the psychiatric hospital and institutions for longer than their condition required and that others were held in the hospital even when their placement order had expired.

One of the main issues in Italy is that the crime of torture is not prescribed in the Penal Code. Despite Convention obligations and Italian constitutional provisions requiring the criminalization of torture, Italy has failed to adopt all the required legislation. In particular, certain types of physical or mental torture under Article 1 of the Convention may not be covered by the criminal law, partly because of the absence of a specific crime of 'torture' in the Italian penal code (Messineo Francesco, 2009). Moreover CPT, CoE, EU and relevant international and domestic organizations dealing with the torture cases have recommended to Italian in many occasions to amend its Criminal Code and the crime of torture to be introduced. During the UPR session in May 2010, many states required the same. In the respond Italy stated that "in the country, torture is punishable under various offences and aggravating circumstances, which trigger a wider application of such crime. Even though this is not typified as one specific offence under the Italian criminal code, both the constitutional and legal framework already punish acts of physical and moral violence against persons subject to restrictions of their personal liberty. Both provide sanctions for all criminal conducts covered by the definition of torture, as set forth in Article 1 of the relevant Convention". (UPR report, 2010). Thus, it is not probable that Italy is going to amend its Criminal code with the crime of torture.

The most severe violations of the human rights regarding the torture and ill treatment cases which have occurred recently and caused immediate intervention by the CPT is the push back policy. The Italian Government began implementing its push-back policy in May 2009. This policy is aimed at stemming the flow of migrants, in particular by returning migrants to the countries from which they departed or transited (mostly to Libya, but also to Algeria). It must be seen in the context of the regional problems of the management of maritime borders in the Mediterranean, which have yet to be resolved collectively. (CPT report, 2009)

Within the Council of Europe's member states, the European Court of Human Rights has, through its case law on Article 3 of the European Convention of Human Rights ("the ECHR"), extended the principle of *non refoulement* to all persons who may be exposed to a real risk of torture, inhuman or degrading treatment or punishment should they be returned to a particular country. The principle of *non-refoulement* is enshrined in Article 33 of the 1951 Convention on the Status of Refugees ("the 1951 Convention"), which states: "No Contracting State shall expel or return ("*refouler*") a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion.

In the CPT's view as well as a view of many relevant international organizations dealing with human rights, Italy's policy of intercepting migrants at sea and obliging them to return to Libya or other non-European countries, violates the principle of *non refoulement*, which forms part of Italy's obligations under Article 3 of the European Convention on Human Rights (CPT report, 2010). Italy is bound by the principle of *non-refoulement* wherever it exercises its jurisdiction, which includes via its personnel and vessels engaged in border protection or rescue

at sea, even when operating outside its territory⁹.

As the result of the new policy of the Italian government CPT has urgently visited the country and issued a report strongly criticizing the "push-back" policy as unacceptable for any European democratic country. The CPT urged the Italian authorities to substantially review forthwith the practice of intercepting migrants at sea, so as to ensure that all persons within Italy's jurisdiction including those intercepted at sea outside Italian territorial waters by Italian-controlled vessels, receive the necessary humanitarian and medical care that their condition requires and that they have effective access to procedures and safeguards capable of guaranteeing respect for the principle of *non-refoulement*. According to CPT the so-called push-back policy, as pursued by the Italian authorities and described in their report, does not meet those requirements. It can be concluded that, in Italy are performed act of torture, cruel and inhuman treatment.

5. Torture and Police Misconduct in Macedonia

"Every accusation, if not substantiated by evidence, is much closer to being a false denunciation than showing actual involvement of the people that are being accused; you should really provide evidence if you accuse someone" – (Gordana Jankulovska, Macedonian Minister of Interior, June 2007).

This statement of the Minister of Interior refers to a serious accusation made by a citizen of severe violation of his rights by the Police¹⁰. If this logic is accepted, citizens will need to prove that the Police has truly inflicted visible bodily injuries on them, that they were victims of torture or that their rights and freedoms were otherwise breached. Unless they succeed in doing this, it is not excluded as an option that the MoI may bring criminal charges against the victims of police abuse for "false denunciation of a criminal offence" or "attack on an official personnel while carrying out security duties", which actually has happened in practice! (Jordanoski, 2007) As opposed to this, in any democratic country nowadays it is the duty of the Police or of the state agents to provide a reasonable explanation as to how the injuries of the citizens came about.

That this is not just isolated cases can be concluded by the reports from the Committee for prevention of torture (CPT), the Ombudsman Institution and international and domestic organizations active in the field of human rights protection. In their reports they indicate the existence of allegations of police misconduct and ill-treatment in the Republic of Macedonia, expressing their concern regarding the lack of proper sanctioning of perpetrators, in cases when it has been confirmed that they have violated someone's human rights.

In its report for 2009, Amnesty International expresses its concern regarding cases of torture, police misconduct and ill-treatment, as well as the lack of indictments for the persons responsible for such violations. The annual report from the Ombudsman Institution for 2010 claims that in comparison with 2008, there is a 70% increase in the number of complaints filed by citizens, which relates to misconduct and ill-treatment by members of the police, or to mistreatment in prisons and other places of detention. Absence of punishing and solidarity with police officers by covering committed omissions by officials remains the basic reason for non objective, non professional and non quality execution of investigations for over passing official authorizations, according to the Ombudsman report for 2010. This tendency of acting was not

⁹ It is true that the States have the sovereign right to protect their borders and to introduce measures controlling migration within their jurisdiction. Further, Article 5 (1) (f) of the European Convention on Human Rights expressly permits "the lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition". However, the exercise of this right must be in accordance with a State's other international obligations.

¹⁰ Additional problem since 2006 is the issue of the spectacular arrest. The arrested are brought in the court from the main entrance, with handcuffs after all the medias have been informed. Human right experts are warning that the Police is violating the presumption of innocence (Jordanoski, 2007)

only found in the course of work of Internal Control and Professional Standards Sector, but unfortunately, in the work of enforcement bodies, courts and public prosecutions, where it was noted that procedures against police officers, as a rule, are endlessly delayed, while priority is given in taking actions upon reports accusing citizens of attacking officials (Ombudsman's annual report 2010). Monitoring the conditions was performed through visits and like in the previous period, the Ombudsman found worrying conditions both in terms of accommodating facilities and all other aspects such as: treatment of convicted persons, health protection, the overall atmosphere and the relations among convicts, as well as the attitude of the officials towards convicts. At the very beginning of 2010, during a visit the Ombudsman found sub-standard conditions, under any human dignity level, at the Semi-open wing at the Penitentiary – Correctional Center Idrizovo, as a result of which he publicly requested from the Ministry of Justice to close this ward immediately and transfer the convicts to other parts of the Prison. (Ombudsman's annual report 2010).

The State Department 2010 report reads that notwithstanding the general respect of human rights, the following problems have still been identified: misconduct and ill-treatment by the police especially during arrests, abuse of minorities by the police, especially members of the Roma population, and absence of sanctions for policemen and other persons in charge for law enforcements, when it has been proven that they violated someone's human rights.

Cases of torture, police misconduct and ill-treatment have been also registered with the European Court of Human Rights in Strasbourg. The main problem is lack of investigation in such cases and impunity of the perpetrators (CPT report). During the last visit of CPT to Macedonia in September and October 2010, president of the CPT gave statement for the media that the situation regarding the cases of torture and inhuman treatment, not only that is not improving, but it's worsening¹¹. It is expected the report of the visit to be very critical and the threat of giving a public statement is actual again¹².

The report of the European Commission on the progress of the Republic of Macedonia in 2010, stipulates that it is necessary to strengthen the mechanism of investigation of incidents of alleged misconduct and ill-treatment by certain members of the police. The report also claims that the majority of these cases of police misconduct and ill-treatment are happening during arrests and taking in custody or while detaining a person. There is a serious concerns about the effectiveness of the complaints system and there is still no robust independent mechanism for oversight of the law enforcement agencies. Decisions in this area by the European Court of Human Rights, in particular as regards police brutality towards the Roma, were not fully implemented. Inhumane and degrading treatment in psychiatric institutions is a matter of particular concern in the report (EC report, 2010) . Prisons continue to face overcrowding and an inadequate healthcare system which is precondition for ill treatment. Most of the prisons are underfunded and cannot cover their basic maintenance expenses and more over the mechanisms for preventing and combating ill-treatment and corruption in prisons remains weak. The system is not yet sufficiently proactive in detecting these cases and ensuring proper follow-up. The capacity of the prison inspection service is largely insufficient. Training of prison governors on management matters is largely insufficient. Treatment of vulnerable prisoners, including juveniles, continues to be deficient. Conditions in detention cells remain substandard in a significant number of police stations (EC report, 2010).

¹¹ Statement of Mr. Mauro Palma, president of the CPT, Skopje 1st October 2010, available at: <http://www.a1.com.mk/vesti/default.aspx?VestID=128175>

¹² Article 10, paragraph 2, of the Convention establishing the CPT reads as follows: "If the Party fails to co-operate or refuses to improve the situation in the light of the Committee's recommendations, the Committee may decide, after the Party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

It can be seen from the above that the phenomenon of police abuse continues to be identified as a serious problem of the Macedonian society. However, the highest state authorities, as well as the management officials in the Ministry of Interior and Ministry of Justice, are still lacking a clearly expressed position on the suppression of cases of torture and of police authorization overstepping (CPT report, 2008). On the contrary, it can be concluded that the phenomenon of overstepping the police authorization does not occur only in a form of isolated cases that can be labeled as incidents, but it rather has systemic roots in the State and in the police organization (Jankulovski, 2007).

6. Conclusions

Violations of human rights in torture and police abuse cases in Macedonia show that the attempts to provide protection are not as effective as they ought to be and that a great deal remains to be done to improve the situation on the field (Jordanoski, 2006). I strongly believe that media, politicians, non-governmental organisations, scholars and local community should be the principal catalyst and sustainable multipliers and could play very important role in overcoming of this problem.

The problem as we can see from the text is that there are serious gaps in protection of human rights torture and police misconduct cases in prominent EU member states such as Italy (CPT report, 2009). The populist politicians leading the country will not miss the opportunity to remind the people that there are problems here and there: both overcrowding and corruption in prisons, bad health system, we are facing the problem of impunity, there are standing bad with push back policy and 41 bis regime. As a person who use to live in both of the counties, I know that the situation in Macedonia is quite worst, but politicians and sometimes media are presenting the issue in different light and from dubious points of view, I would say rather subjective.

That why I choose this topic, because is the issue that should be discussed. As the intellectual and NGO representative in the country which is supposed to become EU member one day, we have huge problem to explain to the people why they should implement some human right standard, if that is not the case in some prominent EU member country. It very difficult to talk about Roma rights in Macedonia at the same time Roma citizens of new EU member countries are been expelled from France. It is a fact that there is very real current problem of inequality or imbalance in the way certain countries ignore human rights abuses in some countries, while vigorously tackling such violations elsewhere in the world. The question is whether we can condone such double standards, such dualism without treating the concept of human rights? Double standards, so useful in the short term for gaining military, economic, and covert cooperation with dictators, can come back as a boomerang to big powers to in many ways¹³.

EU ambassador in Macedonia, Mr. Fuere in February 2010 after visiting the biggest prison in Macedonia said that “*conditions in part of the prison Idrizovo are worst of those in the South Africa prisons in the period of Nelson Mandela*”, and he was completely right¹⁴. Nevertheless, the state officials didn't reply to this statement with an action plan to immediately improve the situation, but with personal disqualification of the EU and its ambassador in Skopje. Cannonade

¹³ Opening Statement of Bill Delahunt Chairman, Subcommittee of International Organizations, Human Rights, and Oversight Hearing on “Is There a Human Rights Double Standard? U.S. Policy Toward Equatorial Guinea and Ethiopia” May 10, 2007

¹⁴ The statement was given by Mr. Fuere on the joint press conference with the Ombudsman regarding the prison condition in Macedonia. The Ombudsman added “situation in some parts of the Prison Idrizovo are in such level that it can't be imagined that somebody can live in such conditions without health endanger. Because of that I'm recommending serious activities to be taken for enabling humane and dignified lodgings for convicted persons in the prison Idrizovo”.

of questions about the living conditions in detention center across Europe followed, pointing out the worst possible examples and cases. At the end ambassador was accused by the government representatives for interfering into the internal issues of the host country and was compared with the Soviet ambassador in Prague in 1970-ties.

Unfortunately Macedonia has a weak tradition of respect of the human rights, especially civil and political ones (Stojanovski, 2007). In the last two decade since the independence of the country the respect of human rights, especially the civil and political ones was seen as western value. The state actors and sometimes even the academics and media failed to explain the importance of the essence of the human rights to the people. Human rights and rule of law were presented as attractive because there were seen as rooted in material success and influence. Due the economic crises and institutional of the EU and enlargement doubts in last decade, the ability of the West to impose western concept of human rights, liberalism and democracy to countries without deep tradition of respect of the human rights declines and so does the attractiveness to these values (Huntington, 1996).

However, Macedonia should fulfill highest standards of the protection of human rights for the wellbeing of its citizens for their own good and benefit. We should try to build better society based on the rule of law and human rights, instead of bolstering only the negative examples and cases. Models for effective, adequate and timely protection of human rights in cases of torture and other cruel, inhuman or degrading treatment or punishment in Macedonia in a must. Referring to common good and higher values might not be always enough, but it's worth to try. I hope that in meanwhile the double standards and politicization in human rights issue will be at least reduced.

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